



Department of Justice

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TWO CHIROPRACTORS FOUND GUILTY BY FEDERAL JURY IN "VAX-D" FRAUD SCHEME

Atlanta, GA - A jury in federal district court has returned a guilty verdict against ARTHUR HARGRAVES, 67, of Douglasville, Georgia, and DANIEL PUFFENBERGER, 52, of Kissimmee, Florida, on charges of health care fraud, relating to fraudulent billings for a controversial back pain treatment known as Vertebral Axial Decompression or "VAX-D." A co-defendant, HOWARD BERKOWITZ, 60, of Atlanta, Georgia, pleaded guilty in March 2007. The jury deliberated less than one hour after a 6-day trial.

United States Attorney David E. Nahmias said, "Today's verdict sends the message that health care providers who fraudulently bill for their services will be held accountable for their crimes. These defendants received millions of dollars that they were not entitled to, by lying to insurers about the services they were providing patients. These lies contribute to the problem of soaring health costs for all."

According to United States Attorney Nahmias and the information presented in court: BERKOWITZ, an orthopedic surgeon, and HARGRAVES and PUFFENBERGER, both chiropractors, operated a health care network in North Georgia and Tennessee known as the Associated Spinal Care Network ("ASCN"). The defendants were convicted of running a fraud scheme involving ASCN's billing for a back pain procedure known as Vertebral Axial Decompression, or "VAX-D."

VAX-D is a non-invasive back pain procedure that uses a mechanical table to stretch a patient's spine. 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. Evidence at trial showed that ASCN, at the direction of BERKOWITZ, HARGRAVES, and PUFFENBERGER, nevertheless billed Blue Cross/Blue Shield of Georgia for over \$3 million relating to the VAX-D procedure from 2001 through 2005. The defendants were convicted of lying to Blue Cross about what procedures ASCN was performing in order to get paid for this non-covered procedure. Specifically, instead of using the specific billing code assigned to VAX-D, ASCN used a

different code that pertained to surgical nerve decompression procedures. The Indictment charged that the defendants used that code because they knew Blue Cross would pay for it, but would not pay for VAX-D. The proof at trial included testimony from the defendants' former employees, several of whom were explicitly instructed by HARGRAVES and PUFFENBERGER to not refer to the procedure as VAX-D when speaking to insurers, and to white-out references in documents to VAX-D because the defendants told the employees that insurers do not cover VAX-D.

The defendants were indicted in March 2007. HARGRAVES and PUFFENBERGER could receive a maximum sentence of 50 years in prison and a fine of up to \$1,250,000. BERKOWITZ, who pleaded guilty, faces a maximum sentence of 10 years imprisonment and a fine of up to \$250,000. In determining the actual sentence, the Court will consider the United States Sentencing Guidelines, which are not binding but provide appropriate sentencing ranges for most offenders. BERKOWITZ has already repaid the entire restitution owed to the insurance company, which is approximately \$2.5 million. A sentencing date before United States District Judge Richard W. Story has not yet been set by the court.

This case was investigated by Special Agents of the Federal Bureau of Investigation.

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

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.