



Department of Justice

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BioReference Laboratories and Parent Company Agree to Pay \$9.85 Million to Resolve False Claims Act Allegations of Illegal Payments to Referring Physicians

BioReference Health LLC, formerly known as BioReference Laboratories, Inc., (BioReference), and OPKO Health, Inc. (OPKO) have agreed to pay \$9.85 million to resolve alleged violations of the False Claims Act arising from BioReference's payment of above-market rents to physician landlords for office space in order to induce referrals from those physicians to BioReference. BioReference, a subsidiary of OPKO, is headquartered in New Jersey and is one of the largest clinical laboratories in the United States.

"The integrity of federal health care programs depends on providers making decisions based on the interests of their patients," said Principal Deputy Assistant Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "The Department of Justice and its agency partners are committed to enforcing laws prohibiting illegal financial arrangements that may distort health care decision-making and drive up costs to federal health care programs and patients."

BioReference and OPKO have agreed to pay \$9.85 million to resolve allegations that, between January 2013 and March 2021, BioReference made lease payments to physicians and physician groups for the rental of office space for amounts that exceeded fair market value, in violation of the Physician Self-Referral Law and the Anti-Kickback Statute. The Physician Self-Referral Law, commonly known as the Stark Law, prohibits a health care provider from billing for certain services referred by physicians with whom the provider has a financial relationship, unless that relationship satisfies one of the law's statutory or regulatory exceptions. The Anti-Kickback Statute prohibits offering or paying remuneration to induce the referral of items or services covered by Medicare, Medicaid and certain other federally funded programs. Both the Stark Law and the Anti-Kickback Statute are intended to ensure that medical judgments are not compromised by improper financial inducements.

As part of today's settlement, BioReference admitted that it rented the office space from the specified physician practices for Patient Service Centers (PSCs), where patients could have their blood samples taken. In calculating payments under certain PSC lease arrangements, BioReference inaccurately measured the amount of space BioReference would use exclusively and included a disproportionate share of common spaces. BioReference analyzed referrals from nearby health care providers — including physician-lessors — when deciding whether to open, maintain or close PSCs. Following OPKO's acquisition of BioReference, the companies conducted multiple internal audits that showed that the payments to the specified physician-lessors exceeded fair market value. BioReference did not report or return any overpayments to federal health care programs.

"Medical decisions by doctors should be based on what is best for each patient, not a doctor's personal financial interest," said U.S. Attorney Rachael S. Rollins for the District of Massachusetts. "When companies violate the federal health care laws that are meant to protect patients, health care costs for hard working people increase. We will continue to find fraud and use the False Claims Act to make companies that break the law pay back the taxpayers they defrauded as well as pay a financial price for their misconduct."

In connection with the False Claims Act settlements, BioReference has also entered into a “Corporate Integrity Agreement” with the Department of Health and Human Services, Office of Inspector General (HHS-OIG).

“This settlement is a warning to laboratories that think they can boost their profits by entering into improper financial arrangements with referring physicians,” said Special Agent in Charge Phillip M. Coyne of HHS-OIG. “Working with our law enforcement partners, we will continue to crack down on such deals, which work to undermine impartial medical judgement, drive up health care costs, and corrode the public’s trust in the health care system.”

“Laboratories that scheme to enrich their businesses through health care fraud — such as by paying kickbacks — drive up health care costs for everyone,” said Special Agent in Charge Joseph R. Bonavolonta of the FBI Boston Division. “This settlement shows how seriously the FBI takes its responsibility to weed them out, and we’d also like to thank the whistleblower in this case for helping us ensure these entities are held accountable.”

“When health care companies pay unlawful remuneration to physicians and submit false claims for improper referrals, they undermine the integrity of TRICARE and place an unnecessary financial burden on the program,” stated Special Agent in Charge Patrick J. Hegarty of the Defense Criminal Investigative Service, the law enforcement arm of the Department of Defense Office of Inspector General. “The settlement agreement announced today demonstrates our ongoing commitment to work with our law enforcement partners to investigate health care fraud and protect TRICARE, the health care system for military members and their dependents.”

The settlement resolves allegations that were originally brought in a lawsuit filed by Jean Marie Crowley, a former employee at BioReference and OPKO, 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 government and share in any recovery. Ms. Crowley will receive approximately \$1.7 million as her share of the recovery in this case. The *qui tam* case is captioned *United States ex rel. Crowley v. BioReference Laboratories, Inc. and OPKO Health, Inc.*, Civil Action No. 19-CV-10981-WGY (D. Mass.). Under the settlement, defendants will also pay the Commonwealth of Massachusetts \$141,041 and the State of Connecticut \$5,001 to resolve alleged violations of their respective state False Claims Acts.

The investigation was conducted by the Civil Division, Commercial Litigation Branch, Fraud Section, of the Department of Justice and the U.S. Attorney’s Office for the District of Massachusetts with assistance from HHS-OIG and Office of the General Counsel, the Department of Defense Office of Inspector General and the FBI.

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 claims resolved by the settlement are allegations only, and there has been no determination of liability.

Attachment(s):

[Download BioReference Settlement Agreement.pdf](#)

Topic(s):

Health Care Fraud

Component(s):

[Civil Division](#)

[USAO - Massachusetts](#)

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