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FOR IMMEDIATE RELEASE
FEBRUARY 22, 2005

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**MANHATTAN DOCTOR CONVICTED OF ILLEGALLY DISTRIBUTING
PRESCRIPTION NARCOTICS THAT RESULTED IN DEATH**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, announced that Dr. DAVID WEXLER, a Manhattan dermatologist, was convicted late last Friday of unlawfully distributing prescription narcotics such as Dilaudid, Percocet, Vicodin, and Xanax, and health care fraud, following a two-week jury trial in Manhattan federal court. The jury also found that the conspiracy to distribute those 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, in order to keep the individuals, whose insurance companies were being defrauded, coming back to his office, WEXLER agreed to pay them kickbacks from his fraud, or to unlawfully prescribe controlled substances

for them.

For example, from 1992 until Barry Abler's death in May 2001, WEXLER submitted almost 2,000 claims for surgeries that he allegedly performed on Abler to Medicare, and was paid over \$425,000. Over 1,300 of these 4 cm excisions were supposed to have been 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 be 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 that 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, HealthNet, 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.

Because WEXLER was convicted of participating in a narcotics conspiracy resulting in death, he now faces a statutory 20-year mandatory minimum sentence. He also faces a maximum sentence of life imprisonment, and a fine of \$1 million or twice the gross gain or loss resulting from the offense.

WEXLER was remanded to the custody of the United States Marshals Service following his conviction. WEXLER is scheduled to be sentenced by United States District Judge LORETTA A. PRESKA on May 27, 2005 at 4:30 P.M.

Mr. KELLEY praised the efforts of the Drug Enforcement

Administration in this case.

Mr. KELLEY stated: "This case sends an important message to anyone, physician or otherwise, 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. That potential was tragically realized here with the death of Barry Abler. If you prescribe these drugs unlawfully, you will be charged and punished to the full extent allowed by the law."

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

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