

visit, location of clinic visited, patient information, insurance to be billed, type of visit, diagnosis, and identification of the service(s) rendered. The information recorded on this Patient Visit Log was utilized by staff members of the Neurology and Pain Center to complete and electronically submit the CMS Claim Form 1500 to First Coast for reimbursement from Medicare under the designated CPT codes.

39. Under Medicare regulations, as a condition of participation, providers were required to maintain for a period of five years after the date of discharge of a patient, clinical records on all patients completely and accurately reflecting, among other things, sufficient information to identify the patient and to justify the diagnosis and treatment, and all documented evidence of the assessment of the needs of the patient, an appropriate plan of care, and the care and services furnished.

40. Medicare Part B allowed coverage for Paravertebral Facet Joint Block Injections when they were medically reasonable and necessary as described in a Local Coverage Determination (LCD) maintained by First Coast.

41. According to the LCD for Paravertebral Facet Joint Blocks (L29252), "during a paravertebral joint block procedure, a needle is placed in the facet joint or along the medial branches that innervate the joints under fluoroscopic guidance and a local anesthetic and/or steroid is injected."

42. Standards of medical practice dictated that the performance of a Paravertebral Facet Joint Block (Injection) required fluoroscopic guidance because the physician must have been able to visualize the performance of the facet joint block/injection. Fluoroscopic guidance required the use of specialized equipment (e.g., a C-Arm) to perform the procedure.

43. The Defendants routinely billed Medicare Part B for Paravertebral Facet

Joint Blocks (Injections) under CPT code 64475 (defined as "lumbar or sacral, single level") and CPT code 64476 (defined as "lumbar or sacral, each additional level").

44. Medicare Part B allowed coverage for medically necessary physical therapy services only when: (i) the therapy was performed to restore the patient's level of function which had been lost or reduced by illness or injury; (ii) the therapy was reasonable and necessary for the treatment of a patient's condition; and, (iii) there was an expectation that the patient's condition would improve significantly in a reasonable and generally predictable period of time. The CPT codes for physical therapy services routinely billed to Medicare Part B under defendant FRIEDLANDER's provider number included 97112, 97140, and 97530.

45. In order to be covered by Medicare Part B, physical therapy services must have been furnished either by, or "incident to" the service of a physician, physician assistant, clinical nurse specialist, or nurse practitioner when those professionals may perform physical therapy services under State law. When physical therapy was provided "incident to" the services rendered by a physician, physician assistant, clinical nurse specialist, or nurse practitioner, the service and the person who furnished the service must have met the standards and conditions that applied to physical therapy and physical therapists in the State in which the services were provided. When physical therapy was provided "incident to" the services rendered by the physician, Medicare regulations required the physician to provide direct supervision over the administration of the service, which meant that the physician must have been present in the office suite and immediately available to furnish assistance and direction throughout the performance of the physical therapy procedure.

46. Massage therapy services furnished by a massage therapist were not

covered by Medicare as a massage therapist did not meet the education or skill level requirements of a physical therapist. In addition, message therapy services furnished by a massage therapist did not meet the standards and conditions that applied to physical therapy and therefore were not covered by Medicare.

47. Medicare Part B allowed coverage and payment for evaluation and management (E/M) services (hereinafter "office visits") provided to established patients in a physician's office. Office visits were billed under, among others, CPT codes 99211, 99212, 99213, 99214, and 99215.

48. Medicare Part B reimbursed health care providers at increasing rates based upon the level of complexity indicated by the office visit code. For example, CPT code 99212 was used to bill for office visits in which a physician typically spent ten minutes face-to-face with an established patient and/or the patient's family and when a patient's problem was self-limited or involved straightforward medical decision-making. In contrast, CPT code 99215 was used for more complex office visits and may have been used to bill for services provided to an established patient when a physician spent increased face-to-face time with a patient and performed at least two of the following three components: a detailed history, a detailed examination, and medical decision-making of moderate complexity. CPT code 99215 was used to bill for office visits in which a physician typically spent 40 or more minutes face-to-face with the patient and/or the patient's family on a problem of moderate to high severity. When a health care provider charged Medicare for an office visit that was reimbursable at a higher rate than appropriate for the service actually rendered, the provider had "upcoded" the provider's services. Upcoding resulted in the provider receiving more money than the provider was entitled to receive.

49. Medicare Part D allowed Medicare coverage for prescription drugs through insurance plans that contracted with CMS. As a matter of process, when prescriptions were filled by a beneficiary, pharmacies submitted claims to the plans. The plans paid the pharmacies. The plans then reconciled with CMS through the submission of prescription drug event (PDE) records. The PDE record contained prescription drug cost and payment data that enabled CMS to make payment to the plans and administer the Part D benefit.

50. Jeffrey Friedlander, Inc. was a Florida corporation with offices located in Orlando, Tampa, Lakeland, and Sarasota, Florida, and was operated by Defendant FRIEDLANDER and Defendant WUBBENA. According to the Florida Department of State, Division of Corporations, Jeffrey Friedlander, Inc. was conducting business as "Neurology and Pain Center".

51. Defendant FRIEDLANDER maintained a bank account in the name of Jeffrey Friedlander, Inc., for which he and Defendant WUBBENA were authorized signatories.

52. The defendants electronically submitted, or caused to be submitted, HCFA/CMS Claim Forms 1500 for CPT codes 64475, 64476, 97112, 97140, 97530, 99213, 99214, and 99215 from the Neurology and Pain Center offices in Orlando, Tampa, Lakeland, and Sarasota to First Coast.

B. The Conspiracy

53. From an unknown date, but at least beginning on or about January 2006, and continuing through on or about April 6, 2009, in the Middle District of Florida, the defendants,

JEFFREY FRIEDLANDER,
and
TROY WUBBENA,

knowingly and intentionally conspired and agreed with other persons known and unknown to the Grand Jury to knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, and to obtain by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, a health care benefit program affecting commerce, that is, Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

C. Manner and Means

54. The Grand Jury adopts, realleges, and incorporates herein the allegations in paragraphs 19 through 24 of the Manner and Means to Count One of the Superseding Indictment as if set out fully herein.

55. The substance of the scheme and artifice, and the manner and means utilized to accomplish its ends, included among other things, the following:

56. It was part of the scheme and artifice to defraud that the Defendants would, and did, cause claims for Medicare reimbursement under CPT codes 64475 and 64476, indicating that they had performed Paravertebral Facet Joint Block Injections, which required fluoroscopic guidance, whereas in truth, and in fact, fluoroscopic guidance had not been performed at all, and when the services billed as Paravertebral Facet Joint Block Injections were not Paravertabral Facet Joint Block Injections, but rather were trigger point injections that were performed by unlicensed non-medical persons outside the presence and supervision of the physician provider.

57. It was part of the scheme and artifice to defraud that the Defendants would, and did, cause claims for Medicare reimbursement under CPT codes 99213, indicating that they had performed office visits for the evaluation and management of an established patient, which involved at least two of the following three components: an expanded problem focused history, an expanded problem focused examination, and medical decision making of low complexity, whereas in truth, and in fact, limited or no such evaluation and management had been performed, and office visits that were performed were performed by unlicensed non-medical persons outside the presence and supervision of the physician provider.

58. It was part of the scheme and artifice to defraud that the Defendants would, and did, select and cause to be selected CPT codes 99214 and 99215 on CMS Claim Form 1500, indicating that they had performed office visits for the evaluation and management of an established patient, which involved at least two of the three following components: a detailed history, a detailed examination, and medical decision making of moderate complexity, whereas in truth, and in fact, limited or no such evaluation and management had been performed, and office visits that were performed were performed by unlicensed non-medical persons outside the presence and supervision of the physician provider.

59. It was further part of the scheme and artifice to defraud that the Defendants would, and did, select and cause to be selected CPT codes 97112, 97140, and 97530, on CMS Claim Form 1500, indicating that physical therapy services had been provided when, in fact, the Defendants did not render the physical therapy services, actively participate in the physical therapy treatment, manage the course of physical therapy treatment, or supervise licensed or otherwise qualified persons

rendering the physical therapy services to any patient for which the services were billed under defendant FRIEDLANDER's provider number.

60. It was further part of the scheme and artifice to defraud that the Defendants would, and did, hire and use massage therapists to perform the physical therapy services billed to Medicare, when such massage therapists were unlicensed and unqualified to administer physical therapy services to patients.

61. It was further part of the scheme and artifice to defraud that the Defendants would, and did, falsely and fraudulently enter, and cause to be entered, false information in patient files and on Patient Visit Logs, for the purpose of creating fraudulent documentation to support claims submitted to Medicare.

62. It was further part of the scheme and artifice to defraud that the Defendants would, and did, prescribe and cause to be prescribed controlled substances to Medicare beneficiaries which were medically unnecessary, and which were furnished in conscious disregard as to whether they were medically necessary, the issuance of which caused claims to be submitted to the Medicare Part D Program by the pharmacies.

63. It was further part of the scheme and artifice that the Defendants would, and did, falsely and fraudulently make statements and otherwise conduct these activities in a manner calculated to conceal and cover up the existence and activities of the scheme and artifice.

All in violation of Title 18, United States Code, Sections 1349 and 1347.

COUNTS FIFTEEN THROUGH FORTY-SEVEN

(Health Care Fraud –18 U.S.C. § 1347 and 2)

64. The Grand Jury adopts, realleges, and incorporates herein the allegations

in paragraphs 25 through 52 of the Introduction to Count Fourteen of the Superseding Indictment as if set out fully herein.

C. The Scheme and Artifice to Defraud

65. From an unknown date, but at least beginning on or about January 2006, and continuing through on or about April 6, 2009, in the Middle District of Florida, the defendants,

JEFFREY FRIEDLANDER
and
TROY WUBBENA

did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, and to obtain by means of materially false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, a health care benefit program affecting commerce, that is, Medicare, in connection with the delivery of and payment for health care benefits, items, and services, namely by submitting and causing to be submitted, false and fraudulent claims to Medicare for services in connection with the medical business known as "Neurology and Pain Center."

D. Manner and Means

66. The Grand Jury adopts, realleges, and incorporates herein the allegations in paragraphs 54 through 63 of the Manner and Means to Count Fourteen of the Superseding Indictment as if set out fully herein.

E. Execution of the Scheme and Artifice

67. On or about the dates set forth below in each Count, in the Middle District of Florida, the Defendants, as set forth below in each Count, for the purpose of

executing the aforementioned scheme and artifice, and attempting to do so, knowingly and willfully caused, and aided and abetted in causing, the following Medicare Part B claims in the amounts and under the CPT codes, as set forth below in each Count, for reimbursement to be submitted to First Coast:

COUNTS FIFTEEN THROUGH NINETEEN

Physical Therapy (CPT 97112)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
15	JEFFREY FRIEDLANDER, TROY WUBBENA	3/8/2007	3/28/2007	RA	\$21.58
16	JEFFREY FRIEDLANDER, TROY WUBBENA	4/9/2007	5/16/2007	RO	\$21.58
17	JEFFREY FRIEDLANDER, TROY WUBBENA	4/23/2007	7/18/2007	CC	\$21.58
18	JEFFREY FRIEDLANDER, TROY WUBBENA	9/10/2007	10/11/2007	TG	\$21.58
19	JEFFREY FRIEDLANDER, TROY WUBBENA	9/12/2007	10/15/2007	PK	\$21.58

COUNTS TWENTY THROUGH TWENTY-SIX

Physical Therapy (CPT 97140)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
20	JEFFREY FRIEDLANDER, TROY WUBBENA	3/29/2007	4/9/2007	RA	\$19.58
21	JEFFREY FRIEDLANDER, TROY WUBBENA	4/9/2007	5/16/2007	RO	\$19.58
22	JEFFREY FRIEDLANDER, TROY WUBBENA	4/23/2007	7/18/2007	CC	\$19.58
23	JEFFREY FRIEDLANDER, TROY WUBBENA	9/10/2007	10/11/2007	TG	\$19.58

24	JEFFREY FRIEDLANDER, TROY WUBBENA	9/10/2007	10/11/2007	TG	\$19.58
25	JEFFREY FRIEDLANDER, TROY WUBBENA	9/12/2007	10/15/2007	PK	\$19.58
26	JEFFREY FRIEDLANDER, TROY WUBBENA	9/12/2007	10/15/2007	PK	\$19.58

COUNTS TWENTY-SEVEN THROUGH THIRTY

Physical Therapy (CPT 97530)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
27	JEFFREY FRIEDLANDER, TROY WUBBENA	3/8/2007	3/28/2007	RA	\$44.30
28	JEFFREY FRIEDLANDER, TROY WUBBENA	3/8/2007	3/28/2007	RO	\$44.30
29	JEFFREY FRIEDLANDER, TROY WUBBENA	3/12/2007	4/5/2007	CC	\$44.30
30	JEFFREY FRIEDLANDER, TROY WUBBENA	3/13/2007	4/5/2007	TG	\$44.30

COUNTS THIRTY-ONE THOUGH THIRTY-THREE

Office Visits (CPT 99213)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
31	JEFFREY FRIEDLANDER, TROY WUBBENA	2/21/2007	3/14/2007	RO	\$46.45
32	JEFFREY FRIEDLANDER, TROY WUBBENA,	6/12/2008	7/11/2008	SN	\$46.88
33	JEFFREY FRIEDLANDER, TROY WUBBENA,	8/21/2008	10/7/2008	SN	\$46.88

COUNTS THIRTY-FOUR THROUGH FORTY-SIX

Office Visits (CPT 99214)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
34	JEFFREY FRIEDLANDER, TROY WUBBENA	4/25/2007	7/18/2007	CC	\$70.50
35	JEFFREY FRIEDLANDER, TROY WUBBENA	4/25/2007	7/18/2007	RA	\$70.50
36	JEFFREY FRIEDLANDER, TROY WUBBENA	7/19/2007	8/7/2007	SN	\$70.50
37	JEFFREY FRIEDLANDER, TROY WUBBENA	4/15/2008	5/5/2008	PK	\$70.62
38	JEFFREY FRIEDLANDER, TROY WUBBENA	4/30/2008	5/14/2008	CC	\$70.62
39	JEFFREY FRIEDLANDER, TROY WUBBENA	5/22/2008	6/11/2008	SN	\$70.62
40	JEFFREY FRIEDLANDER, TROY WUBBENA	8/18/2008	9/4/2008	RM	\$70.62
41	JEFFREY FRIEDLANDER, TROY WUBBENA	9/8/2008	10/7/2008	TG	\$70.62
42	JEFFREY FRIEDLANDER, TROY WUBBENA	10/14/2008	11/13/2008	RM	\$70.62
43	JEFFREY FRIEDLANDER, TROY WUBBENA	10/23/2008	12/17/2008	SN	\$70.62
44	JEFFREY FRIEDLANDER, TROY WUBBENA	12/29/2008	1/19/2009	TG	\$70.62
45	JEFFREY FRIEDLANDER, TROY WUBBENA	1/20/2009	2/26/2009	PK	\$72.99
46	JEFFREY FRIEDLANDER, TROY WUBBENA	2/4/2009	2/26/2009	CC	\$72.99

COUNT FORTY-SEVEN

Office Visits (CPT 99215)

Count	Defendants	Date of Service	Claim Submission Date	Patient Initials	Amount Paid
47	JEFFREY FRIEDLANDER, TROY WUBBENA	3/7/2007	4/5/2007	RA	\$120.00

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

FORFEITURE

1. The allegations contained in Counts One through Forty-Seven of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 21, United States Code, Section 853 and Title 18, United States Code, Section 982(a)(7).

2. From their engagement in any and all of the violations alleged in Counts One through Thirteen of this Superseding Indictment, punishable by imprisonment for more than one year, the defendants,

JEFFREY FRIEDLANDER,
TROY WUBBENA,
CARL EHRESMAN
and
SARAH EHRESMAN,

shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853(a)(1) and (2), all of their interest in:

- a. property constituting and derived from any proceeds the defendants obtained, directly or indirectly, as a result of such violations;
- b. property used and intended to be used in any manner or part to

commit and to facilitate the commission of such violations.

The specific property to be forfeited includes, but is not limited to:

- a. Defendant FRIEDLANDER's DEA Registration Numbers BF9679258, BF9592521 and BF9592569;
- b. Defendant FRIEDLANDER's Florida Medical License #ME43369;
- c. Defendant WUBBENA's Florida Physician Assistant License #PA9104389; and
- d. A money judgment in the amount of the gross proceeds received by the defendants as a result of the violations charged in Counts One through Thirteen.

3. From their engagement in any and all of the violations alleged in Counts Fourteen through Forty-Seven of this Superseding Indictment, the defendants,

JEFFREY FRIEDLANDER
and
TROY WUBBENA,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), any and all right, title, and interest they may have in any property, real or personal, that constitutes, or is derived directly or indirectly from gross proceeds traceable to the commission of the offenses, including, but not limited to, a sum of money equal to \$275,506.45, representing the amount of proceeds obtained as a result of such offenses.

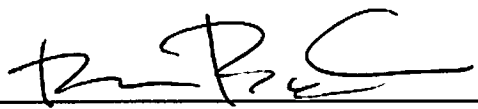
4. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the 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 which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), which are also incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL,



Foreperson

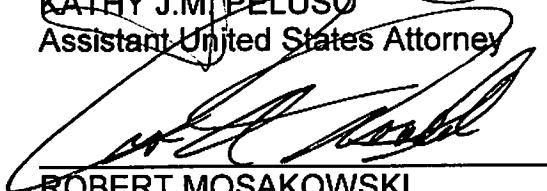
A. BRIAN ALBRITTON
United States Attorney

By:



KATHY J.M. PELUSO
Assistant United States Attorney

By:



ROBERT MOSAKOWSKI
Assistant United States Attorney
Chief, Tampa Criminal Division