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JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Monday, May 13, 2013

**C.R. Bard Inc. to Pay U.S. \$48.26 Million to Resolve False Claims Act Claims**

C.R. Bard Inc. has agreed to pay the United States \$48.26 million to resolve claims that it knowingly caused false claims to be submitted to the Medicare program for brachytherapy seeds used to treat prostate cancer in violation of the False Claims Act. Bard is a New Jersey based corporation that develops, manufacturers, and markets medical products used for a variety of conditions, including prostate cancer.

The settlement requires that Bard pay \$48.26 million and it resolves claims relating to Bard's sale of brachytherapy seeds, a form of radiation therapy, to hospitals. The United States alleged that from 1998 to 2006, Bard provided illegal remuneration to customers and physicians to induce them to purchase Bard's seeds, in violation of the Anti-Kickback Statute. The illegal remuneration allegedly took the form of certain grants, guaranteed minimum rebates, conference fees, marketing assistance and/or free medical equipment that Bard paid to customers and/or physicians who used the seeds to perform treatment for prostate cancer. Hospitals ultimately submitted bills to Medicare for these seeds, which the government alleged were rendered false by Bard's illegal kickback activity. The government alleged that Bard was liable under the False Claims Act for causing the submission of those false claims.

"This settlement is part of the United States' on-going effort to comb at the payment of illegal kickbacks to health care providers," said Stuart F. Delery, Acting Assistant Attorney General for the Department of Justice's Civil Division. "Such illegal payments subvert the medical marketplace and provide an unfair advantage to those who break the law."

"Illegal kickbacks in any form pervert our health care system, which is designed to insure that health care providers make decisions based solely on what is best for the patient," said U.S. Attorney for the Northern District of Georgia Sally Quillian Yates.

"We will continue to work with our various law enforcement partners in the pursuit of those who abuse publicly funded health care programs such as Medicare and Medicaid, through criminal prosecutions or civil settlements under the False Claims Act," stated Mark F. Giuliano, Special Agent in Charge, FBI Atlanta Field Office. "Such abuses as we've seen in this case will not be tolerated."

"Medicare beneficiaries should never have to question whether treatment recommendations are based on their doctors' best financial interests rather than their best medical advice," said Daniel R. Levinson, Inspector General of the U.S. Department of Health and Human Services. "Companies paying these kickback bribes should expect aggressive investigation and prosecution."

The civil settlement resolves a lawsuit filed in the U.S. District Court for the Northern District of Georgia by Julie Darity, a former Bard manager for brachytherapy contracts administration under the qui tam, or whistleblower provisions, of the False Claims Act. United States ex rel. Darity v. C.R. Bard, Inc., et al., Civ. Action No. 1:06-cv-0208-SCJ (N.D. Ga.). Under the False Claims Act, private citizens may bring suit for false claims on behalf of the United States and share in any recovery obtained by the government. The former manager will receive \$10,134,600 as her share of the civil settlement.

In addition, according to a non-prosecution agreement with the United States, Bard has agreed to pay an additional \$2.2 million and to take numerous remedial steps, many of which the company identified and began to implement prior to the criminal investigation, to enhance its corporate compliance program to prevent similar illegal actions in the future. For example, Bard has agreed to refine its Code of Conduct and other written policies and procedures that promote Bard's commitment to full compliance with all Federal health care program requirements and to develop an effective program to monitor medical education grants provided by Bard to ensure compliance with those requirements.

The resolutions announced today are part of the government's emphasis on combating health care fraud and another step for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced by Attorney General Eric Holder and Kathleen Sebelius, Secretary of

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the Department of Health and Human Services in May 2009. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. One of the most powerful tools in that effort is the False Claims Act, which the Justice Department has used to recover nearly \$10.3 billion since January 2009 in cases involving fraud against federal health care programs. The Justice Department's total recoveries in False Claims Act cases since January 2009 are over \$14.3 billion.

These settlements were the result of a coordinated effort by the U.S. Attorney's Office for the Northern District of Georgia; the Department of Justice, Civil Division, Commercial Litigation Branch; the FBI and HHS-OIG, in investigating the allegations in this case.

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Civil Division



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