



## Nation's Largest Nursing Home Pharmacy and Drug Manufacturer to Pay \$112 Million to Settle False Claims Act Cases

U.S. Also Files Complaint Against Two Atlanta-Based Nursing Home Chains and Their Principals

WASHINGTON - The nursing home pharmacy, Omnicare Inc. of Covington, Kentucky, will pay \$98 million, and drug manufacturer, IVAX Pharmaceuticals of Weston, Florida, will pay \$14 million to resolve allegations that Omnicare engaged in kickback schemes with several parties, including IVAX, the Justice Department announced today. Approximately \$68.5 million of the settlement proceeds will go to the United States, while \$43.5 million has been allocated to cover Medicaid program claims by participating states.

At the same time, the United States announced that it has intervened and filed a complaint against two large nursing home chains, Mariner Health Care Inc. and SavaSeniorCare Administrative Services LLC, both of Atlanta, and their principals, Leonard Grunstein, Murray Forman, and Rubin Schron, for accepting a kickback from Omnicare in return for pharmacy services contracts.

The settlement with Omnicare - the nation's largest pharmacy that specializes in providing drugs to nursing home patients - resolves allegations that the company solicited or paid a variety of kickbacks. The company allegedly solicited and received kickbacks from a pharmaceutical manufacturer, Johnson & Johnson (J&J), in exchange for agreeing to recommend that physicians prescribe Risperdal, a J&J antipsychotic drug, to nursing home patients. J&J's kickbacks to Omnicare took multiple forms, including rebates that were conditioned on Omnicare engaging in an "Active Intervention Program" for Risperdal and payments disguised as data purchase fees, educational grants, and fees to attend Omnicare meetings.

The government further alleged that Omnicare regularly paid kickbacks to nursing homes by providing consultant pharmacist services at rates below the company's cost and below the fair market value of such services in order to induce the homes to refer their patients to Omnicare for pharmacy services. The government also alleged that Omnicare solicited, and IVAX paid, \$8 million in kickbacks in exchange for Omnicare's agreement to purchase \$50 million in drugs from IVAX. These allegations against Omnicare and IVAX, now a subsidiary of Teva Pharmaceuticals Industries, Ltd., are detailed in a complaint unsealed today and originally filed under the qui tam or whistleblower provisions of the False Claims Act in the District of Massachusetts.

"These defendants broke the law to take advantage of our nation's most vulnerable citizens - the elderly and the poor," said Tony West, Assistant Attorney General for the Civil Division of the Department of Justice.

"Illegal conduct like this can undermine the medical judgments of health care professionals, lead to patients being prescribed medications they do not need, and drive up the costs of health care." Assistant Attorney General West thanked the collaborative efforts of the Department of Justice's Civil Division, the U.S. Attorney for the District of Massachusetts, the Office of Inspector General of the Department of Health and Human Services, the Food and Drug Administration Office of Criminal Investigations, and the Federal Bureau of Investigation.

"Omnicare and other nursing home pharmacies specialize in providing drugs to elderly patients who are often suffering from Alzheimer's Disease or dementia and who have little or no control over the drugs they receive," said Michael Loucks, Acting U.S. Attorney for the District of Massachusetts.

"Today's settlement provides a strong message to these pharmacies, as well as to pharmaceutical companies and nursing homes, that the government will not tolerate the payment of kickbacks which can distort proper medical judgment and put profits ahead of good medical care."

As part of the settlement, Omnicare and IVAX have agreed to enter into separate corporate integrity agreements with the Office of Inspector General of the Department of Health and Human Services. Those agreements provide for procedures and reviews to be put in place to avoid and promptly detect conduct similar to that which gave rise to these matters.

In a separate action, the United States alleges that Omnicare, Mariner Health Care, SavaSenior Care, Grunstein, Forman, and Schron conspired to arrange for Omnicare to pay the nursing home chains \$50 million in exchange for the right to continue providing pharmacy services to the nursing homes, which together constituted one of Omnicare's largest customers. According to the government's complaint, these defendants attempted to disguise the \$50 million kickback as a payment to acquire a small Mariner Health Care business unit that had only two employees and was worth far less than \$50 million. After they became aware of the government's investigation, Grunstein, Forman, and Schron allegedly created backdated documents in a further attempt to hide the kickback. These allegations are detailed in a separate complaint that was unsealed today.

Today's settlement resolves the allegations against Omnicare and IVAX; the United States will proceed with its case against the Mariner Health Care defendants, which was originally filed as a whistleblower action.