

Florida Physician Pays Historic Amount To Settle False Claims Act Case

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Last month the **U.S. Department of Justice** announced the settlement of a False Claims Act case brought against a Florida physician. This case is significant because it is the largest settlement ever with an individual under the False Claims Act in the Middle District of Florida (which includes Jacksonville, Orlando, and Tampa), and it is one of the largest settlements ever in U.S. history with an individual under that Act. In this case a dermatologist practicing in southwest Florida agreed to pay \$26.1 million to resolve allegations that he violated the Act by accepting illegal kickbacks from a pathology laboratory and by billing the Medicare program for medically unnecessary services.

The government alleged that in 1997 the dermatologist entered into an illegal kickback arrangement with the pathology laboratory and the pathologist who owned the laboratory in an effort to increase the lab's referral business. According to the government's allegations, the dermatologist sent biopsy specimens for Medicare beneficiaries to the lab for testing and diagnosis. In return, the lab provided the dermatologist a diagnosis on a pathology report that included a signature line for the dermatologist to make it appear to Medicare that he had performed the diagnostic work that the laboratory had actually performed. The dermatologist then billed the Medicare program for the professional component of the diagnostic work under his own name when, in fact, the pathology lab had performed the professional component.

The government further alleged that, in addition to his involvement in the alleged kickback scheme, the dermatologist also performed thousands of skin surgeries on Medicare patients that were not medically necessary in order to obtain the reimbursement for them.

The case against the dermatologist was initiated by a lawsuit under the False Claims Act, which was brought by a pathologist who formerly worked for the pathology lab. In accordance with the Act, the whistleblower pathologist will receive \$4.046 million from the settlement. The United States previously settled with the pathology lab and the pathologist owner for \$950,000 to resolve the allegations asserted against them in the same lawsuit.

In addition to paying the \$26.1 million, the dermatologist was also excluded from participating in the Medicare, Medicaid, and any other federal program.

This case should serve as a warning to physicians and other health care providers who are often

tempted to participate in an arrangement or transaction that is nothing more than a disguised kickback for patient referrals.

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