



On May 28, 2014, the Department of Justice (DOJ) announced that Ashland Hospital Corp. d/b/a King's Daughters Medical Center (KDMC) agreed to pay \$40.9 million and Medtronic Inc. agreed to pay \$9.9 million to resolve allegations of False Claims Act, Stark Law and anti-kickback violations.

The government alleged that KDMC violated the False Claims Act by submitting claims to Medicare and Kentucky Medicaid for medically unnecessary cardiac services (coronary stents and diagnostic catheterizations) performed by its physicians and that it violated the Stark Law by paying excessive salaries to cardiologists. The government also alleged that KDMC cardiologists falsified medical records relating to the procedures. DOJ's press release is available at <http://www.justice.gov/opa/pr/2014/May/14-civ-567.html>. The settlement does not resolve lawsuits filed by patients in state court for unnecessary surgeries.

A former Medtronic employee initiated the Medtronic lawsuit by filing a *qui tam* whistleblower complaint. The government alleged that Medtronic paid kickbacks to physicians as inducements to continue implanting Medtronic pacemakers and defibrillators or to switch from competing products. The press release states that the alleged kickbacks took the form of speaking fees, preparation of marketing and business development plans without charge, and tickets to sporting events. The whistleblower, who previously served as a Business Development Manager for Medtronic's pacemaker and defibrillator product line, will receive approximately \$1.73 million of the settlement amount. The press release is available at <http://www.justice.gov/opa/pr/2014/May/14-civ-571.html>, and includes a warning that "[a]s this settlement indicates, health care executives who try to boost profits by paying kickbacks to doctors will instead pay the government for their improper conduct."

These settlements provide another reminder of the heightened scrutiny of compensation arrangements between healthcare providers, suppliers or manufacturers, on the one hand, and referring physicians. For more on this trend, see our March 26, 2014 Alert, available at <http://www.mcdonaldhopkins.com/alerts/healthcare-under-fire-physicians-compensation-arrangements>



RICK HINDMAND

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