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Covenant Pays \$69M in FCA Settlement Over Physician Relationships; Whistleblower Was a VP

By Nina Youngstrom

When physician Stacy Goldsholl was a senior executive at Covenant Healthcare System in Michigan, she said she was assigned to lead a “Leakage Task Force” that tracked the referrals of employed physicians with data from its electronic medical records software and a consultant. “Executives used information from the task force to direct referrals to Covenant,” Goldsholl, who became a whistleblower, alleged in her False Claims Act (FCA) lawsuit against Covenant.^[1] “This experience, as well as others, emphasized Covenant’s fixation on referral traffic.” It played out in the many agreements Covenant had with referring physicians that allegedly violated the Anti-Kickback Statute (AKS) and/or Stark Law, according to her complaint.

Now Covenant has paid \$69 million to settle false claims allegations over improper financial relationships with eight referring physicians and a physician-owned investment group, the U.S. Attorney’s Office for the Eastern District of Michigan said March 29.^[2] False claims allegedly were submitted to Medicare, Medicaid, TRICARE and FECA (worker’s compensation for federal employees), the U.S. attorney’s office said. Two of the physicians also are on the hook for their relationships with Covenant. Neurosurgeon Mark Adams will pay \$406,551 and electrophysiologist Asim Yunus will fork over \$345,987.

The whistleblower got the ball rolling when she was vice president of Covenant Healthcare and CEO of Covenant Medical Group. In her 2016 complaint, Goldsholl alleged she “observed and openly challenged Covenant’s and Mark Adams’ violations, hoping to stop all fraudulent activity.” But it continued, she alleged—unlike her job. In 2012, Goldsholl was terminated.

“What struck me as interesting about the complaint was the number of alleged unique arrangements between Covenant and physicians,” said attorney Adam Robison, with King & Spalding in Houston. They included Covenant’s practice acquisitions followed by “sweetheart” employment arrangements with physicians, noncompliant medical directorships and staff provided free to physician practices, he said. “It isn’t that all the arrangements, such as the medical director agreements, were necessarily high dollar. However, the allegation was there was no expectation the physicians actually perform services under their medical director agreements or an expectation the physicians submit timesheets,” Robison said. The Leakage Task Force allegation also is troubling, he noted. “Tracking referrals isn’t illegal in itself, but tracking referrals and entering unique compensation relationships to address leakage can be problematic. It’s another red flag.”

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