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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ANTONIO BECERRIL,

Defendant.

1:23-CR-2029-SAB-1

INDICTMENT

Vio: 18 U.S.C. §§ 1349, 1347
Conspiracy to Commit Health
Care Fraud
(Count 1)

18 U.S.C. §§ 1349, 1343
Conspiracy to Commit Wire
Fraud
(Count 2)

18 U.S.C. § 1347
Health Care Fraud
(Counts 3–7)

18 U.S.C. § 1343
Wire Fraud
(Counts 8–11)

18 U.S.C. § 1035
False Statements Relating to
Health Care Matters
(Counts 12–16)

18 U.S.C. § 982(a)(7)
Forfeiture Allegations

The Grand Jury charges:

Overview of the Conspiracy

1. From February 2018 to September 2019, Defendant DAVID ANTONIO BECERRIL (BECERRIL), a licensed physician residing and practicing medicine in the Eastern District of Washington, together with other conspirators both known and unknown to the Grand Jury, devised, perpetrated, and participated in carrying out a scheme and artifice designed to enrich themselves financially by submitting, and causing to be submitted, false and fraudulent prescriptions and orders for medically unnecessary durable medical equipment (DME), primarily orthotic braces, and genetic tests for unwitting Medicare beneficiaries, and then falsely and fraudulently claiming and obtaining millions of dollars from Medicare for such braces and genetic tests.

2. The purpose of the fraudulent DME and genetic testing-fraud scheme was to siphon dollars from Medicare to line the pockets of the scheme's participants by obtaining Medicare beneficiaries' personal information, creating false and fraudulent doctor's orders in order to make the DME and genetic testing appear to be medically appropriate and reimbursable under Medicare, and selling those falsified orders to laboratories and brace suppliers who then billed Medicare for the medically unnecessary genetic tests or braces. Defendant BECERRIL's role in the scheme was to sign the false and fraudulent orders falsely attesting to the medical necessity of the braces and genetic testing for beneficiaries whom he had never met, and did not treat, in order to make it appear as though the braces and genetic testing were medically necessary and ordered by a physician treating the patient, in order to obtain Medicare payment for the brace or test. In this manner,

1 BECERRIL and his known and unknown co-conspirators fraudulently obtained
2 more than \$1.5 million from Medicare solely for fraudulent braces and genetic
3 testing fraudulently ordered and prescribed by BECERRIL before the fraud was
4 uncovered.

5 3. In the course of the fraudulent scheme, BECERRIL signed more than
6 2,800 doctor's orders, primarily for Medicare beneficiaries, all of whom he was not
7 treating and with whom he had no physician-patient relationship—without
8 speaking to or meeting a single supposed “patient.” BECERRIL took an average of
9 less than 40 seconds to review and sign each order and denied few or no orders for
10 lack of medical necessity—even approving orders for braces for nonexistent joints
11 for patients whose limbs had previously been amputated. In exchange for his
12 fraudulent approvals, orders, and signatures, BECERRIL was paid by his co-
13 conspirators in the amount of \$20 per beneficiary.

14 4. In this manner, and as described further herein, BECERRIL and his
15 known and unknown co-conspirators falsely and fraudulently sought more than \$4
16 million and falsely and fraudulently obtained at least \$1.5 million from the
17 Medicare program designated to treat and care for elderly and disabled Americans.
18 BECERRIL continued to knowingly participate in the fraudulent scheme and
19 conspiracy until the fraudulent scheme was uncovered.

20 GENERAL ALLEGATIONS

21 At all times relevant to this Indictment:

22 5. Defendant DAVID ANTONIO BECERRIL was a resident of the
23 Eastern District of Washington.

24 Medicare Program Coverage of DME and Genetic Testing

25 6. Medicare is a federal health care benefit program that provides health
26 insurance to elderly and disabled citizens in the United States. Medicare provides
27 health insurance coverage for eligible health care services including hospital
28

1 services, outpatient services, medical equipment, prescription drug costs, and
2 certain types of diagnostic laboratory testing.

3 7. Medicare covers only durable medical equipment (DME) that is
4 reasonable and necessary for the treatment of illness or injury or to improve the
5 functioning of a beneficiary's malformed body member. To be considered
6 reasonable and necessary, DME must be ordered by a physician or other licensed
7 provider and must be expected to make a meaningful contribution to the treatment
8 of the patient's illness or injury or to the improvement of the patient's malformed
9 body member. Orthotic braces—such as ankle, shoulder, and back braces—are a
10 type of DME.

11 8. The Centers for Medicare and Medicaid Services (CMS), which
12 administers the Medicare program, and its Medicare Administrative Contractors,
13 which are responsible for processing claims and promulgating coverage
14 determinations in their designated geographic areas, have promulgated additional
15 coverage requirements concerning braces, including, in some cases, requiring that
16 the provider have a face-to-face visit with the patient before Medicare will
17 reimburse for an orthotic brace ordered by the provider. During the relevant time
18 period, as applicable here, CMS required a face-to-face visit in order for knee and
19 lumbar brace prescriptions to be reimbursable by Medicare.

20 9. Similarly, Medicare covers diagnostic laboratory testing only if such
21 test is reasonable and necessary for the diagnosis or treatment of illness or injury.
22 To be considered reasonable and medically necessary, and therefore eligible for
23 Medicare reimbursement, clinical laboratory services must be ordered and used
24 promptly by the physician who is treating the beneficiary for a specific medical
25 problem and who uses the results in the management of the beneficiary's specific
26 medical problem. Tests not ordered by the physician who is treating the beneficiary
27
28

1 are considered not reasonable and necessary and therefore not reimbursable under
2 Medicare.

3 **COUNT 1**

4 **CONSPIRACY TO COMMIT HEALTH CARE FRAUD**

5 10. The Grand Jury re-alleges and incorporates by reference Paragraphs 1
6 through 9 of the Indictment as if fully set forth herein. Further, the allegations in all
7 other counts in the Indictment are re-alleged and incorporated in this count as if
8 fully set forth herein.

9 11. Beginning no later than on or about February 27, 2018, and
10 continuing until at least on or about September 9, 2019, in the Eastern District of
11 Washington and elsewhere, Defendant DAVID ANTONIO BECERRIL and other
12 persons and entities both known and unknown to the Grand Jury, did knowingly
13 combine, conspire, and agree to commit Health Care Fraud in violation of 18
14 U.S.C. § 1347, referred to herein as the Conspiracy, to wit, knowingly devised and
15 intended to devise a scheme and artifice to defraud and obtain money from and in
16 the custody of Medicare, a health care benefit program, by means of materially
17 false and fraudulent pretenses, representations, and promises, in violation of 18
18 U.S.C. §§ 1347, 1349.

19 Ways, Manners, and Means of the Conspiracy

20
21 12. It was part of the Conspiracy that between on or about February 27,
22 2018, and September 9, 2019, Defendant DAVID ANTONIO BECERRIL, and his
23 co-conspirators both known and unknown to the Grand Jury, perpetrated their
24 fraudulent scheme on the United States and CMS by making numerous false and
25 fraudulent statements and misrepresentations in order to fraudulently request and
26 obtain Medicare reimbursement for DME, including orthotic braces, and genetic
27 tests. These false and fraudulent statements and representations included fraudulent
28 documentation that falsely represented that the DME and genetic testing were

1 medically necessary, had been ordered by a physician treating the beneficiary and
2 in the ordinary course of that treatment, and that the braces and genetic tests would
3 be used in the course of treatment for a specific medical problem.

4 13. It was part of the Conspiracy that BECERRIL's co-conspirators, both
5 known and unknown to the Grand Jury, obtained personal identifying information
6 of Medicare beneficiaries, including beneficiaries' names, addresses, phone
7 numbers, dates of birth, and Medicare numbers. BECERRIL's co-conspirators then
8 created false and fraudulent doctor's orders, requisition forms, and medical
9 documentation for DME and/or genetic tests on behalf of those beneficiaries. The
10 purpose of the falsified doctor's orders, documentation, and requisition forms was
11 to make it appear as though the prescribed items were medically necessary and
12 eligible for Medicare reimbursement.
13

14 14. With respect to doctor's orders for DME, BECERRIL's known and
15 unknown co-conspirators recorded information, including falsified information,
16 about beneficiaries' medical condition, pain level, and location of pain. They also
17 recorded false and fraudulent diagnoses and diagnostic codes, as well as a pre-
18 selected prescription for an item of DME. With respect to DME, BECERRIL's co-
19 conspirators further fabricated false and fraudulent "Clinical Summaries" that
20 documented fictitious visits in which BECERRIL purportedly physically examined
21 the beneficiary and determined that DME was medically indicated using a variety
22 of clinical diagnostic tests and tools commonly used in treating joint pain and
23 disorder. For example, prescriptions for knee braces included falsified and
24 fabricated "Beighton Scores" and results of "Laxity Pivot Tests" on the Clinical
25 Summaries. The purpose of the false and fraudulent Clinical Summaries was to
26 make it appear as though BECERRIL was treating and had a face-to-face visit with
27 the patient in which he examined the patient and determined that the prescribed
28 item(s) were medically necessary and eligible for Medicare reimbursement. The

1 test results and documents were fictitious: BECERRIL never examined any
2 patients, and therefore never performed any of these tests, nor did he review results
3 of tests performed by others. BECERRIL's signature was affixed to each falsified
4 Clinical Summary.

5 15. With respect to requisition forms (*i.e.*, doctor's orders) for genetic
6 tests, BECERRIL's known and unknown co-conspirators created false and
7 fraudulent genetic test orders for both preventative cancer screening and drug
8 interaction screening. BECERRIL's known and unknown co-conspirators created
9 the false and fraudulent orders, which included diagnostic codes that purported to
10 describe a beneficiary's symptoms and/or personal or family history of cancer or
11 other disease. With respect to genetic tests for drug interactions, the orders also
12 included a list of medications purportedly taken by the patient. The fraudulent
13 doctor's orders also affixed what appeared to be the patient's signature indicating
14 that the patient had given informed consent.
15

16 16. With respect to genetic tests, BECERRIL's co-conspirators further
17 fabricated false and fraudulent "Clinical Summaries" that falsely documented the
18 beneficiary's "Chief Complaint." For genetic testing orders for preventative cancer
19 screenings, the falsified chief complaint indicated that the beneficiary wanted to be
20 better informed of risks to them and their loved ones. For genetic testing orders for
21 drug interaction screenings, the falsified chief complaint indicated that the
22 beneficiary wanted to be better informed about possible drug interactions that they
23 currently have. The Clinical Summaries also included, for cancer screening tests,
24 purported family and personal histories of cancer, and for drug interaction tests,
25 purported medications the beneficiary was currently taking. BECERRIL's
26 signature was affixed to each Clinical Summary. In fact, the beneficiaries had no
27 "Chief Complaint" with regard to the proposed test. Instead, as further
28 documented herein, the beneficiaries were the victim of telemarketing and mass

1 marketing campaigns conducted by BECERRIL's known and unknown co-
2 conspirators using their personal information. The beneficiaries had not sought
3 these tests, but rather, as with the DME orders, had been contacted by
4 telemarketing companies eager to obtain a portion of the Medicare reimbursement
5 for the tests by convincing beneficiaries to go forward with the tests.

6 17. With respect to genetic tests, BECERRIL's co-conspirators further
7 generated false and fraudulent letters of medical necessity for beneficiaries.
8 BECERRIL's signature was affixed to each letter. The letters falsely and
9 fraudulently attested to BECERRIL's need for the test results to properly care for
10 the beneficiary, and falsely and fraudulently stated that the test results would have
11 a direct impact on BECERRIL's care for the beneficiary. In fact, BECERRIL did
12 not make a determination of medical necessity for any of the tests, was not treating
13 any of the beneficiaries for any medical issues, and did not use any of the
14 requested genetic test results in the care or management of any beneficiary.

15 18. As part of the Conspiracy, Defendant BECERRIL's known and
16 unknown co-conspirators caused the false and fraudulent doctor's orders and
17 requisition forms for DME and genetic tests to be sent to contracted physicians,
18 including BECERRIL, via interstate wires, for signature. The doctor's orders were
19 sent to an online "portal," which BECERRIL accessed from the Eastern District of
20 Washington and elsewhere using a username and password. BECERRIL's
21 engagement with the portal was recorded and stored in a database, including the
22 times at which he viewed and signed each doctor's order and, as of April 2019, the
23 IP address of the user opening and signing the orders, which typically was an IP
24 address in Yakima, Washington. BECERRIL signed the doctor's orders by hand on
25 the screen using a finger or stylus. The purpose of BECERRIL's signature was to
26 falsely and fraudulently make it appear as though the prescribed genetic tests and
27 DME were medically necessary and eligible for Medicare reimbursement, and that
28

1 the DME and genetic tests had been ordered by a physician for a patient in the
2 course of his medical practice.

3 19. It was part of the Conspiracy that, between on or about February 27,
4 2018, and on or about September 9, 2019, BECERRIL signed over 2,800 false and
5 fabricated doctor's orders for DME and genetic tests in the manner described
6 herein. BECERRIL did not see, meet, speak to, or treat a single patient, nor did he
7 ever review test results, vital signs, or medical records completed by any health
8 care provider, or make any medical determination that the DME or genetic tests
9 were medically indicated or necessary. Instead, BECERRIL spent, on average, less
10 than forty seconds reviewing each doctor's order before signing to falsely and
11 fraudulently attest to the medical necessity of the ordered item(s). BECERRIL did
12 not refuse to sign a single order as being medically unnecessary.

14 20. It was part of the Conspiracy that BECERRIL's co-conspirators then
15 sold the false and fraudulent doctor's orders signed by BECERRIL to patient
16 recruiters, who in turn sold them to DME companies, pharmacies, and laboratories.
17 With respect to genetic tests, BECERRIL's co-conspirators further ran a mass
18 marketing call center designed to contact beneficiaries by telephone using their
19 compromised personal information and convince beneficiaries to take the
20 medically unnecessary genetic tests and to take and send back a genetic sample
21 (*i.e.* a cheek swab) so that the laboratories could bill Medicare for those tests.
22 These DME companies, pharmacies, and laboratories that purchased the doctor's
23 orders then used those doctor's orders and supporting documentation to submit
24 false and fraudulent claims to Medicare for the DME and tests. For orders falsely
25 and fraudulently signed by BECERRIL, each claim submitted by a co-conspirator
26 listed BECERRIL and his unique National Provider Index (NPI) number as the
27 ordering/referring provider to make it appear that a physician had ordered the
28

1 DME or genetic test for a patient and therefore convince Medicare to reimburse for
2 the DME or test.

3 21. It was part of the Conspiracy that Defendant BECERRIL was paid by
4 his co-conspirators \$20 per patient for whom he falsely and fraudulently signed
5 doctor's orders.

6 22. All claims submitted to Medicare over the course of the Conspiracy
7 were not eligible for reimbursement from Medicare because, among other things:
8 the claims were not for treatment that was individually medically necessary;
9 BECERRIL did not have a bona fide physician-patient relationship with any
10 beneficiary; medical documentation did not support the necessity of the DME or
11 genetic testing pursuant to Medicare reimbursement guidelines; the orders and
12 supporting documentation contained materially false and fraudulent statements and
13 representations; BECERRIL did not use the results of genetic testing in the
14 treatment of any beneficiary; BECERRIL was paid a kickback of \$20 for each
15 order that he placed; and BECERRIL did not make a meaningful or reasonable
16 diagnosis of medical necessity for any beneficiary using independent medical
17 judgment.
18

19 23. Over the course of the Conspiracy, and through its fraudulent conduct
20 and its false and fraudulent statements and representations, BECERRIL's co-
21 conspirators falsely and fraudulently submitted over \$1.1 million in DME claims
22 for unreasonable and unnecessary DME to Medicare with BECERRIL as the
23 referring/ordering provider. Medicare paid over \$400,000 of those claims.
24

25 24. Over the course of the Conspiracy, and through its fraudulent conduct
26 and its false and fraudulent statements and representations, BECERRIL's co-
27 conspirators falsely and fraudulently submitted over \$3 million in claims for
28 unreasonable and unnecessary genetic testing to Medicare with BECERRIL as the
referring/ordering provider. Medicare paid over \$1.1 million of those claims.

1 by Real Time on the pre-populated doctor's order was accurate. Although each
2 beneficiary's phone number was provided on each doctor's order, BECERRIL did
3 not call a single beneficiary to assess symptoms, medical necessity, medical
4 history, discuss whether or how the test or DME could be beneficial for the patient,
5 or even whether the patient wanted the test or DME, answer any questions that the
6 patient might have concerning the DME or test, explain how the DME/test worked,
7 follow up with the patient, or otherwise provide any actual medical services.

8 29. The DME orders viewed and signed by BECERRIL were one page in
9 length and included the following information: the beneficiary's name, address,
10 and phone number; an insurance section displaying the word "MEDICARE" and
11 the beneficiary's Medicare number; BECERRIL's identifying information,
12 including his NPI; a "Prescription Selection" in which a DME prescription code
13 was pre-checked; a pre-populated diagnosis code; pre-populated "Doctor Notes"
14 reciting purported physical symptoms; and a space for BECERRIL's signature.
15 The signature block read: "By my signature, I am prescribing the items listed
16 above and certify that the above-prescribed item(s) is medically indicated and
17 necessary and consistent with current accepted standards of medical practice and
18 treatment of this patient's medical condition."
19

20 30. The genetic testing orders viewed and signed by BECERRIL differed
21 by laboratory, but typically were one page in length and included the following
22 information: the beneficiary's name, address, and phone number; an insurance
23 section displaying the word "MEDICARE" and the beneficiary's Medicare
24 number; BECERRIL's identifying information, including his NPI; a selection of
25 genetic testing being requested; an "Informed Consent" section displaying the
26 beneficiary's purported signature, and a space for BECERRIL's signature. The
27 specific wording of the physician attestations varied by laboratory, but each
28 attestation included false and fraudulent representations and promises purporting to

1 state that the genetic test had been ordered by BECERRIL in the course of his
2 medical practice and that the test was medically necessary for the specific patient.

3 31. BECERRIL's enthusiastic participation in the Conspiracy continued
4 until he was caught. On or about September 9, 2019, BECERRIL received a letter
5 from a CMS contractor informing him that a review of his DME billing practices
6 indicated that he was in violation of his assignment as a Medicare provider because
7 he was falsely and fraudulently prescribing and ordering DME for beneficiaries
8 that he was not treating and with whom he had no physician-patient relationship.
9 Only at this point did BECERRIL cease his participation in the Conspiracy.
10

11 32. Through his participation in the Conspiracy, BECERRIL earned and
12 received a total of at least \$37,340 provided to him by his co-conspirators in return
13 for his fraudulently signing false and fraudulent medical orders for genetic testing
14 and DME. According to data contained in a database maintained by Real Time,
15 BECERRIL's effective hourly rate, based on the number of orders he signed and
16 length of time it took him to sign each order, was more than \$1,000 per hour for his
17 participation in the Conspiracy electronically signing orders.

18 33. Despite not examining any patients or any medical records, and never
19 making any determination that the genetic testing or DME was, in fact, medically
20 indicated or necessary, BECERRIL falsely and fraudulently signed each and every
21 doctor's order with which he was presented, based on database information
22 maintained by Real Time, of which the below are simply examples of
23 BECERRIL's false and fraudulent conduct in the Eastern District of Washington in
24 furtherance of the conspiracy and using interstate wires. BECERRIL often falsely
25 and fraudulently signed and attested to the medical necessity of more than one
26 brace per beneficiary; indeed, for more than fifty beneficiaries, BECERRIL
27 ordered and attested to the medical necessity of more than four different braces.
28 Additionally, BECERRIL falsely signed and submitted orders for braces to fit non-

1 existent joints for patients for whom the limb in question had previously been
2 amputated.

3 34. The following are by way of illustration and example.

4 DME: Patient V.G.

5 35. For example, on or about September 30, 2018, on behalf of
6 beneficiary V.G., a 71-year-old Medicare beneficiary residing in Othello,
7 Washington, in the Eastern District of Washington, BECERRIL falsely and
8 fraudulently signed and attested to the medical necessity of three braces: a lumbar
9 brace, a knee brace, and a shoulder brace. Real Time records indicate that
10 BECERRIL took a total of 16 seconds to sign the lumbar brace order, 14 seconds
11 to sign the knee brace order, and 14 seconds to sign the shoulder brace order.
12 BECERRIL signed all three orders despite having never treated, examined, or even
13 spoken to V.G.; having never reviewed any medical records for V.G. from any
14 other health care providers or consulted with any other providers who had treated
15 V.G.; and without exercising any professional or medical judgment concerning
16 V.G. or V.G.'s purported need for any braces.

17 36. The only information reviewed by BECERRIL concerning V.G. on
18 the doctor's orders was contained in the "Doctor Notes" section of each order. The
19 following are the "Doctor Notes" regarding V.G. for each of the three DME
20 prescriptions signed by BECERRIL for the lumbar, knee, and shoulder brace,
21 respectively. The falsified information provided was effectively identical for each
22 brace; to illustrate, all differences are highlighted in bold.
23

24 Patient reports chronic **Lower back** pain for 1 Year. Patient states pain is
25 **sharp** with a pain scale of 9 and pain worsens with movement. Pain is
26 caused by Injury and is described as Constant. Previous treatments with heat,
27 ice, and rest have been unsuccessful to control pain level.

28 Patient reports chronic **Knee Left** pain for 1 Year. Patient states pain is
sharp with a pain scale of 9 and pain worsens with movement. Pain is

1 caused by Injury and is described as Constant. Previous treatments with heat,
2 ice, and rest have been unsuccessful to control pain level.

3 Patient reports chronic **Shoulder Left** pain for 1 Year. Patient states pain is
4 **achy** with a pain scale of 9 and pain worsens with movement. Pain is caused
5 by Injury and is described as Constant. Previous treatments with heat, ice,
6 and rest have been unsuccessful to control pain level.

7 37. As evidenced by this example, the falsified information in the “Doctor
8 Notes” section was often virtually identical for each brace purportedly required.
9 Because these records did not reflect actual treatment or medical conditions, and
10 were being falsified solely for the purpose of requesting Medicare reimbursement,
11 the purported length of time pain had been experienced, cause of pain, level and
12 description of pain, and past attempts to control pain were often identical for each
13 purportedly affected body part. Nonetheless, BECERRIL signed every order
14 presented to him for each beneficiary, often taking mere seconds to do so—even
15 for multiple near-identical orders for a single beneficiary.

16 38. In fact, V.G. has no knee or shoulder pain. V.G. does not know
17 BECERRIL and has never spoken with him. V.G. does have back pain, but he has
18 never discussed it with anyone on the phone, and only speaks to his primary care
19 physician about his medical conditions, who was not consulted about any of the
20 purported braces. Yet BECERRIL’s falsely and fraudulently signed physician
21 order enabled Real Time to sell the fraudulent physician orders to co-conspirators
22 who then submitted false and fraudulent claims to Medicare for all three braces on
23 V.G.’s behalf, thus billing Medicare over \$2,750 for this medically unnecessary
24 equipment, of which Medicare paid over \$2,000. Finally, V.G. reported that he
25 never received any of the braces so ordered.

26 DME: Patient A.S.

27 39. As stated above, BECERRIL signed doctor’s orders for DME for
28 joints for Medicare beneficiaries who had previously had their purportedly affected

1 limbs amputated. For example, on or about October 17, 2018, BECERRIL falsely
2 and fraudulently prescribed both a right and left ankle brace for beneficiary A.S.,
3 who resided in Toppenish, Washington, in the Eastern District of Washington,
4 under the diagnosis of “Traumatic arthropathy, left ankle and foot.” Arthropathy
5 refers to a joint disease; however, A.S.’s left leg had been amputated below the
6 knee in 2016. Nonetheless, the “Doctors Notes” section reads:

7 Patient reports chronic Ankle Left, Ankle Right pain for 20 years. Patient
8 states pain is sharp with a pain scale of 9 and pain worsens with movement.
9 Pain is described as Constant. Previous treatments with heat, ice, and rest
10 have been unsuccessful to control pain level.

11 40. BECERRIL took a total of sixteen seconds to “review” and sign this
12 false and fraudulent doctor’s order, attesting with his signature that “I am
13 prescribing the items listed above and certify that the above-prescribed items is
14 medically indicated and necessary and consistent with current accepted standards
15 of medical practice and treatment of this patient’s physical condition.” Medicare
16 was then falsely and fraudulently billed over \$900 for the ankle braces thus
17 ordered, which it denied as being medically unnecessary.

18 Genetic Tests: Patient D.S.

19 41. On or about December 10, 2018, BECERRIL signed a doctor’s order
20 for genetic testing for Medicare beneficiary D.S., who resides in Malaga,
21 Washington, in the Eastern District of Washington. The doctor’s order included no
22 information about D.S.’s current symptoms or medical history. The order included
23 six pre-populated ICD-10 diagnosis codes: Z86.010, K63.5, Z80.8, Z80.9, Z15.09,
24 and Z13.71. These codes correspond to the following diagnoses: Personal history
25 of colonic polyps (Z86.010), Polyp of colon (K63.5), Family history of malignant
26 neoplasm of other organs or systems (Z80.8), Family history of malignant
27 neoplasm, unspecified (Z80.9), Genetic susceptibility to other malignant neoplasm
28 (Z15.09), and Encounter for nonprocreative screening for genetic disease carrier

1 status (Z13.71). The doctor's order requested a hereditary cancer test of 134
2 specified genes.

3 42. BECERRIL viewed the doctor's order for 21 seconds before signing.
4 His signature was applied next to a statement that read, in part, "I am authorized to
5 order this test. The diagnosis codes listed above are accurate and supported by the
6 information in the patient's records." His signature was also applied next to a
7 "Follow up date" of December 17, 2018, which at the time of signing was one
8 week in the future.

9 43. BECERRIL falsely and fraudulently signed the doctor's order for D.S.
10 despite that he had no access to D.S.'s medical records or knowledge of D.S.'s
11 medical history, and so had no knowledge whether the diagnosis codes were
12 accurate, and despite that he had not spoken with, met, treated, or otherwise had
13 any physician-patient relationship whatsoever with D.S. Further, he signed and
14 attested to the accuracy of the Z13.71 code for "Encounter for nonprocreative
15 screening for genetic disease carrier status" despite his actual knowledge that he
16 had not had any encounter with D.S., for nonprocreative screening for genetic
17 disease carrier status or otherwise. He also signed despite that he had not followed
18 up with D.S. on December 17, 2018, and had no plan to do so.

19 44. BECERRIL's signature was further affixed to a Clinical Summary for
20 D.S. bearing the same date as the doctor's order (December 11, 2018). The Clinical
21 Summary indicated that D.S.'s "Chief Complaint" was "that they have had a
22 previous personal/family history of cancer and would like to better [sic] informed
23 of any further risk(s) to them and their loved ones." It further attested that "based
24 on my evaluation of the patient's medical summary, I have ordered a single
25 comprehensive hereditary cancer genetic test The patient has been instructed
26 on how to complete the test(s) and understand [sic] that their results will be
27 reviewed by the ordering physician and patient. . . ." However, BECERRIL did not
28

1 evaluate the beneficiary's medical summary, instruct the beneficiary on how to
2 complete the test, or review or plan to review the results of the test.

3 45. BECERRIL's signature was further affixed to a "Hereditary Cancer
4 Genetic Testing Letter of Medical Necessity." The letter included the following
5 false and fraudulent statements, among others:

6 "The purpose of this letter is to document medical necessity for
7 hereditary cancer genetic testing for the patient so that I will
8 receive the test results in order to pursue care for the patient . . .

9 "A positive test result would confirm a genetic diagnosis and /
10 or risk in the patient, and would ensure the patient is being
11 managed appropriately. . . . A positive result would indicate
12 that the patient has an inherited predisposition to cancer and
13 could help guide treatment strategies and allow for surveillance
14 of associated organ systems known to be of increased risk for
15 cancer."

16 "Specific actions may include: utilization of appropriate
17 guidelines . . . to help guide decisions toward possible
18 preventative measures; referral to a specialist . . . ; increased
19 screening(s) . . . ; other cancer specific step-wise algorithms of
20 care; provide an answer to the family about the underlying
21 cause of the patient's condition . . . ; and isolate the underlying
22 genetic cause allows for accurate family counseling and more
23 precise estimation of recurrence risks for family members thus
24 allowing family members to make informed, efficient and
25 effective choices."

26 "This genetic testing . . . will also directly impact the patient's
27 medical management."

28 46. The statements in the Letter of Medical Necessity were false and
fraudulent because BECERRIL did not receive any test results for D.S. and did not
pursue care for D.S. based on those test results; BECERRIL did not use the results
to ensure that D.S.'s care was being managed properly; neither BECERRIL nor

1 any other provider used or planned to use these results to help guide treatment
2 strategies; neither BECERRIL nor any other provider used or planned to use these
3 results to help guide decisions toward possible preventative measures; and the
4 genetic testing did not directly impact the patient's medical management, nor
5 impact the patient's medical management in any way.

6 47. In fact, D.S. had already undergone extensive cancer screening over a
7 decade ago with her actual primary care physician, inclusive of genetic tests, blood
8 tests, a colonoscopy, and CAT scans. In 2018, D.S. had no desire for any cancer
9 screening.

10 48. Nonetheless, due to BECERRIL's signature and attestation as the
11 referring provider, for D.S.'s false and fraudulent, medically unnecessary, and
12 unwanted tests, Medicare was billed by BECERRIL's co-conspirators in the
13 amount of \$12,860.96, of which it paid \$5,105.47.

14 49. BECERRIL never analyzed D.S.'s test results, followed up with D.S.
15 to discuss the results of her test, made any recommendations or referrals based on
16 the test results, or in any way used the tests results that he so ordered.

17 50. On or about December 10, 2018, approximately one minute after
18 signing the first genetic testing order for D.S., BECERRIL signed a *second*
19 doctor's order for genetic testing for D.S., this time for drug interaction screening.
20 This doctor's order included three false and fraudulent pre-populated ICD-10
21 diagnosis codes: F33.9, F31.9, and Z13.79. These codes correspond with: Major
22 depressive disorder, recurrent, unspecified (F33.9), Bipolar disorder, unspecified
23 (F31.9), and Encounter for other screening for genetic and chromosomal anomalies
24 (Z13.79). The order also included the following medications purportedly being
25 taken by D.S.: Tramadol, Ibuprofen, Albuterol Sulfate, Methocareamol, and
26 Wellbutrin. BECERRIL viewed this order for 27 seconds before signing. With his
27 signature, BECERRIL attested that "I hereby confirm that the test(s) are medically
28

1 necessary for the treatment and/or plan of care for the patient. . . .” BECERRIL
2 falsely and fraudulently signed this order and made this attestation despite having
3 no knowledge whatsoever whether the test(s) so ordered were medically necessary
4 for the treatment and/or plan of care for D.S., and with no plan or intention to use
5 the test(s) to treat or care for D.S.

6 51. BECERRIL’s signature was further affixed on a Clinical Summary
7 and “Pharmacogenetics Testing Letter of Medical Necessity” for D.S. These
8 documents contained additional false and fraudulent statements; for example, the
9 Pharmacogenetics Testing Letter of Medical Necessity reads, “The result of this
10 genetic test will have a direct impact on this patient’s treatment and management.”
11 This statement was patently false and fraudulent, as neither BECERRIL nor his co-
12 conspirators had any plan whatsoever to use the result of the genetic test in the
13 beneficiary’s treatment and management, nor did BECERRIL or any other
14 provider use the results of the genetic test in the treatment and management of D.S.

16 Genetic Tests: Patient D.W.

17 52. On or about June 19, 2019, BECERRIL signed a requisition form on
18 behalf of Medicare beneficiary D.W., a 79-year-old resident of Tacoma,
19 Washington, for a genetic test for drug interaction screening. The order included
20 no information about D.W.’s current symptoms or medical history and listed
21 “Aspirin” as D.W.’s current medications. The order included four false and
22 fraudulent pre-populated ICD-10 diagnosis codes: I25.9, Z79.01, Z79.02, and
23 Z13.79. These codes correspond to the following diagnoses: Chronic ischemic
24 heart disease, unspecified (I25.9), Long term (current) use of anticoagulants
25 (Z79.01), Long term (current) use of antithrombotics/antiplatelets (Z79.02), and
26 Encounter for other screening for genetic and chromosomal anomalies (Z13.79).
27 The order requested a test of 23 specified genes.
28

1 53. BECERRIL viewed the order for 11 seconds before signing and
2 attesting to the following: “Informed Consent and Statement of Medical Necessity:
3 I hereby confirm that the test(s) are medically necessary for the treatment and/or
4 plan of care for the patient. I further hereby confirm that the information has been
5 supplied about genetic testing and that an appropriate . . . informed consent has
6 been signed by the patient and is on file with the ordering healthcare professional.”

7 54. The statements to which BECERRIL attested on D.W.’s order forms
8 were false and fraudulent because, amongst other things, D.W. does not have
9 chronic ischemic heart disease, nor any other heart disease; BECERRIL did not
10 have an encounter with D.W. for screening for genetic and chromosomal
11 anomalies, nor did BECERRIL have knowledge of any other provider having such
12 an encounter with D.W.; BECERRIL attested to the medical necessity of the
13 genetic testing with no knowledge of D.W. or his medical history or current
14 condition whatsoever, as BECERRIL well knew; the genetic tests were not
15 medically necessary for D.W.; the ICD-10 codes were falsified; BECERRIL had
16 no knowledge regarding whether D.W. gave informed consent to the genetic
17 testing; and BECERRIL did not have a statement of informed consent on file.

18 55. BECERRIL’s co-conspirators billed Medicare \$4,750 for the
19 medically unnecessary genetic testing so ordered by BECERRIL on behalf of
20 D.W., of which Medicare paid \$1,145.54.

21 56. The above are by way of example only. Beginning no later than
22 February 27, 2018, and continuing until at least on or about September 9, 2019,
23 BECERRIL, in furtherance of the Conspiracy, signed and electronically submitted
24 from the Eastern District of Washington, thousands of false and fraudulent doctor’s
25 orders for DME and genetic tests in order to enable conspirators known and
26 unknown to the Grand Jury to submit false and fraudulent claims in order to falsely
27 and fraudulently claim Medicare payment for genetic tests and DME ordered and
28

1 prescribed by BECERRIL. Each one of these claims was false and fraudulent
2 because, among other things: the claims were not for treatment that was
3 individually medically necessary; BECERRIL did not have a bona fide physician-
4 patient relationship with any beneficiary; medical documentation did not support
5 the necessity of the DME or genetic testing pursuant to Medicare reimbursement
6 guidelines; the orders and supporting documentation contained materially false and
7 fraudulent statements and representations; BECERRIL did not use the results of
8 genetic testing in the treatment of any beneficiary; BECERRIL was paid a
9 kickback for each order that he placed; and BECERRIL did not make a meaningful
10 or reasonable diagnosis of medical necessity for any beneficiary using independent
11 medical judgment.
12

13 All in violation of 18 U.S.C. §§ 1349, 1347.

14 **COUNT 2**

15 **CONSPIRACY TO COMMIT WIRE FRAUD**

16 57. The allegations in paragraphs 1 through 56 of this Indictment are
17 incorporated as though realleged herein. Further, the allegations in all other counts
18 in the Indictment are realleged and incorporated in this count as if fully set forth
19 herein.

20 58. Beginning on or about February 27, 2018, and continuing until on or
21 about September 9, 2019, in the Eastern District of Washington, Defendant
22 DAVID ANTONIO BECERRIL and other persons and entities both known and
23 unknown to the Grand Jury, did knowingly combine, conspire, and agree to
24 commit Wire Fraud in violation of 18 U.S.C. § 1343, to wit, knowingly devised
25 and intended to devise a scheme and artifice to defraud Medicare, the United States
26 of America and the United States Centers for Medicare and Medicaid Services, and
27 to obtain money and property from Medicare, the United States of America, and
28 the United States Centers for Medicare and Medicaid Services, using signals and

1 sounds transmitted by means of wire communication in interstate commerce to
2 execute and attempt to execute the said scheme and artifice to defraud in the ways,
3 manners, and means described in Paragraphs 12 through 56 of this Indictment and
4 referred to herein as the Conspiracy.

5 59. As an essential part of the Conspiracy described herein, Defendant
6 transmitted, and caused to be transmitted, by means of wire communication in
7 interstate commerce, writings, signals, and sounds, from the Defendant's location
8 in the Eastern District of Washington to one or more states outside of Washington
9 in which the server for the online portal was stored, in order to advance, further,
10 and carry on the Conspiracy. Each time that Defendant BECERRIL logged into the
11 electronic portal maintained by Real Time from his residence in the Eastern
12 District of Washington for purposes of reviewing, signing, and submitted false and
13 fraudulent orders for DME and/or genetic testing, Defendant BECERRIL, and his
14 co-conspirators both known and unknown to the Grand Jury, transmitted and
15 caused to be transmitted interstate wires to and from the Eastern District of
16 Washington, including those set forth in the substantive counts below.

17 All in violation of 18 U.S.C. §§ 1349, 1343.

18
19 **COUNTS 3 - 7**

20 **HEALTH CARE FRAUD**

21 60. The allegations in paragraphs 1 through 59 of this Indictment are
22 incorporated as though realleged herein. Further, the allegations in all other counts
23 in the Indictment are realleged and incorporated in this count as if fully set forth
24 herein.

25 61. On or about each of the dates set forth below, in the Eastern District
26 of Washington, Defendant DAVID ANTONIO BECERRIL knowingly and
27 willfully executed and attempted to execute the above-described Conspiracy to
28 defraud and obtain, by means of materially false and fraudulent pretenses,

representations, and promises, the United States and the United States Centers for Medicare and Medicaid Services, money and property owned by and under the custody and control of Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), in connection with the delivery of and payment for health care benefits, items, and services, each pretense, representation, and promise constituting a separate count:

COUNT	DATE	Description
3	On or about September 30, 2018	Defendant BECERRIL's physician signature on an "RX/Medical Necessity Form" (referred to herein as a "doctor's order") for V.G. shoulder brace falsely and fraudulently indicating that "[b]y my signature, I am prescribing the items listed above and certify that the above-prescribed item(s) is medically indicated and necessary and consistent with current accepted standards of medical practice and treatment of this patient's physical condition."
4	On or about September 30, 2018	Defendant BECERRIL's physician signature on a doctor's order for V.G. lumbar brace, separately falsely and fraudulently making the same attestation described in Count 3
5	On or about September 30, 2018	Defendant BECERRIL's physician signature on a doctor's order for V.G. knee brace, separately falsely and fraudulently making the same attestation described in Count 3
6	On or about December 10, 2018	Defendant BECERRIL's physician signature on a requisition form for D.S. genetic testing, falsely and fraudulently attesting that "I am authorized to order this test. The diagnosis codes listed above are accurate and supported by the information in the patient's records."
7	On or about June 19, 2019	Defendant BECERRIL's physician signature on a requisition form for D.W. genetic testing, falsely and fraudulently attesting that "I hereby confirm that the test(s) are medically necessary for the treatment and/or plan of care for the patient."

All in violation of 18 U.S.C. § 1347.

COUNTS 8 - 12
WIRE FRAUD

62. The allegations in paragraphs 1 through 61 of this Indictment are incorporated as though realleged herein. Further, the allegations in all other counts in the Indictment are realleged and incorporated in this count as if fully set forth herein.

63. On or about each of the dates set forth below, in the Eastern District of Washington, Defendant DAVID ANTONIO BECERRIL for the purpose of executing the Conspiracy described above, and attempting to do so, did knowingly and with intent to defraud, based on materially false and fraudulent representations, omissions, pretenses, and promises, transmit and cause to be transmitted by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count:

COUNT	DATE	Description
8	On or about September 30, 2018	Transmission of doctor's order for V.G. shoulder brace from the Eastern District of Washington to Atlantic.net server located outside of the State of Washington
9	On or about September 30, 2018	Transmission of doctor's order for V.G. lumbar brace from the Eastern District of Washington to Atlantic.net server located outside of the State of Washington
10	On or about September 30, 2018	Transmission of doctor's order for V.G. knee brace from the Eastern District of Washington to Atlantic.net server located outside of the State of Washington
11	On or about December 10, 2018	Transmission of a requisition form for D.S. genetic testing from the Eastern District of Washington to Atlantic.net server located outside of the State of Washington

All in violation of 18 U.S.C. § 1343.

COUNTS 12 - 16**FALSE STATEMENTS RELATING TO HEALTH CARE MATTERS**

64. The allegations in paragraphs 1 through 63 of this Indictment are incorporated as though realleged herein. Further, the allegations in all other counts in the Indictment are realleged and incorporated in this count as if fully set forth herein.

65. On or about each of the dates set forth below, in the Eastern District of Washington, Defendant DAVID BECERRIL for the purpose of executing the Conspiracy described above, and attempting to do so, did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, and make and use materially false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in connection with the delivery of and payment for health care benefits, items, and services involving Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), each statement and representation constituting a separate count:

COUNT	DATE	Description
12	On or about September 30, 2018	Defendant BECERRIL's false and fraudulent physician signature on doctor's order for V.G. shoulder brace and attestation as described in Count 3
13	On or about September 30, 2018	Defendant BECERRIL's false and fraudulent signature on doctor's order for V.G. lumbar brace and attestation as described in Count 4
14	On or about September 30, 2018	Defendant BECERRIL's false and fraudulent signature on doctor's order for V.G. knee brace and attestation as described in Count 5
15	On or about December 10, 2018	Defendant BECERRIL's signature on a requisition form for D.S. genetic testing, falsely and fraudulently attesting that "I am authorized to order this test. The diagnosis codes listed above are accurate and supported by the information in the patient's records."

16	On or about June 19, 2019	Defendant BECERRIL's signature on a requisition form for D.W. genetic testing, falsely and fraudulently attesting that "I hereby confirm that the test(s) are medically necessary for the treatment and/or plan of care for the patient."
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All in violation of 18 U.S.C. § 1035.

NOTICE OF CRIMINAL FORFEITURE ALLEGATIONS

The Overview of the Conspiracy contained in paragraphs 1 – 4; the General Allegations contained in paragraphs 5 – 9; the Conspiracy to Commit Health Care Fraud allegations contained in paragraphs 10 – 56; the Conspiracy to Commit Wire Fraud allegations contained in paragraphs 57 – 61; and the Conspiracy to Commit Health Care Fraud, Conspiracy to Commit Wire Fraud, Health Care Fraud, Wire Fraud, and False Statements Related to Health Care Matters violations charged in this Indictment, are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures.

Pursuant to 18 U.S.C. § 982(a)(7), upon conviction of Conspiracy to Commit Health Care Fraud, in violation of 18 U.S.C. §§ 1349, 1347; and/or Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. §§ 1349, 1343; and/or Health Care Fraud, in violation of 18 U.S.C. § 1347; and/or Wire Fraud, in violation of 18 U.S.C. § 1343; and/or False Statements Relating to Health Care Matters, in violation of 18 U.S.C. § 1035, as set forth in this Indictment, the Defendant, DAVID ANTONIO BECERRIL, shall forfeit to the United States of America, any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense(s). The property to be forfeited includes, but is not limited to the following:

1 Money Judgments

2 A sum of money in United States currency, representing the gross amount of
3 proceeds obtained by the Defendant as a result of the conspiracy to commit
4 health care fraud offense.

5 A sum of money in United States currency, representing the gross amount of
6 proceeds obtained by the Defendant as a result of the conspiracy to commit
7 wire fraud offense.

8 A sum of money in United States currency, representing the gross amount of
9 proceeds obtained by the Defendant as a result of the health care fraud
10 offense(s).

11 A sum of money in United States currency, representing the gross amount of
12 proceeds obtained by the Defendant as a result of the wire fraud offense(s).

13 A sum of money in United States currency, representing the gross amount of
14 proceeds obtained by the Defendant as a result of the false statements related
15 to health care matters offense(s).

16 With regard to substitute assets, if any property subject to forfeiture pursuant
17 to 18 U.S.C. § 982(a)(7), as a result of any act or omission of the Defendant:
18

- 19 a. cannot be located upon the exercise of due diligence;
20 b. has been transferred or sold to, or deposited with, a third party;
21 c. has been placed beyond the jurisdiction of the court;
22 d. has been substantially diminished in value; or
23 e. has been commingled with other property which cannot be divided
24 without difficulty;

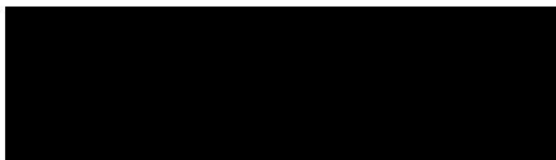
25 it is the intent of the United States of America, pursuant to 21 U.S.C. § 853(p), as
26 incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), to seek forfeiture of

27 //

1 any other property of said Defendants up to the value of the forfeitable property
2 described herein, all pursuant to 18 U.S.C. § 982(a)(7) and 28 U.S.C. § 2461(c).

3
4 DATED this 7 day of June 2023.

5
6 A TRUE BILL



10
11 *Vanessa R. Waldref*
12 Vanessa R. Waldref
13 United States Attorney

14 *Dan Fruchter*
15 Dan Fruchter
16 Assistant United States Attorney

17 *Tyler H.L. Tornabene*
18 Tyler H.L. Tornabene
19 Assistant United States Attorney

20
21 *Allie Jensen*
22 Allie Jensen
23 Special Assistant United States Attorney