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Former Employee of Exeter Hospital Sentenced to 39 Years in Connection with Widespread Hepatitis C Outbreak

U.S. Attorney's Office
December 02, 2013

District of New Hampshire
(603) 225-1552

CONCORD, NH—David M. Kwiatkowski, 34, a former employee of Exeter Hospital, was sentenced today to serve 39 years in prison for his conduct in causing a widespread Hepatitis C outbreak in numerous states, announced John P. Kacavas, U.S. Attorney for the District of New Hampshire, and Barry R. Grissom, U.S. Attorney for the District of Kansas.

After working as a health care technician at several medical facilities in Michigan between 2003 and 2007, the defendant became a "traveling" radiologic technician, using various placement agencies to find employment at medical facilities in New York, Pennsylvania, Maryland, Arizona, Kansas, Georgia, and New Hampshire. While employed as a "traveler," he stole syringes of Fentanyl—a powerful anesthetic to which he did not have authorized access—intended for patients undergoing certain medical procedures. He replaced the stolen syringes with syringes that he had stolen from previous procedures and refilled with saline, after having injected himself with the Fentanyl intended for his patients.

Kwiatkowski engaged in this diversion and tampering despite knowing that he was infected with Hepatitis C, a blood-borne virus that can cause serious damage to the liver, as well as other complications. Precisely when he contracted the virus remains an open question. However, the defendant learned no later than June 2010, while employed at Hays Medical Center in Kansas, that he was infected with Hepatitis C. Despite that knowledge, he continued to inject himself using stolen Fentanyl syringes, in the process causing those syringes to become tainted with his infected blood. He refilled those tainted syringes with saline and replaced them for use on unsuspecting patients undergoing subsequent procedures. Consequently, instead of receiving their prescribed doses of Fentanyl with the intended anesthetic effect, those patients actually received saline tainted with the defendant's strain of the Hepatitis C virus.

As a traveler, the defendant worked in no fewer than eight different states, and he engaged in this diversion and/or tampering in each of them. His criminal conduct only came to light when several unexplained cases of Hepatitis C were detected at Exeter Hospital in New Hampshire in May 2012. That discovery triggered a massive public health investigation in which authorities in New Hampshire, other states in which the defendant had been employed, and the Centers for Disease Control and Prevention (CDC) sought to identify the scope of the defendant's criminal conduct. All told, the CDC recommended that more than 12,000 patients seek testing to determine whether the defendant infected them. Testing to date has revealed that 32 patients who were treated at Exeter Hospital, six patients who were treated at Hays Medical Center in Kansas, six patients who were treated at Johns Hopkins Hospital in Maryland, and one patient who was treated at the VA Medical Center in Baltimore, Maryland, carry a strain of Hepatitis C that has been genetically linked to the viral strain with which the defendant is infected.

An individual who has a personal relationship with one of the Exeter Hospital victims also has become infected with the same strain of the virus. Additionally, Hepatitis C contracted from the defendant has been identified as a contributing factor in the death of an elderly Kansas patient.

The defendant's 39-year sentence was imposed on his pleas of guilty to eight counts of obtaining controlled substances by fraud and eight counts of tampering with a consumer product. Fourteen of those charges were initiated in New Hampshire and two charges were transferred from the District of Kansas. This sentence is believed to be the highest sentence ever received for a crime of this nature.

U.S. Attorney John P. Kacavas said, "The 39-year sentence imposed today ensures that this serial infector will no longer be in position to harm innocent and vulnerable people, extinguishing once and for all the pernicious threat he posed to public health and safety. This prosecution surely heightened public awareness of the problem of drug diversion in medical settings, and the defendant's convictions and sentence represent a major step forward in redressing the catastrophic consequences of his selfish and reckless

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behavior. While no sentence of incarceration can restore his victims to their former state of health, I hope that bringing this defendant to swift and certain justice will give them some peace of mind as they confront the uncertainty of living with the Hepatitis C virus.”

U.S. Attorney Barry R. Grissom said, “The defendant learned he had Hepatitis C while he was working at Hays Medical Center in Kansas. A patient in Kansas died and a medical examiner found that Hepatitis C contributed to the death. Many patients and their families still are living with the harm inflicted by the defendant’s reckless choices.”

Special Agent in Charge Vincent Lisi, of the FBI Boston Field Division said, “This was a heinous crime that touched so many of us in New Hampshire and in several states throughout the country. When you go into a hospital for treatment, you should be able to trust that someone like David Kwiatkowski will not steal pain medication intended for you and infect you with a deadly disease. We are pleased to see justice served today, and we hope this lengthy sentence will deter others who might be tempted to prey on vulnerable patients. We are grateful to all the federal, state, and local investigating agencies that took part in this unprecedented investigation and to the leadership of both United States Attorney John Kacavas and Assistant United States Attorney John Farley who worked tirelessly to bring justice to the many victims in this case. Most of all, we are deeply thankful to the numerous victims who selflessly shared their time and extremely personal information with investigators under such difficult circumstances. They are the true heroes in this investigation. Though faced with difficult circumstances themselves, their extraordinary cooperation and information was the backbone for the investigation.”

“Patients put their trust in the safety of this country’s health care system,” said Phillip Coyne, Special Agent in Charge of the U.S. Department of Health and Human Services Office of Inspector General region including New Hampshire. “When the reckless actions of Mr. Kwiatkowski compromised the safety of some patients in federally funded health care programs, we joined with our law enforcement partners to protect people from the defendant.”

In addition to his term of incarceration, the defendant will be placed on supervised release for three years following his release from prison. He also must pay a \$1,600 special assessment and restitution in the amount of nearly \$25,000.

This investigation involved the cooperative efforts of federal, state, and local law enforcement agencies, including the FBI; the Office of Inspector General of the U.S. Department of Health and Human Services; the Drug Enforcement Administration; Office of Criminal Investigations of the Food and Drug Administration; the Office of Inspector General of the Department of Veterans Affairs; the New Hampshire Attorney General’s Office; the New Hampshire State Police; and the Exeter, New Hampshire Police Department. Assistance also was provided by the New Hampshire Drug Task Force; the Marlborough, Massachusetts Police Department; the Boxborough, Massachusetts Police Department; and the U.S. Attorney’s Offices in the District of Massachusetts, the District of Kansas, the District of Maryland, and the Middle District of Georgia. The case was prosecuted by Assistant U.S. Attorney John J. Farley. The Kansas aspects of the case were handled by Assistant U.S. Attorney Tanya Treadway.

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