

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

***United States Attorney
Laura E. Duffy***

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For Immediate Release

DOCTOR AND OWNER OF MEDICAL SUPPLY COMPANY CHARGED IN MILLION DOLLAR POWER WHEELCHAIR SCAM

NEWS RELEASE SUMMARY - July 25, 2012

United States Attorney Laura E. Duffy announced that a medical doctor and an owner of a medical supply company were charged with submitting \$1.3 million in fraudulent power wheelchair claims to Medicare. Dr. Irving Schwartz was arrested by federal agents on Tuesday in Yuba City, California, and arraigned on one count of conspiracy to receive health care kickbacks and defraud the Medicare trust fund. Jose Melendez, owner and operator of Oceanside Medical Services, was arrested on Wednesday in Long Beach, California and arraigned on charges of conspiracy, witness tampering and health care fraud.

According to the indictment, the scheme focused on the sale of fraudulent power wheelchair prescriptions, with the end-goal being to obtain reimbursements from Medicare for power wheelchairs that patients did not need and, in some cases, did not want. The indictment alleges that Schwartz and a co-conspirator would travel to El Centro, California in search of elderly Medicare patients. Schwartz would write the patients prescriptions for power wheelchairs, even though the patients did not need the equipment and could walk without assistance. Schwartz collected a \$300 cash kickback in exchange for each power wheelchair prescription. One of Schwartz' co-conspirators would then sell the power wheelchair prescriptions to Melendez, charging him \$1,000 per fraudulent prescription.

Melendez, in turn, sold some of the power wheelchair prescriptions to other co-conspirators, charging an additional mark-up on each prescription. As the last step in the scheme, Melendez and other

co-conspirator owners of medical supply companies, would submit the fraudulent prescriptions to Medicare for reimbursement, billing up to \$5,865 for each power wheelchair. The indictment further alleges that Melendez attempted to persuade one of the co-conspirators to lie to federal agents, in an effort to hinder the Medicare fraud investigation.

If convicted, Schwartz faces a maximum penalty of 5 years, and Melendez faces a maximum penalty of 20 years in prison.

In separate but related cases, three co-conspirators, Gloria Hernandez, Aristeo Tavares and Laura Tavares, have pled guilty and face a maximum of 10 years in prison. All of the defendants each also face a maximum \$250,000 fine, and a mandatory order of restitution to repay the fraudulently obtained proceeds of the scheme.

The public is reminded that an indictment itself is not evidence that the defendants committed the crimes charged. The defendants are presumed innocent until the Government meets its burden in court of proving guilt beyond a reasonable doubt.

Both defendants are expected to make their initial appearance in federal court in San Diego on July 31, 2012 at 10:30 a.m. before Magistrate Judge Nita Stormes.

DEFENDANTS

CRIMINAL CASE NO. 12cr2599-H

Irving J. Schwartz
Jose Melendez

SUMMARY OF CHARGES

Count 1: Conspiracy to Pay and Receive Health Care Kickbacks and Defraud -Title 18, United States Code, Section 371; Maximum Penalties: Five years in custody; \$250,000 fine; 3 year of supervised release; and mandatory restitution

Counts 2-11: Health Care Fraud - Title 18, United States Code, Section 1347; Maximum Penalties: Ten years in custody; \$250,000 fine; 3 years of supervised release; and mandatory restitution

Count 12: Attempt to Tamper with a Witness - Title 18, United States Code, Section 1512; Maximum Penalties 20 years in custody; \$250,000 fine; 3 years of supervised release

INVESTIGATING AGENCIES

Federal Bureau of Investigation
Department of Health and Human Services, Office of Inspector General