



THE UNITED STATES ATTORNEY'S OFFICE
NORTHERN DISTRICT *of* TEXAS

[U.S. Attorneys](#) » [Northern District of Texas](#) » [News](#)

Department of Justice

U.S. Attorney's Office

Northern District of Texas

FOR IMMEDIATE RELEASE

Friday, October 14, 2016

Ten Additional Defendants Charged in \$100 Million TRICARE Fraud Scheme

**Two Defendants, Owners of CCMGRX, LLC, Were Indicted Earlier this Year in
This Scheme That Involved Claims for Compounded Pain and Scar Creams**

DALLAS — Special agents with the Federal Bureau of Investigation and the Defense Criminal Investigative Service (DCIS) arrested nine defendants this week in connection with their roles in a \$100 million health care fraud conspiracy perpetrated against TRICARE, the health insurance program for members of the military and their families. A tenth defendant surrendered to the FBI. The defendants, including doctors, pharmacy owners, and marketers were charged in a 35-count superseding indictment returned last week in Dallas and unsealed this afternoon, announced U.S. Attorney John Parker of the Northern District of Texas.

“Exhaustive investigative work by FBI and DCIS special agents and investigators not only led to today’s arrests, but to the identification and seizure of millions in assets that these defendants derived from their participation in this massive scheme that caused the TRICARE health insurance program—designed for our military personnel, veterans and their families—to suffer more than \$100 million in actual losses,” said U.S. Attorney Parker.

“Today’s arrests helped to alleviate the burden on the American taxpayers from an organized group determined to commit fraud within the healthcare industry, principally, the TRICARE system,” said Acting SAC Michael A. Costanzi of FBI Dallas. “This joint effort by the Dallas FBI and DCIS is one of many successful law enforcement partnerships forged to dismantle healthcare fraud groups.

“The indictments and arrests in this investigation highlight another step forward by DCIS and its law enforcement partners to protect the integrity of the Department of Defense (DoD) health care program known as TRICARE,” said Special Agent in Charge Janice M. Flores, of

the DCIS Southwest Field Office. “Fraud and abuse by pharmacies and medical providers that bill for compounded prescriptions and/or medications is a significant threat to the DoD health care system. With DoD’s limited resources and budgets, DCIS must continue to aggressively investigate fraud, waste and abuse to preserve and recover precious taxpayer dollars for our most vulnerable programs.”

The superseding indictment names the following defendants:

Dr. Walter Neil Simmons, 47, of Mesa, Arizona
Dr. William F. Elder-Quintana, 50, of El Paso, Texas
Jeffrey Eugene Fuller, 51, of Dallas, Texas
Andrew Joseph Baumiller, 37, of Dallas, Texas
Jeffry Dobbs Cockerell, 61, of Houston, Texas
Steven Bernard Kuper, 43, of Burleson, Texas
Ravi Morisetty, 42, of Irving, Texas
Joe Larry Straw, 46, of Frisco, Texas
Luis Rafael Rios, 50, of Killeen, Texas
Michael John Kiselak, 49, of Southlake, Texas

Defendants Fuller and Baumiller, the owner and President, respectively, of Trilogy Pharmacy, were detained pending pre-trial detention hearings set for this Thursday, October 20, 2016, at 2:00 p.m. before U.S. Magistrate Irma Carrillo Ramirez. The remainder of the defendants were released on bond.

Two additional defendants charged in the conspiracy, Richard Robert Cesario, 49, of Plano, Texas, and John Paul Cooper, 47, of Southlake, Texas, remain in federal custody on related charges outlined in a federal indictment returned in February 2016, following a finding by Judge Horan that “The evidence shows that witnesses told investigators that [Cooper] and his co-defendant Richard Robert Cesario stated an intent to do possible harm to any associates or employees who turned on them and flee to Costa Rica if prosecuted.”

The superseding indictment alleges that from approximately May 2014 to mid-February 2016, the 12 defendants conspired to run a scheme to defraud TRICARE in connection with the prescription of compounded pain and scar creams. The scheme involved the payment of kickbacks to TRICARE beneficiaries, payment of kickbacks to prescribing physicians, and the payment of kickbacks to marketers by the owners of compounding pharmacies.

Cesario and Cooper co-owned and co-operated CCMGRX, LLC, (CMGRX), a Texas limited liability company formed in September 2014 that had its principal place of business at 5050 Quorum Drive in Dallas. The ‘CMG’ in CMGRX stands for Compound Marketing Group. CMGRX primarily marketed compounded pain and scar creams to current and former U.S. military members and their families on behalf of various compounding pharmacies. CMGRX’s principle marketing tool was a sham medical study through which individuals were paid monetary compensation in exchange for obtaining compounded drugs with their TRICARE prescription benefits. Cesario served as CMGRX’s CEO and Treasurer and

Cooper served as its President and Secretary. Neither had any medical, nursing or pharmaceutical licensing or education. CMGRX ceased operations in mid-2015, shortly after TRICARE announced changes to its coverage of compounded drugs. From October 2014 through June 2015, TRICARE paid more than \$102 million for compounded drug prescriptions generated by CMGRX.

Defendants Straw and Kiselak led marketing groups for CMGRX that recruited military members and their families and offered them monetary compensation in exchange for obtaining compounded drugs with their TRICARE prescription benefits as part of CMGRX's study. Defendant Rios, a marketer and patient recruiter in Straw's marketing group, recruited hundreds of beneficiaries on and around Fort Hood in Killeen, Texas.

According to the superseding indictment, as part of their scheme to defraud, Cesario, Cooper, Straw, Rios, Kiselak and their coconspirators offered to pay, and did pay, TRICARE beneficiaries for obtaining and filling prescriptions for compounded drugs, principally compounded pain creams, scar creams, migraine creams, and vitamins. They disguised these payments to TRICARE beneficiaries as "grants" for participating in a medical study they referred to as a TRICARE-approved "Patient Safety Initiative" or "PSI Study" to evaluate the safety and efficacy of compounded drugs. In reality, the PSI Study was not approved by TRICARE, was not overseen by a qualified physician or medical professional, had no control group, and was not designed to gather any useful scientific data relating to the safety and efficacy of any drug. Its true purpose was to compile a list of TRICARE beneficiaries who had filled prescriptions so that Cesario, Cooper and their coconspirators could calculate how much to pay the beneficiaries.

To further disguise the source of those kickbacks to TRICARE beneficiaries, according to the superseding indictment, Cesario and Cooper directed the creation of a charity and funneled the payments to the beneficiaries through the charity. Kiselak introduced Cesario and Cooper to an individual who helped them create the "Freedom From Pain Foundation" and registered it as a tax-exempt charitable foundation. The foundation, however, was funded entirely by payments from Cesario and Cooper, or business accounts they controlled, and from November 2014 to June 2015, they paid approximately \$2.8 million to the foundation, the majority of which was used to pay TRICARE beneficiaries and doctors.

Defendant Simmons served as the Chief Medical Officer for CMGRX and helped Cesario and Cooper create the PSI Study. Defendant Elder-Quintana worked as a contract physician with CMGRX., and Cesario and Cooper paid him to prescribe compounded drugs to TRICARE beneficiaries. Some of the payments were made directly to Elder, while others were made to Aztec Medicus, PLLC, a company he owned and controlled. Elder wrote thousands of prescriptions for compounded drugs to TRICARE beneficiaries who he never met in person and for whom he conducted only a cursory consultation via telephone. In an effort to disguise physician kickbacks, Cesario, Cooper and their coconspirators funneled some payments through the Freedom From Pain Foundation, under the false premise that the physicians were providing consulting services in connection with the PSI Study.

Trilogy Pharmacy, a compounding pharmacy in the TRICARE network, paid Cesario, Cooper, Straw, Rios, Kiselak and other CMGRX employees kickbacks in exchange for sending prescriptions for compounded drugs to Trilogy. Baumiller worked closely with Fuller, Cesario and Cooper to disguise these kickbacks as employee wages. Defendant Cockerell owned and operated 360 Pharmacy Services, a compounding pharmacy in the TRICARE network that was located in Webster, Texas. 360 Pharmacy paid kickbacks to Cesario and Cooper in exchange for sending prescriptions to them. Defendant Kuper owned and operated FW Medical Supplies LLC, a compounding pharmacy in the TRICARE network that was located in Burleson, Texas, that did business under the name Dandy Drug. Dandy Drug paid kickbacks to Cesario and Cooper in exchange for referring prescriptions to them. Defendant Morisetty owned and operated Dena Group, LLC, a compounding pharmacy in the TRICARE network that was located in Irving, Texas, and which did business under the name Alpha Pharmacy. Alpha Pharmacy paid kickbacks to Cesario and Cooper in exchange for referring prescriptions to them.

Each defendant is charged with one count of conspiracy to commit health care fraud, which, upon conviction, carries a maximum statutory penalty of 10 years in federal prison and a \$250,000 fine. Cesario and Cooper are also each charged with 14 counts of payment and/or receipt of illegal remuneration. Each of the remaining defendants, with the exception of Simmons, is charged with at least one count of payment and/or receipt of illegal remuneration. The maximum statutory penalty, upon conviction for each of those counts is five years in federal prison and a \$250,000 fine. Restitution may also be ordered.

The superseding indictment also includes a detailed forfeiture allegation that would require the defendants, upon conviction, to forfeit to the U.S. any property traceable to the offense, including real estate in Plano, Frisco, Southlake, Dallas, and New Braunfels, Texas, and Jacksonville, Florida; funds in bank accounts and investment accounts; numerous vehicles; boats and recreational vehicles; numerous firearms; jewelry and artwork; and other various investments.

An indictment is an accusation by a federal grand jury, and a defendant is entitled to the presumption of innocence unless proven guilty.

The Federal Bureau of Investigation and Defense Criminal Investigative Service are investigating the case. Assistant U.S. Attorney Douglas Brasher is in charge of the prosecution.

###

USAO - Texas, Northern

Topic:

Healthcare Fraud

[Download Cesario superseding indictment.pdf](#)

Updated October 14, 2016

