

Report on Medicare Compliance Volume 28, Number 12. April 01, 2019 DOJ Alleges Hospital, CEO and Consultant Paid M.D.s Based on Volume, Value of Referrals

By Nina Youngstrom

When Wheeling Hospital hired R&V Associates to help reverse its fortunes, the consulting firm was also put in charge of regulatory compliance, legal strategy, executive leadership and physician recruitment/acquisitions. With Ronald Violi, R&V's managing director, at the helm of the West Virginia hospital, it signed generous deals with physicians, who referred their patients to the hospital.

It turned out well for everybody. Hospital revenue soared, R&V earned \$3.5 million dollars last year, and physicians were paid handsomely. The problem, according to the Department of Justice (DOJ), is the employment and independent contractor arrangements with at least 36 physicians allegedly violated the Stark Law and Anti-Kickback Statute (AKS) because the compensation varied with the volume or value of the physicians' referrals and/or were above fair market value. As a result, the newfound wealth of the hospital allegedly was built partly on false claims submitted to Medicare, DOJ said in a complaint filed March 25. R&V and Violi, who were named as defendants, knew the score, the complaint alleged. In addition to requiring employees to attend Stark training, they allegedly were warned about a noncompliant compensation agreement by general counsel.

"Notwithstanding Violi's and R&V's responsibility for legal and regulatory compliance at Wheeling Hospital; the hospital's purported delegation of that responsibility to them; and all three Defendants' familiarity with the Stark Law, AKS, and FCA, and repeated certifications of Wheeling Hospital's compliance with those statutes, among others, Defendants failed to put into place protocols that would ensure that Wheeling Hospital's financial relationships with its referring physicians and the submission of resulting claims actually did comply with those statutes," the complaint alleges.

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