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## Beaumont Health to pay \$84.5M over cozy doctor deals

**JC Reindl**, Detroit Free Press Published 5:38 p.m. ET Aug. 2, 2018 | Updated 10:16 p.m. ET Aug. 2, 2018



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Beaumont Health has agreed to pay \$84.5 million to settle U.S. Justice Department allegations concerning improper pay arrangements with eight high-earning doctors following complaints in newly unsealed whistleblower lawsuits.

The settlement resolved allegations that between 2004 and 2012, the hospital system, then based in Royal Oak, overpaid the doctors and provided them with free or below-market office space and other perks so that they would refer more patients to Beaumont.

The behavior may have violated the federal Stark Law, Anti-Kickback Statute and False Claims Act, as it affected claims made to Medicare, Medicaid and TRICARE programs, according to a statement issued

Thursday by the Justice Department.

The Anti-Kickback Statute prohibits offering, paying, soliciting or receiving remuneration to induce patient referrals covered by Medicare and Medicaid. The Stark Law prohibits a hospital from billing Medicare for services referred by doctors with whom the hospital has an improper financial arrangement, such as excessive compensation.

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The allegations predate Beaumont's 2014 three-way merger with what was Dearborn-based Oakwood Healthcare and Farmington Hills' Botsford Hospital. It also occurred under a different Beaumont executive team.

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"Offering financial incentives to physicians in return for patient referrals undermines the integrity of our health care system," Acting Assistant Attorney General Chad Readler of the Justice Department's Civil Division said in a statement.

The allegations were first brought forth in four separate whistleblower lawsuits filed in 2010 and 2011 under provisions in the False Claims Act that allow whistle-blowers to share a portion of any recovery.

The lawsuits — unsealed Thursday for the first time — include detailed allegations and name numerous Beaumont doctors and administrators.

How much money the whistle-blowers will get has yet to be determined, the Justice Department said.

The settlement also resolves claims that Beaumont allegedly misrepresented that a CT radiology center qualified as an outpatient department of Beaumont in claims to federal health care programs. That distinction could have affected the amount of Beaumont's reimbursement.

One of the newly unsealed lawsuits alleged that "Beaumont has engaged in a consistent practice of rewarding top referral sources with medical directorships and other 'perk' appointments where they are required to perform little if any work in return for sizable salaries."

In another unsealed lawsuit, a whistle-blowing doctor claimed he was marginalized by top hospital administrators after sharing his belief that some doctors were essentially receiving kickbacks, among other concerns.

"You need to learn to just go along with the physicians, help them to do what they want, and not create waves or try to be a crusader," the whistle-blower claimed he was told, according to court documents. "If you keep creating waves, you will be destroyed."

That whistle-blower's lawsuit also claims a former Beaumont comptroller was laid off in part for his attempts to correct some of the improper practices going on.

Beaumont Health president and CEO John Fox said in a statement that since the 2014 merger, the hospital system has implemented additional procedures and legal reviews to ensure "that these types of issues do not arise again."

"As part of our settlement with the DOJ, we will enter into a Corporate Integrity Agreement with representatives of the Department of Health and Human Services for five years," said Fox, who did not work at Beaumont when the alleged behavior occurred.

## Big salaries

The allegedly overpaid doctors included four cardiologists with 2009 salaries between \$702,000 and \$753,000, which a whistle-blower considered to be well above the typical cardiologist's salary at the time. In addition to the big salaries, those doctors were allowed to keep revenue from their private practices, even though that work cut into their time for Beaumont.

"These enormous salaries are provided to the cardiologists as a pure kickback for conducting their practice at Beaumont," the whistle-blower's lawsuit said. "This illegal arrangement is openly discussed at Beaumont."

The lawsuit also claims that a group of oncologists threatened to walk out of Beaumont and set up their own oncology practice if they didn't also get a "special deal," presumably one like the cardiologists.

After an agreement was struck that raised the oncologists' earning potential, one of the most productive research oncologists resigned, "in large part because he did not want to be party to what he considered an illegal kickback scheme," the lawsuit said.

## Billing fraud?

Another of the unsealed whistle-blower lawsuits claimed that Beaumont grossly overpaid one surgeon with an \$800,000 salary who it knew was committing billing fraud.

This surgeon routinely performed a surgical weight-loss procedure that wasn't covered by private insurance, Medicare or Medicaid, yet he would bill it as a "partial gastrectomy and hiatal hernia repair" that was covered by insurance.

That lawsuit also claimed that Beaumont, despite having its own MRI machines, leased MRI facilities from a physicians' group as a financial incentive for the group to refer more patients to Beaumont.

That lawsuit's whistle-blower says she informed a top Beaumont executive that the Beaumont Urology Center had been operating for two years without a state-required Certificate of Need. But she was told that shutting down the urology center would affect Beaumont's patient referrals.

Under the U.S. Justice Department settlement, Beaumont Health paid \$82.74 million to the U.S. and \$1.76 million to the State of Michigan.

"I would like to commend the new leadership at Beaumont Hospital for making things right once its past wrongdoing was brought to its attention by federal investigators," said U.S. Attorney Matthew Schneider for the Eastern District of Michigan.

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**Editor's note:** A previous version of this story misstated the first name of U.S. Attorney Matthew Schneider. This story has been corrected.

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