

### *New Jersey Cardiologists Settle in Anti-Kickback Case*

Three cardiologists have entered into settlement agreements with the U.S. Department of Justice (DOJ) and the Office of the Inspector General of the U.S. Department of Health and Human Services (OIG) in order to have charges against them dropped in exchange for amounts between \$300,000 and \$360,000 each.<sup>1</sup> These charges stemmed from allegations related to their employment at the University of Medicine and Dentistry of New Jersey (UMDNJ) as Clinical Associate Professors.<sup>2</sup> The contracts for these positions stipulated that the cardiologists were to provide services such as teaching, lecturing, providing on-call coverage, attending conferences and supporting the hospitals research programs.<sup>3</sup> The Department of Justice had alleged that the three cardiologists were paid salaries for these positions and instead of fulfilling their duties, illegally referred cardiac patients from their private practices to UMDNJ's Hospital, University Hospital, instead.<sup>4</sup> All three cardiologists deny the allegations, and as part of the settlement, the charges are being dropped without an admission of guilt on the part of the cardiologists, or an inference as to the merits of the DOJ's case.<sup>5</sup> Last year, the DOJ entered into similar settlement agreements with six other cardiologists from the same hospital, although two of them additionally plead guilty to criminal embezzlement charges.<sup>6</sup> To date, the DOJ has also filed lawsuits against two additional cardiologists.<sup>7</sup>

According to the DOJ, these settlements are the latest in an investigation into a program dating back to 1995 when a decline in the number of cardiac procedures being performed put the hospital in danger of losing its Level 1 Trauma Center accreditation and its corresponding funding.<sup>8</sup> In an attempt to increase the number of surgical cardiac patients coming to the hospital, some hospital administration allegedly hired these cardiologists to fulfill manufactured positions in order to induce referrals.<sup>9</sup>

The OIG has indicated that the government is increasingly focusing on pursuing the individuals, such as physicians and hospital administrators, allegedly involved in this kind of fraudulent activity.<sup>10</sup> These statements, combined with the enactment of the Fraud Enforcement and Recovery Act of 2009, all indicate that the government will not stop prosecutions at major hospital systems or medical device and drug manufacturers, but rather will continue to pursue individual physicians and hospital administration with continuing intensity.

<sup>1</sup> Civil Settlement Agreement between US Dept. of Justice and Jasit Walia, M.D. pp. 2.; Civil Settlement Agreement between US Dept. of Justice and Rakesh Sahni, M.D. pp. 2; Civil Settlement Agreement between US Dept. of Justice and Ravindra Patel, M.D. pp. 3.

<sup>2</sup> Civil Settlement Agreement between US Dept. of Justice and Jasit Walia, M.D. pp. 1-2.; Civil Settlement Agreement between US Dept. of Justice and Rakesh Sahni, M.D. pp. 1-2; Civil Settlement Agreement between US Dept. of Justice and Ravindra Patel, M.D. pp. 1-2.

<sup>3</sup> "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" U.S. Attorney, District of New Jersey. US Department of Justice. Sept. 30, 2009. pp. 2.

<sup>4</sup> Civil Settlement Agreement between US Dept. of Justice and Jasit Walia, M.D. pp. 1-2.; Civil Settlement Agreement between US Dept. of Justice and Rakesh Sahni, M.D. pp. 1-2; Civil Settlement Agreement between US Dept. of Justice and Ravindra Patel, M.D. pp. 1-2.

<sup>5</sup> Civil Settlement Agreement between US Dept. of Justice and Jasit Walia, M.D. pp. 2.; Civil Settlement Agreement between US Dept. of Justice and Rakesh Sahni, M.D. pp. 2; Civil Settlement Agreement between US Dept. of Justice and Ravindra Patel, M.D. pp. 2-3.

<sup>6</sup> "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" U.S. Attorney, District of New Jersey. US Department of Justice. Sept. 30, 2009. pp. 2.

<sup>7</sup> "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" U.S. Attorney, District of New Jersey. US Department of Justice. Sept. 30, 2009. pp. 2-3.

<sup>8</sup> "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" U.S. Attorney, District of New Jersey. US Department of Justice. Sept. 30, 2009. pp. 2.

<sup>9</sup> "UMDNJ to Pay More Than \$8 Million to Settle Kickback Case Related to Cardiology Program" U.S. Attorney, District of New Jersey. US Department of Justice. Sept. 30, 2009. pp. 2.

<sup>10</sup> "Making them Pay" by Gregg Blesch. Modern Healthcare. Oct. 12, 2009.



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