

Breaking Legal NEWS

Qui Tam Whistleblower Case

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Health Care

Immediate Release

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**Texas Back Pain MD and Wife Settle Federal Whistleblower Charges
Sparked By Anesthesiologists Whose Billing Data Allegedly Used Without Their Permission On
False Claims To Medicare, Medicaid, State and Federal Workers Compensation**

**Back Surgery Billed But Never Performed; Surgical Removal of Bony Lower Back Portion
Previously Falsely Billed Are Alleged In Federal Complaint**

McAllen, Texas (March 1, 2005) – A medical doctor whose South Texas, “Center for Pain Management, P.L.L.C.” (“CPM”) specializes in back pain treatment for elderly, Medicaid and injured worker patients has settled Medicare, Medicaid and state fraud allegations brought by whistleblowing anesthesiologists whose Medicaid and Medicare numbers were used without their permission on claims for patient treatment, attorneys Timothy J. McInnis and Brian P. Kenney announced.

Tajul S. Chowdhury, M.D., CPM’s primary treating physician, and his wife, Andra, who handled patient billing and insurance reimbursement, settled a civil case first filed under seal when anesthesiologists Sanniche Quaicoe, M.D. and Shahid Rashid, M.D. retained Kenney and McInnis, a New York City attorney whose practice concentrates on whistleblower matters, to bring the alleged False Claims Act (“FCA”) violation to the Government.

The anesthesiologists Complaint was unsealed in September 2003 after the case was joined by the federal government and the Attorney General of Texas. A 2005 trial date had been set. In the Complaint the federal Government alleged that the Chowdhurys engaged in various billing schemes in order to receive undeserved payments from state and federal health insurance programs.

The Chowdhurys used physicians’ provider numbers on claims without their permission and on billing for patients they never saw, refused to provide those billing records when demanded by the physicians, and billed for levels of medical care impossible based on the daily volume of patients at CPM’s facility, according to the Complaint which alleged various schemes including billing for:

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- anesthetic care during primary medical procedures for lower back pain when no care was actually provided;
- laminectomies, spinal bony portion removals, when Dr. Chowdhury was not qualified to perform and did not perform them;
- multiple laminectomies for the same patient which would have been impossible since the same portion of bone cannot be removed twice;
- epidural neurolytic blocks (which would have rendered patients permanently unable to walk, use their bowels or bladder since the procedure usually is performed on terminal cancer patients in extreme pain) when CPM actually administered epidural lysis of adhesions, an injection designed to dissolve scar tissue on the outer layer of the spinal column;
- spinal decompressions (in which the back is opened surgically and spinal disks are removed) when only epidural lysis of adhesions (see above) were performed;
- spinal anesthetic injections, which, if actually carried out, would have had to be performed in a hospital and not CPM; and
- office visits involving an “extensive level of care” when, in fact, those visits did not meet intensive criteria. Andra Chowdhury and not physicians determined the level of care for billing purposes, the Complaint states.

U.S. District Judge Randy Crane, Southern District of Texas, McAllen Division, dismissed the complaint. The settlement in which the Chowdhurys did not admit guilt but agreed to repay approximately \$180,000 with interest over a five years to the federal Government and to be bound by five-year corporate integrity agreements, was filed with the clerk's office.

While several schemes are alleged in this case the dollars actually paid out to the Chowdhurys are relatively small due to auditing by the affected agencies, McInnis noted.

Under the FCA, so-called “qui tam” actions, a term derived from English Common Law meaning “he who sues on behalf of the king as well as himself,” allow private citizens with knowledge of fraud to help the Government recover ill-gotten gains and additional civil penalties. The FCA allows the Government to collect up to three times the amount it was defrauded, in addition to civil penalties of from \$5,500 to \$11,000 per false claim.

“This case underscores the true value of state and federal qui tam whistleblower processes by exposing those who abuse government contracts and programs for their own enrichment and returning funds to taxpayers,” McInnis said, noting that Texas is one of 14 states and the District of Columbia with qui tam whistleblower statutes.

“Doctors Rashid and Quaicoe courageously and zealously protected their reputations and helped the Government recover funds it might not have realized were being misspent by presenting their whistleblower case to the authorities,” Kenney said. While those who bring such suits, termed “relators” under the law, are entitled to a portion of the Government’s recovery (usually between 15 and 20 percent) these anesthesiologists were motivated by anything but financial

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reasons, McInnis said. "The felt their reputations were on the line and moved to stop the Chowdhurys' schemes."

The United States is represented by the U.S. Attorney's Office for the McAllen District of Texas, Michael T. Shelby, United States Attorney, and Assistant U.S. Attorney David Guerra, of the office's Civil Division.

Tajul S. Chowdhury, M.D. is represented by Robert Bennett, Esq.
Andra Chowdhury is represented by Walter Passmore, Esq.

Contact Information

Clerk's Office for Complete Case File

The vicinage for the Chowdhury case and its filed documents is U.S. District Court, McAllen Division, Southern District of Texas in McAllen, Texas, Case Number: M-03-238, United States of America v. Center for Pain Management P.L.L.C., Tajul S. Chowdhury, M.D., (a/k/a, Tim S. Chowdhury, M.D.), and Andrea Chowdhury.

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