

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No.
v.)	
)	Violations: Title 18, United
JOHN NATALE)	States Code, Sections 1035,
)	1341 and 1347

COUNT ONE

The SPECIAL MARCH 2010 GRAND JURY charges:

1. At times material to this indictment:
 - a. Defendant JOHN NATALE was a doctor who was authorized to practice medicine in the State of Illinois.
 - b. Defendant NATALE practiced vascular surgery, and had privileges to conduct surgeries at Northwest Community Hospital, located in Arlington Heights, Illinois.
 - c. Vascular surgery at times involves the surgical treatment of aneurysms, which are weakened blood vessels. An aneurysm occurring above the kidneys is known as a “supra-renal aneurysm,” an aneurysm occurring in the immediate vicinity of the kidneys is known as a “juxta-renal aneurysm,” and an aneurysm occurring below the kidneys is known as an “infra-renal aneurysm.” An aneurysm occurring in the pelvic area is known as an “iliac aneurysm.” An

aneurysm occurring in the groin area is known as a “femoral aneurysm.” Surgical treatment of an aneurysm at times may involve surgical replacement of a section of a weakened blood vessel with synthetic, man-made material known as a “graft.” Surgical insertion of a graft above or in the immediate vicinity of the kidneys to repair a supra-renal aneurysm or juxta-renal aneurysm is generally a more complex procedure than the surgical insertion of a graft below the kidneys to repair an infra-renal aneurysm.

d. Medicare was a national health insurance program pursuant to Title 18 of the Social Security Act and was a health care benefit program affecting commerce. Medicare provided free or below-cost health care benefits to certain eligible beneficiaries, primarily persons who were sixty-five years of age and older.

e. Medicare Part B was a component of Medicare coverage that helped pay for certain medically necessary physician services, outpatient services, and other medical services, including certain surgical procedures.

f. Defendant NATALE was a Medicare provider authorized to submit claims to the Medicare Part B program for certain medically necessary surgical services provided to Medicare beneficiaries.

g. The Center for Medicare and Medicaid Services (“CMS”), formerly known as the Health Care Finance Administration, was a federal

agency within the United States Department of Health and Human Services (“HHS”). CMS administered the Medicare program through its contractors.

h. CMS administered the Medicare program through contractor Wisconsin Physician Service (“WPS”). WPS reviewed and processed Medicare Part B claims submitted for physician services, including certain surgical procedures, for Medicare beneficiaries in the State of Illinois. WPS made payments on those claims which appeared, based on information provided by authorized Medicare providers, to be eligible for reimbursement under the Medicare program. Such payments involved federal funds.

i. Medicare authorized payment for surgical services only if those services were actually provided, and were “medically necessary,” that is, services were required because of disease, disability, infirmity or impairment. Medicare would not pay for services and treatment that were not actually provided or for which the patient did not meet the criteria necessary to justify the claimed service or treatment.

j. The American Medical Association had established certain codes, known as the Physicians’ Current Procedural Terminology (“CPT”) system, for identifying and referring to medical services and procedures performed by vascular surgeons and other physicians. CPT codes were widely used by health care providers and insurers, including Medicare. Among other

things, CPT codes identified specific procedures utilized by vascular surgeons in order to render care to patients.

k. WPS, on behalf of Medicare, adjudicated and processed claims submitted by vascular surgeons and other physician providers on “Health Insurance Claims Forms” (“HCFA Form 1500”).

l. WPS, on behalf of Medicare, made Medicare program payments to vascular surgeons and other physician providers based upon information provided on the HCFA Forms 1500, including, among other things, specific CPT codes representing claimed treatment, a description of the procedures and services performed on specified Medicare beneficiaries, and the dates on which the claimed procedures and services were performed. On each such form, the authorized service provider submitting a claim had to certify that the services and procedures claimed on the form were medically necessary and that all the information provided on the HCFA Form 1500 regarding the claimed services and procedures was true.

2. Beginning no later than in or around August 2002 and continuing until at least on or about October 30, 2004, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, participated in a scheme to defraud a health care benefit program affecting commerce, namely 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, such health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, which scheme is further described below.

Description of Scheme

3. It was part of the scheme that defendant NATALE intentionally prepared fictitious medical records and operative reports that detailed NATALE's performance of medical procedures that NATALE knew did not take place.

4. It was further part of the scheme that NATALE prepared and caused to be prepared fictitious medical records that made it appear that NATALE had performed surgical procedures that were more complex or elaborate than the surgical procedures NATALE had actually performed.

Specifically, among other things, NATALE prepared fictitious progress notes and operative reports that made it appear that NATALE had performed surgeries to treat various aneurysms, when in fact, as NATALE well knew, the surgeries NATALE performed did not involve the treatment of all the aneurysms described in his fictitious notes and reports.

5. It was further part of the scheme that defendant NATALE prepared and caused to be prepared, and submitted and caused to be submitted to Medicare, claims seeking payment for surgical procedures, in which claims defendant NATALE falsely and fraudulently represented that he had personally provided medical services which defendant NATALE knew, in fact, were never provided. Specifically, among other things, NATALE submitted claims seeking payment for repair of various aneurysms, when in fact, as NATALE well knew, the surgeries he performed did not repair the aneurysms described in his claims.

6. It was further part of the scheme that defendant NATALE converted the proceeds of the fraudulently-obtained Medicare payments to his own use and benefit.

Patient WO

7. It was further part of the scheme that on or about January 22, 2003, NATALE prepared a progress note concerning the medical condition of Patient WO, in which he falsely claimed “this is not an infra-renal AAA this is a very

complicated suprarenal (thoraco-ABD) aneurysm – involving celiac, SMA and both renal arteries.” On or about January 22, 2003, NATALE performed a surgical procedure on Patient WO. On or about January 23, 2003, NATALE prepared another progress note concerning Patient WO, in which he falsely indicated the medical treatment of Patient WO involved repair of a ruptured supra-renal artery and the bypass of the right and left renal arteries. Thereafter, on or about January 30, 2003, NATALE submitted a Medicare claim for surgical services. In his Medicare claim, NATALE used multiple CPT codes, including but not limited to CPT codes 35092-22 (direct repair of aneurysm or excision (partial or total) and graft insertion for ruptured aneurysm, abdominal aorta involving visceral vessels (mesenteric, celiac, renal)) and 35560-51 (bypass graft, vein, aortorenal) to identify the surgical procedure he performed on Patient WO. On or about March 6, 2003, NATALE dictated an operative note concerning the surgery NATALE performed on Patient WO, in which he falsely claimed, among other things, that Patient WO had a supra-renal aneurysm, and that during the surgery, NATALE had implanted and sewn the left and right renal arteries into a graft. As NATALE well knew, Patient WO did not have a supra-renal aneurysm and during surgery, NATALE did not implant and sew the left and right renal arteries into a graft.

Patient FM

8. It was further part of the scheme that on or about May 15, 2003, NATALE performed a surgical procedure on Patient FM. On or about May 15, 2003, NATALE prepared and signed a progress note concerning the medical treatment of Patient FM, in which NATALE falsely described Patient FM's medical treatment as follows: "Repair ruptured supra-renal aortic aneurysm with left and right renal artery bypasses." Thereafter, on or about July 18, 2003, NATALE submitted a Medicare claim for surgical services. In his Medicare claim, NATALE used multiple CPT codes, including but not limited to CPT codes 35092-51 (direct repair of aneurysm or excision (partial or total) and graft insertion for ruptured aneurysm, abdominal aorta involving visceral vessels (mesenteric, celiac, renal)) and 35560-50 (bypass graft, vein, aortorenal) to identify the surgical procedure he performed on Patient FM. On or about September 9, 2003, NATALE dictated an operative note concerning the surgery NATALE performed on Patient FM, in which he falsely described, among other things, Patient FM's aneurysm as supra-renal and the medical procedure NATALE performed on Patient FM. As NATALE well knew, Patient FM did not have a supra-renal aneurysm and NATALE did not treat a supra-renal aneurysm during Patient FM's surgery.

Patient JH

9. It was further part of the scheme that on or about August 1, 2003, NATALE performed a surgical procedure on Patient JH. On or about August 1, 2003, NATALE prepared a progress note concerning Patient JH, in which he falsely described Patient JH's medical condition as involving "resection of ruptured juxtarenal AAA . . ." Thereafter, on or about September 3, 2003, NATALE submitted a Medicare claim for surgical services. In his Medicare claim, NATALE used multiple CPT codes, including but not limited to CPT codes 35092-51 (direct repair of aneurysm or excision (partial or total) and graft insertion for ruptured aneurysm, abdominal aorta involving visceral vessels (mesenteric, celiac, renal)) and 35560-50 (bypass graft, vein, aortorenal) to identify the surgical procedure he performed on Patient JH. On or about September 15, 2003, NATALE dictated an operative note concerning the surgery NATALE performed on Patient JH, in which he falsely claimed, among other things, that Patient JH's aneurysm was "above the renal vessels," and that during the surgery, NATALE had reimplanted two renal vessels into a graft. As NATALE well knew, Patient JH did not have a supra-renal aneurysm and during surgery, NATALE did not reimplant two renal vessels into a graft.

Patient MM

10. It was further part of the scheme that on or about February 4, 2004, NATALE performed a surgical procedure on Patient MM. On or about February 4, 2004, NATALE prepared a progress note concerning Patient MM, in which he falsely claimed that Patient MM's medical condition involved "implantation of renal arteries with resection of C.I. & C.F. aneurysms." Thereafter, on or about February 16, 2004, NATALE submitted a Medicare claim for surgical services. In his Medicare claim, NATALE used multiple CPT codes, including but not limited to CPT codes 35091-22 (direct repair of aneurysm or excision (partial or total) and graft insertion for aneurysm, pseudoaneurysm, and associated occlusive disease, abdominal aorta involving visceral vessels (mesenteric, celiac, renal)), 35631-51 (bypass graft, aortoceliac, aortomesenteric, aortorenal) and 35141-51 (direct repair of aneurysm and graft insertion for aneurysm common femoral artery) to identify the surgical procedures he performed on Patient MM. On or about March 17, 2004, NATALE dictated an operative note concerning the surgery NATALE performed on Patient MM, in which he falsely claimed, among other things, that Patient MM's aneurysm "extended to the renal vessels," and that during the surgery, "the right as well as the left renal vessels were excised." Further, in that operative note, NATALE also falsely claimed, among other things, to have removed aneurysms observed in

the external iliac arteries of Patient MM and to have sewn a graft into the external iliac arteries of Patient MM. As NATALE well knew, Patient MM did not have a supra-renal aneurysm, nor did Patient MM have any aneurysms that were located in the areas of Patient MM's external iliac arteries. Moreover, as NATALE well knew, he did not sew renal vessels into a graft, nor did he sew a graft into the iliac arteries.

Patient RG

11. It was further part of the scheme that on or about October 20, 2004, NATALE performed a surgical procedure on Patient RG. On or about October 20, 2004, NATALE prepared a progress note concerning Patient RG, in which he falsely claimed that Patient RG's medical condition involved "reimplantation of rt. renal artery" and "resection of external iliac art. aneurysms." Thereafter, on or about October 26, 2004, NATALE submitted a Medicare claim for surgical services. In his Medicare claim, NATALE used multiple CPT codes, including but not limited to CPT codes 35092-22 (direct repair of aneurysm or excision (partial or total) and graft insertion for aneurysm, pseudoaneurysm, and associated occlusive disease, abdominal aorta involving visceral vessels (mesenteric, celiac, renal)), 35631-50 (bypass graft, aortoceliac, aortomesenteric, aortorenal) and 35141-50 (direct repair of aneurysm and graft insertion for aneurysm common femoral artery) to identify the surgical procedures he

performed on Patient RG. On or about October 30, 2004, NATALE dictated an operative note concerning the surgery NATALE performed on Patient RG, in which he falsely claimed, among other things, that “a button of the right renal artery tissue was then cut out and sewn to a portion of the graft with 5-0 Prolene” and that the limbs of a bifurcation graft were extended “down the external iliac artery bulge” and were sewn “in place with 4-0 Prolene.” As NATALE well knew, NATALE did not reimplant Patient RG’s right renal artery during the surgery, did not sew a bifurcation graft into the iliac arteries, and did not repair a femoral aneurysm.

12. It was further part of the scheme that defendant NATALE did misrepresent, conceal, hide and cause to be misrepresented, concealed and hidden the purposes of and acts done in furtherance of the fraud scheme.

13. On or about March 17, 2004, at Arlington Heights, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, knowingly and willfully executed, and attempted to execute, the above described scheme by dictating an operative report concerning Patient MM, in which NATALE falsely claimed that Patient MM’s aneurysm extended

to the renal vessels, and that during the surgery NATALE performed, the right as well as the left renal vessels were excised;

In violation of Title 18, United States Code, Section 1347.

COUNT TWO

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraphs 1 through 12 of Count One of this indictment are realleged and incorporated as though fully set forth herein.

2. On or about October 30, 2004, at Arlington Heights, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, knowingly and willfully executed, and attempted to execute, the scheme described in Count One by dictating an operative report concerning Patient RG, in which NATALE falsely claimed that during the surgery on Patient RG, a button of the right renal artery tissue was cut out and sewn to a portion of a graft;

In violation of Title 18, United States Code, Section 1347.

COUNT THREE

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count One of this indictment is realleged and incorporated as though fully set forth herein.

2. Beginning no later than in or around August 2002 and continuing until at least on or about October 30, 2004, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, knowingly and willfully devised, intended to devise, and participated in a scheme and artifice to defraud Medicare and obtain money and property from Medicare by means of materially false and fraudulent pretenses, representations, and promises, which scheme is further described below.

3. Paragraphs 3 through 12 of Count One of this indictment are realleged and incorporated as though fully set forth herein.

4. On or about November 8, 2004, in the Northern District of Illinois, Eastern Division,

JOHN NATALE,

defendant herein, for the purpose of executing and attempting to execute the above-described scheme to defraud, did cause to be sent and delivered by mail according to the directions thereon an envelope for delivery to Cardio &

Vascular Surg & Assoc, PO Box 625, Elkhorn, WI, which envelope contained a check for \$13,399.50 as reimbursement for, among other things, the Medicare claim Natale submitted with respect to Patient RG;

In violation of Title 18, United States Code, Section 1341.

COUNT FOUR

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count One of this indictment is realleged and incorporated as though fully set forth herein.

2. On or about March 17, 2004, at Arlington Heights, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make materially false, fictitious and fraudulent statements and representations in connection with the delivery of and payment for health care benefits, items and services, in that NATALE dictated an operative note for Patient MM, in which NATALE stated the following:

- (1) Patient MM “had iliac aneurysms as well as external iliac artery aneurysms”;
- (2) Patient MM’s aneurysm “extended to the renal vessels”;
- (3) During the operation, “buttons of the right as well as the left renal vessels were excised”;
- (4) During the operation, “buttons of aortic tissue carrying the right and left renal vessels were done with 5-0 Prolene”;
- (5) During the operation, renal perfusion was started following renal implantation;
- (6) During the operation, iliac aneurysms were resected;

- (7) During the operation, limbs of a “bifurcation graft were sewn as an onlay patch on the external iliac artery”; and
- (8) During the operation, internal iliac vessels were re-implanted.

In violation of Title 18, United States Code, Section 1035(a)(2).

COUNT FIVE

The SPECIAL MARCH 2010 GRAND JURY further charges:

1. Paragraph 1 of Count One of this indictment is realleged and incorporated as though fully set forth herein.

2. On or about October 30, 2004, at Arlington Heights, in the Northern District of Illinois, Eastern Division, and elsewhere,

JOHN NATALE,

defendant herein, in a matter involving a health care benefit program, did knowingly and willfully make materially false, fictitious and fraudulent statements and representations in connection with the delivery of and payment for health care benefits, items and services, in that NATALE dictated an operative note for Patient RG, in which NATALE stated the following:

- (1) The operation involved “reimplantation of right renal artery to graft”;
- (2) During the operation, “a button of the right renal artery tissue was then cut out and sewn to a portion of the graft with 5-0 Prolene”;
- (3) During the operation, “total crossclamp time in the proximal and renal artery was 27 minutes”;

- (4) During the operation, “perfusion was returned to the right renal artery”;
- (5) During the operation, the limbs of a bifurcation graft were extended down to “the external iliac artery bulge”;
- (6) During the operation, a bifurcation graft was sewn in place with 4-0 Prolene;
- (7) During the operation, a bifurcation graft was attached in an end-to-side fashion in order to take care of the bulge of the external iliac artery;
- (8) During the operation, in order to treat an iliac aneurysm, the “right limb was opened first”; and
- (9) During the operation, in order to treat an iliac aneurysm, “the left limb was sewn end to side.”

In violation of Title 18, United States Code, Section 1035(a)(2).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY