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MIAMI DOCTOR SENTENCED TO 41 MONTHS IN PRISON FOR MEDICARE FRAUD

WASHINGTON – A Miami-area doctor was sentenced to 41 months in prison for her role in schemes to defraud the Medicare program, Acting Assistant Attorney General Matthew Friedrich of the Criminal Division and U.S. Attorney R. Alexander Acosta of the Southern District of Florida announced today.

In addition to the prison term, U.S. District Court Judge Cecilia M. Altonaga sentenced Ana Caos, M.D., 62, to three years of supervised release following her release from prison and ordered her to pay \$294,614 in restitution. Caos was remanded into federal custody at the conclusion of the sentencing. After a nine-day trial in Miami, a federal jury found Caos guilty on April 30, 2008, on all charged counts, including conspiracy to defraud the U.S. government, to cause the submission of false claims to Medicare, and to solicit and receive kickbacks; and conspiracy to commit health care fraud.

At trial, the jury heard testimony that Caos wrote prescriptions for medications and durable medical equipment (DME) that Medicare beneficiaries did not want or need, for the purpose of billing Medicare. The jury heard testimony that Caos falsely diagnosed beneficiaries with chronic obstructive pulmonary disease (COPD) and prescribed unnecessary aerosol medications, including compounded medications delivered by Miami pharmacies. Compounding refers to the process of a pharmacist mixing the medication in the pharmacy, instead of purchasing it from a pharmaceutical manufacturer. At trial, expert testimony revealed that prescribing compounded aerosols as treatment for COPD is unnecessary because commercially available medications can be used to treat the disease. Medicare beneficiaries testified that they were paid every month to accept delivery of the unnecessary medication, as well as the DME. Both the medication and the equipment were paid for by Medicare. At trial, one Medicare beneficiary testified that she threw her medication in the trash upon receipt.

Evidence introduced at trial revealed that as part of this conspiracy, Caos wrote prescriptions for homemade compounded medicines for more than 30 patients who did not need the medication. Between February 2001 and June 2003, Medicare was billed \$621,646 by complicit pharmacies and DME companies for unnecessary prescriptions written by Caos, as well as by Caos herself for office visits associated with making the false diagnoses.

At trial, a former physician, Pedro Cuni, who is also serving time in prison for Medicare fraud, testified that Maria Hernandez, formerly a Miami-area DME company owner, informed

him that she was utilizing Caos to write false prescriptions. Cuni testified that he had been paid to write thousands of false prescriptions between 1999 and 2004. Hernandez was sentenced on June 27, 2008, to 51 months in prison in connection with the same scheme. At trial, the jury also heard from Orlando Pascual, another DME company owner currently serving time in prison for Medicare fraud, who testified that he purchased fraudulent prescriptions from Caos for \$100 per prescription.

The compounding pharmacies involved in this scheme were shut down in June 2003. In 2006, the Medicare program paid for more than \$155 million worth of aerosol medications in Miami-Dade County alone. These drugs were the single most common item billed to Medicare Part B and accounted for more than 32 percent of all equipment claims filed in Miami-Dade County. From 2005 to 2006, claims for aerosol medications rose more than 100 percent in Miami-Dade County. According to Medicare data, Miami-Dade County alone accounted for more paid DME claims than every state in the country except California, Texas, New York, Michigan and Ohio. In June 2007, the Centers for Medicare and Medicaid Services ceased paying for compounded aerosol medication because it determined that they were medically unnecessary.

The case was prosecuted by Deputy Chief Kirk Ogrosky and Senior Trial Attorney John S. (Jay) Darden of the Criminal Division's Fraud Section, with the investigatory assistance of the Department of Health and Human Services, Office of Inspector General and FBI. The case was brought as part of the Medicare Fraud Strike Force, which is supervised by the Fraud Section of the Criminal Division and the office of U.S. Attorney R. Alexander Acosta of the Southern District of Florida. From investigations opened during the period of strike force operations between March and October of 2007, federal prosecutors indicted 82 cases against 142 defendants in South Florida. Collectively, these defendants billed the Medicare program for more than \$492 million.

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