



FOR IMMEDIATE RELEASE

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## **Florida Physician Agrees to Pay \$4 Million and To Accept a 5-Year Exclusion From Medicare to Resolve False Claims Act Allegations**

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida, and Shimon R. Richmond, Special Agent in Charge, U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG), Miami Region, announced that Donald C. Proctor, Jr., M.D., a Mohs surgeon and facial plastic surgeon practicing in Vero Beach, Florida, and Grove Place Surgery Center, LLC, an ambulatory surgical center managed by Dr. Proctor, have agreed to pay \$4 million to resolve allegations that they violated the False Claims Act by billing Medicare for Mohs surgeries and other surgical procedures that Dr. Proctor either did not perform or were medically unnecessary. Dr. Proctor also agreed to be excluded from Medicare, Medicaid, and all federally funded health care programs for at least five years.

"The settlement announced today demonstrates this office's commitment to aggressively pursue physicians who put their own financial self-interest over a duty to their patients and thereby raise the cost of health care for all of us as patients and taxpayers," said Wifredo A. Ferrer, United States Attorney for the Southern District of Florida. "We will not allow physicians to put patients at risk by performing unnecessary procedures, or permit them to make up phantom claims to increase their reimbursements from Medicare."

"Any time greed replaces medical necessity as the primary factor in performing unnecessary, invasive procedures on Medicare beneficiaries, both patient health and taxpayer funds are compromised," said Special Agent in Charge Shimon R. Richmond of the U.S. Health and Human Services Office of Inspector General. "Dr. Proctor received a 5-year exclusion from participating in Medicare by placing his patients and the integrity of the Medicare program at risk just to enrich himself."

The settlement resolves allegations made in a lawsuit filed by Ferdinand F. Becker, M.D., a facial plastic surgeon and former Mohs surgeon who referred patients to Dr. Proctor, and Linda Wildes, who worked as Dr. Proctor's histology technician for over eight years. They filed under the *qui tam*, or "whistleblower," provisions of the False Claims Act, which permit private parties to sue on behalf of the government and receive a share of any recovery. The act also authorizes the government to intervene in and assume primary responsibility for litigating the lawsuit, as the government has done in this case. Dr. Becker and Ms. Wildes will receive \$920,000.

Based on an extensive investigation, the United States alleged that Dr. Proctor would routinely see patients who had been referred to him with a confirmed skin cancer lesion and falsely inform them that they had additional lesions requiring Mohs surgery, even though the supposed additional lesions had not been confirmed through a biopsy as cancerous or simply did not exist. Mohs surgery is a specialized and expensive surgical procedure for removing certain types of skin cancers in specific areas of the body, including the face. The surgery is performed in stages in which the surgeon removes a single layer of tissue and then, after a microscopic evaluation of the excised tumor, performs additional stages, if necessary, until all of the cancer is removed. The United States further alleged that, solely to increase his Medicare reimbursement, Dr. Proctor would routinely perform three to four stages (or many more in some cases) of Mohs surgery, even though that is far outside the norm and was often not necessary. This required patients to remain at Grove Place Surgery Center for prolonged periods of time and be subjected to additional surgeries they did not need.

Finally, based on its investigation, the United States alleged that Dr. Proctor was also defrauding Medicare by routinely billing for unnecessary or nonexistent surgeries to close up the wounds allegedly left by the Mohs surgeries. These reconstructions, called adjacent tissue transfers, are complicated and often time-consuming procedures physicians sometimes use to close a defect resulting from the removal of a lesion on a patient's skin. Dr. Proctor billed Medicare for these procedures in connection with virtually every Mohs surgery he claimed to have performed, even though, the United States alleged, it would have been physically impossible in most cases for him to have performed them.

The settlement was the result of a coordinated effort by the United States Attorney's Office for the Southern District of Florida, HHS-OIG, and the Defense Criminal Investigative Service. The case was investigated and the settlement negotiated by Assistant U.S. Attorney Susan Torres. The exclusion agreement was negotiated by OIG Senior Counsel Karen Glassman.

The case is captioned United States ex rel. Becker & Wildes v. Donald C. Proctor, Jr., M.D. et al., No. 11-14214-Civ-Martinez (S.D. Fla.). The claims asserted against Dr. Proctor and Grove Place Surgery Center are merely allegations. There has been no determination of liability in this matter.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at [www.usdoj.gov/usao/fls](http://www.usdoj.gov/usao/fls) <<http://www.usdoj.gov/usao/fls>> . Related court documents and information may be found on the website of the District Court for the Southern District of Florida at [www.flsd.uscourts.gov](http://www.flsd.uscourts.gov) <<http://www.flsd.uscourts.gov>> or on <http://pacer.flsd.uscourts.gov> <<http://pacer.flsd.uscourts.gov>> .