

## Prepared Statement

### Background and Settlement

Nearly seven years ago (August 3, 2012) a Wichita-based Internist and former employee of Galichia Medical Group (GMED) filed a qui tam action (meaning he sued on behalf of himself and the U.S. Government) as a relator/**whistleblower**. The action alleged that Galichia Medical Group and Dr. Joseph Galichia, the defendants, submitted or caused to be submitted claims to the Medicare program for cardiac stent procedures that were not medically reasonable or necessary. Prior to becoming a “whistleblower” the Internist/Relator had been released from employment at GMED.

Hence, the qui tam action resulted in Dr Galichia, GMED and their attorneys at Foulston Siefkin, LLP, entering into a long and arduous review and response to the allegations prompted by the former **disgruntled employee**. The Government enlisted first one, then another cardiologist, neither of whom were interventional cardiologists engaged in the full-time practice of cardiology. The Galichia Team, on the other hand, engaged four prominent cardiologists who each found that Dr. Galichia’s stent procedures were appropriate under American Heart Association/American College of Cardiology guidelines. The Galichia team’s experts each reviewed **more than 200 cases** from the 2008-12 time period.

**Patient-wise**, the Government initially selected **only twelve patient cases** for review from stent procedures done at GMED from 2005-12. The Galichia Team responded by engaging a third-party resource, a retired Federal Bureau of Investigation agent, to personally interview the eight living patients of the twelve. Six of the eight patients were attributed to Dr. Galichia and all six agreed, from their perspective, that the stent intervention was necessary. Also, of note, three of the twelve patients were under private insurance, not Medicare. Later the Government undertook its larger case audit with its second retained expert, who, as previously noted, was not a full-time practicing interventional cardiologist.

To bring an end to this nearly seven-year-long qui tam case, Dr. Galichia agreed to pay the Government \$5.8 million (plus interest). The Relator/Whistleblower will receive a portion of these proceeds. Further Dr. Galichia voluntarily agreed to be individually excluded from Medicare, Medicaid, and other Federal health care programs for a period of three years, so long as the entities in which he is invested were not adversely impacted by his individual exclusion.

**As noted in the settlement agreement, the fact that Dr. Galichia settled with the government is neither an admission of liability by Galichia and GMED, nor a concession by the United States that its claims are not well founded.**

### To Stent or Not to Stent

It is widely accepted that two or more experienced angiographers may interpret the same angiographic image differently. Because of the subjective nature of visual lesion

assessment, there is a 20% variation between the readings of two or more experienced angiographers, especially for lesions narrowed 40-70%. A number of courts have held that the subjective nature of visual assessment by a cardiologist is not sufficient to result in liability for the physician.

### **Expert Opinions on Behalf of Dr. Galichia and GMED**

Knowing that qualified, objective interventionalists can look at the same angiography and vary by up to 20% stenosis in their findings, the Galichia Team engaged four board certified cardiology experts to review some or all of the cases reviewed or rejected by the Government's expert. Each of these interventionalists is an expert in his own right, but together their findings simply cannot be ignored.

Dr. Galichia's experts are a talented, qualified, diverse, experienced group of nationally and internationally recognized, published physicians. They hold multiple board certifications, and, though they are practicing interventionalists, they have each spent time as professors at one or more medical schools. They have held some of the most prestigious positions in interventional cardiology, and they are regularly recognized as "Best Doctors." Together, they have authored or co-authored hundreds of journal articles, books, abstracts, reviews, and oral presentations. They all serve or have served as directors of their practices and their hospital's cardiology departments, conducting peer review of catheterizations for their medical staffs. They are respected experts both locally, nationally, and internationally.

### **Prior Settlements**

1. 1997 Qui Tam Case brought about by three disgruntled employees, Settled in 2000, with no admission of liability on Dr. Galichia's part – related to documentation and not stent procedures.
2. 2004 Medicare Investigation, Settled in 2009, with no admission of liability on Dr. Galichia's part - related to documentation and not stent procedures.

### **Dr. Galichia's Perspective**

Dr. Galichia denies the allegations made by the Relator and the Government in the Qui Tam action just settled. He agreed to the settlement because fighting the action was taking up far too much of his time and energy. Further, after nearly seven years, it simply became too costly to keep defending against these false accusations. Dr. Galichia has devoted his entire career to the practice of medicine and the cardiovascular care of many, many Kansans. Sadly, he feels this has been a matter of legal bullying and calls on Congress to prevent prosecutors in the future from attempting to practice medicine in the courts or by threat of legal action against well-meaning and competent physicians.

### **About Dr. Galichia**

Dr. Galichia, an internationally recognized pioneer in the field of interventional cardiology, is highly esteemed by his peers and trusted and loved by his patients. Past president of the

International Society of Coronary Angiography, Dr. Galichia has trained more than 500 physicians from around the world on how to do stenting and angioplasty. He built and ran the first out-patient catheterization lab (where the first out-patient balloon angioplasty was performed in the world by Dr. Ernst Schneider), as well as built two heart hospitals in Wichita, Kansas, and Lubbock, Texas. Galichia Heart Hospital in Wichita had the highest patient satisfaction and safety records for the years Dr. Galichia ran it.

Dr. Galichia obtained his license to practice medicine on July 1, 1970, and has spent more than forty years dedicated to extending and saving the lives of his patients. He is board certified in internal medicine (1973) and cardiovascular disease (1977). From 1973 through 1975, he worked at the U.S. Army Hospital at Ft. Stewart, Georgia, where he served as Chief of Cardiology, and in 1976 he opened his own practice in Wichita, Kansas. Dr. Galichia traveled to Zurich, Switzerland in 1980 to work with Drs. Andreas Gruntzig and Ernst Schneider in the early development of coronary and peripheral angioplasty. Dr. Gruntzig performed the first ever coronary balloon angioplasty in 1977, and, at the time Dr. Galichia was in Zurich, less than 100 coronary angioplasties had been performed. After spending nearly three months working with Gruntzig and Schneider, Dr. Galichia returned to Wichita and performed the first coronary angioplasties in the region and one of the first angioplasties of the leg in the nation.

Born and raised in rural Kansas. Dr. Galichia started the first Kansas rural cardiology outreach clinic. For decades now, Dr. Galichia has delivered cardiac care to patients in underserved rural communities by conducting outreach clinics in over a dozen rural Kansas towns consisting primarily of medically underserved areas and medically underserved populations. He has a long history of performing free heart health educational programs and free cardiac screenings to the public in those rural communities. He has an affinity for rural Kansans who would not otherwise have access to preventive cardiac care and screening in their communities.

As one of the pioneering interventional cardiologists in the world, Dr. Galichia has taught physicians from around the globe the uses and techniques of coronary and peripheral (legs and renal arteries) angioplasty and stents. He has lectured in many countries throughout Europe, Asia and South America. Approximately monthly since 2000, groups of three to four physicians have spent a few days working with Dr. Galichia and learning from him. The physicians often include residents and fellows from prestigious schools such as Yale and Stanford. Just as often, they have included practicing interventionalists who either need more experience in performing coronary cases or want to learn to treat peripherals. These physicians are well-educated and well-trained cardiologists who desire to learn new techniques or just need more cases to maintain competency. Dr. Galichia has also participated in community and public education via radio and television since the 1990's, including The Galichia Radio Network and "Take Your Health To Heart" broadcasts.