



BUSINESS DAY

Nurse Pleads Guilty to Taking Kickbacks From Drug Maker

By **KATIE THOMAS** JUNE 25, 2015

A Connecticut nurse has pleaded guilty to federal charges of accepting \$83,000 in kickbacks from Insys Therapeutics, an Arizona drug manufacturer that sells the powerful painkiller Subsys, as prosecutors appear to be intensifying their investigation into the company, which is under scrutiny for its marketing practices.

According to federal prosecutors in Connecticut, the nurse, Heather Alfonso, 42, worked in a pain clinic in Derby, Conn., and was a top prescriber of Subsys to Medicare patients. At the same time, prosecutors said, Ms. Alfonso was being paid by the company for speaking engagements, even though many times the only other person in attendance was a sales representative for Insys, or friends and colleagues who had no authority to prescribe the drug.

Ms. Alfonso's lawyer, A. Ryan McGuigan, declined to comment.

While federal prosecutors often pursue drug companies that are found to be providing kickbacks to doctors in exchange for prescribing their products, legal experts said it was unusual for them to take action against the person taking the money, and was a strong indication that prosecutors are moving aggressively in their investigation into Insys's sales practices. The company

has previously acknowledged that it is under federal investigation.

In a statement, Insys said it was looking into the matter and that it was committed to promoting Subsys “lawfully and appropriately.”

“I think it means big trouble for the company,” Marcella Auerbach, a former federal prosecutor who now represents whistle-blowers in fraud cases. “I think it takes two to tango to do kickbacks — a giver and a receiver.”

Several former sales representatives have said previously that the company encouraged them to call on pain doctors who treated patients with a wide array of ailments, and to reward high-prescribing doctors with perks like paid speaking engagements. Subsys is a form of the painkiller fentanyl and is a highly restricted medication approved only for use in cancer patients.

A lawyer for Ms. Alfonso did not respond to a call or email for comment Thursday.

As part of her plea agreement, Ms. Alfonso acknowledged the money she was paid influenced the prescribing of the drug. Prosecutors said Ms. Alfonso, who as an advanced practice registered nurse is authorized to prescribe medication to patients, was responsible for more than \$1 million in Medicare claims and was the highest prescriber of Subsys in Connecticut.

Interviews with several of Ms. Alfonso’s patients, prosecutors said, revealed that many of them did not have cancer. Medicare will not pay for the drug unless a patient has an active cancer diagnosis and it is told the drug is needed to manage the patient’s pain.

Ms. Alfonso pleaded guilty on Tuesday before United States District Judge Michael P. Shea in Hartford.

Ms. Auerbach and others said the nurse’s guilty plea may mean that prosecutors are seeking to strike deals with individuals in exchange for providing additional information about the company’s practices.

“The government, I suspect, is going in and flipping people in order to establish culpability,” said Patrick Burns, the co-director of Taxpayers Against Fraud, which advocates on behalf of whistle-blowers.

Ms. Alfonso appears to be the only paid speaker for Insys who has been charged with taking kickbacks, but she is not the only provider affiliated with the company to have faced federal charges recently.

Last fall, an analysis of a federal payment database by The New York Times found that five of the 20 physicians who received the most money from Insys during five months in 2013 had recently faced legal or disciplinary action, including three who were said to have inappropriately prescribed painkillers. In at least two cases, the company also hired the adult children of top doctors to serve as their parents’ sales representatives.

Ms. Alfonso is scheduled to be sentenced in September. The criminal charge she pleaded guilty to — receipt of kickbacks in relation to a federal health care program — carries a maximum prison time of five years and a fine of up to \$250,000.

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