

Wisconsin hospital and affiliated physician group pay \$10M to settle whistleblower lawsuit alleging kickbacks

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MILWAUKEE, WISCONSIN, Jan. 6, 2020 – Agnesian Healthcare and its affiliated physician group in Wisconsin have agreed to pay \$10 million to the federal government and the state of Wisconsin to settle a whistleblower case brought by an orthopedic surgeon who alleged the hospital paid doctors kickbacks and other financial incentives to get patient referrals despite laws that prohibit such compensation.

Dr. Clark Searle’s “qui tam” (whistleblower) lawsuit against Agnesian, a three-hospital system that dominates the Fond du Lac region, and Fond du Lac Regional Clinic SC was filed in 2014 in federal district court in Milwaukee. The clinic is a for-profit corporation made up of about 100 multi-specialty physicians whose salaries, overhead and other costs are paid by Agnesian.

Dr. Searle is represented by [Phillips & Cohen LLP](#) and co-counsel Goldberg Kohn as well as local counsel Cross Law Firm SC.

“Dr. Searle is a dedicated physician who spoke up because he felt he had to do so,” said [Molly Knobler](#), a whistleblower attorney at Phillips & Cohen. “He walked a difficult road with admirable grace and had faith that he was doing the right thing.”

The whistleblower complaint alleges that Agnesian’s compensation scheme for doctors violated the Stark Law, the Anti-Kickback Statute, the federal False Claims Act and the Wisconsin False Claims for Medical Assistance Law (since repealed) by rewarding and incentivizing its vast network of affiliated doctors to refer Medicare and Medicaid patients exclusively to Agnesian doctors and facilities.

“I am glad that the matter has been resolved,” Dr. Searle said. “I loved my patients and my practice in Fond du Lac, and chose to pursue this lawsuit out of concern for their interests.”

Dr. Searle served in several leadership positions at Fond du Lac Regional Clinic. He repeatedly raised concerns about the compensation system and tried unsuccessfully to get it revised. He left the clinic in 2017.

“Kickbacks and other compensation to doctors for patient referrals are prohibited by law to ensure that those referrals are based on what’s best for patients – not what’s best for the doctors’ bank accounts,” Knobler said.

An important aspect of the case is that Dr. Searle and his attorneys litigated it entirely on their own to recover federal and state taxpayer money since the government declined to intervene in the qui tam lawsuit.

“The government declines to intervene in whistleblower cases for many reasons and that is not an indication that the cases don’t have merit, as this case shows,” said Matthew Organ of Goldberg Kohn. “We are proud of our client and pleased that we were able to recover \$10 million for taxpayers by pursuing this noteworthy case.”

Roger Lewis and Joseph Hoolihan of Goldberg Kohn also worked on the case.

The settlement is paid in part to resolve allegations under Wisconsin’s Medicaid whistleblower law, the Wisconsin False Claims for Medical Assistance Law, which the state repealed in 2015.

“Whistleblowers in Wisconsin are less likely to come forward to report Medicaid fraud since the state’s false claims law was repealed,” said Nola Hitchcock Cross of the Cross Law Firm. “The law was one of the most effective tools for exposing Medicaid fraud, and its repeal was a huge loss for Wisconsin.”

The federal False Claims Act and similar state laws offer whistleblowers protections and rewards to encourage them to file qui tam lawsuits against entities that are cheating the government through Medicare fraud and other types of fraud. The laws also allow whistleblowers and their counsel to pursue litigation on their own on the government’s behalf when the government doesn’t join a qui tam lawsuit, which was the decision in Dr. Searle’s case.

Case citation: *US and the State of Wisconsin, ex rel. Dr. Clark Searle v. Agnesian HealthCare, Inc. and Fond du Lac Regional Clinic, S.C., Case No. 14-C-0969.*

Read Dr. Searle’s [qui tam complaint](#).

About Phillips & Cohen

Phillips & Cohen is the nation’s most successful law firm representing whistleblowers. The firm’s cases have helped federal, state and local governments recover more than \$12.3 billion in civil settlements and criminal fines. Phillips & Cohen represents whistleblowers in qui tam lawsuits as well as cases brought under the whistleblower programs of the Securities and Exchange Commission, the Commodity Futures Trading Commission and the Internal Revenue Service. www.phillipsandcohen.com