

Department of Justice
U.S. Attorney's Office
Central District of California

FOR IMMEDIATE RELEASE

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Orthopedic Surgeon Sentenced to 2½ Years in Federal Prison for Receiving Kickbacks in Massive Health Care Fraud

SANTA ANA, California – A spinal surgeon was sentenced today to 30 months in federal prison for participating in a long-running health care fraud scheme in which he received at least \$5 million in kickbacks for performing hundreds of spinal surgeries. The overall scheme resulted in more than \$580 million in fraudulent bills being submitted, mostly to California's worker compensation system.

Dr. Daniel Capen, 70, of Manhattan Beach, was sentenced by United States District Judge Josephine L. Staton, who also ordered Capen to forfeit \$5 million to the United States and pay a \$500,000 fine.

Capen, an orthopedic surgeon specializing in spinal surgeries, pleaded guilty in August 2018 to conspiracy to commit honest services fraud, and soliciting and receiving kickbacks for health care referrals.

The kickback scheme centered on Pacific Hospital in Long Beach, which specialized in surgeries, especially spinal and orthopedic procedures. Pacific Hospital's owner, Michael D. Drobot, conspired with doctors, chiropractors and marketers to pay kickbacks in return for the referral of thousands of patients to Pacific Hospital for spinal surgeries and other medical services paid for primarily through the California workers' compensation system.

Capen received kickbacks for referring surgeries to Pacific Hospital and also for using medical hardware from a Pacific Hospital-affiliated entity during the spinal surgeries he performed. He also received kickbacks for referring medical services such as urine and drug testing to Pacific Hospital-affiliated entities.

In total, between 1998 and 2013, Capen accounted for approximately \$142 million of Pacific Hospital's claims to insurers, on which the hospital was paid approximately \$56 million. Capen admitted to receiving at least \$5 million in kickbacks during the course of his crimes.

Drobot is serving a five-year prison sentence for conspiracy and paying illegal kickbacks, and has admitted that he orchestrated a wide-ranging fraudulent kickback scheme where he paid more than \$50 million in bribes to doctors to steer hundreds of millions of dollars in spinal surgeries to his hospital. Drobot ultimately profited millions of dollars from the scheme. Drobot currently faces additional federal criminal charges for allegedly violating a court forfeiture order by illegally selling his luxury cars.

Seventeen defendants have been charged in connection with the scheme, and 10 of them have been convicted, including Drobot and his son. Another doctor – Timothy James Hunt, 55, of Palos Verdes Estates – was sentenced in late September to two years in federal prison after he admitted taking illegal kickbacks.

The investigation into the spinal surgery kickback scheme was conducted by the FBI; IRS Criminal Investigation; the California Department of Insurance; and the United States Postal Service, Office of Inspector General.

This case is being prosecuted by Assistant United States Attorneys Joseph T. McNally of the Violent and Organized Crime Section, Scott D. Tenley of the Santa Ana Branch Office, Ashwin Janakiram of the Major Frauds Section, and Victor A. Rodgers of the Asset Forfeiture Section.

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