

ENT Practice Milton Hall Surgical Associates, LLC, Jeffrey M. Gallups, M.D. and Entellus Medical, Inc. Agree to Pay \$4,200,000 to Settle Whistleblower Allegations of Medically Unnecessary Genetic and Toxicology Testing and for Certain Physician Compensation Arrangements in Violation of the Anti-Kickback Statute, Announces Moss & Gilmore LLP

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ATLANTA, Dec. 9, 2021 /PRNewswire/ -- Atlanta- and New York-based Moss & Gilmore LLP announced today the settlement with the U.S. Department of Justice ("DOJ") and State of Georgia of a False Claims Act ("FCA") lawsuit against Defendants Jeffrey M. Gallups, M.D. ("Dr. Gallups"), Milton Hall Surgical Associates, LLC ("MHSA") and Entellus Medical, Inc. on behalf of its client, Dr. Myron Jones, an ear, nose and throat doctor and a board certified otolaryngologist. Dr. Jones is a former Army Colonel and Active Duty U.S. Army Otolaryngologist who has been practicing medicine for over thirty four years and who was employed by MHSA from 2015 to 2017.

Defendant Georgia-based Milton Hall's ENT Institute website (<http://www.entinstitute.com>), provides that "The Ear, Nose & Throat Institute provides exceptional treatment and care for ear, nose and throat disorders including balloon sinuplasty, allergy treatments, sleep apnea and snoring treatment, hearing aids, voice therapy, tonsils and adenoids. Milton Hall serves the Atlanta, GA area with 13 locations in Gainesville, Dawsonville, Cumming, Lawrenceville, Suwanee, Alpharetta, Marietta (East Cobb), Buckhead (Atlanta), Windy Hill (Atlanta), Stockbridge, Peachtree City, and White Oak (Newnan) Georgia."

According to the Department of Justice website and Settlement Agreement, MHSA and Dr. Gallups, while not acknowledging wrongdoing, will pay to DOJ \$3,068,434 ("Settlement Amount") to resolve allegations in the lawsuit that it knowingly violated the FCA and the Georgia False Medicaid Claims Act for, among other things, the following:

First, between 2015 and 2017, Dr. Gallups caused MHSA and/or MHSA's physician employees to order medically unnecessary genetic and toxicology tests from Next Health, LLC ("Next Health") for their patients and, in return for these referrals, Dr. Gallups was paid illegal remuneration in the form of a percentage of the revenues that Next Health received from Medicare, Medicaid and TRICARE.

Second, between 2014 and 2018, Dr. Gallups caused MHSA and/or MHSA's physician employees to order various products associated with balloon sinuplasty surgery from Entellus Medical, Inc., which was acquired by the Stryker Corporation (NYSE:[SYK](#)) in 2018 (collectively "Entellus"), and Entellus offered and provided Dr. Gallups and MHSA with various forms of illegal remuneration – which included, but was not limited to, trips meals, and monetary payments – in order to induce Dr. Gallups to order MHSA physicians and employees to: (1) increase the number of sinuplasty surgeries that they performed; and (2) perform medically unnecessary balloon sinuplasty surgeries. In return for the illegal remuneration from Entellus, Dr. Gallups insisted that MHSA employees and physicians order various products from Entellus and instructed MHSA physicians and employees to exclusively use Entellus products.

As part of the lawsuit, Entellus also agreed to settle these allegations against itself, while also not acknowledging wrongdoing, and to pay to DOJ \$1,200,000.

With respect to the allegations concerning Next Health, LLC, on October 21, 2021, before the U.S. District Court for the Northern District of Georgia, Dr. Gallups pleaded guilty to health care fraud in case number 1:21-cr-00370. Dr. Gallup's sentencing in this criminal action is currently scheduled for February 11, 2022.

In the event that Dr. Gallups and/or MHSA fails to pay the entire Settlement Amount within twelve months of the execution of the November 30, 2021 Settlement Agreement, a Consent Judgment wherein Dr. Gallups and MHSA acknowledge their joint and several liability and debt owed to DOJ in the amount of \$5,388,863, plus post-judgment interest, will be enforced by DOJ.

DOJ's press release can be found at <https://www.justice.gov/usao-ndga/pr/dr-jeffrey-m-gallups-and-entellus-medical-agree-pay-42-million-resolve-false-claims-act>.

The whistleblower physician, who was awarded 20% of all payments to be received under each of the Settlement Agreements by DOJ, was represented by Raymond L. Moss at Moss & Gilmore LLP, who initially brought this FCA action on behalf of the whistleblower, the U.S. Government and the State of Georgia against the Defendants in 2017.

"The whistleblower, Dr. Myron Jones, a decorated former Army Colonel, bravely and tenaciously brought what he believed to be very troubling practices to light as described in his lawsuit in order

to seek to protect vulnerable patients and stop government fraud and abuse and illegal kick-back arrangements, which undermine quality and affordable healthcare", said Raymond Moss.

The case, brought in the United States District Court for the Northern District of Georgia, is captioned, *United States ex rel. Myron Jones, M.D., et al. v. Milton Hall Surgical Associates, LLC d/b/a The ENT Institute and a/k/a Ear, Nose & Throat Institute, Jeffrey M. Gallups, M.D., Entellus Medical, Inc. et al.*, Civil Action. No. 1:17-cv-2472.

The Government investigation and settlement of these allegations were handled and settled by the United States Attorney's Office in the Northern District of Georgia through Assistant United States Attorneys Paris Wynn and Georgia Assistant Attorney General James Mooney in the Medicaid Fraud Division. The Department of Health and Human Services ("HHS") for the Inspector General also participated in the investigation. The criminal case was handled and resolved by Assistant U.S. Attorney Chris Huber.

The False Claims Act fosters a private-public partnership to fight fraud against the government. The law encourages whistleblowers to file civil lawsuits against companies that are defrauding the government by offering job protection against retaliation and a reward of 15 to 30 percent of the government's civil recovery if the government joins or intervenes in the case. Under the False Claims Act, the United States may recover three times the number of losses, plus civil penalties.

***About Moss & Gilmore LLP:** With offices in Atlanta and New York, Moss & Gilmore LLP represents whistleblowers in the U.S. and worldwide in federal and state false claim whistleblower and related retaliation cases involving healthcare fraud and military procurement fraud. Moss & Gilmore LLP represents whistleblowers in cases under the False Claims Act and claims under the U.S. Securities and Exchange Commission, Commodity Futures Trading Commission involving securities and commodities fraud and IRS whistleblower reward programs. For more information, visit www.mossgilmorelaw.com.*

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