UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 3-19-00095
v.	)	
	)	18 U.S.C. § 2
BRIAN RICHEY	)	18 U.S.C. § 1347
DANIEL SEELEY	)	18 U.S.C. § 1349
JONATHAN WHITE	)	

INDICTMENT

THE GRAND JURY CHARGES:

Introduction

At all times material to this Indictment:

1. Medicare was a federally funded health care benefit program that provided benefits to persons who were age 65 or over, or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services ("HHS"). Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries." Medicare was a federal health care benefit program, as defined by Title 18, United States Code, Section 24(b).

2. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required 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. Health care providers were given and provided with online access to Medicare manuals and services bulletins describing proper billing procedures

and bills rules and regulations.

3. Health care providers could only submit claims to Medicare for reasonable and medically necessary services that they rendered.

4. Medicare regulations required health care providers enrolled with Medicare to maintain complete and accurate patient medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for payment were submitted by the physician. Medicare required complete and accurate patient medical records so that Medicare could verify that the services were provided as described on the claim form.

5. To identify services provided to Medicare beneficiaries, health care providers were required to use five-digit identifying codes published annually by the American Medical Association in a manual called the Physician's Current Procedural Terminology, which, along with the identifying codes, or "CPT codes," contained a description of procedures and services. The CPT code for since tendon origin /insertion ("TOI") was 20551.

6. Tenncare, the Tennessee State Medicaid Program ("Medicaid"), was a federal and state health care program providing benefits to individuals who met specified financial and other eligibility requirements and who lacked adequate resources to pay for medical care. Individuals who received benefits under Medicaid were similarly referred to as "recipients."

7. TRICARE was a federal health insurance program that provided coverage for U.S. military members, retirees, and their family members. TRICARE was a federal health care benefit program, as defined by Title 18, United States Code, Section 24(b). Individuals who received benefits from TRICARE were commonly referred to as TRICARE beneficiaries.

8. MedManagement, Inc. ("MMI") was a Tennessee management company with its

principal place of business in Franklin, Tennessee. Pursuant to numerous management agreements, MMI managed Pain MD. Individual A was the sole owner of MMI and had managerial control over the entity.

9. Pain MD was a Delaware limited liability company with a principal place of business in Franklin, Tennessee. Pain MD operates pain and wellness clinics throughout Middle Tennessee, Virginia, and North Carolina. Individual A, who has neither medical training nor certifications, was an indirect, majority owner of Pain MD and served as its President. Individual B was the Chief Medical Officer and co-owner who shared control of Pain MD with Individual A.

10. **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE** (collectively, "the Defendants") were all Nurse Practitioners, licensed by the Tennessee Board of Nursing, who were employed by Individuals A and B at MMI and/or Pain MD clinics.

11. Individual A was an owner, and executive at Pain MD.

12. Individual B was a physician, and served as the Chief Medical Officer, and, later, the Chief Compliance Officer at Pain MD.

COUNT ONE

13. Paragraphs 1 through 12 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

14. Beginning not later than January 2010, and continuing thereafter through December 31, 2015, in the Middle District of Tennessee and elsewhere, **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE** did willfully, knowingly, and unlawfully combine, conspire, confederate, and agree with each other, and with others known and unknown to the Grand Jury, to knowingly and willfully execute a scheme to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money of property in the control of a health care

benefit program in connection with the delivery of payment for health care benefits, items, or services in violation of Title 18, United States Code, Section 1347.

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

Purpose of the Conspiracy

15. It was the purpose of the conspiracy for **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE,** along with other co-conspirators, to unlawfully enrich themselves and their employers, including Individuals A and B, through their own submissions or the submissions of other MMI/Pain MD employees on their behalf, of false and fraudulent claims to Medicare, Medicaid and TRICARE.

16. To accomplish the purpose of the conspiracy, the Defendants represented to Medicare, Medicaid and TRICARE that they provided services to patients there were neither medically necessary nor medically possible—namely TOIs (CPT Code 20551).

Manner and Means

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:

17. Beginning not later than January 2010, and continuing thereafter through December 31, 2015, the Defendants and others submitted and caused the submission of false and fraudulent claims to Medicare, Medicaid, and TRICARE in an amount in excess of approximately $3.5 million for services that were medically unnecessary and not provided as represented.

18. Pain MD held itself out to be an "interventional" pain management practice. This meant that it claimed to provide procedures, including injections and durable medical equipment ("DME"). Pain MD executives, including Individual A and Individual B, would claim that these practices were intended to reduce patient reliance on opioids and other narcotic pain medications.

In fact, these practices were intended to increase revenues for Pain MD and to personally enrich Pain MD providers, including **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE**, and executives, such as Individuals A and B.

19. Individuals A and B would take actions to ensure Pain MD providers increased their "productivity" by providing more and more services, without consideration of whether those services were medically reasonable and necessary. These steps included, but were not limited to: (a) paying productivity based bonuses to providers, paying them more money the more services they provided; (b) locking providers into legally questionable employment agreements that included extended non-compete periods; (c) threatening providers with low productivity numbers with termination and other consequences; (d) sending regular emails, sometimes more than once daily, comparing and ranking providers based on the number of injections or DME devices they had provided; (e) providing erroneous clinical trainings to under-experienced providers instructing them on inappropriate care protocols and anatomically impossible injection procedures; and (f) sending **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE** out to clinics to "train" providers that were not providing a high percentage of injections and DME how to "control" the patient and get them to agree to receive care.

20. **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE** took steps to increase the number of injections and DME items they ordered. These steps included, but were not limited to: (a) providing injections to patients without proper informed consent; (b) providing injections and notating them as Tendon Origin Injections ("TOI") in the medical record, when in fact these injections served no medical purpose and were, in fact, anatomically impossible; (c) telling patients that if they did not receive injections and DME they would be dismissed as patients of Pain MD, which both the provider and the patient understood to be a threat to stop writing

prescriptions for narcotic pain medications; and (d) dismissing patients, and thereby discontinuing their narcotic pain medications, when they refused to receive unnecessary injections and DME.

21. As a result of the false claims submitted and caused to be submitted by **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE**, Medicare, Medicaid, and TRICARE, through contractors, sent reimbursement checks to MMI/Pain MD, monies to which MMI/Pain MD was not entitled.

COUNTS TWO THROUGH FOUR

22. Paragraphs 1 through 12 and 17 through 21 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

23. On or about the dates enumerated below, in the Middle District of Tennessee and elsewhere, the Defendants, **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE,** in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare, among others, 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 Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

24. It was the purpose of the scheme and artifice for **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE,** along with others, to unlawfully enrich themselves and their employers, including Individuals A and B, through their own submissions or the submissions of other MMI/Pain MD employees on their behalf of false and fraudulent claims to Medicare.

25. To accomplish the scheme and artifice, the Defendants represented to Medicare that they provided services, for which their sought reimbursement, to patients there were neither medically necessary nor medically possible—namely TOIs (CPT Code 20551).

Acts in Execution of the Scheme and Artifice

26. On or about the dates enumerated below, in the Middle District of Tennessee, the Defendants, **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare, among others, 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 Medicare:

Count	Defendant	Beneficiary Name	Alleged Date of Service	Claim Receipt Date	Service Purportedly Performed	Billed Amount
TWO	**BRIAN RICHEY**	R.D.	5/7/2014	5/19/2014	Tendon Origin Injection (20551)	$105 (x5) Medicare
THREE	**DANIEL SEELEY**	P.M.	9/24/2014	9/29/2014	Tendon Origin Injection (20551)	$105 (x5) Medicare
FOUR	**JONATHAN WHITE**	B.D.	4/15/2014	5/13/2014	Tendon Origin Injection (20551)	$105 (x5) Medicare

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

FORFEITURE ALLEGATION

27. The allegations contained in this Indictment are re-alleged and incorporated by reference as if fully set forth in support of this forfeiture allegation.

28. Upon conviction of the offenses alleged in Counts One through Four in this Indictment, **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE** shall forfeit to the United States of America pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and Title 18, United States Code, Section 981(a)(1)(C):

A. any property, real or personal, constituting or derived from or traceable to the gross proceeds obtained directly or indirectly as a result of the offense of conviction; and

B. a money judgment in an amount to be determined, representing the amount of gross proceeds obtained directly or indirectly as a result of the offense of conviction.

29. If, any of the property described above, as a result of any act or omission of **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE**:

a. cannot be located upon 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 the forfeiture

of any other property of **BRIAN RICHEY**, **DANIEL SEELEY**, and **JONATHAN WHITE**, up to the value of said property listed above as subject to forfeiture.

A TRUE BILL:

[redacted]
GRAND JURY FOREPERSON

DONALD Q. COCHRAN
UNITED STATES ATTORNEY

SARA BETH MYERS
ASSISTANT UNITED STATES ATTORNEY

ROBERT ZINK
ACTING CHIEF, FRAUD SECTION

JOE BEEMSTERBOER
DEPUTY CHIEF, FRAUD SECTION

ANTHONY BURBA
TRIAL ATTORNEY, FRAUD SECTION