

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

**UNITED STATES OF AMERICA** \* **CRIMINAL NO. 15-61**

**VERSUS** \* **SECTION: "E" (5)**

**JEFF KOON** \*

\* \* \*

**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 charge in Count 24 of the superseding indictment (SI) (18 USC §§ 1347 and 2):

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 SI, Abide Home Care Services, Inc. (Abide) was an eligible Medicare provider able to bill 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 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

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out an RN 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. An RN first determines if 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. Dodson would testify that some diagnoses result in higher reimbursements to the provider than other diagnoses. Other factors that are determined in the OASIS are whether the patient can perform certain activities of daily living, such as self-toileting. Generally, the sicker and the more disabled the patient was, the more the agency was reimbursed for providing services. Dodson would testify that after the RN completes an OASIS for a patient, a plan of care (POC) or CMS 485, is created. The POC contains the patients' diagnoses, 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/her signature. After the agency obtains the physician's signature, only then can the 60-day period of home health begin.

3. Evidence provided by Abide employees, 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 services. Evidence would also establish that Abide relied on employees such as **JEFF KOON** to compromise their independent medical judgment, observations, and ethics to turn a blind eye to the ongoing scheme to defraud Medicare.

4. Abide patient LiSc would testify that he/she began seeing co-defendant Michael Jones in about November 2013, because **KOON** told him/her that LiSc's own physician was "no

longer with Abide.” **KOON** told LiSc about Dr. Jones and made an appointment with Dr. Jones on LiSc’s behalf. Co-defendant Larry Taylor picked up LiSc and brought him/her to Dr. Jones. LiSc stated that when he/she saw Dr. Jones, it was for a “bad” knee and Hurricane Katrina-related depression. LiSc would testify that he/she went anywhere he/she wanted with the use of a cane, including to church, the doctor, and other places. LiSc said he/she was restricted only by his/her lack of transportation. LiSc would testify that he/she stopped seeing Dr. Jones because LiSc wanted a physician who was closer. LiSc would testify that when **KOON** came to see him/her every Monday, he spent about 30 minutes, only took his/her vital signs and did nothing else because LiSc “didn’t need anything else.”

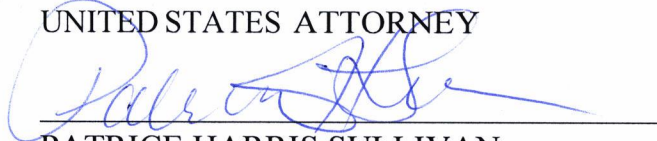
5. A verbal order/progress report dated April 30, 2013, would be introduced into evidence. That document falsely indicates “pt request to change MD from Dr. Wiley to Dr. Jones.” The paperwork for the home health episode dated 4/26/13 – 6/24/13, would illustrate blood pressures which a medical expert would testify were within normal ranges. But a physician order dated June 20, 2013, digitally signed by **KOON** would be introduced into evidence on which **KOON** falsely indicated that LiSc needed to be recertified for home health for abnormal blood pressure and psychotic behavior. LiSc would testify that he/she was not experiencing either condition. Notes from the previous episode would provide no basis on which **KOON** could conclude that LiSc was experiencing either psychosis or a blood pressure problem.

6. Documentation supporting the home health episode in Count 24, including CMS Form 486, the OASIS and the POC/485, all of which were created and certified by **KOON** would indicate a primary diagnosis of rheumatoid arthritis when absolutely no documentation existed, and no observation could have been made, leading to a medical conclusion by **KOON** that LiSc suffered from rheumatoid arthritis. Testimony from a medical expert who examined all medical

records available for LiSc would support that LiSc did not suffer from, and no medical observation could support, not only the rheumatoid arthritis diagnosis, but the additional diagnoses that **KOON** indicated on the OASIS and POC/485 he observed for LiSc for the home health episode in Count 24.

7. Wendy Naquin would testify that Abide billed Medicare \$3,280 for providing the home health episode dated 7/25/13 – 8/23/13, to Medicare beneficiary LiSc, and Medicare paid \$2,135. The episode included a primary diagnosis of rheumatoid arthritis, and secondary diagnoses of neuropathy in col vasc disc, benign hypertension, depressive disorder NEC, pernicious anemic and stomach function disorder.

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\_\_\_\_\_  
JEFF KOON  
Defendant  
Date: \_\_\_\_\_

\_\_\_\_\_  
THOMAS DAMICO  
Counsel for Defendant  
Date: \_\_\_\_\_