

Feds Say Atty Exploited Rural Hospitals To Cover \$1.4B Fraud

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Law360 (June 29, 2020, 4:31 PM EDT) -- A Florida attorney and nine other people were charged with a \$1.4 billion scheme to bill insurers artificially high rates for drug tests by claiming the tests were run by rural hospitals in Florida, Georgia and Missouri, according to a federal indictment made public on Monday.

In the case filed in Jacksonville, Florida, prosecutors say attorney Aaron Durall, medical billing company owner Jorge Perez and others ran a scheme to take over financially troubled rural hospitals and use their status to bill insurers at higher rates for blood and urine tests that were actually run at independent laboratories.

The group is accused of sending fraudulent claims totalling \$1.4 billion to insurers affiliated with the [Blue Cross and Blue Shield Association](#), as well as UnitedHealthcare and [Aetna](#). The insurers paid out some \$400 million, according to the indictment.

While other defendants are accused of having profited in the millions or tens of millions of dollars, prosecutors say Durall made \$184 million.

Durall is listed on the [Florida Bar Association's](#) website as running his own law offices in Parkland, Florida. The site lists him as a member in good standing with no disciplinary incidents in the past 10 years.

In an indictment handed up by a grand jury on June 17 and filed on the public docket Monday, prosecutors say Durall, Perez, hospital management company owner Seth Guterman, lab owner Christian Fletcher and others worked together to find and take over ailing rural hospitals in 2015 and 2016.

The indictment claims that several small hospitals were pawns in the scheme. Prosecutors say Perez and others controlled Campbellton-Graceville Hospital and Regional General Hospital Williston in Florida, Putnam County Memorial Hospital in Missouri, and Durall bought out Chestatee Regional Hospital in Georgia.

Some of the facilities were classified as "Critical Access Hospitals," meaning they were entitled to higher Medicare reimbursement rates. The private insurers also paid higher rates to rural hospitals in order to maintain a coverage network for patients, according to the complaint.

The scheme allegedly involved passing off tests for patients across the country as having been

performed at the hospitals when they were actually done in other labs, including those that Durall, Fletcher and co-defendant John F. Porter owned.

Those labs would not have been eligible to bill at the same high rates as the rural hospitals under the insurance contracts, according to prosecutors.

To send the bills to insurers, prosecutors say the group relied on billing software from Perez's company Empower H.I.S. LLC, and Medivance Billing Services, a company owned by Neisha Zaffuto, who is also charged in the case.

Durall, Perez, Guterman and Fletcher face charges of health care fraud, conspiracy and money laundering.

The others charged with money laundering and conspiracy in the case are Porter, Zaffuto, Perez's brother Ricardo Perez and Sean Porter, who prosecutors say owned a company used to launder the money.

Aaron Alonzo and Nestor Rojas, who prosecutors say recruited testing companies, are charged only with conspiracy.

Two other men, David Byrns and Kyle Marcotte, have agreed to plead guilty to conspiracy charges and cooperate in the case. Prosecutors allege Byrns helped Perez take over the Putnam County Hospital. Marcotte, who ran a substance abuse recovery center, is accused of taking kickbacks in exchange for urine samples made so lucrative by the alleged fraud.

According to the plea agreements, Byrns agreed to return \$5.1 million he got from the scheme, plus four Florida properties and bank accounts holding \$1.8 million. Marcotte admitted to making \$10.1 million off the scheme and will forfeit a \$1.6 million home.

In the Perez case, prosecutors are going after 13 Florida properties, six automobiles, three boats and various pieces of jewelry.

Department of Justice officials called the case a warning on Monday.

Maria Chapa Lopez, U.S. Attorney for the Middle District of Florida, said in a statement that fraud and "deceptive business practices" undermine the trust on which the healthcare system relies.

"We will continue to pursue those who set these tenets aside and compromise the care and safety of our citizens for profit," she said.

[DOJ Criminal Division Chief Brian Benczkowski](#) said the case shows prosecutors will continue to root out health care fraud "however complex or elaborate."

The criminal case echoes earlier civil suits describing parts of the alleged scheme. In 2016, former Chestatee Regional Hospital employee Kelly Smallwood filed a whistleblower complaint saying Durall fraudulently passed bills through the hospital. She dropped the case in 2017.

Blue Cross insurers sued Durall, Perez and Zaffuto in 2018. In 2019, the insurers settled that suit and a similar one brought in California against Perez and Zaffuto.

Brian Rafferty, an attorney who represents Durall, told Law360 on Monday his client was "wrongfully accused" and said he believes Durall will be vindicated at trial.

"He has cooperated in this investigation, testified under oath about it, and is deeply disappointed that the government has ignored the facts and converted a civil contract dispute into a federal criminal case.

Rafferty said the alleged victim insurers "have been ordered to pay millions of dollars in civil proceedings across this country for breaching contracts by refusing to pay for the same kinds of laboratory services that are at issue in this case."

Robert R. McLendon IV, who represents Jorge Perez, said Monday his client intends to fight the charges and appreciates the messages of support he has received from his community.

"He absolutely looks forward to having his day in court, and we look forward to a trial at whatever point we can convene a jury," McLendon said.

Steve Sadow and Vince Citro, counsel for Christian Fletcher, released a statement Monday saying their client is innocent and "will mount an aggressive defense." Fletcher, who owns Lifebrite Laboratories Inc. in Atlanta, was engaging in lawful transactions with the benefit of legal advice, they said.

"Christian and his business entities will continue to provide outstanding health care services to patients during the pendency of the case," they said. "Christian looks forward to clearing his name."

Victor Rocha, who represents alleged lab recruiter Aaron Alonzo, also said his client looks forward to his day in court. "The evidence in this case will show that he is innocent of these charges," Rocha said.

Counsel for the other defendants either declined to comment or did not immediately reply to requests for comment on Monday.

The government is represented by Andrew Tysen Duva and Frank Talbot of the [U.S. Attorney's Office](#) for the Middle District of Florida and Allan Medina, Gary A. Winters and James v. Hayes of the Department of Justice's Fraud Section.

Jorge Perez is represented by Jason Ferguson of the Law Offices of Jason Ferguson and Robert R. McLendon IV PC.

Ricardo Perez is represented by Arturo V. Hernandez.

Guterman is represented by Stephen Sozio of [Jones Day](#).

Durall is represented by Brian Rafferty and Brian F. McEvoy of [Polsinelli PC](#).

James Porter Jr. is represented by Seth Schwartz of the Schwartz Law Group.

Sean Porter is represented by Caleb Rowland of Rowland Law LLC.

Zaffuto is represented by Joshua Lowther of Lowther Walker.

Rojas is represented by Philip R. Horowitz.

Alonzo is represented by Victor E. Rocha of the Law Offices of Victor E. Rocha.

Fletcher is represented by Steven H. Sadow PC and Vincent Albert Citro of Horowitz & Citro PA.

Byrns is represented by Jesse Nolan Dreicer of Tassone Dreicer & Hill and John Justin Johnston of the Johnston Law Firm LLC.

Marcotte is represented by Allan F. Brooke II and Henry M. Coxe III of [Bedell Dittmar DeVaul Pillans & Coxe PA](#).

The case is U.S. v. Perez et al., case number 3:20-cr-00086, in the [U.S. District Court for the Middle District of Florida](#).

--Editing by Amy Rowe.

Update: This story has been updated with additional detail and comments from prosecutors and the defense

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