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Neurosurgeon, hospital settle whistle-blower case

BY JOHN DORSCHNER

In a highly unusual whistle-blower case, a board-certified neurosurgeon and the hospital where she worked have agreed to pay the federal government \$1.275 million for performing unnecessary spinal surgery on Medicare patients, the U.S. Attorney's Office in Miami announced Thursday.

Linda I. Bland performed more than 150 unnecessary surgeries at the Sebastian River Medical Center according to the whistle-blower lawsuit filed by anesthesiologist Thomas Gayeski. The surgeries were performed from 2000 through 2002, according to the complaint.

Kenneth W. Goodman, director of University of Miami's bioethics program, said the whistle-blowing action was a rare example of one doctor making allegations about a colleague's shortcomings.

"There is a . . . traditional reluctance to identify threats," Goodman said. ``Sometimes that's mischaracterized as professional courtesy."

"Unnecessary surgeries are not only fraudulent, but unconscionably expose patients to needless medical risks," said U.S. Attorney R. Alexander Acosta in a prepared statement.

"We will aggressively prosecute any physician or healthcare professional, including board certified specialists, who order or perform unnecessary medical or surgical procedures that endanger the health and safety of our citizens and steal scarce resources from the Medicare system," Acosta said.

The whistle-blower suit alleged "Bland's performance of unwarranted spinal surgeries evolved into a routine custom, pattern and practice." Gayeski said he had complained to the hospital, but administrators ignored his warnings.

Attorneys for Gayeski and Bland said neither they nor their clients could comment.

Gabriel Imperato, the Fort Lauderdale attorney representing the hospital, said the facility "denied any prior knowledge of the unnecessary surgeries." While Gayeski had complained to the staff about Bland's performance, he didn't mention unnecessary procedures, Imperato said, "and he participated in many of them," filing his lawsuit only after he left the hospital, which is located in Sebastian, on the Treasure Coast between Fort Pearce and Melbourne.

Under the terms of the settlement, the hospital paid \$925,000 and Bland paid \$350,000. Gayeski will get \$230,000 of that. The surgeon and hospital will pay an additional \$40,000 for Gayeski's attorney, Nancy LaVista.

The Florida Department of Health's website indicates that Bland's license is "clear and active." The self-reported form indicates she has never had a final disciplinary activity and has never been asked to resign from

a specialty board or hospital. It reports two malpractice judgements against her, one in 2003 for \$937,000 and another in 2005 for \$495,000.

She is listed on the website as being a surgeon at the Veteran's Administration Hospital in Palm Beach County, but a spokeswoman for the U.S. Attorney's office said her contract was not renewed by the government and she is no longer an employee there.

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