

Potent pain creams that sold for up to \$28K caused deaths, cost government millions

By: Kevin Krause, Federal Courts Reporter

Desiree Ford rubbed the pain cream on her skin and immediately wanted to wash it off.

“Whoa ... time for a shower, this lotion is making me feel weird,” she texted a friend.

The 22-year-old Houston woman was later found dead in her bathtub by her mother.

The Harris County medical examiner ruled that Ford’s November 2014 death was caused by toxic effects of two drugs in the pain cream she used, which came from a Houston compounding pharmacy called Diamond Pharmacy.

The doctor who prescribed it, Michael Kelly, never talked to or examined Ford. But he did take a kickback for writing the script, prosecutors said. Kelly and four others connected to the pharmacy were convicted of fraud in federal court in Houston for the \$17 million scheme.

Kelly, 71, who surrendered his medical license, died earlier this year before he could be sentenced.

Federal prosecutors are bringing similar fraud cases against doctors, pharmacies and marketers from Dallas to Houston to the border. The feds say they bilked taxpayers out of millions of dollars and endangered patients with the dubious creams, some costing as much as \$28,000 per container.

The cases reveal a pattern: Pharmacy owners and marketers paid kickbacks and bribes to doctors for writing bogus prescriptions for unneeded pain and scar creams. They handed out gift cards, food and money to Medicare, Medicaid and Tricare beneficiaries to get them to sign up for the creams. Refills were automatic. Some of the creams contained addictive and hallucinogenic drugs like ketamine.

“We’re constantly chasing it,” said Michael Cohen, operations officer for the investigations branch of the Department of Health and Human Services’ Office of Inspector General. “They form it almost like a pyramid scheme. And everyone’s being paid a kickback.”

Two active North Texas cases allege a combined fraud of over \$180 million. In one of the cases, Fort Worth’s Ability Pharmacy spent about \$15 per container and then charged the government \$28,000 for it, according to federal agents and prosecutors.

Everyone got the same creams from the pharmacy regardless of whether they wanted or needed them, prosecutors say. Some didn’t have wounds or scars to treat, according to court

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Coalition Against Insurance Fraud

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Some of the creams contain drugs that can cause “central nervous system depression or cardiac effects,” according to the nonprofit Institute for Safe Medication Practices in Pennsylvania.

Cohen, the Office of Inspector General official, said topical creams are easy to make and the reimbursements are high.

That’s because pharmacies figured out they can charge for each medication in the cream.

The military’s health-care system, Tricare, stopped paying for the creams in 2015 due to the cost. But Cohen said there is still some narrow legitimate medical use for the creams, which unethical pharmacists and doctors have exploited. And they keep changing the drugs they put in compounds, he said.