

CLIENT SUCCESS

Winston Secures the Sole Acquittal at Trial in a Sprawling Federal Prosecution of Nine Defendants for Health Care Fraud

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We scored a major victory for Dr. William Daniel Nicholson, a well-known bariatric surgeon and founder of Dallas' Nicholson Clinic for Weight Loss Surgery, when a jury acquitted him of all charges related to allegedly conspiring to pay and receive more than US\$40M in health care bribes and kickbacks and obtain approximately US\$200M in insurance. More than 20 people were originally charged in the alleged kickback scheme, including two of the hospital's founders and its CEO; only nine were tried.

The case arose after a multi-year grand jury investigation of the now-defunct surgical hospital—Forest Park Hospital. The case was the largest health care fraud investigation ever conducted in Dallas. The scheme allegedly involved approximately US\$200M in insurance payments tainted by bribes and kickbacks. The alleged scheme involved the payment of US\$70k to US\$225k per month to individual surgeons to “co-market” the hospital and the surgeons, and allegations that the surgeons facilitated waivers of copayments to induce utilization of the hospital's facilities.

In what was known as one of Dallas's largest health care trials, a judge from outside Dallas was brought in to try the case because its scope was so expansive and judicial resources in the district were already strained. Various conspirators testified the marketing payments were designed to disguise bribes and kickbacks paid to the doctors for referring patients to the hospital for expensive surgical procedures. By the time the seven-week trial had begun, only nine defendants remained. After 26 hours of deliberations, the jury convicted seven of the defendants and was unable to reach an agreement on one defendant—our client, Dr. Nicholson.

IMPACT

The stakes could not have been higher—if convicted on all counts, Dr. Nicholson faced 15 years in prison and the loss of his medical license. The case also was particularly interesting and significant for lawyers practicing in the health care fraud space given the government's use of the Travel Act to criminalize alleged bribe payments involving private insurance companies like Aetna and Cigna, as opposed to federal programs like Medicare and Medicaid.

(U.S.A. v. Dr. Alan Andrew Beauchamp (Case No. No. 3:16-CR-516-D, U.S. District Court for the Northern District of Texas, Dallas Division))

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