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ChristianaCare Agrees to Pay \$47.1 Million to Resolve Whistleblower Claims Alleging Kickbacks and Stark Law Violations

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WILMINGTON, Del., (December 21, 2023) – ChristianaCare will pay \$47.1 million to settle a case more than six years after a whistleblower came forward alleging kickbacks and other violations at the hospital. This is believed to be the largest False Claims Act settlement in Delaware history, and the first in a series of cases which are likely to be brought against other hospitals across the United States.

“This case involves a revolutionary legal theory. To my knowledge, this is the first FCA settlement – ever – based on a hospital allegedly providing private physicians with free services in the form of hospital-employed nurse practitioners and physician assistants. Any other hospital in the country that operates under the model that led to this settlement should consider changing its practices immediately, or risk a whistleblower lawsuit,” said [Dan Miller](#) of **Walden Macht & Haran, LLP**, who served as lead counsel representing the whistleblower, Ronald Sherman.

The lawsuit, filed under the federal False Claims Act and Delaware False Claims and Reporting Act (collectively, “FCA”) against Christiana Care Health Services, Inc., Christiana Care Health System, Christiana Hospital, and Wilmington Hospital (collectively “Christiana Care”), has agreed to pay \$42.5 million to the United States and the State of Delaware and \$4.6 million to the attorneys representing Mr. Sherman to settle the case. Mr. Sherman’s share of the settlement is \$12,112,500.

The lawsuit alleged that, in violation of applicable anti-kickback statutes (“AKS”) and the Stark Law, ChristianaCare provided free employees for the benefit of private attending physicians, and that as a result, ChristianaCare raked in millions of dollars in hospital bills paid by government health care programs including Medicaid and Medicare.

Mr. Sherman was the Chief Compliance Officer at ChristianaCare from 2007-2014 and had visibility into the alleged fraud because he conducted internal investigations of the conduct in question over a period of several years. Specifically, Mr. Sherman’s lawsuit alleged that:

- Christiana employees provided most of the professional care and conducted many of the procedures for infants in the neonatal intensive care unit (NICU), while private neonatology physicians billed for and were paid for that care. ChristianaCare provided these free services in exchange for referrals of patients to ChristianaCare. Hospitals are not allowed to pay doctors for referrals under federal law.
- Similarly, ChristianaCare provided free services – in the form of professional care provided by Christiana-employed nurse practitioners and physician assistants – to private heart surgeons, ENT doctors, neurosurgeons, and urologists, also in exchange for referrals.

“It appeared to us that the provision of free services was partly the result of a nationwide scandal involving overworked medical residents. In 2003, the [Accreditation Council for Graduate Medical Education](#) – which is the body responsible for accrediting physician training programs in the United States – adopted new rules which limited the amount of hours hospitals could require medical residents to work. To fill the gap left behind by residents, many hospitals hired mid-level providers such as nurse practitioners and physician assistants. At ChristianaCare, we alleged that services performed by mid-level providers were billed for by private attending physicians who were in a position to make future referrals to the hospital. Put differently, we alleged that ChristianaCare paid kickbacks to the private physicians in the form of free employees,” said Miller “I want to give credit to the entire legal team at Walden Macht & Haran LLP, and our incredible co-counsel, Mark Simpson, for this outstanding result.”

The case is captioned *United States and the State of Delaware ex rel. Ronald Sherman v Christiana Care Health Services, Inc., Christiana Care Health System, Christiana Hospital, and Wilmington Hospital*, C.A. No. 1:17-cv-00419-RGA (D. Del.). The claims against Christiana Care are allegations only, and there has been no determination of liability.

Walden Macht & Haran’s [whistleblower practice group](#) is one of the most successful qui tam groups in the country. Led by former prosecutor [Dan Miller](#) and [Jon DeSantis](#), attorneys in the group have worked on cases that have returned more than \$3 billion to state and federal treasuries across the country, including more than a dozen cases which were initially declined by the government.