

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	No.	<u>3:24-cr-00121</u>
)		
v.)		
)		18 U.S.C. § 2
)		18 U.S.C. § 371
[1] JAMES BRANDON WASHBURN)		18 U.S.C. § 1347
a/k/a "Brady")		18 U.S.C. § 1349
)		42 U.S.C. § 1320a-7b(b)(1)(A)
[2] ROBERT HOUSTON MCDOWELL)		42 U.S.C. § 1320a-7b(b)(2)(A)

INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

At all times material to this Indictment:

1. The Medicare Program ("Medicare") was a federal health insurance program that provided medical benefits, items, and services to individuals who were sixty-five years of age and older, or disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency the Center for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b) and a "federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f).

3. Medicare programs covering different types of benefits were separated into different program "parts." For example, "Part A" of the Medicare program covered health services

provided by hospitals, skilled nursing facilities, hospices and home health agencies, “Part B” covered medical services by physicians, outpatient care, diagnostic testing, durable medical equipment (“DME”) and other medical items and services not covered by Part A. “Part C” covered Medicare Advantage Plans. “Part D” covered prescription drugs.

4. Physicians, clinics, and other health care providers, including durable medical equipment suppliers, pharmacies, and laboratories, that rendered items or provided services to Medicare beneficiaries were known as Medicare providers and were able to apply for and obtain a “provider number.” A provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services or items provided to beneficiaries.

5. To participate in Medicare, providers were required to submit applications in which the provider agreed to abide by the Medicare laws, policies, procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers were required to abide by all Medicare-related laws and regulations, including the Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)(2)), which prohibited the offering, payment, solicitation, or receipt of any remuneration to induce the referral of a patient or the purchase, lease, order, or arrangement thereof, of any good, facility, services, or item for which payment may be made in whole or part by a federal health care program. Providers were given, and provided with online access to, Medicare manuals and services bulletins describing proper billing procedure, rules, and regulations.

6. Medicare reimbursed health care providers and suppliers for services and items rendered to beneficiaries. To receive payment from Medicare, providers submitted or caused the submission of claims to Medicare, either directly or through a billing company.

7. A Medicare claim was required to be properly documented in accordance with Medicare rules and regulations. To receive payment from Medicare, providers submitted or caused the submission of claims to CMS that were required to set forth, among other things, the beneficiary's name and Medicare identification number, the item or service provided to the beneficiary, the date on which the items or services were provided, the cost of the items or services, the name and identification number of the physician or other health care provider who ordered or prescribed the items or services, and the name and identification number of the Provider who provided the items or services. Providers conveyed this information to Medicare by submitting claims using billing codes and modifiers.

8. Medicare reimbursed providers of Durable Medical Equipment ("DME"), laboratories, pharmacies, and other providers, for medically necessary items and services rendered to beneficiaries. Medicare would not pay claims for items or services procured through kickbacks and bribes.

Durable Medical Equipment ("DME")

9. DME was medical equipment that could withstand repeated use and was used for medical purposes. To be eligible for reimbursement under Medicare Part B, DME was required to be reasonable and necessary for the diagnosis or treatment of a beneficiary's illness or injury or to improve the functioning of a malformed body member, be ordered by an appropriately qualified and licensed medical professional, be properly documented, and be provided as represented to Medicare.

10. Orthotic devices were a type of DME that included ankle braces, knee braces, back braces, shoulder braces, elbow braces, wrist braces, and hand braces (collectively, "braces").

Diagnostic Laboratory Testing

11. To be eligible for reimbursement under Medicare Part B, diagnostic testing, like laboratory testing, was required to be reasonable and necessary for the diagnosis or treatment of a beneficiary's illness or injury or to improve the functioning of a malformed body member.

12. If diagnostic testing were necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. In particular, Medicare required that "[a]ll diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem." Title 42, Code of Federal Regulations, Section 410.32(a). "Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary." *Id.*

13. Laboratory cancer genomic ("CGx") testing was a genetic test that used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer.

14. Because CGx testing did not diagnose cancer, Medicare only covered such tests in limited circumstances, such as when a beneficiary had cancer and the beneficiary's treating physician deemed such testing necessary for the beneficiary's treatment of that cancer. Medicare did not cover CGx testing for beneficiaries who did not have cancer or lacked symptoms of cancer.

15. Laboratory cardiac genetic testing was a genetic test that detected specific genetic mutations in genes that could indicate a higher risk of developing certain types of cardiac diseases in the future.

16. Laboratory pharmacogenetic (“PGx”) testing was a genetic test that detected specific genetic variations in genes that impacted the metabolism of certain medications. In other words, PGx testing helped determine, among other things, whether certain medications would be effective if used by a particular patient.

Pharmacy Prescription Drugs

17. Medicare Part D covered prescription drugs for Medicare beneficiaries enrolled in a Medicare approved Part D drug plan, which were also known as drug plan “sponsors.” Medicare and Medicare drug plan sponsors were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b) and a “federal health care program” as defined in Title 42, United States Code, Section 1320a-7b.

18. Typically, a Medicare beneficiary enrolled in a Medicare Part D plan would fill his or her prescription at a pharmacy utilizing their Medicare Part D plan coverage to pay for the prescription. The pharmacy would then submit the prescription claim for reimbursement to the Medicare Part D beneficiary’s plan for payment under the beneficiary’s Health Insurance Claim Number and/or Medicare Plan identification number.

19. When billing for prescription drugs a pharmacy dispensed, the pharmacy typically billed Medicare indirectly through third-party administrators, such as pharmacy benefit managers (“PBM”). Pharmacies entered into provider agreements with these plans, directly or indirectly. The third-party administrators required that the pharmacy agreed to be bound by and comply with all applicable State and Federal laws. A pharmacy also agreed to be bound by the third-party

administrator's rules and regulations, along with the rules and regulations of Medicare. These rules prohibited fraudulent conduct, including offering or paying kickbacks and bribes, soliciting or receiving kickbacks and bribes, and submitting claims for invalid, unlawful, medically unnecessary, and/or otherwise ineligible prescriptions.

20. "Foot baths" were plastic tubs provided free of charge to Medicare beneficiaries, typically by pharmacies, including mail order pharmacies that shipped plastic tubs and medications across the country. Patients were instructed by the pharmacies to mix expensive medications with warm water in which to soak their feet.

21. These expensive medications were antibiotic and antifungal drugs prescribed to purportedly treat foot infections, and included vancomycin, calcipotriene, clindamycin, ketoconazole, and other expensive drugs.

Telemedicine

22. Telemedicine, or telehealth, provided a means of connecting patients to doctors and other medical providers by using telecommunications technology, to interact with a patient.

23. Prior to the year 2020, Medicare covered expenses for specified telehealth services if certain requirements were met. These requirements included that (a) the beneficiary was located in a rural or health professional shortage area; (b) services were delivered via an interactive audio and video telecommunications system; and (c) the beneficiary was at a licensed medical provider's office or a specified medical facility – not at a beneficiary's home – during the telehealth consultation with a remote provider.

24. As a result of the global pandemic, effective March 6, 2020, CMS suspended these specific telehealth rules on a temporary and emergency basis, in order to facilitate wider access to care during the COVID-19 crisis to avoid unnecessary travel. CMS still required actual

communication between the doctor or other medical provider and the patient. For new patients, the medical provider was required to have interactive audio and video telecommunications system that permitted real-time communication between the distant site and the patient at home. For a virtual check-in with an established medical provider, actual communication was required via telecommunication and there had to be an ongoing doctor-patient relationship between the medical provider and the beneficiary. For an e-visit, actual communication had to occur through an online portal and there had to be an ongoing established doctor-patient relationship between the medical provider and the beneficiary.

25. Telehealth services could be covered by and reimbursable under Medicare, but only if telemedicine was generally appropriate, as outlined above, and only if the services were both ordered by a licensed medical provider and were reasonable and necessary to diagnose and treat a covered illness or condition.

The Defendants, Related Entities, and Other Individuals

26. Global Med Marketing, LLC, was a purported marketing company located in Mt. Laurel, New Jersey.

27. Washburn Medical, LLC, was a purported marketing company located in Brentwood, Tennessee.

28. Black Bear Medical, LLC, was a DME company located at 7003 Chadwick Drive, Suite 211, Brentwood, Tennessee 37027, and was enrolled as a supplier in Medicare.

29. Limestone Medical, LLC, was a DME company located at 1650 Murfreesboro Rd, Suite 155, Franklin, Tennessee 37067, and was enrolled as a supplier in Medicare.

30. RiseMedical, LLC, was a DME company located at 7003 Chadwick Drive, Suite 215, Brentwood, Tennessee 37027, and was enrolled as a supplier in Medicare.

31. Iris Med LLC was a DME company located at 1574 Old Columbia Road, Lewisburg, Tennessee 37091, and was enrolled as a supplier in Medicare.

32. Defendant [1] **JAMES BRANDON WASHBURN, a/k/a “Brady,”** was a resident of Franklin, Tennessee, and was an actual or beneficial owner of the marketing company Global Med Marketing, LLC; Washburn Medical, LLC; and the DME companies Black Bear Medical, LLC; Limestone Medical, LLC; RiseMedical, LLC; and Iris Med LLC.

33. Defendant [2] **ROBERT HOUSTON MCDOWELL** was a resident of Murfreesboro, Tennessee, and was an owner of Limestone Medical, LLC, and RiseMedical, LLC, and was a purported marketer.

34. Telemedicine Company #1 was a purported telemedicine company based in Boca Raton, Florida.

35. Laboratory #1 was a laboratory based in Texas.

36. Pharmacy #1 was a DME supplier and a pharmacy based in Missouri and owned by Co-Conspirator #1.

37. Telemedicine Company #2 was a purported telemedicine company based in south Florida and Company #1 was a company based in south Florida and owned by Co-Conspirator #2, who was a marketer and patient broker and who held himself out as the owner of Telemedicine Company #2.

38. Co-Conspirator #3 was the owner of a DME company.

39. Marketing Company #1 was a marketing company based in California, owned and operated by Co-Conspirator #4.

40. Laboratory #2 was a laboratory based in Pennsylvania.

41. Laboratory #3 was a laboratory based in Texas.

42. Pharmacy #2 was a pharmacy based in Texas.
43. Marketing Company #2 and Marketing Company #3 were marketing companies based in south Florida.
44. Telemedicine Company #3 was a purported telemedicine company based in south Florida.

COUNT ONE

THE GRAND JURY FURTHER CHARGES:

45. The allegations contained in Paragraphs 1 through 44 are re-alleged and incorporated by reference as though fully set forth herein.

46. From at least April 2018 and continuing through in or around June 2024, in the Middle District of Tennessee and elsewhere, [1] **WASHBURN** and [2] **MCDOWELL** did willfully and knowingly combine, conspire, confederate, and agree with each other, and with others known and unknown to the Grand Jury, to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program, and to commit certain offenses against the United States, that is:

- a. to violate Title 42, United States Code, Sections 1320a-7b(b)(1)(A)&(B), by knowingly and willfully soliciting and receiving remuneration, including kickbacks, bribes, and rebates, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, and in return for purchasing, leasing, ordering, and arranging for and

recommending purchasing, leasing, and ordering any good, facility, service and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare; and

- b. to violate Title 42, United States Code, Sections 1320a-7b(b)(2)(A)&(B), by knowingly and willfully offering and paying remuneration, including kickbacks, bribes, and rebates, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, that is, Medicare, and to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

47. It was a purpose of the conspiracy for [1] **WASHBURN** and [2] **MCDOWELL** and their co-conspirators to unlawfully enrich themselves by, among other things: (a) soliciting and receiving and offering and paying kickbacks in exchange for orders for DME, genetic testing, and pharmacy medications; (b) submitting and causing the submission of false and fraudulent claims to Medicare for DME items, laboratory genetic testing, and pharmacy medications that were medically unnecessary and/or otherwise not eligible for reimbursement and/or not provided as represented; (c) concealing and causing the concealment of false and fraudulent claims to Medicare; and (d) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means

48. The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

49. [1] **WASHBURN** and [2] **MCDOWELL** formed and/or acquired and operated Black Bear Medical, LLC; Limestone Medical, LLC; and RiseMedical, LLC, which were DME suppliers (collectively, “the DME Companies”).

50. [1] **WASHBURN** formed and operated purported marketing companies, Global Med Marketing, LLC and Washburn Medical, LLC.

51. [1] **WASHBURN** formed and operated Iris Med LLC, as the true and beneficial owner.

52. [1] **WASHBURN** and [2] **MCDOWELL** signed applications to enroll in Medicare as DME suppliers and falsely promised that the DME companies would, among other things, comply with federal laws, including the Anti-Kickback Statute, and otherwise agreed not to submit or cause the submission of false or fraudulent claims.

53. [1] **WASHBURN** and [2] **MCDOWELL** opened bank accounts in the name of the DME companies, for the purpose of obtaining Medicare reimbursement for DME items supplied to Medicare beneficiaries and billed to Medicare.

54. [1] **WASHBURN** and [2] **MCDOWELL** and their co-conspirators direct-marketed medical products, including DME, to Medicare beneficiaries, without regard to medical necessity, and in order to obtain their Medicare identification numbers and other personal information.

55. [1] **WASHBURN** and [2] **MCDOWELL**, through the DME companies and other entities, sold doctors’ orders for DME, laboratory genetic testing, and pharmacy medications,

including to laboratories, pharmacies, and other DME suppliers, and other co-conspirators in exchange for the payment of kickbacks.

56. [1] WASHBURN and [2] MCDOWELL purchased doctors' orders for DME items for Medicare beneficiaries from purported marketing and telemedicine companies.

57. [1] WASHBURN and [2] MCDOWELL and their co-conspirators knew that the purported telemedicine doctors were not the treating physicians of the patients and were paid kickbacks to sign orders.

58. [1] WASHBURN and [2] MCDOWELL paid co-conspirator companies to ship DME items to patients who did not know the doctor ordering the item, did not have a physical examination, had no prior relationship with the ordering doctor, and who frequently never spoke to a doctor at all.

59. [1] WASHBURN and [2] MCDOWELL continued to submit claims to Medicare after they received complaints and returns of DME from beneficiaries who did not want the DME and did not know why it was ordered for them.

60. [1] WASHBURN and [2] MCDOWELL and their co-conspirators concealed and disguised the scheme by entering into sham contracts and agreements that disguised kickbacks in exchange for orders and patient information as payments for marketing services or for software licenses and portal access, when in fact the payments were for doctors' orders and patient information.

61. [1] WASHBURN and [2] MCDOWELL and their co-conspirators created sham invoices that misrepresented the services provided under the contracts to disguise the fact they were buying and selling patient information and doctors' orders and prescriptions.

62. [1] **WASHBURN** and [2] **MCDOWELL** caused to be submitted false and fraudulent claims to Medicare through co-conspirator laboratories, other DME suppliers, and pharmacies for the items and services that were procured through kickbacks and were not eligible for reimbursement.

63. [1] **WASHBURN** and [2] **MCDOWELL** submitted and caused to be submitted false and fraudulent claims to Medicare through the DME companies, for the DME items that were procured through kickbacks and were not eligible for reimbursement, including items that were not medically necessary and/or not provided as represented.

64. As a result of such false and fraudulent claims, [1] **WASHBURN** and [2] **MCDOWELL**, through the DME companies, caused over six million dollars to be billed to Medicare for DME items that were procured through the payment of kickbacks, not medically necessary, and otherwise ineligible for reimbursement.

65. Based on the false and fraudulent claims, Medicare reimbursed the DME companies controlled by [1] **WASHBURN** and [2] **MCDOWELL** over two million dollars.

66. During the course of the conspiracy, [1] **WASHBURN** and [2] **MCDOWELL** were paid over one million dollars in kickbacks in exchange for providing doctors' orders to co-conspirator laboratories, DME companies, and pharmacies.

67. Co-conspirator laboratories, DME companies, and pharmacies submitted millions of dollars in claims to Medicare as a result of the doctors' orders sold to them by [1] **WASHBURN** and [2] **MCDOWELL**.

68. [1] **WASHBURN** and [2] **MCDOWELL** diverted fraud proceeds from the scheme for their personal use and benefit, the use and benefit of others, and to further the fraud.

OVERT ACTS

69. In furtherance of the conspiracy, and to accomplish its object and purpose, at least one co-conspirator committed and caused to be committed, in the Middle District of Tennessee and elsewhere, at least one of the following overt acts, among others:

A. On or about April 11, 2018, [1] **WASHBURN**, through Global Med Marketing, entered into a contract with Telemedicine Company #1 to obtain doctors' orders and obtained access to the telemedicine portal.

B. On or about June 20, 2018, [1] **WASHBURN** entered into a contract with Laboratory #1 on behalf of Global Med Marketing for purported laboratory genetic testing marketing.

C. On or about February 4, 2019, [1] **WASHBURN** entered into a contract with Pharmacy #1 and Co-Conspirator #1 for purported pharmacy marketing services.

D. On or about June 4, 2019, [1] **WASHBURN** sent an email to Co-Conspirator #2, the purported owner of Telemedicine Company #2 and copied [2] **MCDOWELL**, and stated: "I am getting him involved in my business and I recommended you for telemedicine. Like me, he will prepay for your services and needs an invoice for 40 consults at the same rate at \$85 each for a total of \$3,400. Can you please send him a contract and agreement to the following."

E. On or about June 13, 2019, [1] **WASHBURN** sent an email to Co-Conspirator #1 stating "can you please send me the document that I use to bill you for billable hours? I need to get paid for the deals that have gone through," and attaching signed doctors' orders for pharmacy foot bath medications.

F. On or about September 25, 2019, [1] **WASHBURN** traveled to Missouri to meet with Co-Conspirator #1 of Pharmacy #1 to learn how to set up a DME company.

G. On or about October 4, 2019, [1] **WASHBURN** sent a text message to Co-Conspirator #3 regarding Co-Conspirator #1 and stated “the wire is going to have to be on Monday bc you and I have to submit an invoice for him with billed hours. Let’s do that first thing Monday morning and submit to him separately. I had an email typed up but stopped bc I don’t want a record of that bc the OIG May take issue with how I present it to him. Want this clean and above board.”

H. On or about January 14, 2020, [1] **WASHBURN** signed and submitted a DME supplier application to CMS for Black Bear Medical LLC.

I. On or about March 25, 2020, [1] **WASHBURN** entered into a contract with Marketing Company #1 on behalf of Black Bear Medical LLC that purported to contract for marketing services.

J. On or about March 10, 2020, [1] **WASHBURN** sent a message in a group text to [2] **MCDOWELL** and Co-Conspirator #3 stating “Y’all can both run 5 DO’s through me the first month or so. FYI. Talking to Bobby in the morning to go ahead and carve out DO’s for us. Probably start in a month.” [2] **MCDOWELL** responded “I love it let’s go.”

K. On or about March 18, 2020, [1] **WASHBURN** sent a message in a group text to [2] **MCDOWELL** and Co-Conspirator #3 stating “Spoke with Anthony and they can now take care of us with qualified leads to go to telemed and volume will not be an issue. We are talking tomorrow about our needs and setup. Price will be \$125 -\$150 a lead so telemed will be \$100. About to be a HUGE year boys.” [2] **MCDOWELL** responded “Margin being ?? Per lead w/ Anthony ...and he says volume won’t be an issue ...? That’s huge”

L. On or about April 6, 2020, [1] **WASHBURN** sent a text message to Co-Conspirator #4 and Co-Conspirator #3 regarding obtaining orders from Co-Conspirator #4 that said “Make it rain DO’s....”

M. On or about May 3, 2020, [1] **WASHBURN** sent an email to a Co-Conspirator #4, copying [2] **MCDOWELL**, regarding DME medical necessity denials by Telemedicine Company #1’s purported telemedicine doctors in which [1] **WASHBURN** stated, “I know its truly a numbers thing for them so that they appear to be compliant. Clearly, [Telemedicine Company #1] makes sure they have a certain % that fail. That said, lets [sic] resubmit every deal from now on that fails under a different phone #. Also did you see the new changes for CMS regarding Telemed??? Basically, wide open for the foreseeable future.”

N. On or about May 4, 2020, [1] **WASHBURN** sent a group text to [2] **MCDOWELL** and Co-Conspirator #3 and stated, “Medicare has spread their legs wide open and we need to take advantage NOW. I won’t take no for an answer honestly.”

O. On or about June 9, 2020, [1] **WASHBURN** signed and submitted a DME supplier application to CMS for Limestone Medical LLC.

P. On or about July 1, 2020, [2] **MCDOWELL** entered into a contract with Marketing Company #1 on behalf of Limestone Medical LLC that purported to contract for hourly marketing services.

Q. On or about July 7, 2020, [1] **WASHBURN** sent an email to a co-conspirator marketer Co-Conspirator #4, copying [2] **MCDOWELL**, and stated, “For this to work, we need a healthy margin so that we can scale with you as we discussed earlier on the phone. With our order of 10 DO’s per week, we really need the following: 10 backs, 8 knees, and a combo of 5 or so

ankle/shoulder/wrist. . . . to avoid audit risk, we use an L code for Shoulders and Ankles that reimburse much less.”

R. In or about December 2020, [2] **MCDOWELL** purchased RiseMedical LLC.

S. On or about January 6, 2021, [1] **WASHBURN** and [2] **MCDOWELL** entered into a subcontract with a marketer in order to provide diagnostic laboratory testing referrals to Laboratory #2.

T. On or about June 10, 2021, [2] **MCDOWELL** submitted a change of ownership form to CMS for RiseMedical LLC, where he promised that he would comply with federal laws, including the Anti-Kickback Statute, and otherwise agreed not to submit or cause the submission of false or fraudulent claims.

U. On or about June 15, 2021, [1] **WASHBURN** and [2] **MCDOWELL** entered into a contract with Laboratory #3 to provide purported marketing services for genetic tests.

V. On or about July 13, 2021, [2] **MCDOWELL** sent an email to a marketer who advertised selling telehealth doctor orders for DME braces on LinkedIn, copying [1] **WASHBURN**, and stated “I’ve copied my business partner, Brady on this email. He’ll send you a copy of our marketing agreement. As a note it will have a place for a flat fee per compliance. Please understand this is what our attorney requires and you and I can follow what we need to in order to get this project started (ie terms agreed upon already) Thanks!”

W. On or about the dates listed below, [1] **WASHBURN** caused payments to be sent via wire transfer from the entities listed below, each transaction constituting an overt act:

On or About Date	Payment From	Payment To	Receiving Bank	Amount
December 7, 2018	Laboratory #1	Global Med Marketing	Bank of America	\$136,703.75
April 1, 2019	Laboratory #1	Global Med Marketing	Bank of America	\$12,830.50
June 14, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$999.98
August 20, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$13,750.00
September 9, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$41,250.00
October 15, 2019	Pharmacy #2	[1] WASHBURN	First Farmers	\$11,000.00

X. On or about the dates listed below, [1] WASHBURN sent a payment to the entities listed below, via wire transfer, each constituting an overt act:

On or About Date	Payment From	Payment To	Receiving Bank	Amount
June 17, 2019	[1] WASHBURN	Company #1	Wells Fargo	\$2,125.00
July 15, 2019	[1] WASHBURN	Company #1	Wells Fargo	\$1,700.00
August 31, 2019	[1] WASHBURN	Telemedicine Company #1	Citibank	\$4,200.00
October 11, 2019	[1] WASHBURN	Marketing Company #2	PNC	\$7,650.00

Y. On or about the dates listed below, [1] WASHBURN and [2] MCDOWELL caused payments to be sent from the entities listed below, via wire transfer, each constituting an overt act:

On or About Date	Payment From	Payment To	Receiving Bank	Amount
May 17, 2021	Laboratory #2	Limestone Medical	SunTrust	\$37,500.00
June 1, 2021	Laboratory #2	Limestone Medical	SunTrust	\$40,000.00

Z. On or about the dates listed below, [1] **WASHBURN** and [2] **MCDOWELL** sent payments to the entities listed below, via wire transfer, each constituting an overt act:

On or About Date	Payment From	Payment To	Receiving Bank	Amount
May 4, 2020	Black Bear Medical	Marketing Company #1	Bank of America	\$6,335.00
September 9, 2020	Limestone Medical	Marketing Company #1	Bank of America	\$9,000.00
November 19, 2020	Limestone Medical	Marketing Company #3	PNC	\$6,250.00
January 12, 2021	Limestone Medical	Telemedicine Company #3	TD Bank	\$10,000.00
March 26, 2021	Limestone Medical	Telemedicine Company #1	Citibank	\$5,000.00
May 4, 2022	Black Bear Medical	Telemedicine Company #3	TD Bank	\$1,750.00

AA. On or about, March 8, 2023, [1] **WASHBURN** caused the submission of a DME supplier application to CMS for Iris Med LLC.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH ELEVEN

THE GRAND JURY FURTHER CHARGES:

70. The allegations contained in Paragraphs 1 through 44 and 46 through 69 are re-alleged and incorporated by reference as though fully set forth herein.

71. On or about each date listed below, in the Middle District of Tennessee and elsewhere, the defendants listed below knowingly and willfully offered and paid any remuneration, and caused the offering and payment of any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, that is, Medicare, each instance forming a separate count as outlined in the below table:

Count	Defendant	On or about Date	Payment From	Payment To	Receiving Bank	Amount
2	[1] WASHBURN	June 17, 2019	[1] WASHBURN	Company #1	Wells Fargo	\$2,125.00
3	[1] WASHBURN	July 15, 2019	[1] WASHBURN	Company #1	Wells Fargo	\$1,700.00
4	[1] WASHBURN	August 31, 2019	[1] WASHBURN	Telemedicine Company #1	Citibank	\$4,200.00
5	[1] WASHBURN	October 11, 2019	[1] WASHBURN	Marketing Company #2	PNC	\$7,650.00
6	[1] WASHBURN	May 4, 2020	Black Bear Medical	Marketing Company #1	Bank of America	\$6,335.00
7	[1] WASHBURN [2] MCDOWELL	September 9, 2020	Limestone Medical	Marketing Company #1	Bank of America	\$9,000.00
8	[1] WASHBURN [2] MCDOWELL	November 19, 2020	Limestone Medical	Marketing Company #3	PNC	\$6,250.00
9	[1] WASHBURN [2] MCDOWELL	January 12, 2021	Limestone Medical	Telemedicine Company #3	TD Bank	\$10,000.00
10	[1] WASHBURN [2] MCDOWELL	March 26, 2021	Limestone Medical	Telemedicine Company #1	Citibank	\$5,000.00

11	[1] WASHBURN	May 4, 2022	Black Bear Medical	Telemedicine Company #3	TD Bank	\$1,750.00
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Each in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2.

COUNTS TWELVE THROUGH SEVENTEEN

THE GRAND JURY FURTHER CHARGES:

72. The allegations contained in Paragraphs 1 through 44 and 46 through 69 are re-alleged and incorporated by reference as though fully set forth herein.

73. On or about each date listed below, in the Middle District of Tennessee and elsewhere, the defendants listed below knowingly and willfully solicited and received, and caused the solicitation and receipt of, any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, that is, Medicare, each instance forming a separate count as outlined in the below table:

Count	Defendant	On or About Date	Payment From	Payment To	Receiving Bank	Amount
12	[1] WASHBURN	June 14, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$999.98
13	[1] WASHBURN	August 20, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$13,750
14	[1] WASHBURN	September 9, 2019	Pharmacy #1	[1] WASHBURN and Global Med Marketing	SunTrust	\$41,250
15	[1] WASHBURN	October 15, 2019	Pharmacy #2	[1] WASHBURN	First Farmers	\$11,000.00

16	[1] WASHBURN [2] MCDOWELL	May 17, 2021	Laboratory #2	Limestone Medical	SunTrust	\$37,500.00
17	[1] WASHBURN [2] MCDOWELL	June 1, 2021	Laboratory #2	Limestone Medical	SunTrust	\$40,000.00

Each in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), and Title 18, United States Code, Section 2.

COUNT EIGHTEEN

THE GRAND JURY FURTHER CHARGES:

74. The allegations contained in Paragraphs 1 through 44 and 46 through 69 are re-alleged and incorporated by reference as though fully set forth herein.

75. From in or about 2019 and continuing through in or about June 2024, in the Middle District of Tennessee and elsewhere, [1] WASHBURN and [2] MCDOWELL did knowingly and willfully combine, conspire, confederate, and agree with each other, and with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

Purpose of the Conspiracy

76. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things:

a. offering, paying, soliciting, and receiving kickbacks in exchange for the referral of Medicare beneficiaries, so that the DME companies could bill Medicare for DME, without regard to whether the beneficiaries needed the DME;

b. paying and causing the payment of kickbacks to purported marketing and telemedicine companies in exchange for the ordering and arranging for the ordering of DME for Medicare beneficiaries, without regard to the medical necessity for the prescribed DME;

c. submitting and causing the submission of false and fraudulent claims to Medicare through the DME companies for DME that was not medically necessary, not eligible for reimbursement, and not provided as represented;

d. concealing the submission of false and fraudulent claims to Medicare; and

e. diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means

77. The Manner and Means section of Count One of this Indictment is re-alleged and incorporated by reference as though fully set forth herein as a description of how the co-conspirators sought to accomplish the purpose of the conspiracy.

All in violation of Title 18, United States Code, Section 1349.

COUNTS NINETEEN THROUGH TWENTY-THREE

THE GRAND JURY FURTHER CHARGES:

78. The allegations contained in Paragraphs 1 through 44 and 46 through 69 are re-alleged and incorporated by reference as though fully set forth herein.

79. On or about each date listed below, in the Middle District of Tennessee and elsewhere, the defendants listed below, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, by submitting or causing to be submitted, to Medicare, false and fraudulent claims for DME, representing that the services were medically necessary, eligible for reimbursement, and actually provided to Medicare beneficiaries as claimed, with each claim forming a separate count as outlined in the table below:

Count	Defendants	Medicare Beneficiary	DME Company	Ordering Provider	Claim On or About Date	Approx. Amt. Billed to Medicare
19	[1] WASHBURN	S.S.	Black Bear Medical LLC	A.P.	May 22, 2020	\$3,071.00
20	[1] WASHBURN [2] MCDOWELL	E.M.	Limestone Medical LLC	M.G.	Sept. 18, 2020	\$3,972.53
21	[1] WASHBURN [2] MCDOWELL	L.H.	Limestone Medical LLC	C.C.	Oct. 8, 2020	\$1,630.79
22	[1] WASHBURN [2] MCDOWELL	B.W.	Limestone Medical LLC	C.C.	Oct. 29, 2020	\$2,410.82
23	[1] WASHBURN	A.L.	Black Bear Medical LLC	T.W.	Jan. 10, 2022	\$1,260.53

Each in violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE ALLEGATION

80. The allegations of this Indictment are re-alleged and incorporated by reference as though fully set forth herein for purposes of alleging forfeiture to the United States of certain property in which the defendant has an interest.

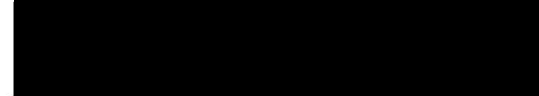
81. Upon conviction of any of Counts One through Twenty-Three [1] **WASHBURN** and [2] **MCDOWELL**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense(s), including, but not limited to, a money judgment representing the value of the gross proceeds traceable to the commission of the offense(s) of conviction. If any of the property described above, as a result of any act or omission of [1] **WASHBURN** and [2] **MCDOWELL**:

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

the United States shall be entitled to forfeiture of substitute property, and it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any

other property of [1] **WASHBURN** and [2] **MCDOWELL**, up to the value of said property listed above as subject to forfeiture.

A TRUE BILL



FOREPERSON

HENRY C. LEVENTIS
UNITED STATES ATTORNEY



SARAH K. BOGNI
ROBERT S. LEVINE
ASSISTANT UNITED STATES ATTORNEYS

CRIMINAL COVER SHEET
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Indictment (X)
Complaint ()
Information ()
Felony ()
Misdemeanor ()
Juvenile ()

County of Offense: WILLIAMSON
AUSA's NAME: Sarah Bogni & Robert Levine
Reviewed by AUSA: SKB StB
(Initials)

James Brandon (aka "Brady") Washburn
Defendant's Full Name

Defendant's Address

Interpreter Needed? _____ Yes X No

If Yes, what language? _____

Defendant's Attorney

COUNT(S)	TITLE/SECTION	OFFENSE CHARGED	MAX. PRISON (plus any mandatory minimum)	MAX. FINE
1	18 U.S.C. § 371	CONSPIRACY TO DEFRAUD THE UNITED STATES AND TO COMMIT AN OFFENSE (violate the Anti-Kickback Statute)	5 years; 3 years S/R	\$250,000; \$100 Special Assessment
2-11	42 U.S.C. § 1320a-7b(b)(2)(A); 18 U.S.C. § 2	VIOLATION OF THE ANTI-KICKBACK STATUTE (Offering and Paying Kickbacks) AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count
12-17	42 U.S.C. § 1320a-7b(b)(1)(A); 18 U.S.C. § 2	VIOLATION OF THE ANTI-KICKBACK STATUTE (Soliciting and Receiving Kickbacks) AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count
18	18 U.S.C. § 1349	CONSPIRACY TO COMMIT HEALTH CARE FRAUD	10 years; 3 years S/R	\$250,000; \$100 Special Assessment
19-23	18 U.S.C. § 1347 18 U.S.C. § 2	HEALTH CARE FRAUD AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count

*If the defendant is found to be an Armed Career Criminal, pursuant to 18 U.S.C. § 924(e), defendant will be subject to a term of imprisonment of between 15 years to life.

**A charge pursuant to 8 U.S.C. § 1326, may carry a maximum sentence of one of the following: (1) up to 2 years; (2) up to 10 years; or (3) up to 20 years, depending upon a defendant's criminal and removal history.

Is the defendant currently in custody? Yes () No (X) If yes, State or Federal? Writ requested ()

Has a complaint been filed? Yes () No (X)
If Yes: Name of the Magistrate Judge _____ Case No.: _____
Was the defendant arrested on the complaint? Yes () No ()

Has a search warrant been issued? Yes () No ()
If Yes: Name of the Magistrate Judge _____ Case No.: _____

Was bond set by Magistrate/District Judge? Yes () No () Amount of bond: _____

Is this a Rule 20? Yes () No (X) To/from what district? _____

Is this a Rule 40? Yes () No (X) To/from what district? _____

Estimated trial time: ONE WEEK

The Clerk will issue a **Summons/Warrant** (circle one) (Note: If information, request for a warrant requires presentment of a sworn affidavit of probable cause to a judicial officer, who will determine whether to issue a warrant)

Detention requested: Yes () No (X) Recommended conditions of release: STANDARD CONDITIONS, No guns, no contact with witnesses

CRIMINAL COVER SHEET
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

Indictment (X)
Complaint ()
Information ()
Felony ()
Misdemeanor ()
Juvenile ()

County of Offense: RUTHERFORD
AUSA's NAME: Sarah Bogni & Robert Levine
Reviewed by AUSA: SKB
(Initials) SKB

Robert Houston McDowell
Defendant's Full Name

Defendant's Address _____

Interpreter Needed? _____ Yes X No

If Yes, what language? _____

Defendant's Attorney _____

COUNT(S)	TITLE/SECTION	OFFENSE CHARGED	MAX. PRISON (plus any mandatory minimum)	MAX. FINE
1	18 U.S.C. § 371	CONSPIRACY TO DEFRAUD THE UNITED STATES AND TO COMMIT AN OFFENSE (violate the Anti-Kickback Statute)	5 years; 3 years S/R	\$250,000; \$100 Special Assessment
7-10	42 U.S.C. § 1320a-7b(b)(2)(A); 18 U.S.C. § 2	VIOLATION OF THE ANTI-KICKBACK STATUTE (Offering and Paying Kickbacks) AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count
16-17	42 U.S.C. § 1320a-7b(b)(1)(A); 18 U.S.C. § 2	VIOLATION OF THE ANTI-KICKBACK STATUTE (Soliciting and Receiving Kickbacks) AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count
18	18 U.S.C. § 1349	CONSPIRACY TO COMMIT HEALTH CARE FRAUD	10 years; 3 years S/R	\$250,000; \$100 Special Assessment
20-22	18 U.S.C. § 1347 18 U.S.C. § 2	HEALTH CARE FRAUD AND AIDING AND ABETTING	10 years; 3 years S/R	\$250,000; \$100 Special Assessment per count

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If Yes: Name of the Magistrate Judge _____ Case No.: _____
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Has a search warrant been issued? Yes () No ()
If Yes: Name of the Magistrate Judge _____ Case No.: _____

Was bond set by Magistrate/District Judge? Yes () No () Amount of bond: _____

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Is this a Rule 40? Yes () No (X) To/from what district? _____

Estimated trial time: ONE WEEK

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