

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

UNITED STATES OF AMERICA

SUPERSEDING INDICTMENT

v.

NO. _____

MED 1ST OF EVANSVILLE, P.C.
KAREN POELING
MITCHEL STUKEY

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 1956(h)
18 U.S.C. § 1957
18 U.S.C. § 982(a) (7)
21 U.S.C. § 829
21 U.S.C. § 843(a)(2)
21 U.S.C. § 846
21 U.S.C. § 853(a)(1)
21 U.S.C. § 853(a)(2)

The Grand Jury charges:

COUNT 1
(Conspiracy to Commit Health Care Fraud)

Beginning on a date unknown to the Grand Jury, but no later than in or about January 2008, and continuing until at least in or about May 2014, in the Western District of Kentucky, Jefferson County, Kentucky, defendants, **MED 1ST OF EVANSVILLE, P.C.**, **MITCHEL STUKEY** and **KAREN POELING**, and other conspirators, both known and unknown to the Grand Jury, did knowingly and willfully, combine, conspire, confederate, and agree with each other and others, known and unknown to the Grand Jury, to commit the following offense against the United States, a federal violation of law, to wit: to knowingly execute and attempt to execute a scheme and artifice to defraud health care benefit programs, and to obtain by means of false and fraudulent pretenses, representations, or promises, any money and property owned by, and under the custody or control of, health care benefit programs, in connection with the delivery of or payment for health care benefits, items, and services by causing the submission of false and fraudulent claims to Medicaid, Medicare, Anthem, and other insurance carriers.

In violation of Title 18, United States Code, Section 1349.

The Grand Jury further charges:

COUNT 2
(Health Care Fraud)

Beginning on a date unknown to the Grand Jury, but no later than in or about January 2008, and continuing until at least in or about May 2014, in the Western District of Kentucky, Jefferson County, Kentucky, and elsewhere, defendant **MED 1ST OF EVANSVILLE, P.C.**, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud health care benefit programs, and to obtain, by means of false or fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of health care benefit programs, in connection with the delivery of, and payment for health care benefits, items, and services, to wit: **MED 1ST OF EVANSVILLE, P.C.**, provided and directed other staff members to provide medically unnecessary treatments to patients, and to falsely and fraudulently bill various health care benefit programs for such services, including Medicare, Medicaid, and Anthem, as listed below, among others, by submitting claims for medically unnecessary facet block injections, billing for conscious sedation, which was never performed, providing back braces, which were not medically necessary, and performing unnecessary tests for the patients listed below:

DATES OF SERVICE	BENEFICIARY	INSURANCE
09/12/12	D.A.	Kentucky Medicaid
09/13/12	L.C.	Anthem
09/13/12	B.S.	Kentucky Medicaid
12/27/12	A.P.	Kentucky Medicaid

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

The Grand Jury further charges:

COUNT 3
(Health Care Fraud)

Beginning on or about April 2010, and continuing until at least July 2013, in the Western District of Kentucky, Jefferson County, Kentucky, and elsewhere, defendant, **MITCHEL STUKEY**, knowingly and willfully executed, and attempted to execute, a scheme and artifice to obtain, by means of false or fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of health care benefit programs, in connection with the delivery of, and payment for health care benefits, items, and services, to wit: **MITCHEL STUKEY** changed information in patient files and thereby caused the submission of false and fraudulent billings to various health care benefit programs including Medicare, Medicaid, and Anthem, among others, for services, including but not limited to those listed below:

DATES OF SERVICE	BENEFICIARY	INSURANCE
11/27/2012	A.F.	Medicaid/Medicare
10/29/2012	R.V.	Medicaid/Medicare
09/20/2012	L.P.	Medicaid/Medicare
08/25/2012	C.P.	Medicaid/Medicare
11/28/2012	D.C.	Medicaid/Medicare
10/30/2012	J.H.	Medicaid/Medicare
01/18/2011	D.S.	Medicaid/Medicare
02/28/2012	K.G.	Medicaid/Medicare
01/24/2012	J.T.	Medicaid/Medicare
02/07/2012	J.C.	Medicaid/Medicare

07/2013	C.M.	Medicaid/Medicare
09/2012	J.K.	Medicaid/Medicare

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

The Grand Jury further charges:

COUNT 4
(Conspiracy to Violate Controlled Substance Act)

Beginning on a date unknown to the Grand Jury, but no later than in or about January 2008, and continuing until at least in or about December 2012, in the Western District of Kentucky, Jefferson County, Kentucky, defendants **MED 1ST OF EVANSVILLE, P.C.** and **MITCHEL STUKEY** did knowingly and unlawfully, combine, conspire, confederate and agree with each other and others, known and unknown to the Grand Jury, to commit the following offenses against the United States, that is, in the course of distributing and dispensing a controlled substances, use a Drug Enforcement Administration (“DEA”) registration number, that was issued to another person for the purpose of distributing and dispensing controlled substances. Specifically, **MED 1ST OF EVANSVILLE, P.C.** and **MITCHEL STUKEY** conspired with each other and other persons, to illegally distribute and dispense controlled substances. CONSPIRATOR A, who was then a medical practitioner and DEA registrant, subject to the requirements of Title 21, United States Code, Part C, conspired with **MITCHEL STUKEY**, CONSPIRATOR B, and others, to distribute and dispense controlled substances, in violation of Title 21, United States Code, Section 841, in that CONSPIRATOR A signed blank prescription pads and permitted individuals, acting at the direction of **MITCHEL STUKEY** and CONSPIRATOR B, some of whom were not DEA registrants, to conduct evaluations of

patients and to use these pre-signed prescription pads to prescribe medication to patients, in violation of Title 21, United States Code, Section 841(a)(2).

In violation of Title 21, United States Code, Section 846.

The Grand Jury further charges:

COUNT 5
(Conspiracy to Commit Money Laundering)

Beginning on a date unknown to the Grand Jury, but no later than in or about January 2008, and continuing until at least in or about April 2015, in the Western District of Kentucky, Jefferson County, Kentucky, and elsewhere, defendants, **MED 1ST OF EVANSVILLE, P.C., MITCHEL STUKEY** and **KAREN POELING**, knowingly combined, conspired, confederated, and agreed together with each other, and with others, known and unknown to the Grand Jury, to commit certain offenses under Title 18, United States Code, Sections 1956 and 1957 as follows:

- a. to conduct and attempt to conduct financial transactions affecting interstate and foreign commerce which involved the proceeds of specified unlawful activity, namely, conspiracy to commit health care fraud and health care fraud as alleged in Counts 1 – 3 above, knowing that the property involved in the financial transactions represented the proceeds of some form of illegal activity, with the intent to promote the carrying on of such specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i);
- b. to conduct and attempt to conduct financial transactions affecting interstate and foreign commerce which involved the proceeds of specified unlawful activity, namely, conspiracy to commit health care fraud and health care fraud as alleged in

Counts 1 – 3, knowing that the property involved in the financial transactions represented the proceeds of some form of illegal activity and knowing that the transactions were designed in whole or in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

- c. to knowingly engage, attempt to engage and cause and aid and abet others to engage in monetary transactions affecting interstate and foreign commerce in criminally derived property of a value greater than \$10,000.00 and derived from specified unlawful activity, namely, conspiracy to commit health care fraud and health care fraud as alleged in Count 1.

In violation of Title 18, United States Code, Sections 1956(h) and 1957.

NOTICE OF FORFEITURE

As a result of the offenses set forth in Counts 1 through 4, defendants, **MED 1ST OF EVANSVILLE, P.C.**, **MITCHEL STUKEY** and **KAREN POELING**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), and Title 21, United States Code, Section 853(a)(1) and (2), any and all property constituting or derived from any proceeds the defendants obtained, directly or indirectly, as a result of the these violations, and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of these violations, including but not limited to, the Mass Mutual Life Insurance Original Policy Number 77024911, with Settlement Option Payee Numbers 217165-00; 217165-01; 217165-02; and 217165-03.

If any of the above-described forfeitable property, 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 person;
- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of all the defendant's right, title and interest in any other property of the defendant, up to the value of the above forfeitable property.

Pursuant to Title 18, United States Code, Section 982(a)(7), and Title 21, United States Code, Section 853(a)(1) and (2).

A TRUE BILL.

FOREPERSON

JOHN E. KUHN, JR.
UNITED STATES ATTORNEY

JEK:LJW:20170716

PENALTIES

Counts 1 – 3: NM 10yrs./ NM \$250,000 fine (individuals) and \$500,000 corporation fine /both/NM 3yrs. Supervised Release; NM 5 years probation (each count)

Count 4: NM 1yrs./\$1,000/both/NM 1yr. Supervised Release

Count 5: NM 20 yrs.; NM \$500,000 fine or twice the value of the property; both; NM 3 years supervised release
Forfeiture

NOTICE

ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.

SPECIAL ASSESSMENTS

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor:	\$ 25 per count/individual	Felony:	\$100 per count/individual
	\$125 per count/other		\$400 per count/other

FINES

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

Failure to pay fine as ordered may subject you to the following:

1. **INTEREST** and **PENALTIES** as applicable by law according to last date of offense.

For offenses occurring after December 12, 1987:

No **INTEREST** will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

PENALTIES of:

10% of fine balance if payment more than 30 days late.

15% of fine balance if payment more than 90 days late.

2. Recordation of a **LIEN** shall have the same force and effect as a tax lien.
3. Continuous **GARNISHMENT** may apply until your fine is paid.

18 U.S.C. §§ 3612, 3613

If you **WILLFULLY** refuse to pay your fine, you shall be subject to an **ADDITIONAL FINE** of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or **IMPRISONMENT** for not more than 1 year or both. 18 U.S.C. § 3615

RESTITUTION

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

APPEAL

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or
2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

PAYMENTS

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE:	Clerk, U.S. District Court 106 Gene Snyder U.S. Courthouse 601 West Broadway Louisville, KY 40202 502/625-3500
BOWLING GREEN:	Clerk, U.S. District Court 120 Federal Building 241 East Main Street Bowling Green, KY 42101 270/393-2500
OWENSBORO:	Clerk, U.S. District Court 126 Federal Building 423 Frederica Owensboro, KY 42301 270/689-4400
PADUCAH:	Clerk, U.S. District Court 127 Federal Building 501 Broadway Paducah, KY 42001 270/415-6400

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.