

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL NO. 19-218

v.

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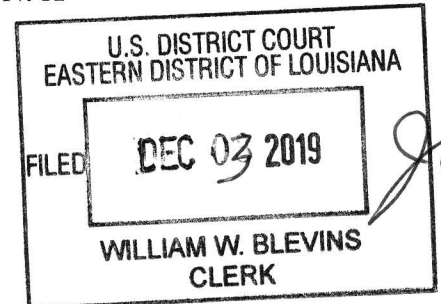
SECTION: A

SUZANNE C. MAY

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FACTUAL BASIS



Should this matter have gone to trial, the government would have proved through the introduction of reliable testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the government in Count 1 of the Information now pending against the defendant, **SUZANNE C. MAY**, charging her with a violation of Title 18, United States Code, Section 371, namely, conspiracy to alter or falsify records in connection with a Medicare audit.

The Defendant, along with her co-conspirators and others, beginning in approximately August 2017 and continuing through approximately December 2017, in the Eastern District of Louisiana, and elsewhere, conspired to alter records in connection with a federal investigation, namely a Medicare audit into the business practices of Company 1, a hospice company with a facility located in New Orleans, Louisiana. **MAY** is a licensed nurse in the state of Louisiana and certified to provide hospice and palliative care. Further, **MAY** is a certified hospice administrator and served as the administrator at Company 1's New Orleans facility.

In 2015, Medicare audited Company 1 and the results of the audit revealed that Company

☐ Fee _____
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☐ CtRmDep _____
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DOJ Trial Attorney/AUSA 741
 Defendant DN
 Defense Counsel 85C

1 did not have patient care documentation to justify the level of billing for hospice services that Company 1 submitted to Medicare. Medicare sent its findings in a letter addressed to **MAY** that detailed Company 1's shortcomings. Namely, Medicare concluded Company 1 did not have documentation to justify the level of billing for hospice services that it submitted to Medicare. Among the findings of the audit, Medicare concluded that Company 1 failed to complete properly executed notice of election forms that detailed when a Medicare beneficiary elected hospice care. Medicare concluded that the failure to complete properly executed notice of election forms was material because providers, such as Company 1, could not bill Medicare for hospice services unless a beneficiary had elected hospice care memorialized with a fully executed notice of election form. Medicare specifically educated **MAY** and Company 1 as a result of this audit that Company 1 could not bill Medicare for hospice services unless a beneficiary had fully executed a notice of election form. As a result of failing this Medicare audit in 2015, Company 1 had to repay Medicare approximately \$383,107.26, which were all of the audited claims at issue.

In 2017, Company 1 was the subject of an additional Medicare audit that sought documentation substantiating claims for hospice services provided for Medicare beneficiaries at Company 1. On August 9, 2017, Medicare, through its zone program integrity contractor, AdvanceMed, requested 99 patient files from Company 1 in a letter addressed to **MAY** (the "August 2017 Medicare audit"). The 99 patient files requested were comprised of Medicare beneficiaries who Company 1 billed for hospice services. Responding to the audit entailed gathering the patient files at issue and providing those files to Medicare so that it could determine whether Company 1's documentation justified the level of billing for hospice services that it submitted to Medicare. As the hospice administrator, **MAY** was involved with overseeing and

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gathering the requested patient records for this audit.

In or around September 2017, **MAY** asked several employees of Company 1 to assist her with completing the August 2017 Medicare audit by gathering patient files that were requested in the audit. **MAY** asked those employees to review patient records to determine if the files had the necessary paperwork to justify the level of billing for hospice services that Company 1 submitted to Medicare for those beneficiaries. If information was missing from the patient's file, **MAY** directed the employees to add the missing information to make it appear as though that information existed prior to Company 1 being notified about the August 2017 Medicare audit.

For instance, if a notice of election form was missing the date evidencing when a Medicare beneficiary first elected hospice services, **MAY** directed employees to back date the notice of election forms. **MAY** did so to make it appear as though the notice of election forms had been completed at the time a given beneficiary elected hospice services from Company 1, when in actuality, as of August 2017, these notice of election forms lacked the necessary date of hospice election. In addition to adding dates to the notice of election forms, employees of Company 1, with **MAY'S** knowledge, added patient initials to the notice of election forms to make it appear as though a beneficiary had authorized a notice of election form when electing hospice services from Company 1, when in actuality, as of August 2017, these notice of election forms lacked the necessary patient initials. In certain instances, **MAY** knew that Company 1 employees added patient initials of deceased beneficiaries to the notice of election forms.

In addition, in or around September 2017, **MAY** altered a document in a Beneficiary 1's patient file that was titled "Narrative Summary of Prognosis" and dated November 21, 2014. As of September 2017 when **MAY** reviewed Beneficiary 1's patient file, this Narrative Summary of

Prognosis had a line drawn through the portion of the form that would typically have contained a status report detailing Beneficiary 1's terminal prognosis. **MAY** placed white-out over the line drawn through the portion of the Narrative Summary of Prognosis, wrote a narrative on the form detailing Beneficiary 1's medical condition at that time based on a history and physical from the History and Physical previously composed by a physician on November 17, 2014 at another medical facility three days prior to Beneficiary 1 being admitted to Company 1. **MAY** signed the note indicating that she was a registered nurse, and dated the note "November 20, 2014." In actuality, as of August 2017, this Narrative Summary of Prognosis form lacked the information that **MAY** added and **MAY** never treated Beneficiary 1.

MAY, to hide the fact that necessary and essential information was missing from the records at issue in the August 2017 Medicare audit, altered Beneficiary 1's patient chart and other patient charts, and directed other Company 1 employees to add information that was missing from the notice of election forms in patient charts at issue in the August 2017 Medicare audit so that Company 1 would pass the August 2017 Medicare audit. **MAY** ultimately assisted with the production of these patient files to Medicare in response to the August 2017 Medicare audit.

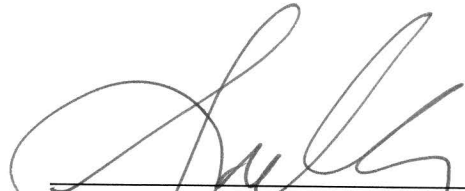
In sum, the Government's evidence would prove the defendant, **SUZANNE C. MAY**, conspired to alter records at issue to justify billings submitted by Company 1 to Medicare that were under review by Medicare so that Company 1 would pass the Medicare audit.

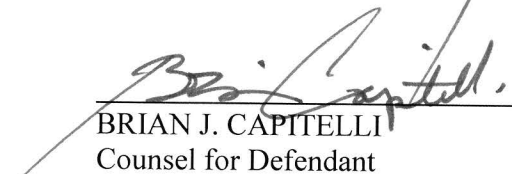
Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by **MAY**, and/or the government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for her guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the plea of guilty to the charged offense by **MAY**.

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, *inter alia*, Special Agents and forensic examiners from the Federal Bureau of Investigation and the Department of Health and Human Services, Office of Inspector General, and admissible tangible exhibits in the custody of the FBI and the HHS.

READ AND APPROVED:



SUZANNE C. MAY
Defendant

BRIAN J. CAPITELLI
Counsel for Defendant

JARED L. HASTEN
Trial Attorney

KATHRYN MCHUGH
Assistant United State Attorney