

# WEISS



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A physician can't be personally performing services in Missouri while at the same time vacationing in Hawaii. But he can be prosecuted criminally and sued civilly at the same time.

Let's say you're a physician under federal investigation for submitting false claims to Medicare. You might think that a six-figure civil settlement is the end of the matter. You write a check. The headlines fade.

Maybe you even convince yourself it was all just a billing misunderstanding.

Except it isn't over. Not even close.

Consider Dr. Mohd Azfar Malik, a Missouri psychiatrist.

According to allegations brought by the federal government, he billed Medicare and Medicaid for psychotherapy sessions he didn't actually provide, including ones he claimed to have performed while he was out of state or even out of the country. Some of those services were actually rendered by others but billed as if Malik performed them.

That common set of facts resulted in both False Claims Act civil litigation and criminal charges against Dr. Malik.

In April 2025, in connection with his criminal prosecution, Malik admitted to submitting claims for personally performed, in-person services which were actually performed by someone else while he was away.

He also admitted that he submitted a claim to Missouri Medicaid for an initial inpatient hospital visit at a time when he was in Hawaii.

He admitted billing a private insurance company for an I.V. ketamine infusion when he was actually out of town. To make matters worse, the infusion was conducted by a physician friend whom Dr. Malik knew was under indictment and lacked DEA registration authorizing him to administer controlled substances, such as the ketamine.

Dr. Malik is set to be sentenced in August. He's already agreed to surrender his DEA registrations.

And, on the civil side, in July 2025, Malik agreed to pay \$501,556 to resolve the False Claims Act case.

## **Some Takeaways for You**

A civil settlement doesn't buy you peace. It might just buy you time. Or, as in Dr. Malik's case, it comes on top of a guilty plea. That's a very expensive combo platter, and not just in dollars. Licenses, reputations, and freedom are all on the table.

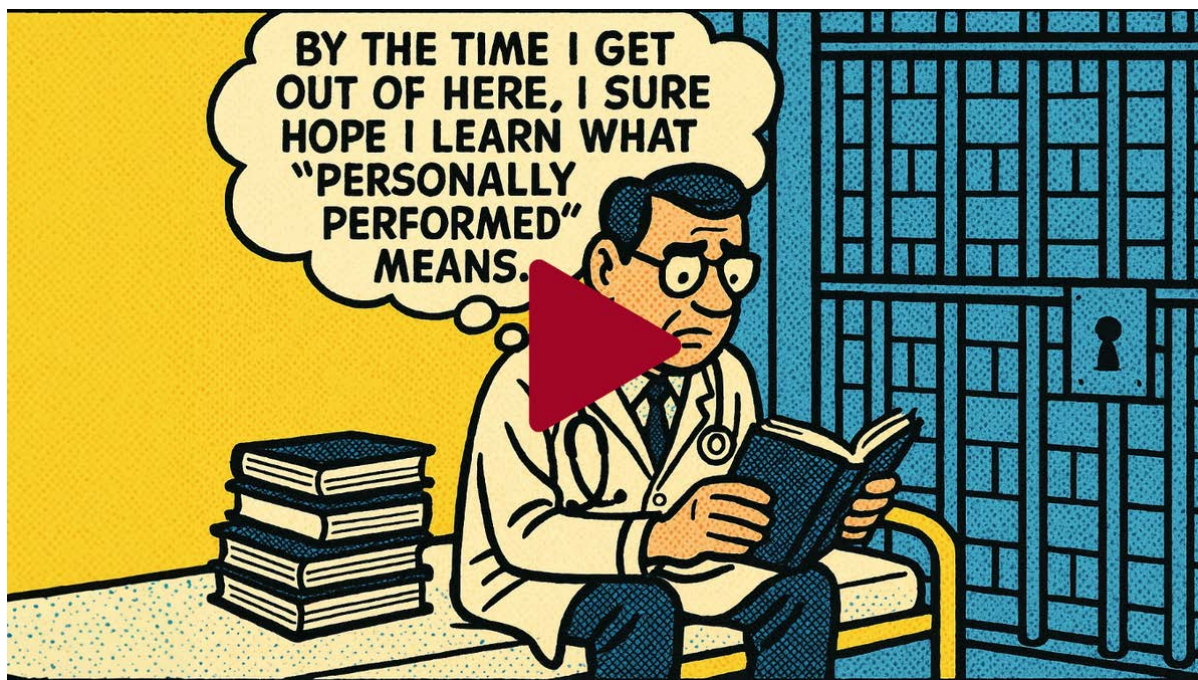
Being criminally prosecuted and civilly sued for the exact same set of facts isn't double jeopardy. It's just double trouble.

No compliance program is likely to stop someone who starts out as an actual criminal. But my experience is that the great majority of people who get caught up in compliance messes don't start out as actual criminals. They just end up as ones.

But query whether they would've gone all the way had there been the proper roadblocks? In other words, an active compliance program not just a compliance plan. Internal audits. External audits. And so on.

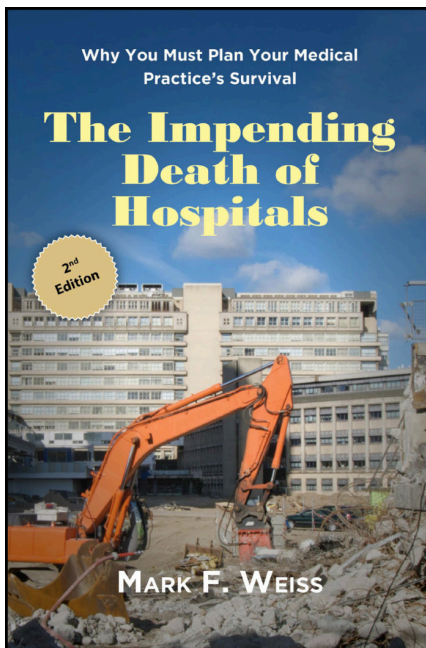
Would they have been nudged back into the "good" lane?

I don't know, but the chances are that when Dr. Malik is sentenced, he'll have some quiet time to think about it.



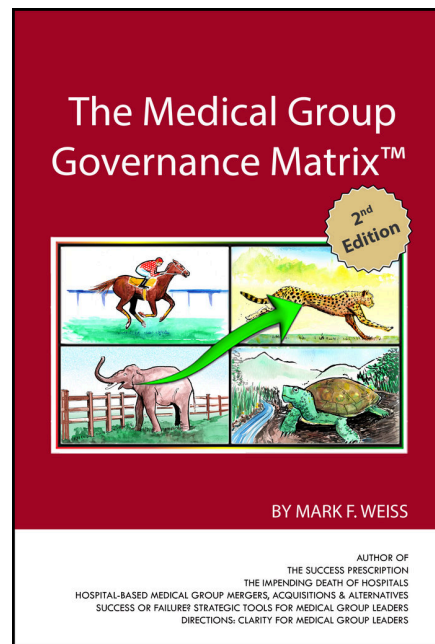
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