

New Jersey Cardiologists Settled With Department of Justice in Anti-Kickback Case

The U.S. Department of Justice (DOJ) has been pursuing an enhanced enforcement scheme against alleged violators of federal law, including: Stark Law, the Federal False Claims Act, and the Anti-Kickback Statute, by more aggressively pursuing legal action against individual physicians as well as hospitals.¹ On September 30, 2009, the University of Medicine and Dentistry of New Jersey (UMDNJ) entered into a settlement agreeing to pay the DOJ \$8.3 million to resolve claims brought by the DOJ alleging that UMDNJ had engaged in an illegal kickback scheme.²

In December 2005, UMDNJ entered into a Deferred Prosecution Agreement (DPA) with the DOJ, which expired in December 2007.³ At the time of the agreement, the DOJ discovered that UMDNJ had double-billed the Medicaid reimbursement program for approximately \$4.9 million in fraudulent payments. This 2005 DOJ investigation of UMDNJ also revealed several other areas of abuse, particularly in the cardiology referral program, which led to the recent settlement.⁴

UMDNJ's University Hospital is classified as a state-licensed Level 1 Trauma Center. In order to maintain such a ranking, as well as its eligibility for state funds, the hospital must perform a specific number of cardiac procedures per year.⁵ In 1995, UMDNJ discovered that it was failing to fulfill this requirement, and as a result, allegedly employed several cardiologists under part-time contracts with the purpose of paying them for referrals.⁶ These contracts stated that the cardiologists would provide bona fide services for UMDNJ including: teaching, on-call coverage, and research. However, the DOJ alleged that the cardiologists involved did not actually perform these services for UMDNJ during their employment and were instead being compensated for their patient referrals, which is in direct violation of federal law.⁷

The \$8.3 million settlement represents twice the amount paid out by the Medicaid program as a result of the allegedly illegal referrals.⁸ In addition, UMDNJ entered into a five-year Corporate Integrity Agreement with the U.S. Department of Health and Human Services, subjecting UMDNJ to additional reporting obligations, educational requirements, and procedural safeguards in an effort to ensure its compliance with federal law.⁹

It should be noted that the DOJ also alleged claims against eleven individual cardiologists over the last two years. Nine of these cardiologists have settled civil claims with the DOJ, with settlements ranging from their full salary amount to 250% of the contracted salary amount that each physician received in their allegedly illegal arrangements with UMDNJ. The monetary value of these settlements ranged from \$30,000 to \$1.4 million, with the DOJ currently pursuing claims of \$2.7 million against one cardiologist.¹⁰

The UMDNJ settlement illustrates the federal government's renewed vigor in its pursuit of healthcare fraud. As President Obama and Congress push for healthcare reform initiatives, financial pressures are motivating federal regulatory agencies to exert more stringent enforcement action against hospitals, as well as the physicians with whom they have a financial relationship.¹¹

¹ "Making them pay" By Gregg Blesch, Modern Healthcare, October 12, 2009,

<http://www.modernhealthcare.com/article/20091012/REG/910099990> (Accessed December 10, 2009)

² "Settlement Agreement," U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/UMDNJ%20II%20Executed%20Settlement.pdf> (Accessed December 10, 2009);

"UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

³ "Two Cardiologists Admit \$840,000 Embezzlement from UMDNJ" By Christopher J. Christie, Federal Bureau of Investigation, February 28, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk022808.htm> (Accessed December 10, 2009)

⁴ "Two Cardiologists Admit \$840,000 Embezzlement from UMDNJ" By Christopher J. Christie, Federal Bureau of Investigation, February 28, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk022808.htm> (Accessed December 10, 2009)

⁵ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁶ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁷ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdf/umdnj0930%20rel.pdf>

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Orel.pdf (Accessed December 10, 2009)

⁸ "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdnj0930%20rel.pdf> (Accessed December 10, 2009)

⁹ "Corporate Integrity Agreement Between the Office of the Inspector General of the Department of Health and Human Services and the University of Medicine and Dentistry of New Jersey," U.S. Department of Justice, September 25, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/UMDNJ%20Corporate%20Integrity%20Agreement.pdf> (Accessed December 10, 2009)

¹⁰ "Four Cardiologists Settle with Government Over Improper Salaries Received from UMDNJ" By Christopher J. Christie, U.S. Department of Justice, May 7, 2008, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/sett0505%20rel.pdf> (Accessed December 10, 2009); "Three More Cardiologists Settle With Government Over Kickback Allegations Related to UMDNJ Cardiology Program" By Ralph J. Marra, U.S. Department of Justice, September 17, 2009, <http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdn0917%20rel.pdf> (Accessed December 10, 2009); "Another Cardiologist

Settles with Government Over Improper Patient Referrals to UMDNJ" By Christopher J. Christie, Federal Bureau of Investigation, June 30, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk063008.htm> (Accessed December 10, 2009); "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" By Marc Larkins, U.S. Department of Justice, September 30, 2009,

<http://www.justice.gov/usao/nj/press/press/files/pdffiles/umdnj0930%20rel.pdf> (Accessed December 10, 2009); "Government Sues Cedar Grove Cardiologist to Recover Fraudulent Receipt of Salary at UMDNJ" By Christopher J. Christie, U.S. Department of Justice, April 17, 2008,

<http://www.justice.gov/usao/nj/press/press/files/pdffiles/prak0417%20rel.pdf> (Accessed December 10, 2009); "Government Sues Another Cardiologist to Recover Fraudulent Receipt of Salary at UMDNJ" By Christopher J. Christie, U.S. Department of Justice, April 22, 2008, <http://newark.fbi.gov/dojpressrel/2008/nk042208.pdf> (Accessed December 10, 2009).

¹¹ "Making them pay" By Gregg Blesch, Modern Healthcare, October 12, 2009,

<http://www.modernhealthcare.com/article/20091012/REG/910099990> (Accessed December 10, 2009)



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Robert James Cimasi, MHA, ASA, FRICS, MCBA, AVA, CM&AA, serves as President of **HEALTH CAPITAL CONSULTANTS (HCC)**, a nationally recognized healthcare financial and economic consulting firm headquartered in St. Louis, MO, serving clients in 49 states since 1993. Mr. Cimasi has over thirty years of experience in serving clients, with a professional focus on the financial and economic aspects of healthcare service sector entities including: valuation consulting and capital formation services; healthcare industry transactions including joint ventures, mergers, acquisitions, and divestitures; litigation support & expert testimony; and, certificate-of-need and other regulatory and policy planning consulting.

Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books], *“An Exciting Insight into the Healthcare Industry and Medical Practice Valuation”* [2002 – AICPA], and *“A Guide to Consulting Services for Emerging Healthcare Organizations”* [1999 John Wiley and Sons].

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows.



Todd A. Zigrang, MBA, MHA, ASA, FACHE, is the Senior Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas valuation and financial analysis for hospitals and other healthcare enterprises. Mr. Zigrang has significant physician integration and financial analysis experience, and has participated in the development of a physician-owned multi-specialty MSO and networks involving a wide range of specialties; physician-owned hospitals, as well as several limited liability companies for the purpose of acquiring acute care and specialty hospitals, ASCs and other ancillary facilities; participated in the evaluation and negotiation of managed care contracts, performed and assisted in the valuation of various healthcare entities and related litigation support engagements; created pro-forma financials; written business plans; conducted a range of industry research; completed due diligence practice analysis; overseen the selection process for vendors, contractors, and architects; and, worked on the arrangement of financing.

Mr. Zigrang holds a Master of Science in Health Administration and a Masters in Business Administration from the University of Missouri at Columbia, and is a Fellow of the American College of Healthcare Executives. He has co-authored *“Research and Financial Benchmarking in the Healthcare Industry”* (STP Financial Management) and *“Healthcare Industry Research and its Application in Financial Consulting”* (Aspen Publishers). He has additionally taught before the Institute of Business Appraisers and CPA Leadership Institute, and has presented healthcare industry valuation related research papers before the Healthcare Financial Management Association; the National CPA Health Care Adviser's Association; Association for Corporate Growth; Infocast Executive Education Series; the St. Louis Business Valuation Roundtable; and, Physician Hospitals of America.



Anne P. Sharamitaro, Esq., is the Vice President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where she focuses on the areas of Certificate of Need (CON); regulatory compliance, managed care, and antitrust consulting. Ms. Sharamitaro is a member of the Missouri Bar and holds a J.D. and Health Law Certificate from Saint Louis University School of Law, where she served as an editor for the Journal of Health Law, published by the American Health Lawyers Association. She has presented healthcare industry related research papers before Physician Hospitals of America and the National Association of Certified Valuation Analysts and co-authored chapters in *“Healthcare Organizations: Financial Management Strategies,”* published in 2008.