U.S. Department of Justice

United States Attorney
Northern District of Illinois

Gary S. Shapiro
United States Attorney

Dirksen Federal Courthouse
219 South Dearborn Street, 5th Floor
Chicago, Illinois 60604
(312) 353-5300

FOR IMMEDIATE RELEASE April 16, 2013

SACRED HEART HOSPITAL OWNER, EXECUTIVE AND FOUR DOCTORS ARRESTED IN ALLEGED MEDICARE REFERRAL KICKBACK CONSPIRACY

CHICAGO – The owner and another senior executive of Sacred Heart Hospital and four physicians affiliated with the west side facility were arrested today for allegedly conspiring to pay and receive illegal kickbacks, including more than $225,000 in cash, along with other forms of payment, in exchange for the referral of patients insured by Medicare and Medicaid to the hospital.

Agents from the FBI and the U.S. Department of Health and Human Services Office of Inspector General today also began executing search and seizure warrants in connection with an ongoing investigation of alleged Medicare and Medicaid fraud schemes at the hospital involving emergency room evaluation, testing and observation services that were not medically necessary, as well as medically unnecessary sedation, intubation and tracheotomy procedures performed on patients. Approximately $2 million in Medicare reimbursement payments was seized today from various bank accounts.

Arrested were EDWARD J. NOVAK, 58, of Park Ridge, Sacred Heart's owner and chief executive officer since the late 1990s; ROY M. PAYAWAL, 64, of Burr Ridge, executive vice president and chief financial officer since the early 2000s; and Drs. VENKATESWARA R.

"V.R." KUCHIPUDI, 66, of Oak Brook, PERCY CONRAD MAY, JR., 75, of Chicago, SUBIR MAITRA, 73, of Chicago, and SHANIN MOSHIRI, 57, of Chicago.

Sacred Heart Hospital is a 119-bed acute care facility located at 3240 West Franklin Blvd., in Chicago. Approximately 40 in-patients were in the hospital this morning, and representatives of the HHS Centers for Medicare and Medicaid Services (CMS) were on site and coordinating with the Illinois Department of Healthcare and Family Services to ensure continuity of patient care.

"These charges and the affidavit's other allegations outline a kickback conspiracy to bribe doctors to refer patients to Sacred Heart where they would be treated in in an environment in which the quality of care and appropriate medical analysis were less important than maximizing the numbers of patients funneled into the hospital," said Gary S. Shapiro, United States Attorney for the Northern District of Illinois.

"The payment of kickbacks or bribes in exchange for the referral of Medicare or Medicaid patients, regardless of the form in which they are paid, is a crime," said Lamont Pugh III, Special Agent-in-Charge of the Chicago Region of HHS-OIG. "The Office of Inspector General will continue to work closely with our law enforcement partners to aggressively investigate alleged illegal patient referral schemes and hold accountable those who seek to exploit vulnerable patients and the Medicare and Medicaid programs."

"Today's arrests demonstrate our commitment to enforcing the laws intended to prevent abuses of the Medicare and Medicaid programs and to preserve the ability of those programs to provide appropriate medical services to the elderly and the needy," said Cory B. Nelson, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of investigation.

The defendants were charged in a complaint that was filed yesterday and unsealed today after the arrests. All six defendants were scheduled to appear beginning at 3 p.m. before U.S. Magistrate Judge Daniel Martin in Federal Court.

Kickback Conspiracy

A 90-page affidavit in support of the criminal complaint and search and seizure warrants states that former Sacred Heart Physician A began cooperating in the investigation in October 2011, and Administrator A and Administrator B began assisting in January 2013 and February 2012, respectively. Each of them made consensual recordings of meetings and telephone conversations with other executives, administrators, physicians and employees that are described in the affidavit.

According to the complaint – at Novak's direction and with his approval and Payawal's assistance – Sacred Heart implemented a scheme to pay kickbacks to physicians in return or referrals of Medicare and Medicaid patients. Novak and Payawal allegedly tried to conceal the scheme by masking payments as fictitious rental payments; paying the salaries of physicians' employees; providing physicians ghost contracts for duties without any real responsibilities; creating alternative billing arrangements; and purporting to pay physicians to supervise and teach non-existent medical students.

In a conversation that Administrator A recorded on Feb. 28, 2013, Novak and Payawal allegedly identified Drs. Moshiri, Maitra and May as physicians receiving regular kickback payments who Administrator A should pay.

Between January 2010 and February 2013, May allegedly received $74,000 in the form of 37 checks, for $2,000 each, disguised as "rental payments"; Moshiri, a podiatrist, allegedly received $86,000 in 38 checks pursuant to a purported contract to teach podiatry students; and Maitra allegedly received $68,000 in 34 checks pursuant to a purported teaching contract – and the $228,000 total in alleged kickbacks were all in exchange for their referral of patients to Sacred Heart, the charges allege.

In a recorded conversation last month, Maitra allegedly explained to Administrator A that he used to make Novak "so much money" performing almost daily penile implant procedures on patients, but that he no longer performed as many of those procedures because Medicare had decreased its rates of reimbursement for the procedure. Maitra did not comment on whether the patient need for the procedure had somehow changed, according to the affidavit.

Regarding Dr. Kuchipudi, Administrator A told agents that he was one of Sacred Heart's most prolific patient referral sources and, according to Physician A, was known within the hospital as the "king of nursing homes." According to Administrator A, Sacred Heart paid Kuchipudi for Medicare patient referrals in two ways: first, by paying most of the salaries of a physician's assistant and a registered nurse who were effectively employed by Kuchipudi, and second, by paying Physician B for treating Kuchipudi's patients at Sacred Heart, despite the fact that Kuchipudi, and not the hospital, billed insurers for the services Physician B provided to those patients. These arrangements allegedly benefited Kuchipudi as a result of the hospital absorbing employee salary costs that Kuchipudi would normally have to pay himself.

Emergency Room Admissions

Although not charged, the affidavit supporting the search warrant states that the investigation extends to allegations of unnecessary emergency room admissions. Administrator A told agents that Novak ignored numerous complaints that physicians admit patients who do not require hospitalization, and that certain physicians have subjected patients to unnecessary medial testing and procedures in an attempt to justify the patients' admissions and to increase billing.

Insiders have told agents that Sacred Heart's executives established a system to admit nursing home patients, irrespective of any medical necessity, by directing referring physicians to use ambulance companies with which Sacred Heart has had "a relationship." By designating such patients as "direct admission," Sacred Heart physicians are able to transfer their patients by ambulance from nursing homes, regardless of the proximity to the hospital. Instead of directly admitting these nursing home patients, however, Sacred Heart processes them through its emergency room, billing Medicare for emergency care, which is usually not medically necessary, according to Administrator A. Physician A told investigators that, in his experience, half of the patients presented to Sacred Heart's ER already had a relationship with one of the hospital's attending physicians and that the majority of those patients were admitted to the hospital from the emergency room.

Tracheotomy Procedures

The investigation is also probing claims that Sacred Heart Physician D, a pulmonologist, allegedly performs a high number of unnecessary intubations and prolongs them by directing heavy sedation of his patients, often resulting in tracheotomies being performed by Sacred Heart surgeons that may not have been medically necessary. Administrator A told agents that during a lunch with Novak and Payawal in December 2012, they both explained that tracheotomy cases provide substantial insurance reimbursement income for the hospital. On March 1, 2013, Administrator A recorded Novak stating that tracheotomies are Sacred Heart's "biggest money maker" and the hospital can make $160,000 for a tracheotomy if the patient stays 27 days. On

March 7, 2013, the Intensive Care Unit case manager told Administrator A that she must often "stretch" a tracheotomy patient's stay to 28 days to maximize Medicare reimbursements "to make Novak happy."

According to the affidavit, Sacred Heart allegedly conceals $7,000 monthly payments for respiratory patient referrals by paying that amount to a healthcare management company that has an employee who works at one of the nursing homes where Kuchipudi sees patients. The consulting firm employee works with Kuchipudi, nursing homes, and Sacred Heart to facilitate the admission of respiratory patients to Sacred Heart, Administrator A told investigators.

On March 4, 2013, investigators from CMS and the State of Illinois arrived at Sacred Heart to conduct an investigation of the hospital's intubations and tracheotomies, and quality assurance and performance improvement protocols. On March 6, Administrator A recorded Physician D acknowledging that Sacred Heart lacked policies for various aspects of intubations and tracheotomies and that he had given some practice guidelines and procedures obtained from other hospitals to the surveyors in response to their request for Sacred Heart's policies. At the same time, the ICU nurse manager told Administrator A that she had reviewed eight tracheotomy patient files in connection with the CMS investigation. Physician D was the pulmonologist for all the patients and had performed all but one of the tracheotomies. The nurse manager said that there was no documentation in the patient files explaining the decision to intubate the patients or any efforts to wean them from the ventilators. The following day Administrator A reported the findings to Novak and others and regarding the lack of documentation, and Novak replied with an expletive, according to the affidavit.

On April 8, Physician D told Administrator A in a recorded conversation that Novak had asked him to provide two more tracheotomy cases for the hospital soon before the CMS surveyors might return.

Novak's Business Interests

According to the affidavit, Novak has direct or indirect ownership interest in various related entities, including Superior Home Health, LLC, a home healthcare company; the Golden L.I.G.H.T. clinics, which are family practice / internal medicine clinics operated as divisions as Sacred Heart; the Chen Medical center; the Garfield Kidney Center, LLC, an outpatient dialysis center; and the Bentley Insurance Group, a medical malpractice insurance company. Novak also owns various real estate and corporate management holding companies, and prior to June 2012, he operated the Chicago R.E.A.C.H Foundation, a purported non-profit, senior citizen program financed by the State of Illinois.

In a series of recorded conversations over the last two months, Payawal told Administrator A that a substantial part of Sacred Heart's revenue comes from Medicare and Medicaid reimbursements, and explained various ways in which revenue generated from the hospital is transferred to and among Novak's other corporate interests.

Conspiracy to violate the federal anti-kickback statute carries a maximum penalty of five years in prison and a $250,000 fine and restitution is mandatory. If convicted, the Court must impose a reasonable sentence under federal statutes and the advisory United States Sentencing Guidelines.

The government is being represented by Assistant U.S. Attorneys Joel Hammerman, Terra Reynolds and Ryan Hedges.

The public is reminded that a complaint is not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

The case falls under the umbrella of the Medicare Fraud Strike Force, which expanded operations to Chicago in February 2011, and is part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT), a joint initiative announced in May 2009 between the Justice Department and HHS to focus their efforts to prevent and deter fraud and enforce current anti-fraud laws around the country. More than five dozen defendants have been charged in health care fraud cases since the strike force began operating in Chicago.

To report health care fraud to learn more about the Health Care Fraud Prevention & Enforcement Action Team (HEAT), go to: www.stopmedicarefraud.gov .

# # # #