

Neurologist Gets Prison Term for Prescribing Unnecessary Meds in Exchange for Lavish Kickbacks

Multiple doctors negotiate plea agreements with FBI to resolve charges involving violations of the federal False Claims Act. by Maureen Rubin, J.D.

LOS ANGELES, CALIFORNIA, UNITED STATES, March 7, 2023 /EINPresswire.com/ -- A 66-year-old



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Cleveland neurologist wrote more than 10,000 prescriptions for a drug that his patients did not need. In exchange, he and his co-defendants received lucrative kickbacks from Avanir Pharmaceuticals, the company that manufactures Nuedexta, a drug used to treat a neurological disorder called Pseudobulbar. The FBI arrested the doctors, plea agreements were negotiated between the U.S. Attorneys in Ohio and the defendants, and sentencing has begun. The lead doctor will go to prison for two-and-a-half years. He also lost his medical license.

The underlying case is UNITED STATES OF AMERICA, Plaintiff, v. DEEPAK RAHEJA, et al., Defendants, Case No. 1:19-CR-559 (United States District Court, N.D. Ohio, Eastern Division).

Dr. Deepak Raheja, who resides in Hudson, Ohio, was sentenced on February 3 by U.S. District Judge Sara Lioi. Dr. Franklin Price of Mayfield Heights pled guilty to allowing Avanir employees to access his patients' records in order to insert phony diagnoses of Pseudobulbar, a disease that causes "sudden, involuntary episodes of laughing or crying." He has not been sentenced yet. Judge Lioi also gave Dr. Buhpinder Sawhny, 73, a Gate Mills neurosurgeon, three years of probation for taking Avanir's kickbacks, and ordered him to pay restitution in the amount of \$40,126. He must also perform 250 hours of community service.

California healthcare law attorney [Art Kalantar](#) explains the significant differences in sentencing among the defendants. "In federal criminal cases, there are a number of factors a judge considers when fashioning the sentence," says Kalantar. "Oftentimes, the most important factor is the amount of financial loss." Given the amount of loss in this case, Kalantar believes the prison sentence for Raheja was not improper.

[Stanley L. Friedman](#), a board-certified criminal defense specialist also practicing healthcare law defense in California, agrees with Kalantar's assessment of the sentencing, adding that 90 to 95 percent of criminal cases are resolved through a plea agreement. "In federal court," says Friedman, "plea agreements are in writing, whereas in state court, the plea agreement may be in writing or stated orally in open court." Judges typically follow the recommendation of the prosecutor when sentencing according to a plea agreement, although they are not legally bound to do so.

Additionally, two Avanir employees, Frank Mazzucco, 66, and Gregory Hayslette, 44, pled guilty to paying the kickbacks. Hayslette organized a speaker series for doctors which featured Raheja's talks about the benefits of prescribing Pseudobulbar "outside uses approved by the U.S. Food and Drug Administration (FDA)." Mazzucco will be sentenced on February 15 and is expected to be sentenced to between 15 and 20 months in prison. Hayslette will be sentenced on February 23.

Meanwhile, the pharmaceutical company Avanir has paid penalties of \$96 million to settle two whistleblower lawsuits, \$12.8 million in criminal penalties and another \$7 million to settle Medicaid claims.

Unfortunately, the medication-for-kickback activities shown by the Ohio doctors and drug company employees are not unusual. In a 2020 article, Web MD reported that "American doctors prescribe more brand-name medications after they get a free lunch or other incentives from drug company marketers." They came to this conclusion after researchers analyzed the prescription habits of doctors who participate in Medicare Part D, the program that subsidizes prescription costs for 37 million seniors and disabled people.

Most of the drug companies in the Medicare study merely gave the doctors and their office staffs free meals that were valued at under \$20. Nonetheless, prescriptions matched incentives nearly 30% of the time. Raheja's kickbacks were much more lucrative. Avanir paid him \$331,000 and treated him to many dinners at places like "upscale French restaurants."

Although state and federal laws vary regarding acceptable versus illicit conduct in this area, attorney Kalantar recommends that the best practice is for doctors to refrain from accepting individual gifts of even minimal value unless they are related to the doctor's work, such as pens and notepads. Kalantar advises his clients to refuse even modest meals paid for by drug companies unless they are provided as part of a genuine educational function, such as a presentation or seminar. "Cash gifts in any amount should never be accepted," Kalantar warns.

ProPublica, a nonprofit newsroom, reported in 2019 that "Doctors who receive money from drug makers related to a specific drug, prescribe that drug more heavily than doctors without such financial ties." The newsroom's analysis gave examples of several doctors who benefitted from the payoffs given for promotional talks like the speeches delivered by Raheja, as well as

consulting services and travel.

For example, Allergan and Ironwood, the makers of Linzess, a drug that treats irritable bowel syndrome, spent nearly \$29 million on payments to doctors for meals and speeches, and the same doctors wrote 45% more prescription for Linzees that doctors who received no payments.

Doctors not only prescribe drugs when they receive incentives; medical devices are also linked to payoffs. A 2020 Yale university-led research team published an article in the Journal of the American Medical Association that found “cardiologists were between two and 11 times more likely to implant a defibrillator made by the device company that paid them the most.” And in many cases, the more a manufacturer pays, the more often its device is chosen.

The Federal government is supposed to monitor drug companies and prohibit kickback-for-prescription schemes. The U. S. Department of Justice enforces the False Claims Act (FCA), which was originally passed in response to contractor fraud during the American Civil War. The FCA says that “any person who knowingly submitted false claims to the government had to pay double the amount plus a \$2,000 penalty for each false claim.” This would pertain to doctors and drug companies who cheat Medicare. The FCA has been amended several times to allow private citizens as well as the government to sue.

And sometimes, the government gets positive results for cracking down on drug companies that violate the False Claims Act as the Ohio doctors did. The U.S. Attorney's Office in Boston collected \$2 million and \$4 million from two foundations that had violated the FCA by “enabling pharmaceutical companies to pay kickbacks to Medicare patients who took the companies' drugs.” This allowed Medicare patients to afford certain drugs by minimizing the number of patients who would take drugs made by competitors.

Attorney Friedman expresses that healthcare fraud is the “crime du jour” among government investigators these days. “There is a target on the back of health care providers and a bull’s-eye on those who receive government funds,” he says. “Those who pay or receive questionable funds are “dead center” of government investigations and prosecutions, and anyone who receives a kickback is considered a “bad apple.” Kalantar and Friedman both recommend individuals contact an experienced healthcare law defense attorney as soon as they become aware of government investigations into their practices.

The violations of the FCA take many forms and involve many who knowingly or unknowingly participate in one aspect or another of fraud. But if the num

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