



Department of Justice

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Middle District of Pennsylvania

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SCRANTON DOCTOR INDICTED FOR RECEIVING HEALTHCARE KICKBACKS AND UNLAWFULLY DISTRIBUTING CONTROLLED SUBSTANCES RESULTING IN TWO DEATHS

SCRANTON – The United States Attorney’s Office for the Middle District of Pennsylvania announced the indictment yesterday of a Scranton doctor, Kurt Moran, age 68, on charges related to receiving healthcare kickbacks and unlawfully distributing controlled substances, including distributions resulting in death. Moran is scheduled to appear before United States Magistrate Judge Karoline Mehalchick at 3:00pm on September 16, 2020.

According to United States Attorney David J. Freed, the 423-count indictment alleges that beginning in December 2014 and continuing into 2017, Moran conspired with others to pay and receive bribes in exchange for prescribing the drug Subsys (sublingual fentanyl) to his patients. Subsys is a transmucosal immediate release fentanyl (TIRF) drug. It is approved by the Food and Drug Administration (FDA) only for use in cancer patients suffering from breakthrough cancer pain. It is alleged that Moran was paid approximately \$140,000 over a two year period to prescribe Subsys to his patients for pain not associated with cancer. In order to conceal and disguise that kickbacks and bribes were being paid to Moran to prescribe Subsys, Insys falsely designated the payments to Moran as “honoraria” for purportedly providing educational presentations regarding Subsys.

Moran is also charged with multiple counts of unlawfully distributing Subsys to 13 patients and two counts of unlawfully prescribing Schedule II controlled substances, including oxycodone and fentanyl, which resulted in the death of a 35 year old man and a 32 year old woman.

The indictment alleges that Moran contracted with Insys Therapeutics, Inc. in 2014 to participate in the Insys Speaker Program (ISP), which was used as a vehicle to pay doctors and other clinicians to prescribe Subsys off-label. In fact, the ISP was used as a way to funnel money to doctors like Moran under the guise of an “honorarium” appearing to be legitimate. In reality, many of the speaker programs were merely social gatherings at high-end restaurants with no educational presentation whatsoever. Most also lacked an appropriate audience of peer-level doctors with a professional reason to be educated about Subsys. Moran allegedly was selected by Insys to participate in the sham speaker program because he consistently ranked as one of the top prescribers of opioid medications in Pennsylvania, including fentanyl. Moran allegedly was paid as an Insys speaker as long as he continued to prescribe Subsys and the more prescriptions written by Moran for Subsys – and the higher the dose – the more speaking opportunities were awarded to him and the more money he made. It is further alleged that Moran prescribed millions of micrograms of the sublingual fentanyl spray to patients with no cancer diagnosis and not suffering from breakthrough cancer pain. The indictment charges hundreds of counts of unlawful distribution of Subsys by Moran.

The indictment includes multiple counts of health care fraud related to the payment of claims by Medicare, FEHBP, and other private insurers who paid for the Subsys prescriptions. It is alleged that had these health care benefit programs known that Moran was prescribing Subsys in exchange for a kickback and outside the usual course of professional practice, the claims would not have been paid by the insurers.

The indictment seeks to forfeit to the United States any and all proceeds derived from unlawful activity as a result of the offenses alleged in the indictment, including U.S. currency and the forfeiture of Moran’s medical license as facilitating property.

United States Attorney Freed stated, “this defendant, an experienced and substantial dispenser of powerful pain medications, lined his own pockets to the detriment of his patients. He accepted bribes and kickbacks for prescribing medication narrowly approved to treat only cancer patients suffering breakthrough cancer pain. He then concealed and disguised the payments he received for prescribing that drug as compensation for providing educational presentations. In addition, but no less important, Moran improperly prescribed powerful schedule II controlled substances resulting in two deaths. While physicians are properly given great leeway under the law to treat their patients, we are compelled to intervene

when their fraudulent and criminal actions cause harm to others. We are grateful for the thorough investigative work of our federal agency partners.”

“Dr. Moran was responsible for the criminal distribution of oxycodone and sublingual fentanyl, both of which are extremely powerful and dangerous prescription opioid painkillers. Moran’s unlawful prescribing ultimately resulted in the death of two people.” said Jonathan A. Wilson, Special Agent in Charge of the Drug Enforcement Administration’s (DEA) Philadelphia Field Division. “Doctors have a legal and ethical obligation to prescribe these medications only for legitimate medical purposes and to do no harm to their patients. The kickbacks that Dr. Moran received for being one of the highest prescribers of sublingual fentanyl in Pennsylvania showed his utter disregard for these same obligations.”

“An important mission of the Office of Inspector General is to investigate allegations of fraud related to the U.S. Department of Labor’s (DOL) Office of Workers’ Compensation Programs (OWCP). We will continue to work with our law enforcement partners and OWCP to protect the integrity of DOL’s benefit programs,” said Derek Pickle, Acting Special Agent-in-Charge, Philadelphia Region, U.S. Department of Labor Office of Inspector General.

U.S. Postal Service Office of Inspector General Special Agent in Charge Kenneth Clevely, Eastern Area Field Office stated, “the U.S. Postal Service spends billions of dollars per year in workers compensation-related costs, most of which are legitimate. However, when medical providers choose to flout the rules and profit illegally, special agents with the USPS OIG will work with our law enforcement partners to hold them responsible. To report fraud or other criminal activity involving the Postal Service, contact our special agents at www.uspsoig.gov or [888-USPS-OIG](tel:888-USPS-OIG).”

The charges stem from an investigation initiated in 2016 by the Drug Enforcement Administration (DEA) located in Scranton, the United States Postal Service – Office of Inspector General, Department of Labor – Office of Inspector General, U.S. Office of Personnel Management – Office of Inspector General (OPM/OIG) and the Pennsylvania Attorney General’s Office. Prosecution is assigned to Assistant United States Attorneys Michelle Olshefski and Michael Consiglio.

Indictments and Criminal Informations are only allegations. All persons charged are presumed to be innocent unless and until found guilty in court.

A sentence following a finding of guilty is imposed by the Judge after consideration of the applicable federal sentencing statutes and the Federal Sentencing Guidelines.

In this case, the maximum penalty under the federal statute for the unlawful distribution of controlled substances resulting in death is life imprisonment. The unlawful distribution of controlled substances charges carry a maximum term of 20 years' imprisonment. The charges related to receiving health care kickbacks carry a maximum sentence of 10 years' imprisonment. Each charge also carries a fine and a term of supervised release following any period of incarceration. Under the Federal Sentencing Guidelines, the Judge is also required to consider and weigh a number of factors, including the nature, circumstances and seriousness of the offense; the history and characteristics of the defendant; and the need to punish the defendant, protect the public and provide for the defendant's educational, vocational and medical needs. For these reasons, the statutory maximum penalty for the offense is not an accurate indicator of the potential sentence for a specific defendant.

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