



# Department of Justice

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## **2 SEPARATE INDICTMENTS HANDED DOWN CHARGING ORTHOPEDIC SURGEON AND FOUR CHIROPRACTORS IN HEALTH CARE FRAUD SCHEMES TOTALING \$6 MILLION**

ATLANTA, GA - A federal grand jury handed down two separate health care fraud indictments today, charging a total of five health care providers with fraudulently billing approximately \$6 million, principally for a back pain procedure known as Vertebral Axial Decompression ("VAX-D").

United States Attorney David E. Nahmias said, "We are committed to investigating and prosecuting health care providers who engage in dishonest billing practices to defraud health insurance companies. Through such fraud, these providers seek to enrich themselves at the expense of honest American citizens and companies who end up paying higher health insurance premiums."

In one indictment, HOWARD BERKOWITZ, 59, of Atlanta, Georgia; ARTHUR HARGRAVES, 66, of Douglasville, Georgia; and DANIEL PUFFENBERGER, 51, of Kissimmee, Florida, were each charged with five counts of health care fraud that they allegedly committed as owners of the Associated Spinal Care Network ("ASCN") located in Douglasville, Georgia. The indictment alleges that BERKOWITZ was an orthopedic surgeon and the medical director of ASCN, while the two other defendants were chiropractors. The indictment alleges that ASCN, at the direction of BERKOWITZ, HARGRAVES, and PUFFENBERGER, billed Blue Cross/Blue Shield of Georgia for over \$3 million relating to the VAX-D procedure from 2001 through 2005.

In another indictment, WILLIAM STEARNS, 45, of Marietta, Georgia, and STEVEN LEVINE, 50, of Roswell, Georgia, were charged with health care fraud and other violations that they allegedly committed as owners of the Comprehensive Care Medical Group ("CCMG") located in Marietta, Georgia. CCMG, at the direction of STEARNS and LEVINE, allegedly billed Blue Cross/Blue Shield of Georgia for approximately \$1.8 million for VAX-D in 2003 and 2004. Separately, defendant STEARNS also allegedly submitted fraudulent bills to Blue Cross relating to a procedure known as "HAKO-MED." This was an electrical stimulation machine attached to the surface of a patient's body. The indictment alleges that CCMG fraudulently submitted

over \$1.5 million in bills for HAKO-MED using a code pertaining to nerve block injections, which Blue Cross covers at a much higher rate than electrical stimulation. The indictment charges defendants STEARNS and LEVINE with 11 counts of health care fraud relating to VAX-D and five counts of money laundering, and also charges defendant STEARNS with eight counts of health care fraud relating to HAKO-MED.

The CCMG and ASCN indictments are separate and allege distinct, although similar, schemes. There is no allegation that the CCMG defendants and the ASCN defendants were in a conspiracy with each other.

According to United States Attorney Nahmias and the indictments: VAX-D is a non-invasive back pain procedure that uses a mechanical table to stretch a patient's spine. The indictment alleges that Blue Cross/Blue Shield of Georgia considered VAX-D to be investigational and not medically necessary, and made clear to health care providers that it did not cover the procedure. Both indictments allege that the defendants lied to Blue Cross about what procedures they were performing in order to get paid for this non-covered procedure. Specifically, instead of using the specific billing code assigned to VAX-D, the defendants used a different code that pertained to surgical nerve decompression procedures. The indictments allege that the defendants performed no actual nerve decompression surgery, but nevertheless used that code because Blue Cross would pay for it, and would not pay for VAX-D.

In both cases, the health care fraud charges carry a maximum sentence of 10 years in prison and a fine of up to \$250,000 per count. The money laundering charges carry a maximum sentence of 10 years in prison and a fine of up to \$250,000 per count. The defendants also face forfeiture of all assets alleged to be traceable to the alleged fraud.

These cases are being investigated by Special Agents of the Federal Bureau of Investigation.

Assistant United States Attorneys Justin Anand and Teresa D. Hoyt are prosecuting the cases.

Members of the public are reminded that the indictment contains only allegations. A defendant is presumed innocent of the charges and it will be the government's burden to prove a defendant's guilt beyond a reasonable doubt at trial.

For further information please contact David E. Nahmias (pronounced NAH-me-us), United States Attorney, or Charysse L. Alexander, Executive Assistant United States Attorney, through Patrick Crosby, Public Affairs Officer, U.S. Attorney's Office, at (404) 581-6016. The Internet address for the HomePage for the U.S. Attorney's Office for the Northern District of Georgia is [www.usdoj.gov/usao/gan](http://www.usdoj.gov/usao/gan).