

# State of North Carolina

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North Carolina Senate President Pro Tempore Marc Basnight  
North Carolina House of Representatives Speaker Joe Hackney  
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator John Snow  
Senator Ellie Kinnaird  
Representative Alice Bordsen  
Representative Jimmy Love  
Co-Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly  
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Report on Settlement Agreement for Medtronic, Inc.

Dear Members:

G.S. §114-2.5 requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding all settlements and court orders which result in more than \$75,000.00 being paid to the State. Pursuant to that statute, I am writing regarding the settlement of claims for Medicaid reimbursement to the State and Federal governments in the above-referenced matter. Pursuant to federal law (42 C.F.R. § 433.320) recoveries in these cases are shared on a pro rata basis by the State and Federal governments.

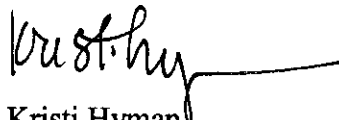
On December 15, 2009, a Settlement Agreement was executed between Medtronic, Inc. ("Medtronic"), its subsidiary, Medtronic Sofamor Danek, Inc. ("MSD"), and the State of North Carolina. Medtronic is a medical technology company that distributes a wide range of medical devices and is headquartered in Minneapolis, MN. Medtronic distributes and sells spinal implant devices in all fifty states. This settlement is based on two *qui tam* whistleblower actions filed against Medtronic. The settlement resolves allegations that Medtronic and MSD offered kickbacks to spine surgeons to induce them to choose devices marketed by MSD. The kickbacks took various forms, including consulting and royalty agreements for which little or no work was performed; travel for doctors, their spouses and families; and, consultant meetings held at resort locations.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$171,629.83. Of that amount, the federal government received \$81,477.09 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program received \$49,960.15 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$37,896.77 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$2,295.82 for investigative and collection costs.

As part of the settlement, Medtronic and MSD will enter into a five year Corporate Integrity Agreement with the Office of Inspector General, United States Department of Health and Human Services, to ensure future compliance by the companies with the laws, regulations, and written directives of all federal healthcare programs.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristi Hyman", with a long horizontal line extending to the right from the end of the signature.

Kristi Hyman  
Chief of Staff

KH:ng

cc: Jean Sandaire, NCGA Fiscal Research Division  
Greg McLeod, NCDOJ, Legislative Counsel  
Nels Roseland, NCDOJ, Deputy Chief of Staff