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Wasden, Justice Dept. reach settlement with orthopedists

IBR STAFF REPORT

Attorney General Lawrence Wasden and the United States Department of Justice have settled an antitrust case with the Idaho Orthopaedic Society, one Boise orthopedic practice group and five Boise orthopedists.

The Attorney General alleged that orthopedic doctors gained more favorable fees and contractual terms by agreeing to coordinate their actions, including denying medical care to injured workers. Wasden said that the doctors' conduct caused the State Insurance Fund to pay higher rates for orthopedic services.

The civil antitrust settlement was filed in United States District Court for Idaho. If approved by the court, the settlement will resolve allegations that competing physicians in the Boise area conspired to deny medical care to injured workers and to engage in group boycotts to obtain higher fees. Parties to the settlement are the Idaho Orthopaedic Society, the Idaho Sports Medicine Institute, Dr. Timothy Doerr, Dr. Jeffrey Hessing, Dr. John Kloss, Dr. David Lamey and Dr. Troy Watkins.

The settlement follows an investigation into allegations that the orthopedists engaged in two antitrust conspiracies that took place from 2006 to 2008.

In the first conspiracy, the orthopedists agreed not to treat most patients covered by workers compensation insurance. The doctors entered into a group boycott in order to force the Idaho Industrial Commission to pay them more money for treating injured workers. The

Idaho Industrial Commission sets the fee schedule that determines how much money health care providers usually receive for treating patients covered by workers compensation insurance. The boycott resulted in a shortage of orthopedists willing to treat workers compensation patients, causing higher rates for orthopedists' services.

"In short, these doctors were willing to use injured workers awaiting treatment as leverage to gain higher reimbursement fees," Attorney General Wasden said.

In the second conspiracy, all the orthopedists and other conspirators, except Dr. Lamey, agreed to threaten to terminate their contracts with Blue Cross of Idaho. The purpose for threatening to terminate their contracts was to force Blue Cross of Idaho to offer contract terms more favorable to orthopedists.

The proposed settlement prevents the orthopedists from agreeing with their competitors on fees and contract terms. The settlement also prohibits the settling orthopedists from collectively denying medical care to patients, refusing to deal with any payor, or threatening to terminate any contract with a payor.

"The free marketplace works best when there is fair competition. Anticompetitive activity harms the marketplace, businesses and consumers," Wasden said. "Enforcement of the antitrust laws restores competition to the marketplace to the benefit of businesses and consumers and the marketplace as a whole."