



*United States Attorney  
Southern District of New York*

FOR IMMEDIATE RELEASE  
March 16, 2006

CONTACT: U.S. ATTORNEY'S OFFICE  
HERBERT HADAD, MEGAN GAFFNEY,  
HEATHER TASKER, BRIDGET KELLY  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**MANHATTAN DOCTOR SENTENCED TO 20 YEARS IN FEDERAL  
PRISON FOR ILLEGALLY DISTRIBUTING PRESCRIPTION  
NARCOTICS THAT RESULTED IN DEATH**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York announced that Dr. DAVID WEXLER, a Manhattan dermatologist, was sentenced today to 20 years' imprisonment for unlawfully distributing prescription narcotics (such as Dilaudid, Percocet, Vicodin, and Xanax) and for health care fraud. WEXLER was convicted of these offenses following a two-week trial before United States District Judge Loretta A. Preska and a jury. The jury convicted WEXLER of a total of 17 counts, and specifically found that the conspiracy to distribute prescription narcotics resulted in the death of an individual named Barry Abler due to an overdose.

According to the evidence at trial, WEXLER was a practicing dermatologist on East 76th Street in Manhattan. The evidence demonstrated that, from 1992 through 2002, WEXLER fraudulently billed various insurance companies for thousands of surgeries -- 4 centimeter excisions of skin -- that he had not performed. The evidence also showed that WEXLER agreed to pay kickbacks to, or unlawfully prescribe controlled substances for, the individuals whose insurance companies were being defrauded, in order to induce those individuals to keep coming back to his office.

For example, from 1992 until Barry Abler's death in May 2001, WEXLER submitted to Medicare almost 2,000 claims for surgeries that he allegedly performed on Abler, and was paid over \$425,000. Over 1,300 of these 4 cm excisions were supposedly performed by WEXLER on Abler's face alone. According to the testimony at trial, it was impossible for even a fraction of those surgeries to have been performed, since there is not enough skin on the body for even a small number of those procedures. The evidence demonstrated that all of these claims were

fraudulent.

In return for Abler's acquiescence in this scheme, the evidence showed, WEXLER paid Abler approximately \$700 per month, and provided Abler with prescriptions for various narcotics and other controlled substances, such as Dilaudid, Percocet, Vicodin, and Xanax, as well as non-controlled, addictive drugs such as Carisprodol, or "Soma." WEXLER prescribed huge amounts of narcotics for ABLER for no legitimate medical purpose -- including up to 720 pills of Vicodin a month (the maximum recommended dosage is 5 pills per day) and 700 pills of Soma, in addition to Dilaudid, Percocet, and Xanax.

WEXLER also wrote prescriptions in other people's names, and gave those prescriptions to Abler to sell to other prescription drug abusers. According to the testimony and evidence at trial, WEXLER prescribed these drugs without any medical purpose -- he never treated any of the individuals for whom he was prescribing these controlled substances. On occasion, Abler's friends and acquaintances would visit WEXLER's office directly, and would receive additional prescription narcotics unlawfully. WEXLER would then submit fraudulent bills to those individuals' insurance companies, such as Oxford Health Plans, Aetna Health Insurance, Cigna, and others, for excisions that he never performed.

The evidence at trial further demonstrated that on or about May 28, 2001, Abler was found dead in his apartment, of what was later determined to be an overdose of Dilaudid and Soma. The Dilaudid and Soma upon which Abler overdosed had been prescribed by WEXLER.

In addition to sentencing WEXLER to 20 years' imprisonment, Judge Preska also ordered WEXLER to pay more than \$880,000 in restitution to the insurance companies he defrauded.

Mr. GARCIA praised the efforts of the Drug Enforcement Administration and the Department of Health and Human Services in this case.

Mr. GARCIA added that, "This case, and the Judge's sentence, send an important message to anyone who illegally distributes controlled substances such as Dilaudid, Percocet, Vicodin, or Xanax. These are powerful narcotics with the well-recognized potential for addiction and overdose. The loss of life in this case shows the damage that can result when a doctor's greed causes him to disregard his ethical obligations and the law."

Assistant United States Attorneys LESLIE C. BROWN and JONATHAN S. KOLODNER are in charge of the prosecution.

06-040

###