Department of Justice

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# Endoscopic Technologies to Pay U.S. $1.4 Million to Resolve Allegations of Medicare Fraud

WASHINGTON – Endoscopic Technologies Inc. (Estech), a medical device manufacturer, has agreed to pay the United States $1.4 million to resolve civil claims in connection with the alleged promotion of its surgical ablation devices, the Justice Department announced today. Surgical ablation devices use focused energy to create controlled lesions or scar tissue on a patient's heart or other organs.

The settlement resolves allegations that the San Ramon, Calif.-based company marketed its medical devices to treat atrial fibrillation (the most common cardiac arrhythmia or abnormal heart rhythm), a use that is not approved by the U.S. Food and Drug Administration (FDA). The government also alleged that Estech promoted expensive heart surgeries using the company's devices when less invasive alternatives were appropriate, advised hospitals to up-code surgical procedures using the company's devices to inflate Medicare reimbursements, and paid kickbacks to healthcare providers to use its devices. The United States asserted that by engaging in this conduct, Estech knowingly violated the Food, Drug and Cosmetic Act and caused the submission of false and fraudulent claims in violation of the False Claims Act.

"The Department of Justice is committed to protecting Medicare from the unlawful marketing practices of Estech and other medical device manufacturers," said Tony West, Assistant Attorney General for the Justice Department's Civil Division. "We will continue to work with our partners at the Department of Health and Human Services Inspector General's Office and the FDA Office of Chief Counsel to preserve the integrity of our public health programs."

The allegations were made against Estech in a lawsuit filed in the U.S. District Court for the Southern District of Texas under the *qui tam* provisions of the False Claims Act, which permit private citizens, called "relators," to bring lawsuits on behalf of the United States and receive a portion of the proceeds of any settlement or judgment. The relator will receive a total of $210,000 as the statutory share of the settlement.

The Southern District of Texas has also unsealed four additional *qui tam* lawsuits filed by relators against other surgical ablation device manufacturers. The United States continues to investigate those cases.

The settlement with Estech was the result of a coordinated effort by the U.S. Attorney's Office for the Southern District of Texas, the Civil Division of the Department of Justice, the Department of Health and Human Services' Office of Inspector General, and the FDA Office of Chief Counsel.