

PRESS RELEASE

# Philips Subsidiary to Pay Over \$24 Million for Alleged False Claims Caused by Respironics for Respiratory-Related Medical Equipment

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## For Immediate Release

U.S. Attorney's Office, District of South Carolina

**WASHINGTON** – Philips RS North America LLC, formerly known as Respironics Inc., a manufacturer of durable medical equipment (DME) based in Pittsburgh, Pennsylvania, has agreed to pay over \$24 million to resolve False Claims Act allegations that it misled federal health care programs by paying kickbacks to DME suppliers. The affected programs were Medicare, Medicaid and TRICARE, which is the health care program for active military and their families.

The [settlement](#) resolves allegations that Respironics caused DME suppliers to submit claims for ventilators, oxygen concentrators, CPAP and BiPAP machines, and other respiratory-related medical equipment that were false because Respironics provided illegal inducements to the DME suppliers. Respironics allegedly gave the DME suppliers physician prescribing data free of charge that could assist their marketing efforts to physicians.

“Paying illegal remuneration to induce patient referrals undermines the integrity of our nation’s health care system,” said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department’s Civil Division. “To ensure that the goods and services received by federal health care program patients are determined by their health care needs, rather than the financial interests of third parties, we will pursue any individual or entity that violates the prohibition on paying kickbacks, including DME manufacturers.”

"The people of South Carolina need to know that medical facts — not finances — drive their health care decisions," said U.S. Attorney Adair F. Boroughs for the District of South Carolina. "Those who improperly use money and other things of value to induce business in violation of the Anti-Kickback Statute will be held accountable."

"Paying kickbacks to medical equipment providers is misaligned with patient care and corrupts our nation's health care programs including TRICARE," said Special Agent in Charge Christopher Dillard for the Department of Defense Office of Inspector General, Defense Criminal Investigative Service (DCIS), Mid-Atlantic Field Office. "Working closely with our law enforcement partners, DCIS will continue to investigate those who risk harming the welfare of our active-duty service members and seek to profit at the expense of the American taxpayer."

"By paying kickbacks to obtain patient referrals, DME manufacturers are prioritizing financial incentives over patient needs, which undermines the integrity of federal health care programs," said Special Agent in Charge Tamala E. Miles for the Department of Health and Human Services, Office of the Inspector General (HHS-OIG). "HHS-OIG will continue to work tirelessly with our law enforcement partners to prevent such waste of valuable taxpayer dollars."

The Anti-Kickback Statute prohibits the knowing and willful payment of any remuneration to induce the referral of services or items that are paid for by a federal health care program, such as Medicare, Medicaid or TRICARE. Claims submitted to these programs in violation of the Anti-Kickback Statute give rise to liability under the False Claims Act.

The settlement provides that Respiroics will pay \$22.62 million to the United States, and in addition, will pay \$2.13 million to the various states as a result of the impact of Respiroics' conduct on their Medicaid programs, pursuant to the terms of separate settlement agreements that Respiroics has, or will enter into, with those states.

In addition to the civil settlement, Respiroics entered into a five-year Corporate Integrity Agreement (CIA) with HHS-OIG. The CIA requires Respiroics to implement and maintain a robust compliance program that includes, among other things, review of arrangements with referral sources and monitoring of Respiroics' sales force. The CIA also requires Respiroics to retain an independent monitor, selected by the OIG, to assess the effectiveness of Respiroics' compliance systems.

The settlement resolves a lawsuit originally brought by Jeremy Orling, a Respiroics' employee, under the *qui tam* or whistleblower provisions of the False Claims Act. Under those provisions, a private party can file an action on behalf of the United States and

receive a portion of any recovery. As part of this resolution, Orling will receive approximately \$4.3 million of the federal settlement amount.

This settlement was the result of a coordinated effort by the Justice Department's Civil Division, Commercial Litigation Branch, Fraud Section and the U.S. Attorney's Office for the District of South Carolina with assistance from the HHS-OIG and HHS Office of Investigations; DCIS; the Defense Health Agency Office of General Counsel; and the National Association of Medicaid Fraud Control Units.

The investigation and resolution of this matter illustrates the government's emphasis on combating health care fraud. One of the most powerful tools in this effort is the False Claims Act. Tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement, can be reported to the Department of Health and Human Services at 800-HHS-TIPS (800-447-8477).

The matter was handled by Senior Trial Counsel Daniel A. Spiro of the Fraud Section of the Civil Division and Assistant U.S. Attorneys Beth Warren and Johanna Valenzuela of the District of South Carolina.

The lawsuit resolved by this settlement is captioned *United States, et al., ex rel. Respiratory Care, LLC v. Respironics, Inc., et al.*, Case No. 2:19-cv-02913-BHH (D.S.C). The claims resolved by the settlement are allegations only, and there has been no determination of liability.

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**Note:** View the complaint [here](#).

### **Contact**

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