



# Software Company Agrees to Pay \$145-Million Settlement in Opioid Kick-Back Scheme

Practice Fusion, a San Francisco-based developer of IT products for the healthcare industry, agreed to pay \$145-million to avoid criminal and civil prosecution over accusations that it solicited a \$1-million kick-back from an unidentified “major opioid manufacturer” in exchange for using its technology to push doctors toward prescribing more unnecessary opioids. The software company claimed to provide unbiased medical information, but it allowed input from the drug manufacturer that influenced doctors to over-prescribe opioids medication. \$26-million will go toward criminal fines, and \$119 million will go to the federal government and the states. As usual, none of the settlement will go to victims. - GEG

Families who have lost loved ones to opioid overdoses or other opioid-related deaths cheered last week when a judge sent the founder of drugmaker Insys to prison for more than five years over a scheme to effectively bribe doctors into prescribing more of an opioid painkiller called Subsys, a drug intended for advanced cancer patients with high tolerance for opioids.

The company insisted that the drug was less addictive and dangerous than other painkillers on the market, and encouraged doctors to prescribe it “off label” – that is, for reasons other than its intended purpose. The company’s aggressive

sales team included a former stripper who specialized in showing doctors who heavily prescribed the drug a good time.

On Tuesday, the DoJ announced another action related to its campaign to hold those responsible for the opioid crisis to account. In a press release, the agency revealed that it had reached a \$145 million settlement with Practice Fusion, a San Francisco-based developer of IT products for the healthcare industry. The company agreed to the payment to resolve criminal and civil investigations into whether it solicited kickbacks from “a major opioid manufacturer” in exchange for using its technology to push doctors toward prescribing more unnecessary opioids. \$26 million of that settlement consists of criminal fines, while roughly \$118.6 million will go to the federal government and the states.

Doctors relied on Practice Fusion’s system to make decisions about which drugs to prescribe. This relationship wasn’t just immoral, it was blatantly illegal, prosecutors said, having violated anti-kickback statutes.

*“Across the country, physicians rely on electronic health records software to provide vital patient data and unbiased medical information during critical encounters with patients,” said Principal Deputy Assistant Attorney General Ethan Davis of the Department of Justice’s Civil Division. “Kickbacks from drug companies to software vendors that are designed to improperly influence the physician-patient relationship are unacceptable. When a software vendor claims to be providing unbiased medical information – especially information relating to the prescription of opioids – we expect honesty and candor to the physicians making treatment decisions based on that information.”*

The company has entered into the deferred prosecution agreement with the US attorney’s office of Vermont.

Specifically, in exchange for a “sponsorship” payment from a

pharmaceutical company of nearly \$1 million, Practice Fusion allowed the companies to influence the development and implementation of what are called CDS alerts in its EHR software. These “pain” alerts would prompt doctors to prescribe more opioids, the software company said, advising opioid makers that it would help boost their sales.

In exchange for the payment, Practice Fusion allowed opioid makers to include their “input” in the development of the company’s CDS alerts. In an extra-cruel twist, payments were financed by the unnamed opioid maker’s marketing department.

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