

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

UNITED STATES OF AMERICA	*	CRIMINAL NO. 15-61
VERSUS	*	SECTION: "E" (5)
CAREN BATTAGLIA	*	

* * *

FACTUAL BASIS

If this matter were to proceed to trial, the United States would introduce the following facts with relevant and admissible testimony and exhibits to support the violation alleged in superseding bill of information filed on September 6, 2016, against **CAREN BATTAGLIA (BATTAGLIA)**. Count 1 of the superseding bill of information charges a violation of Title 18, United States Code, Section 4, misprison of a felony:

1. Wendy Naquin from AdvanceMed, the Zone Program Integrity Contractor (ZPIC) over home health claims in this state, would testify that during all times mentioned in the indictment, Abide Home Care Services, Inc. (Abide) was enrolled as a provider able to bill Medicare for providing home health services to qualified beneficiaries.
2. Lee Ann Dodson would testify that that she is a registered nurse (RN) employed for ZPIC AdvanceMed as a team leader for the Home Health Agency Review Team. Dodson, who has testified as an expert in the field of home health, would testify that the home health benefit generally is for elderly or disabled beneficiaries who are acutely ill and for whom it is a taxing or considerable effort to get out of the home to receive medical care by going to a physician or an

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outpatient facility. Dodson would testify that a physician's order initiates home health and that home health services cannot begin without such a referral. When a home health agency gets an order from a physician for home health services for a patient that physician sees, the agency sends out a registered nurse to do an assessment, known as an Outcome and Assessment Information Set (OASIS) to determine what type of skilled nursing the patient needs. The OASIS is very specific and consists mostly of objective multiple choice questions. The first thing the RN would determine is whether the patient is homebound. If the patient is not homebound, the RN would discontinue the assessment because the patient did not meet the first criteria for home health. Dodson would also testify that part of the OASIS is to determine the patient's diagnoses.

3. Dodson would testify that after the RN completes an OASIS for a patient, a plan of care (POC), also known as the CMS 485, is created. The POC contains the patients' diagnoses and medications, orders, what will be done for the patient, the goals and the discharge plan. The home health agency is supposed to send the POC to the patient's primary care physician, who is familiar with the patient's history and who ordered the home health services, for his signature. After the agency obtains the physician's signature, only then can the 60-day period of home health begin.

4. Special Agent Krista Bradford would testify that on March 25, 2014, a search warrant was executed at Abide. Job descriptions obtained in the search of Abide would establish that LPNs at Abide were required to perform skilled nursing services under the supervision of a registered nurse. The LPN was to observe, record, and report the general physical and mental conditions of the patients, assist the physician and/or RN in performing specialized procedures, assist the patient with activities of daily living and encourage appropriate self-care, and prepare clinical and/or progress notes and incorporate them into the clinical record weekly. Abide checking account records would show that **BATTAGLIA** was employed at Abide and evidence obtained from the

search warrant would establish that the job description applicable to **BATTAGLIA** followed the requirements of Medicare found in Paragraph 16 of the indictment of the original indictment in this matter.

5. Evidence provided by employees of Abide, representatives of AdvanceMed, an expert physician, and patients would establish that Abide routinely falsified diagnoses to cause inflated reimbursements, and falsified medical records fraudulently supporting home health for medically unnecessary home health services. Evidence would also establish that Abide relied on employees such as **BATTAGLIA** to participate in the Abide health care fraud scheme by turning a blind eye.

6. Evidence would establish that Abide utilized electronic medical record keeping software known as Kinnser for which **BATTAGLIA** was trained. The Kinnser system included record keeping of Kmails, Kinnser emails, which included the name of the sender, the recipient, the communication, the date of the communication and whether or not the communication was read. Those Kmails would be introduced into evidence to establish **BATTAGLIA'S** care of the patients assigned to her by Abide.

7. The government would introduce documentation establishing that **BATTAGLIA** was the LPN who was assigned to provide skilled nursing to Medicare beneficiary JeJo. Electronic medical records taken from the Kinnser system would establish that between September 16, 2013 and November 14, 2013, **BATTAGLIA** was aware that Abide had fraudulently classified JeJo as "homebound" and had fraudulently assigned a medical diagnosis to JeJo from which he did not suffer, to wit: arthropathy, for one or more episodes. The documentation would show that **BATTAGLIA** documented skilled nursing visits that concealed this fraud by stating that she had taught "on disease processes" that she knew JeJo did not have, and by noting his "homebound status [was] evident" when she knew that he left home each day for a day program, had outings

with caregivers, and frequently witnessed him returning home from these functions." Despite knowing the above, the evidence will show that **BATTAGLIA** failed to notify the proper authorities of the wrongdoing that she witnessed and concealed at Abide.

KENNETH ALLEN POLITE, JR.
UNITED STATES ATTORNEY



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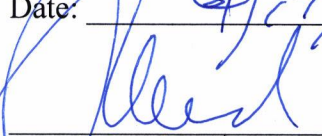


CAREN BATTAGLIA

Defendant

Date:

9/17/16



JOHN WILSON REED

Counsel for Defendant

Date:

9/17/16

