

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

United States Attorney

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For Immediate Release

ALVARADO PHARMACY AND ITS OWNER ORDERED TO REPAY MEDICARE OVER \$1 MILLION

NEWS RELEASE SUMMARY – February 21, 2014

United States Attorney Laura E. Duffy announced today that Alvarado Medical Plaza Pharmacy, Inc. was sentenced by United States District Court Judge Janis L. Sammartino to repay Medicare over \$1 million, and to pay a \$10,000 fine, following its conviction of federal Health Care Fraud for billing Medicare for unapproved oncology drugs.

The pharmacy had admitted that between May 2010 and June 2011, it ordered \$752,688.00 of prescription oncology drugs from Quality Specialty Products (QSP) in Canada. The drugs ordered from QSP were unapproved versions of drugs sold in the United States as Avastin, Eloxatin, Gemzar, Neupogen, Rituxin, Taxotere, and

Zometa, which were shipped from Canada to defendant in San Diego. The pharmacy further admitted that it was aware that the drugs were not intended for sale in the United States because (a) the packaging and shipping documents indicated that the drugs were shipped to the office from outside the United States; (b) many of the invoices identified the origin of the drugs and intended markets as countries other than the United States; (c) the labels did not bear the “RX Only” language required by the Food and Drug Administration (FDA); (d) the labels did not bear the National Drug Code (NDC) numbers found on the labels of the drugs intended for the U.S. market; (e) many of the labels had information in foreign languages; (f) the drugs were purchased at a substantial discount; and (g) the packing slips indicated that the drugs came from Canada.

The pharmacy further admitted that it supplied the prescription oncology drugs purchased from QSP to doctors, pre-mixed in infusion bags, without advising the doctors that the drugs came from abroad and were not approved for use in the United States. As known to the pharmacy, Medicare provides reimbursement only for drugs approved for use in the United States. Each drug approved by the FDA for use in the United States is assigned a specific code by Medicare for reimbursement claim purposes. The pharmacy admitted that it was aware that some of the drugs purchased from QSP would be administered to Medicare patients, and that doctors would bill Medicare for those drugs using the reimbursement code for U.S. approved drugs. The pharmacy admitted that by causing doctors to falsely claim that the drugs were approved by the FDA for use on patients in the United States, Medicare was fraudulently overbilled at least \$1,004,284.04 between May 2010 and June 2011.

Also today Judge Sammartino sentenced William Burdine, a pharmacist licensed in the State of California and the owner of Alvarado Medical Plaza Pharmacy. Burdine was sentenced to 8 months’ home confinement, and ordered to complete 240 hours of community service over his five year period of probation. Burdine admitted that he ordered the prescription oncology drugs from QSP in Canada, knowing that it was unlawful for him to import those drugs into the United States under the Food, Drug and Cosmetic Act, and was convicted of Importation of Goods Contrary to Law. Burdine was also ordered to repay

Medicare in the same amount as Alvarado Medical Plaza Pharmacy.

Criminal Case No. 13cr4295-JLS

DEFENDANTS

Alvarado Medical Plaza Pharmacy, Inc. Incorporated:1992 San Diego, California

William Burdine Age: 65

SUMMARY OF CHARGES

Alvarado Medical Plaza Pharmacy Inc.

Health Care Fraud, in Violation of Title 18, United States Code, Section 1347.
Maximum Penalty for a corporation: 5 years probation, a \$500,000 fine and \$400 special assessment.

William Burdine

Importation Contrary to Law, in Violation of Title 18, United States Code, Section 545.
Maximum Penalty: 10 years in custody and/or \$250,000 fine and a \$100 special assessment

AGENCY

U.S. Food and Drug Administration, Office of Criminal Investigations