



Department of Justice

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PERPETRATORS OF \$3 MILLION HEALTH CARE FRAUD SCAM SENTENCED TO PRISON

ATLANTA, GA - An orthopedic surgeon, DR. HOWARD BERKOWITZ, 58, of Atlanta, and two chiropractors, DR. ARTHUR HARGRAVES, 67, of Douglasville, Georgia, and DR. DANIEL PUFFENBERGER, 52, of Kissimmee, Florida, were sentenced today to prison terms by U.S. District Court Judge Richard W. Story, for participating in a \$3 million health care fraud scam.

United States Attorney David E. Nahmias said, "Today's sentences demonstrate again that health care providers who fraudulently bill for their services will be held accountable for their crimes. These defendants received millions of dollars to which they were not entitled, by lying to insurers about the services they were providing patients. This type of fraud contributes to the problem of soaring health costs for all, and will be vigorously prosecuted."

Gregory Jones, Special Agent in Charge of the FBI's Atlanta Field Division said, "With health care at the forefront of public discussion and on the minds of so many families, it is imperative we do all we can to stem the tide of fraud plaguing the industry. This sort of criminal behavior inflates the cost of service to the consumer, often making it impossible for hard working Americans to obtain health insurance at all. The FBI remains committed to investigating these crimes, and to working closely with the United States Attorney's Office to see that justice is served."

HARGRAVES was sentenced to 3 years, 5 months in prison. PUFFENBERGER was sentenced to 3 years, 5 months in prison. BERKOWITZ received a sentence of 1 year, 6 months in prison, which was lower than that of his former partners in part because BERKOWITZ accepted responsibility prior to trial and also assisted the Government in the prosecution of the case. BERKOWITZ has already re-paid the entire restitution owed to the insurance company, approximately \$2.5 million.

According to United States Attorney Nahmias and the information presented in court: HARGRAVES and PUFFENBERGER were indicted in March 2007 and convicted after a two-week jury trial in July 2008. BERKOWITZ pleaded guilty before trial and

testified against his former partners. BERKOWITZ, HARGRAVES, and PUFFENBERGER operated a group of back pain clinics in North Georgia and Tennessee known as the Associated Spinal Care Network (“ASCN”). The three 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,” which 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.

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.

BERKOWITZ, HARGRAVES, and PUFFENBERGER were convicted of having lied 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 defendants used that code because they knew Blue Cross would pay for it, and 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 not to refer to the procedure as “VAX-D” when speaking to insurers, and to white-out references in documents to “VAX-D” because insurers do not cover VAX-D.

This case is one of a series in which the United States Attorney’s Office has obtained convictions against medical professionals who have fraudulently billed insurance companies for “VAX-D.” Last week, on November 10, 2008, a federal jury in Atlanta convicted another chiropractor, DR. WILLIAM STEARNS, of Marietta, Georgia, of a similar scheme by his former company, the Comprehensive Care Medical Group. His partners, DR. STEVEN LEVINE and DR. CHRISTOPHER TOPEL, had already pleaded guilty. Separately, DR. ERIC TOPEL – CHRISTOPHER’S brother – pleaded guilty in 2005 to operating the same scheme at clinics in Albany and Columbus, Georgia. All together, the VAX-D initiative in the Northern District of Georgia has resulted in 7 convictions of medical professionals, 5 of whom have been sentenced so far to a total of over 14 years imprisonment with monetary judgments of over \$7 million.

This and other VAX-D cases have been investigated by Special Agents of the Federal Bureau of Investigation, and have been prosecuted by Assistant United States Attorneys Justin S. Anand and Teresa D. Hoyt.

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)

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