

Florida Cancer Specialists & Research Institute, LLC
Deferred Prosecution Agreement – Q&A

What is the criminal charge against Florida Cancer Specialists & Research Institute, LLC?

- Today, the Department of Justice’s Antitrust Division announced a criminal felony charge against Florida Cancer Specialists & Research Institute, LLC (“FCS”), one of the largest privately held medical oncology practices in the United States. FCS is charged with one count of violating Section 1 of the Sherman Act for its participation in a criminal antitrust conspiracy to allocate medical oncology and radiation oncology treatments provided to cancer patients in a tri-county area of Southwest Florida between 1999 and 2016. The charge was filed in the United States District Court in Fort Myers, Florida.
- FCS’s revenues from the provision of oncology treatments affected by this conspiracy totaled more than \$950 million.

What are the material terms of the Antitrust Division’s deferred prosecution agreement with FCS?

- Pursuant to the deferred prosecution agreement (“DPA”), FCS will acknowledge its participation in the charged criminal antitrust conspiracy and pay the statutory maximum penalty of \$100 million.
- The DPA imposes cooperation obligations on FCS, and requires FCS to use its best efforts to secure the cooperation of its current and former partners, members, directors, officers, and employees.
- FCS is also required to maintain a compliance program designed to prevent and detect criminal antitrust violations throughout its operations.
- Finally, the DPA requires FCS to waive and refrain from enforcing any and all non-compete, non-solicitation, and/or non-interference provisions in any contract or agreement that would otherwise apply to any current or former partners, members, officers, directors, employees, and agents who, during the term of the DPA, join an oncology practice in Southwest Florida or open an oncology practice in Southwest Florida.
- In consideration of FCS’ compliance with the terms of the agreement, the Antitrust Division will defer prosecuting FCS until 2023.
- As part of the agreement, the United States filed a motion, which is subject to approval by the Court, to defer any prosecution and trial of the charges filed against the defendant for the term of the DPA.

Why was the charge resolved with a deferred prosecution agreement?

- The decision to resolve this matter with a DPA took into account the significant collateral consequences that likely would result from a criminal conviction, especially to FCS’

current and future patients, including patients enrolled in ongoing clinical trials, its employees, and cancer research generally.

- The Department of Health and Human Services excludes health care providers and suppliers that have been convicted of certain crimes from participation in all federal health care programs.

Why does the DPA impose a non-compete waiver obligation on the defendant?

- As reflected in the Information, FCS is charged with participating in a conspiracy to allocate oncology treatments in Southwest Florida.
- In order to carry out the conspiracy, FCS and its co-conspirators (1) agreed that FCS would not employ radiation oncologists and a co-conspirator oncology company would not employ medical oncologists in Southwest Florida, and (2) maintained the allocation agreement by working together to prevent competition from third-party oncology treatment providers unaffiliated with either FCS or the co-conspirator company in Southwest Florida.
- The non-compete waiver in the DPA eliminates a restriction on the ability of current and former FCS employees, including physicians and other health care professionals, to open or join a competing oncology practice in Southwest Florida, and is aimed at increasing competition in the treatment of cancer patients in that area.

Is this matter related to the generic pharmaceutical investigation?

- No. This case relates to a separate investigation into collusion for oncology treatments in Florida.

What is the status of the matter?

- FCS' charge and DPA are the first in an ongoing investigation.