

Kickback Scheme Involving Long Beach Hospital Gains New Defendants

An alleged scheme to bilk California's workers' compensation program of hundreds of millions of dollars in illegal medical claims — and spanning more than a decade and a half — has resulted in three new cases and three new defendants. The U.S. Attorney's Office in the Central District of California recently announced the newest allegations and the additional physicians charged in the case.

The background:

Long Beach's Pacific Hospital is the site of the alleged kickback scheme. Michael D. Drobot, the hospital's owner, was initially charged with conspiring with marketers, chiropractors, and physicians to create a revolving door of kickbacks and patient referrals to his facility. Allegedly, over a fifteen-year period, thousands of patients were treated at Pacific Hospital — many undergoing spinal surgeries — stemming from this scheme. Over the past five years alone, more than \$500 million in fraudulent bills have been identified. And the bulk of the claims were paid by the state's workers' compensation program.

So far nine individuals have been convicted for their part in the scheme. Drobot himself pleaded guilty to charges of conspiracy and financing illegal kickbacks in 2014 and in January was sentenced to 63 months in prison, \$500,000 in fines, and millions in a forfeiture judgment. District Judge Josephine L. Staton, who sentenced Drobot, said that he "introduced greed into the doctor-patient relationship."

Allegedly Drobot abused the "spinal pass-through legislation" (which has now been repealed); the law allowed hospitals to bill workers' compensation programs for the retail cost of devices implanted during spinal surgery. Drobot was accused of using his own medical device company to illicitly make money on the surgeries.

The investigation behind the ongoing case is run by the California Department of Insurance, the FBI, the Criminal Investigation sector of the IRS, and the U.S. Postal Service, Office of Inspector General.

Doctors allegedly collected more than \$40 million in illegal kickbacks

The newest indictments in the case are against David Hobart Payne, an orthopedic surgeon residing in Irvine; Jeffrey David Gross, an orthopedic surgeon with homes in Dana Point and Las Vegas, and Lokesh Tantuwaya, a neurosurgeon who lives in Rancho Santa Fe and Rock Springs, Wyoming.

Payne was arraigned last week in U.S. District Court on charges of conspiracy, honest services fraud, and using an interstate facility to aid in unlawful activity. Additionally, a federal grand jury returned a five-count superseding indictment in April alleging that Payne took nearly half a million dollars in bribes to enrich Pacific Hospital through \$10 million in kickback-driven surgeries.

Pleading not guilty to charges in a 14-count indictment in federal court last week, Gross is facing charges of conspiracy, honest services mail fraud, and honest services wire fraud. Ordered to stand trial in early August, Gross is accused of accepting over \$600,000 in illegal kickbacks for sending more than \$19 million in surgeries to Pacific Hospital (some of which he allegedly performed).

The federal grand jury on Tantuwaya returned an indictment with 13 counts last February, including charges of conspiracy, honest services fraud, and using an interstate facility to aid in unlawful activity. Further, the indictment



includes allegations that Tantuwaya took in over \$3 million in illegal inducements in exchange for referring patients to Pacific Hospital and/or performing \$38 million in surgeries at that facility. He entered a not-guilty plea in April, and is expected to stand trial in early November.

Convictions of the charges included in the indictments come with the risk of stiff sentences, possibly decades in federal prison.

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