

United States Court
Southern District of Texas
FILED

MAR 21 2018

David J. Bradley, Clerk of Court

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

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CRIM. NO.

v.

18 CR 164

**GARY SPANGLER, M.D.
DEFENDANT**

THE GRAND JURY CHARGES:

INDICTMENT

General Allegations

1. The Medicare Program (Medicare) was a federally funded healthcare program designed to provide medical care for individuals who were over the age of 65 or had a disability. The Medicare payment system is composed of two divisions: Medicare Part A (hospital insurance) and Medicare Part B (medical insurance). Medicare Part A helped pay for inpatient hospital stays, nursing facility services, home health services, and hospice care. Medicare Part B helped pay for physician services, outpatient hospital services, medical equipment and supplies, and other health care services and supplies, including but not limited to diagnostic testing. Medicare only provided payment assistance for medical care, services, or procedures that were both reasonable and medically necessary.

2. The Medicaid Program (Medicaid) is a state-administered health insurance program funded by the United States Government and by the state of Texas. The Medicaid program helps pay for medical procedures and services provided to individuals deemed eligible under state low-income programs. Medicaid only assists in payment of services that are both reasonable and medically necessary. The Texas Medicaid program is a cooperative federal-state program that provides medical assistance for the indigent. The State of Texas contracted with Texas Medicaid & Healthcare Partnership (TMHP) to process and pay claims submitted by health care providers. Health care providers can submit or cause the submission of claims to Medicaid through TMHP.

3. The Medicaid Program in Texas may pay a portion of a claim originally submitted to Medicare if the patient has both Medicare and Medicaid coverage. Generally, this portion is 20 percent of the Medicare allowance for the billed charge. Such claims are sent to Medicaid after being processed by Medicare. Medicaid will pay its portion if Medicare originally allowed the claim. Claims can be submitted directly to Medicaid if the Medicaid recipient is not also a Medicare beneficiary.

4. Individuals who qualified for Medicare and Medicaid were commonly referred to as beneficiaries. Each beneficiary was given a Medicare identification number. Centers for Medicare and Medicaid Services (CMS) administered Medicare and Medicaid. CMS was a federal agency under the United States

Department of Health and Human Services. Health care providers could submit or cause the submission of claims to Medicare either, directly or through a billing company.

5. Medicare and Medicaid were “health care benefit program(s)” as defined by Title 18, United States Code, Section 24(b).

6. Hospitals, physicians, and other healthcare providers who provided services to Medicare and Medicaid beneficiaries were referred to as providers. Providers, such as DR. GARY SPANGLER, wishing to participate in Medicare or Medicaid were required to submit an application in which the providers agreed to comply with all related laws and regulations. Providers that were approved by Medicare or Medicaid received a provider number. Health care providers with a Medicare provider number could file claims with Medicare or Medicaid to obtain reimbursement for reasonable and medically necessary services rendered to beneficiaries.

7. DR. GARY SPANGLER was a physician licensed by the State of Texas to practice medicine. DR. SPANGLER owned and/or operated numerous health care related businesses, including, but not limited to, Spangler Medical Enterprises PA, which operates under the name of Bay Area House Calls, in Dickinson, Southern District of Texas.

8. Intravenous Chelation therapy is a medical treatment for toxicity in which an intravenous solution consisting of a chelating agent is introduced into the bloodstream to remove heavy metals, including, but not limited to, lead from the body. The only medically approved usage of chelation therapy is for removing heavy metals from the body. Since Medicare only reimburses for medically necessary services, billing for chelation therapy should only follow a diagnosis of high blood lead levels. The use of chelation in patients who do not require it is dangerous as it can lead to many complications, including, but not limited to, kidney failure.

COUNT 1
Healthcare Fraud
(Violation of 18 U.S.C. §§ 1347 and 2)

9. Paragraphs 1 through 8 are re-alleged and incorporated by reference as if fully set forth herein.

Scheme to Defraud

10. From in or around 2011 through the present in the Houston Division of the Southern District of Texas, and elsewhere,

DR. GARY SPANGLER,

defendant, aided and abetted by others known and unknown to the Grand Jury, in connection with the delivery of and payment for healthcare benefits, items and services, did knowingly and willfully execute and attempt to execute, a scheme and

artifice to defraud a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 and Medicaid.

Manner and Means

11. It was the purpose and object of the scheme to obtain money from the Medicare Program by performing un-necessary treatments on a large number of Medicare and Medicaid patients.

12. It was part of the scheme that the Defendant routinely caused blood tests to be ordered for the presence of lead.

13. It was part of the scheme that the Defendant ordered his staff to administer chelation therapy to patients, who did not have toxic levels of lead in their blood in order to bill Medicare and Medicaid for the services.

14. It was part of the scheme that the Defendant made no effort to discover the source of the alleged “lead toxicity.”

15. It was part of the scheme that patients were left unattended in their homes during chelation therapy and many patients removed the intravenous lines at the end of the treatment.

16. It was part of the scheme that patients were billed for services when Dr. SPANGLER was not in the State.

17. Defendant, DR. GARY SPANGLER, from July 2011 through the present, caused over \$69,858,707 in claims to be submitted to Medicare for unnecessary intravenous chelation treatments and he received approximately \$13,215,329 from Medicare and approximately \$112,121 from Medicaid based on false claims.

In violation of Title 18, United States Code, Section 1347 and 2.

COUNTS 2-12
Wire Fraud
(Violations of 18 U.S.C. §§ 1343 and 2)

18. The factual allegations of paragraphs 1-8 of this Indictment are re-alleged and incorporated in counts 2-12.

Scheme to Defraud

19. From in or about 2014 to the present, in the Southern District of Texas, **DR. GARY SPANGLER,** aided and abetted by others, known and unknown to the grand jury, did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, affecting Medicare and private insurance providers, and in the execution of said scheme and artifice, transmitted or cause to be transmitted by means of wire

in interstate commerce, writings, signs, signals, pictures and sounds for the purpose of executing said scheme or artifice to defraud in violation of Title 18, United States Code, Section 1343.

Manner and Means

20. DR. SPANGLER caused his employees to bill Medicare for services that he did not provide, by listing him as the “rendering provider.”

21. DR. SPANGLER was not in the area or not in the State of Texas during the treatment of patients.

22. Specifically, Defendant, DR. GARY SPANGLER, caused the following billing to Medicare, transmitted by means of wire in interstate commerce, for services that he could not have performed.

Ct	DATE	Approximate Amount billed to Medicare
2	May 22 to 27, 2013	\$15,920
3	August 29 to September 1, 2014	\$106,017
4	December 24 to 26, 2014	\$156,118
5	May 13 to 15, 2015	\$348,578
6	September 3 to 7, 2015	\$309,157
7	November 23 to 29, 2015	\$587,126
8	March 6 to 8, 2016	\$148,022

9	May 25 to 30, 2016	\$212,499
10	November 19 to 27, 2016	\$881,896
11	December 23 to 26, 2016	\$155,815
12	March 31 to April 4, 2017	\$61,936

In violation of Title 18, United States Code, Section 1343 and 2.

COUNTS 13-18
Wire Fraud
(Violations of 18 U.S.C. §§ 1343 and 2)

Paragraphs 1-8 are re-alleged and incorporated herein as though fully set forth in counts 13-18.

Scheme to Defraud

23. From in or about 2014 to the present, in the Southern District of Texas,

DR. GARY SPANGLER,

aided and abetted by others, known and unknown to the grand jury, did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, affecting Medicare and private insurance providers, and in the execution of said scheme and artifice, transmitted or cause to be transmitted by means of wire in interstate commerce, writings, signs, signals, pictures and sounds for the purpose of

executing said scheme or artifice to defraud in violation of Title 18, United States Code, Section 1343.

Manner and Means

24. Defendant, DR. GARY SPANGLER, caused the billing of services for more hours than he could provide in a single 24 hour day.

25. Specifically, Defendant, DR. GARY SPANGLER, caused the following billing for services to Medicare, transmitted by means of wire in interstate commerce, that he could not have performed.

Ct	DATE	Approximate Amount billed to Medicare	Hours of service
13	September 30, 2015	\$194,161	29.32
14	October 2, 2015	\$215,767	31.18
15	December 3, 2015	\$100,967	35.87
16	December 31, 2015	\$16,792	28.92
17	September 30, 2016	\$70,022	27.8
18	October 14, 2016	\$59,846	28.42

In violation of Title 18, United States Code, Section 1343 and 2.

COUNTS 19-25
Money Laundering
(Violations of 18 U.S.C. § 1957)

Paragraphs 1-8 are re-alleged and incorporated herein as though fully set forth in counts 19 - 25.

26. On or about the following dates, in the Southern District of Texas,

DR. GARY SPANGLER

did knowingly cause and engage in, and attempt to cause and engage in, monetary transactions affecting interstate commerce in criminally derived property of a value greater than \$10,000, such funds having been derived from specified unlawful activity, that is, health care fraud and wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1347.

Ct	DATE	Monetary Transaction
19	July 7, 2017	Transfer of \$220,782.62 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Alamo Title for the purchase of real property on Briarglen Drive in League City, Texas
20	August 8, 2017	Transfer of \$3,000,000.00 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Merrill Lynch account x2024
21	August 21, 2017	Transfer of \$363,316.80 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Alamo Title for the purchase of real property on County Road 182 in Alvin, Texas

22	August 24, 2017	Transfer of \$2,500,000.00 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Merrill Lynch account x2024
23	September 6, 2017	Purchase of a Cashier's Check to the order of Alamo Title Company in the amount of \$161,503.13 withdrawn from Spangler Medical Enterprises Wells Fargo Bank account x6316 in order to purchase the real property on Travis Street in Webster, Texas
24	September 27, 2017	Transfer of \$169,498.97 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Alamo Title for the purchase of real property on Cole Street in Webster, Texas
25	September 27, 2017	Transfer of \$134,995.57 from Spangler Medical Enterprises Wells Fargo Bank account x6316 to Alamo Title for the purchase of real property on E. Walker Street in League City, Texas

All in violation of Title 18, United States Code, Section 1957 and 2.

NOTICE OF FORFEITURE
(18 U.S.C. § 982(a)(7))

Pursuant to Title 18, United States Code, Section 982(a)(7), the United States gives notice to Defendant, DR. GARY SPANGLER, that in the event of the conviction of the offense charged in Count One of the Indictment, all property, real or personal, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to such offense, is subject to forfeiture.

NOTICE OF FORFEITURE
(18 U.S.C. § 981(a)(1)(C); 28 U.S.C. § 2461(c))

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), the United States gives notice to Defendant, DR. GARY SPANGLER, that in the event of conviction of the any of the offenses charged in Counts Two through Eighteen of this Indictment, all property, real or personal, which constitutes or is derived from proceeds traceable to such offense, is subject to forfeiture.

NOTICE OF FORFEITURE
(18 U.S.C. § 982(a)(1))

Pursuant to Title 18, United States Code, Section 982(a)(1), the United States gives notice to Defendant, DR. GARY SPANGLER, that in the event of conviction of the any of the offenses charged in Counts Nineteen through Twenty-Five of this Indictment, all property, real or personal, involved in money laundering offenses or traceable to such property, is subject to forfeiture.

PROPERTY SUBJECT TO FORFEITURE

Defendant, DR. GARY SPANGLER, is further notified that the property subject to forfeiture includes, but is not limited to,

1. the following real property, together with all improvements, buildings, structures and appurtenances:

- (a) Real property on Briarglen Drive in League City, Texas, which is legally described as follows:

LOT THREE (3), IN BLOCK ONE (1), OF BRIARGLEN, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 18, PAGE 474, OF THE MAP RECORDS OF GALVESTON COUNTY, TEXAS.

The record titleholder is Defendant Gary Spangler.

- (b) Real property on Travis Street in Webster, Texas, which is legally described as follows:

LOT THIRTY-EIGHT (38), IN BLOCK TWO (2), OF WEBDALE, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 85, PAGE 51 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

The record titleholder is Defendant Gary Spangler.

- (c) Real property on County Road 182 in Alvin, Texas, which is legally described as follows:

A0490 A C H& B, Tract 1-1D1-2, Acres 12.00

The record titleholder is Defendant Gary Spangler.

- (d) Real property on E. Walker Street in League City, Texas, which is legally described as follows:

Abst 3 Page 15 Lot 1 & NW 46.5 Ft of Lot 2 Lawrence 3rd Addn

The record titleholder is Defendant Gary Spangler.

- (e) Real property on Cole Street in Webster, Texas, which is legally described as follows:

LOT FOUR (4), OF SILVER LAKE CONDOMINIUMS, A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED UNDER FILM CODE NO. 380068 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

The record titleholder is Defendant Gary Spangler.

2. the Merrill Lynch investment account held in the name of Spangler Medical Enterprises with an account number ending in 2024.

MONEY JUDGMENT AND SUBSTITUTE ASSETS

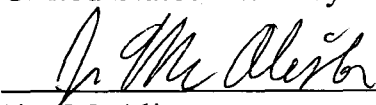
The United States intends to seek the imposition of a money judgment against the Defendant. The Defendant is notified that in the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the Defendant up to the total value of the property subject to forfeiture.

A TRUE BILL:

Original signature on File

Foreperson of the Grand Jury

RYAN K. PATRICK
United States Attorney

By: 
Jim McAlister
Assistant United States Attorney