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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA.
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WILLIAM W. BLEVINS
CLERK

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

BILL OF INFORMATION FOR CONSPIRACY
TO ALTER OR FALSIFY RECORDS IN A FEDERAL INVESTIGATION

UNITED STATES OF AMERICA	*	**CRIMINAL NO.** 19-00218
VERSUS	*	**SECTION:** SECT. A MAG. 2
SUZANNE C. MAY	*	**VIOLATIONS:** 18 U.S.C. § 371 18 U.S.C. § 1519
	*	

* * *

The United States Attorney charges that:

COUNT 1

CONSPIRACY TO ALTER OR FALSIFY RECORDS
IN A FEDERAL INVESTIGATION

A. AT ALL MATERIAL TIMES HEREIN:

The Medicare Program

1. The Medicare program ("Medicare") was a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS") through its agency, the Centers for Medicare and Medicaid Services ("CMS"). Individuals who qualified for Medicare

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benefits were commonly referred to as "beneficiaries," and each beneficiary received a Medicare identification number.

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. AdvanceMed was the Zone Program Integrity Contractor (ZPIC) for Zone 5, which included the State of Louisiana. AdvanceMed contracted with CMS to investigate and assist with preventing fraud, waste, and abuse in Medicare through the use of audits, medical reviews, and investigating cases of potential fraud and abuse.

4. To participate in Medicare, medical service providers were required to submit to CMS an enrollment application. As part of the Medicare enrollment process, participating providers agreed to abide by all provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors regarding claim submissions, maintaining records, and receiving reimbursements ("enrolled providers").

5. Enrolled providers, including hospice care service providers, could provide medical services to Medicare beneficiaries, and subsequently submit claims to Medicare seeking reimbursement for the cost of the services provided.

6. For claims of services provided to be appropriately reimbursed, Medicare required that the services provided be medically necessary for the treatment or diagnosis of a beneficiary, and were in compliance with federal and state laws, rules, and regulations. In other words, Medicare would not reimburse claims that were not medically necessary or not in compliance with federal and state laws rules and regulations.

7. Medicare regulations required medical service providers to maintain complete and accurate medical records to verify that the services were provided as described in submitted claims. These records were required to be sufficient to permit Medicare, through its contractors, to review the appropriateness of Medicare payments made to the medical service providers.

Medicare Hospice Regulations

8. Medicare provided health care benefits under two primary components—hospital insurance (Part A) and medical insurance (Part B). Specifically, Part A provided coverage for, among other things, hospice care services.

9. Eligibility to elect to receive hospice care services under Part A were conditioned on whether beneficiaries were entitled to receive Part A benefits and whether beneficiaries were certified as "terminally ill." Beneficiaries were considered "terminally ill" if medical prognoses were that life expectancies were six months or less if the illnesses continued on their normal courses.

10. To receive hospice care services, beneficiaries or their authorized representatives needed to specifically elect to do so. The first election was for a 90-day period. Thereafter, beneficiaries could elect to receive hospice care services for two additional 90-day periods and an unlimited number of subsequent 60-day periods. If beneficiaries or their authorized representatives elected to receive hospice care services, then beneficiaries were required to complete and file "election statements."

11. Election statements included, among other information, the following: (a) identification of the particular hospice that would furnish care to the beneficiary; (b) the beneficiary or representative's acknowledgment that, based on the education received, the beneficiary had a full understanding of the palliative, rather than curative, nature of hospice care

services; (c) the beneficiary or representative's acknowledgment that, he or she understood that certain Medicare services were waived by the election of hospice care services; (d) the effective date of the election; and (e) the signature of the beneficiary or representative. Medicare required that the election statements be completed and received by enrolled providers prior to the enrolled provider billing for hospice care services to beneficiaries and submitting claims to Medicare.

12. During the course of providing hospice care services, Medicare required that enrolled providers maintain accurate and up-to-date records detailing the care provided and the medical justification for any re-certification of hospice care services for beneficiaries living beyond six months. Medicare further required that all medical services provided to beneficiaries be documented in the medical records at the time the services were performed. In the event that corrections or amendments needed to be made to medical records after services had been provided and documented, Medicare required that: (a) such amendments and corrections be dated and clearly and permanently identified as corrections or amendments; (b) the author of the amendments and corrections be clearly identified; and (c) the original content remain in the medical records and be clearly identified. Medicare further required that, when correcting or amending paper medical records, the authors of the alteration sign and date the revisions.

The Defendant and Relevant Entities

13. The defendant, **SUZANNE C. MAY,** of Mandeville, Louisiana was a nurse licensed in the State of Louisiana who served as the administrator of Company 1's New Orleans hospice facility.

14. Company 1 was a Louisiana corporation that conducted business in New Orleans, Louisiana. Company 1 has been enrolled as a Medicare provider since approximately 1999 and

purported to provide inpatient and outpatient hospice care services to beneficiaries in Louisiana and elsewhere.

15. Law Firm 1 was a Louisiana limited partnership located in Baton Rouge, Louisiana.

B. THE CONSPIRACY TO ALTER OR FALSIFY RECORDS IN A FEDERAL INVESTIGATION

Beginning in or around February 2017, and continuing through in or around December 2017, in the Eastern District of Louisiana, and elsewhere, the defendant, **SUZANNE C. MAY**, conspired and agreed with others known and unknown to the United States Attorney, to commit certain offenses against the United States, that is, to knowingly alter, destroy, mutilate, conceal, cover up, falsify or make a false entry in a record, document, or tangible object, namely, records of beneficiaries who were billed for purported hospice care services from Company 1, with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of a department or agency of the United States, that is, a Medicare audit of records of beneficiaries receiving hospice care services from Company 1 performed on behalf of the United States Department of Health and Human Services, in violation of Title 18, United States Code, Section 1519.

C. PURPOSE OF THE CONSPIRACY

It was a purpose of the conspiracy for **MAY** and her co-conspirators to impede, obstruct, or influence a Medicare audit investigating Company 1's purported treatment of beneficiaries receiving hospice care services by altering, amending, falsifying, and making false entries in beneficiaries' medical records to justify Company 1's billing to Medicare for purported hospice services rendered so that Company 1 would pass the Medicare audit.

D. MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and her co-conspirators sought to accomplish the scheme included, among others, the following:

1. On or about January 5, 2015, AdvanceMed notified Company 1 in a letter addressed to **MAY** that it was conducting an audit on behalf of Medicare to determine whether Company 1 properly admitted beneficiaries for hospice care services and whether the purported provided services were properly documented. As part of that audit, AdvanceMed requested from Company 1 the medical records of select beneficiaries in connection with claims for hospice care services for which Company 1 received reimbursement from Medicare.

2. On or about August 18, 2015, in a letter addressed to **MAY**, AdvanceMed notified Company 1 that it failed the audit. AdvanceMed notified Company 1 that it was reversing all of the claims for hospice care services under review, which totaled approximately $383,107.26. The August 18, 2015 letter detailed that Company 1 lacked required medical records, including election statements and other forms related to the providing of hospice care services. The August 18, 2015 letter notified Company 1, and **MAY**, that Medicare required an election statement to be completed before beneficiaries were eligible to receive hospice care services. The August 18, 2015 letter provided educational information for Company 1 regarding how to properly document and maintain medical records for beneficiaries receiving hospice care ("2015 Medicare education").

3. On or about February 9, 2017, in a letter addressed to **MAY**, AdvanceMed notified Company 1 that it was the subject of another audit and requested documentation from patient records substantiating claims for hospice care services provided by Company 1 to beneficiaries.

4. On or about February 25, 2017, **MAY**, on behalf of Company 1, mailed to AdvanceMed the documents requested by the February 9, 2017 audit letter. On or about June 5,

2017, AdvanceMed found some improvement on Company 1's part, but nonetheless determined that certain beneficiary documentation was still deficient.

5. As a result, on or about August 9, 2017, in a letter addressed to **MAY**, AdvanceMed notified Company 1 that it was performing a larger audit ("third audit"), and requested medical records for ninety-nine beneficiaries for whom Company 1 submitted claims for purportedly providing hospice care services. The third audit requested documentation to determine whether Company 1 properly billed Medicare for hospice care services that it claimed to have provided to beneficiaries.

6. On or about August 9, 2017, **MAY** began the process of gathering and overseeing the gathering of the documents requested in the third audit.

7. On or about August 9, 2017, after beginning the process of locating and gathering patient records, **MAY** understood that Company 1 did not have the proper medical records to justify the billings to Medicare for purported hospice care services for beneficiaries requested by the third audit. Based on her experience with the 2015 Medicare audit, **MAY** understood that Medicare would reverse paid claims for hospice care services performed by Company 1 if Company 1 failed the third audit.

8. Between August 2017 and October 2017, to conceal that Company 1 lacked the medical records to justify billings submitted to Medicare for the beneficiaries at issue in the third audit and had not heeded the 2015 Medicare education, **MAY** altered, amended, and falsified, and directed other co-conspirators to alter, amend, and falsify, medical records subject to the third audit to make those records appear to be compliant with Medicare guidelines regarding hospice care services ("falsified medical records").

9. Between August 2017 and October 2017, **MAY** and her co-conspirators, in a summary document, tracked the alterations, amendments, and falsifications made to the falsified medical records. During this time, **MAY** and/or her co-conspirators updated the summary document to reflect the alterations, amendments, and falsifications that **MAY** and/or her co-conspirators made to the falsified medical records.

10. Between August 2017 and October 2017, **MAY** and her co-conspirators altered, amended, and falsified, in addition to other documents in the falsified medical records, election statements at issue in the third audit by adding dates and/or patient initials.

11. Between August 2017 and October 2017, in contravention of Medicare requirements, **MAY** and her co-conspirators did not indicate in any of the falsified medical records that the original content had been altered, amended, or falsified. Specifically, **MAY** and her co-conspirators did not initial or date the alteration, amendment, or falsification of the medical records to indicate to Medicare and AdvanceMed that such alteration, amendment, or falsification had been made between August 2017 and October 2017, after Company 1 received notice of the third audit.

12. On or before October 14, 2017, **MAY** transmitted the falsified medical records to Law Firm 1. On or around October 14, 2017, Law Firm 1, on behalf of Company 1, transmitted the falsified medical records to AdvanceMed in response to the third audit.

13. On or about February 21, 2018, despite the alterations, amendments, and falsifications that **MAY** and her co-conspirators made to the falsified medical records, AdvanceMed notified Company 1 in a letter that approximately 88% of the reviewed claims failed to meet existing Medicare coverage policies, and were thus denied.

E. OVERT ACTS

In furtherance of the conspiracy, and to accomplish its purposes and objects, **MAY** and her co-conspirators committed, or caused to be committed, in the Eastern District of Louisiana, the following overt acts, among others:

1. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 1's medical record by placing white-out over a line in a summary of prognosis form. Further, **MAY** falsified this summary of prognosis form by then writing a narrative note and dating the note "November 20, 2014." Further, during that same time period, **MAY** signed the narrative note.

2. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 1's medical record by adding Beneficiary 1's initials to Beneficiary 1's election statement. Further, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 1's medical record by adding the date "November 20, 2014" to Beneficiary 1's election statement. Beneficiary 1 died in 2014 and could not have made these changes to the election statement between August 9, 2017 and October 14, 2017.

3. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 2's medical record by adding the date "November 30, 2014" to Beneficiary 2's election statement.

4. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 3's medical record by adding Beneficiary 3's initials to Beneficiary 3's election statement. Further, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 3's medical record

by adding the date "November 25, 2016" to the election statement. Beneficiary 3 died in 2016 and could not have made these changes to the election statement between August 9, 2017 and October 14, 2017.

5. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 4's medical record by adding Beneficiary 4's initials to the election statement. Further, **MAY** and/or her co-conspirators altered, falsified, amended, and made a false entry in Beneficiary 4's medical record by adding the date November 11, 2014 to the election statement. Beneficiary 4 died in 2016 and could not have made these changes to the election statement between August 9, 2017 and October 14, 2017.

6. Between August 9, 2017 and October 14, 2017, **MAY** and/or her co-conspirators altered, amended, falsified, and made a false entry in Beneficiary 5's medical record by writing a narrative note in a summary of prognosis form and dating the note "October 21, 2014." Further, between August 9, 2017 and October 14, 2017, **MAY** signed the narrative note.

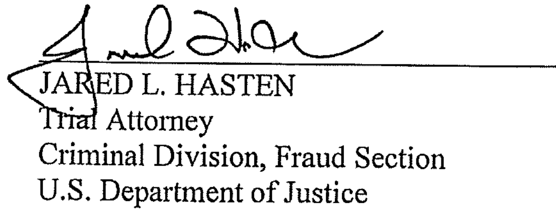
7. On or before October 14, 2017, **MAY** transmitted to Law Firm 1, among other documents, the falsified medical records of Beneficiary 1, Beneficiary 2, Beneficiary 3, Beneficiary 4, and Beneficiary 5.

8. On or about October 14, 2017, Law Firm 1 transmitted, among other documents, the falsified medical records of Beneficiary 1, Beneficiary 2, Beneficiary 3, Beneficiary 4, and

Beneficiary 5 received from **MAY** to AdvanceMed, which was conducting an audit on behalf of the United States Department of Health and Human Services.

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

PETER G. STRASSER
UNITED STATES ATTORNEY



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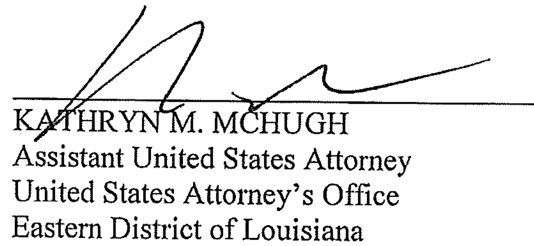

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