

Osteopath Facing Suit Over Opioids Gives Up Medical License

By Matt Phifer

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- Feds turn to civil injunctions in opioid battle
- Justice Department alleges doctor wrote unnecessary prescriptions

An Ohio doctor facing a civil lawsuit by federal prosecutors over sales of opioids is banned for life from practicing medicine.

Judge Sara Lioi of the U.S. District Court for the Northern District of Ohio Oct. 26 approved a permanent injunction that bars Dr. Michael Tricaso from practicing or prescribing more opioids. Tricaso didn't fight the injunction.

The federal government alleges in the civil case that Tricaso sold controlled substances to two people in a hotel parking lot and prescribed opioids and steroids without any legitimate medical purpose. Tricaso is an osteopath who operated Better Living Clinic in Akron, Ohio.

Injunctions are a new tool the government is using in pursuing litigation against people it accuses of illegally prescribing opioids. Provisional government data show that over 49,000 people died from overdosing on illegal opioids in 2017.

"Injunctions were a relatively underutilized tool the government chose not to pursue and consider in most health-care matters. I think this potential issue in Ohio portends a different practice with respect to outlying opioid providers," Jason Mehta, a partner at Bradley Arant Boult Cummings in Tampa, told Bloomberg Law. Mehta is a former Justice Department attorney who worked in both the civil and criminal divisions.

A New Arrow in the Quiver

The injunction permanently prevents Tricaso from dispensing, prescribing, or distributing controlled substances. He agreed to never apply for a license to practice medicine in the U.S. Tricaso also agreed to never reapply for privileges under the Controlled Substances Act to prescribe or dispense controlled substances.

"The net effect of the agreement here is not much, in our view," Andrew Wides, Tricaso's attorney, told Bloomberg Law. "The agreement simply outlines what we'd already had in place prior to the agreement being entered into the court record." Wides is with the Law Office of Robert A. Pecchio in Akron.

Wides told Bloomberg Law that Tricaso voluntarily gave up his medical license and his ability to prescribe medication before Wides began representing him.

This is the first time the Justice Department is using civil injunctions to stop the spread of opioids. Attorney General Jeff Sessions touted the initial temporary restraining orders restricting Tricaso and another doctor from writing prescriptions in August. Session called it a warning that the “Justice Department will use civil and criminal penalties alike.”

“This is just another arrow in the government’s quiver, and the ability to actually enjoin a physician from practicing medicine in a certain way is a very powerful tool,” Mehta told Bloomberg Law. He said the injunction is a stop-gap measure that the government can use to stop suspect practices while it investigates, noting that civil judgments or criminal resolutions can take a long time.

The case is U.S. v. Tricaso, N.D. Ohio, No. 18-cv-1891, permanent injunction issued 10/26/18.

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