

Rex Hospital, based in Raleigh, North Carolina, has agreed to pay the federal government \$1.9 million to settle Medicare fraud charges. The qui tam (or “whistleblower”) lawsuit alleged that hospitals were keeping Medicare patients overnight unnecessarily following a back procedure known as “kyphoplasty.” The action alleged hospitals encouraged overnight stays solely to boost the hospital’s Medicare revenues when the procedure can often be done safely and at much lower cost on an out-patient basis. The settlement with Rex Hospital follows an earlier settlement between Presbyterian Orthopedic Hospital in Charlotte with the federal government for \$637,872.

Kyphoplasty is a procedure employed for treatment of certain spinal compression fractures, such as those resulting from osteoporosis. The procedure is minimally invasive and involves expanding the compressed vertebra to create a cavity into which bone cement is injected. The procedure generally takes about an hour to complete. The vast majority of patients are able to walk around within just a few hours of the procedure.

Medtronic Spine, LLC is the company which sold the equipment and materials used to perform kyphoplasty and advised hospitals on billing practices for the procedure. Medtronic Spine was formerly known as Kyphon, Inc. The whistleblower lawsuit against Rex was filed by two former Kyphon employees.

In most instances, whistleblowers who bring qui tam lawsuits are awarded 15 to 25 percent of the total amount recovered by the government. The settlements with Rex and Presbyterian Hospital highlight the importance of whistleblowers, often current or former employees of a wrongdoing company, in helping the government combat Medicare and Medicaid fraud. Qui tam or whistleblower suits are brought by individuals on behalf of the government to recover money that the government should not have had to pay.