

STATE OF INDIANA  
MARION COUNTY, ss:

IN THE MARION SUPERIOR COURT  
CRIMINAL DIVISION

Cause No: 49

STATE OF INDIANA )  
 )  
 vs. )  
 )

INFORMATION  
COUNT I  
OBSTRUCTION OF JUSTICE  
I.C. 35-44.1-2-2(a)(3)  
A CLASS D FELONY

Kevin Welch W/Male

On this date, the undersigned came before the Prosecuting Attorney of the Nineteenth Judicial Circuit and, being duly sworn (or having affirmed), stated that in Marion County, Indiana

COUNT I

On or between February 26, 2014 and March 26, 2014, Kevin Welch did alter, damage or remove records and/or documents, that is: patient computer billing records, with the intent to prevent said item from being produced or used as evidence in an official proceeding or investigation;

all of which is contrary to statute and against the peace and dignity of the State of Indiana.

I swear or affirm under penalty of perjury as specified by I.C. 35-44.1-2-1 that the foregoing representations are true.

/s/ Cathy McCallum

\_\_\_\_\_  
Affiant

June 21, 2018

Date

**TERRY R. CURRY**  
Marion County Prosecutor  
19th Judicial Circuit

/s/ Cathy McCallum

\_\_\_\_\_  
Deputy Prosecuting Attorney

State's Witnesses:  
Michelle Cunnane, FBI  
Amy Andercyk, MFCU  
ANDREA ANDERSON, MFCU  
Tijuanna Arnett  
Marcia Bane  
Shannon Bentley  
ELIZABETH CARLSON, FBI  
Jessica Carroll

Latoya Emerson  
Amber Floyd  
RONNIE FORMYDUVAL  
Sheila Green, SA USHHS  
Misty Lynn  
Amanda McKinney  
Kathy Swift

**AFFIDAVIT**

Sheila J. Green, Special Agent, United States Department of Health and Human Services, Office of Inspector General, Office of Investigations, Indianapolis, Indiana, being duly sworn states:

***INTRODUCTION***

1. I have been a Special Agent with the United States Department of Health and Human Services, Office of Inspector General, Office of Investigations (“HHS/OIG”), for the past twenty years. I am a Law Enforcement Officer of the United States and I am empowered to conduct investigations, execute warrants, and to make arrests. I am also assigned as a Task Force Officer of the Southern District of Indiana’s Federal Health Care Fraud Task Force. In that capacity, I was assigned to assist with an investigation involving a dentist named Dr. Kevin J. Welch, DDS (“Welch”) and his dental practices Tenth Street Dental Care & Denture Center and Muncie Dental Care (“10<sup>th</sup> Street Dental”). Welch/10<sup>th</sup> Street Dental was an enrolled Indiana Medicaid Provider.

***Initiation of the Investigation***

2. This case began with allegation made against Welch by two former employees in the summer of 2013. The first report, from former employee Latoya Emerson (“Emerson”), was made by filing a Consumer Complaint with the Office of the Indiana Attorney General on July 22, 2013. Emerson alleged that Welch had billed the Indiana Medicaid Program (“Medicaid”) for services that he did not render and had up-coded services, thus committing Medicaid Fraud. Emerson also made a report in person to the Federal Bureau of Investigation (“FBI”) on August 2, 2013. Emerson was interviewed that day by FBI Special Agent Michelle Cunnane (“SA Cunnane”). Emerson was employed with Welch from October 2012 through July 2013 as a dental assistant. Emerson told SA Cunnane that she witnessed Welch perform dental crowns

without the core build-up, yet Welch billed for the core build-up procedures. Emerson also witnessed Welch perform standard extractions and then bill Medicaid for more expensive surgical extractions. Emerson also alleged that Welch billed Medicaid recipients for an “upgraded” denture, but only supplied a standard denture.

3. The second report, from former employee Marcia Bane, was made by way of a letter submitted with a Complaint to the Office of the Indiana Attorney General on August 23, 2013. Bane had thirty years of experience as a dental assistant, and quit after only her third day of working with Welch. In her letter, Bane alleged that Welch was having dental assistants take final impressions for permanent restorations—which is illegal—and was billing for core build-ups that were not provided. The complaints from both Emerson and Bane were forwarded to the Indiana Attorney General’s Office Medicaid Fraud Control Unit (“MFCU”), a health oversight/criminal investigative agency. I worked closely on this investigation with MFCU Investigator Andrea Anderson (“Anderson”), and also collaborated with agents from the Federal Bureau of Investigation (“FBI”).

4. Emerson was interviewed again by MFCU Investigator Anderson and MFCU Investigator Amy Andercyk (“Andercyk”) on September 3, 2013. Emerson told the investigators that in addition to the previous allegations reported to the FBI, Welch was also billing for alveoplasty procedures that were not provided and was billing one surface fillings as multiple surface fillings. Emerson personally witnessed Welch document and bill for procedures that were not performed.

5. Bane was also interviewed by MFCU Investigator Anderson and MFCU Investigator Andercyk on September 3, 2013. Bane told the investigators that Welch was billing for core build-ups and alveoplasty procedures that were not provided. Welch told Bane specifically not



to indicate that the core build-ups were not performed in the billing paperwork, or to tell the staff at the front desk/checkout that the build-ups were not performed. Bane personally witnessed Welch document and bill for procedures that were not performed.

6. Amanda McKinney, former office manager of Welch, was interviewed by MFCU Investigator Andercyk on August 30, 2013. McKinney was fired by Welch for unknown reasons. McKinney had been employed at the office for ten years prior to Welch taking over the practice, and she raised concerns about many of Welch's billing and accounting practices. McKinney had also heard concerns raised by the dental assistants about Welch not providing many services that he was billing.

7. On November 26, 2013, Katie Swift, a former dental assistant for Welch, was interviewed by MFCU Investigator Anderson. Swift told investigators that she witnessed Welch bill for core build-ups and alveoplasty procedures that were not provided and billed crowns and core build-ups to the Indiana Medicaid Program as four surface resin restorations/fillings in situations where the Indiana Medicaid Program did not pay for the actual work he provided.

#### ***Defendant's Background***

8. Kevin J. Welch has a date of birth of 02/25/1964 and social security number of XXX-XX-4687. He is approximately 6'0" in height, 240 lbs., and has been known to reside at XXXXX Whistling Lane, Carmel, Indiana.

9. Welch became a licensed dentist in Indiana in May of 2010, holding license number 120111453A. Welch has an active dental license.

10. Welch has been an enrolled Indiana Medicaid provider since at least 2011, with a Medicaid Provider number of 201033180. Medicaid listed Welch as a sole proprietor with a specialty of General Dentistry Practitioner.

11. According to the Indiana Secretary of State, Kevin J. Welch, DDS, Inc. d/b/a Tenth Street Dental Care was incorporated on June 7, 2011. Welch was indicated as the incorporator and no other officers were reflected in the corporate papers. According to the Indiana Secretary of State, Kevin J. Welch DDS, Inc. d/b/a Muncie Dental Care was incorporated on October 23, 2012. Welch was indicated as the incorporator and no other officers were reflected in the corporate papers. Welch's two dental offices are located at 6919 East 10<sup>th</sup> Street, Suite A & A1 Indianapolis, Indiana and 1804 West McGalliard, Muncie, Indiana.

*The Indiana Medicaid Program*

12. Medicaid is a federal-assisted grant program for the states, which enables the states to provide medical assistance and related services to needy individuals. The Centers for Medicare and Medicaid Services, which is a component of the U.S. Department of Health and Human Services, administers Medicaid on a Federal level. Within broad Federal rules, however, each state decides who is eligible for Medicaid, the services covered, payment levels for services, and administrative and operational procedures. The state directly pays the providers of Medicaid services, with the state obtaining the Federal share of the payment from the accounts drawn on funds of the United States Treasury.

13. The State of Indiana ("Indiana") through its Family and Social Services Administration, Office of Medical Policy and Planning ("OMPP"), participates in the Medicaid Program. Indiana Medicaid, through OMPP, contracts with fiscal agents to perform the day-to-day program functions associated with administering its program. OMPP entered into a contract with Hewlett-Packard ("HP"), to receive, process, approve, and pay Indiana Medicaid claims.

*Enrolled Providers in Medicaid*

14. Enrolled providers of medical services to Medicaid patients are eligible for reimbursement for covered services under the provisions of the Social Security Act. By becoming a participating provider in Medicaid, enrolled providers agree to abide by the rules, regulations, policies, and procedures governing reimbursement, and to keep and allow access to records and information as required by Medicaid. In order to receive Medicaid funds, enrolled providers, together with authorized agents, employees, and contractors, are required to abide by all provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies and procedures issued by the State of Indiana.

15. As an enrolled Medicaid provider, Welch was required to sign a Provider Agreement, and to abide by and comply with all of the conditions of the Provider Agreement and all of the laws that pertain to the Medicaid Program. As part of the agreement, Welch agreed to only submit claims to the Medicaid Program that were "true, accurate and complete." Providers also agree to submit claims only for medically and reasonably necessary services that are covered under the program, for medical services actually provided, and to only seek compensation to which the provider is legally entitled. Medicaid defines "medically and reasonably necessary services" as services that meet current professional standards commonly held to be applicable to the case. Providers agree to promptly refund any duplicate or erroneous payments received.

16. To receive Medicaid reimbursement for covered services, a provider mails or submits by electronic wire a CMS 1500 and/or ADA claim form to HP. Welch submitted claims for reimbursement to the Indiana Medicaid Program using electronic means and received Electronic Funds Transfers from the Indiana Medicaid Program. Welch submitted ADA claim forms to



HP's offices located at 950 North Meridian Street, Indianapolis, Indiana. All payments to Welch for the provision of services to Indiana Medicaid patients were made by checks issued by HP, sent to Welch and directly deposited into Welch's bank account.

***Medical Procedures, Claim Forms and Coding***

17. Health care providers use a uniform system of coding to report professional services, procedures, supplies and diagnoses. Dental codes are found in a publication issued by the American Dental Association (ADA), known as the Current Dental Terminology II (CDT-2) Code Book. CDT-2 codes are an alpha character followed by a four digit numeric code with corresponding descriptive terms for reporting services performed by dental providers.

18. In order to receive reimbursement for a covered service from Indiana Medicaid, a provider must submit the appropriate claim form containing the required information regarding the patient's visit. When seeking reimbursement, the provider must also maintain documentation to support the claim. To seek reimbursement for dental services, providers use the American Dental Association ("ADA") Claim Form. Required information on these claim forms includes: the name of the patient; the patient's date of birth; the patient's identification number; the provider's identification number; the date the service was rendered; the location where the service was rendered; the applicable code for the procedure performed; and the diagnosis code, if applicable, for each service billed.

***February 2014: Welch Becomes Aware of Investigation***

19. On February 26, 2014, MFCU Investigator Anderson contacted former employee Jessica Carroll ("Carroll") to arrange an interview, assuming that she would be unlikely to alert Welch to the investigation. Although Carroll agreed to meet with Anderson on February 27<sup>th</sup>, Anderson later learned that Carroll contacted her friend Misty Lynn, a current employee at 10<sup>th</sup>



Street Dental, and let Lynn know that the Attorney General's Office had called. Subsequently, Lynn advised Welch's current Office Manager, T.J. Arnett,—and Arnett passed the information on to Welch. As a result, Welch contacted both Carroll and Katie Swift shortly before 1:00 pm on February 26, 2014, asking what was going on.

20. Investigators later learned that 10<sup>th</sup> Street Dental closed at approximately 10am on February 26<sup>th</sup>, 2014, due to a water main break that caused their water to be shut off. However, Welch returned to the office later that day, and subsequently called T.J. Arnett to ask for her help. More details about their activities that day will be described below.

21. On February 27, 2014, MFCU Investigator Anderson and FBI Special Agent Paul Medernach interviewed Carroll. Carroll had previously worked for Welch as a dental hygienist. She told investigators that Welch over-treated patients and billed for core build-ups that were not provided. Carroll also advised that Welch had contacted her the previous day, asking what was going on and that he was aware that former employees were being contacted.

22. On February 27, 2014, Katie Swift was re-interviewed by MFCU Investigator Anderson and FBI SA Paul Medernach. Swift reported that Welch had been made aware by TJ Arnett that he was under investigation. Arnett also knew that MFCU Investigator Anderson had contacted Carroll. Swift had been advised by two current employees, Amber Floyd and Shannon Bentley, that TJ Arnett told them that she and Welch were changing/altering patient notes/records in the office on February 26, 2014.

23. Subsequently, TJ Arnett contacted MFCU Investigator Anderson and advised that she was willing to come in and talk.

***Report that Welch is Altering Records:  
March 3<sup>rd</sup> Interviews of T.J. Arnett and Shannon Bentley***

24. On March 3, 2014, TJ Arnett was interviewed by myself, MFCU Investigator Anderson and FBI SA Medernach at the FBI office. TJ Arnett was Welch's Office Manager, and was responsible for the billing, scheduling appointments, and generally running the office. Arnett told investigators that treatment plans were created by Welch prior to setting appointments for the patients. Everything on the treatment plan, per Dr. Welch, is automatically billed to the patient's insurance. On February 26, 2014 after the office had closed, Dr. Welch called TJ Arnett back into the office. TJ Arnett found Welch auditing and adding or editing/altering the notes of patient charts. Welch had found four to five patient charts where the notes for core build-ups did not match what was billed. The only notes Welch could change were for January and February because the previous months had been closed out by the Dentrix Software, which will not allow any changes once they are closed out. TJ Arnett told investigators that it was Welch's policy to bill for a core build-up with every crown. In addition, Welch bills for four surface resin restorations for Indiana Medicaid patients instead of a crown/core build-up. Welch coached TJ Arnett on what to tell the agents during her interview; in fact, Arnett provided notes written by Dr. Welch telling Arnett what to say.

25. Also on March 3, 2014, Shannon Bentley, dental assistant for Welch, was interviewed by myself and MFCU Investigator Anderson. Bentley told investigators that Welch billed according to the patient's treatment plan, written up ahead of time, and not for what services were actually provided. Welch was billing for core build-ups that were not provided. Welch was billing Indiana Medicaid for five-surface resin restorations for crowns and core build-ups because the Indiana Medicaid Program does not pay for crowns and core build-ups. Welch

is required by the Indiana Medicaid Program to bill for what services he provided. In addition, Welch was billing for surgical extractions when simple extractions are being provided and billing for aveleoplasty procedures that were not provided. Bentley informed investigators that she was told by TJ Arnett that after Welch found out he was being investigated on February 26, 2014, Welch and TJ Arnett altered patient notes/records. On February 27, 2014, TJ Arnett was altering patient notes/records again.

*March 2014 Search Warrant and Interviews*

26. On March 26, 2014, a federal search warrant was executed at Welch's dental offices in Indianapolis and Muncie, and at his residence in Carmel, Indiana. During the execution of the warrants, the following employees were interviewed.

27. Amber Floyd, dental hygienist for Welch, told investigators that Welch told her during a staff team meeting that he had the right to change her notes and that he did not want the dental hygienists to sign the charts in case something needed to be changed. Floyd was concerned that Welch was changing her notes in the patient records to reflect services that had not been provided. Floyd subsequently provided the original handwritten notes she made during the staff team meeting regarding these issues to FBI Special Agent Beth Carlson. Floyd had asked Welch during the meeting why the computer blocked her ability to sign her notes in the patient records; Welch told her that the files belong to him and that he had a right to change them.

28. Employee Misty Lynn told investigators that Welch billed what was on the treatment plan and not what services were actually provided.

29. TJ Arnett was interviewed again, and told me and MFCU Investigator Ronnie Formyduval that Welch told her to stop talking to Investigators. Arnett said that, after she spoke



with Investigators at the FBI office on March 3, 2014, Welch changed the locks on the dental clinics and denied all of the staff access to the computer system. In addition, Welch made changes to his billing practices and documentation. For example, Welch began to handle writing all progress notes. The treatment plan now only included the work to be performed on the patient that day. Core build-ups had been removed from template for treatment plans. Alveoplasties previously had been automatically added to the treatment plan for extractions, and he began to only bill for alveoplasties that were actually provided and stopped billing extractions of molars and premolars as surgical extractions, rather than simple extractions.

*Evidence of Falsification of Records & Obstruction Seized During the Execution of  
Federal Search Warrants*

30. Evidence seized during the execution of the warrants on March 26, 2014, including computer evidence, were reviewed and analyzed. In Welch's office on his desk, was a document labeled "New Daily Protocall (sic)." A few of the instructions to the staff from this document include:

"Route slips will have only the treatment being done that day ONLY";

"Route slips will have EXACT fee to be charged for treatment being done on this day ONLY"; and

"ANY changes to the treatment that is listed on the route slip must be made ON THE ROUTE SLIP."

31. Welch's Production Log Book for February 26, 2014, indicated that the office was closed because the water was off.

32. On Welch's computer, a document was located that had the timeline of events beginning February 26, 2014 through March 7, 2014. The document is written as a first person

narrative, and corroborates many of the events described to investigators by his employees, including: the water being shut off on February 26<sup>th</sup>; his knowledge of the investigation, and that it involved his billing practices; that he went in to review his charts, and that the computer software prevented him from making changes to certain months; that he tried to determine what reports he needed to print, and that he had TJ Arnett come to help him; that he was aware that Arnett would be meeting with the AG and FBI on March 3<sup>rd</sup>; and that he discussed that meeting with her before she went. Welch further describes questioning several employees about what was going on, including Katie Swift and Shannon Bently. Welch says that he, "looked through some recent charts to evaluate the billing and entries." Welch recounts that he gathered his employees together and told them he did not want to hear "any further chit chat about what's going on."

33. Another document found on Welch's computer, which is undated, contains a list of questions and/or points for discussion that appears to correspond to the topics discussed during the meeting that was described by employee Amber Floyd. Following an initial question, "Why do we need this meeting?" it states, "Staff issues, anger, frustration, confusion, chatter, friends, new hires..." and is written from Welch's point of view. The documents makes specific reference to issues such as employee concerns about who can make changes to their dental notes, and Welch's control over the records and the office in general. One direct quote from the document states, "I will change alter augment write and fix the charts at any time I deem. Cuz I am the one on the hook."

***May 8 Proffer Statement by TJ Arnett***

34. On May 8, 2014, TJ Arnett, agreed to provide a proffer statement. During this proffer, Arnett again described how Welch had changed patient records on February 26<sup>th</sup>, 2014.

Arnett believed that there were over 100 patient charts changed and/or altered. Prior to the search warrant, Welch was altering records by adding the term "Ketak silver" to the patient notes to make it appear that the crown build-ups were performed. After the search warrant, Welch wanted Arnett to delete references to crown buildups in patient accounts in the Dentrix system that had already been billed, because Welch told her they did not perform the buildups. If patients then had a credit balance on the account, because insurance had already paid the claim, Welch instructed Arnett to zero out the patient's account.

*Evidence Obtained From Consent to Search TJ Arnett's Cellular Telephone*

35. I conducted an analysis of TJ Arnett's cellular telephone, reviewing both phone calls and text messages between TJ Arnett and Welch.

Wednesday February 26, 2014 (This is the day the office closed at 10:00 a.m. because the water had been shut off):

TJ Arnett had a missed call from Welch's cellular telephone at 12:43 p.m.

Incoming calls on TJ Arnetts' cellular telephone came in from Welch's cellular telephone number at 12:49 p.m., 12:58 p.m., and 3:58 p.m.

Saturday March 1, 2014:

Welch sent TJ Arnett a text message at 11:32 a.m., "where u at?"

TJ: "Practice with Imani, iupui."

Welch: "We said 11 am at office."

TJ: "Forgot about it, too much going on, we are done at 12."

Welch: "How do you pull up x rays for Muncie on tooth screen?"

TJ: "At bottom where clinical notes are there should be an icon for stays to click on."



An incoming call on TJ Arnett's cellular telephone came in from Welch's cellular telephone number at 3:03 p.m.

**Sunday March 2, 2014:** (prior to the FBI interview)

Welch sends a text message to TJ Arnett at 8:40 am: "I was thinking about Katie. You need to tell them that Katie worked in the office when no one else was there. Her job was making appointments answering phones and such. When she did help it was with the associate NOT with me. 90 percent of the time she was alone most of the time. So she would have no idea of what went on during normal days."

TJ: "I know."

Welch: "She is lying cuz she's mad cuz she left her old job that she liked to work for me we let her go for not locking up and cuz we could answer our own phones and it was a waste to have her in an empty office when she was ALONE and when she got fired she got mad. She has NO info on my days. Lies and believing The felon. "

TJ: "I gothcha."

An incoming call on TJ Arnett's cellular telephone came in from Welch's cellular telephone number at 8:06 p.m.

**Monday March 3, 2014:** (Day of FBI interview, prior to the interview)

An incoming call on TJ Arnett's cellular telephone number came in from Welch's cellular telephone number at 12:23 p.m.

Welch send a text message to TJ Arnett at 12:24pm: "They got nothing just heresay from a felon."

TJ Arnett had two missed calls from Welch at 12:44 and 12:45 p.m.

*Evidence From Welch's Dentrrix Software System*

36. MFCU Investigator Anderson, FBI Agent Medernach and myself met with TJ Arnett to have her explain how to navigate the Dentrrix software, access the audit trail and run the reports used at Welch's office. Arnett advised that the computer indicated which username was assigned to each employee that had access to the system. Welch's username was DDS1; Arnett's was TJA1.

37. The Dentrrix appointment book for February 26, 2014, indicates at 12:00 p.m. the "Water Company had to turn water off." According to the Audit Trail Report, which shows who logged into the office computer software and made changes, DDS1 (Welch) logged into the Dentrrix system on February 26, 2014 at 3:42 p.m. Arnett logged into the system at approximately 4:15 p.m. that day. This corroborates TJ Arnett's statement that she went back to the office that day—after it closed due to the water being turned off—to help Welch change the records.

38. The Audit Trail Report shows multiple changes being made to patient accounts between approximately 4:17 p.m. until 5:31 p.m. on February 26, 2014, including deleting 17 Core Buildups. For example:

At 16:17:48 (roughly 4:17 p.m.) User TJA1 deleted code D2950 2 Core buildup w/ Any pins that had previously been billed for Patient D.M.'s appointment on February 24, 2014.

At 16:30:39 (roughly 4:30 p.m.) User TJA1 deleted D2950 2 and 3, Core Buildup w/Any Pins that had previously been billed for Patient W.B.'s appointment on February 13, 2014.

At 17:28:33 (roughly 5:28 p.m.) User TJA1 deleted code D2950 30 Core buildup w/Any Pins that had previously been billed for patient J.M.'s appointment on January 29, 2014.

At 17:31:55 (roughly 5:31 p.m.) User TJA1 deleted a D2950 Core Buildup w/Any Pins procedure that had previously been billed for Patient L.P.'s appointment on January 29, 2014.

These changes would have made it appear to investigators who viewed the patient files after the changes, that the core buildups were never performed or billed.

In addition, thirteen (13) dental insurance payments and patient account adjustments were deleted from the Dentrrix system on February 26, 2014.

39. On March 1, 2014, at approximately 11:07 a.m., 12:37 p.m., and 1:00 p.m. DDS1 (Welch) logged into the Dentrrix system. On March 1, 2014, at approximately 1:50 p.m. and 2:04 p.m. TJA1 (TJ Arnett) logged into the Dentrrix system. This corroborates Arnett's statement—and Welch's timeline document—that they were looking at billing in advance of the FBI interview.

*Summary of Welch's Criminal Activity:*

*Welch Knowingly Attempts to Conceal Fraud & Falsifies Medical Records & Obstruction of Investigation*

40. Based upon my investigation, I have determined that Kevin Welch billed Indiana Medicaid and private insurance companies for services he did not perform, primarily including (1) core buildups for the placement of crowns, and (2) alveoplasty procedures; and he attempted to conceal the fraud by falsifying patient records after he learned of the investigation, therefore obstructing an investigation.

41. TJ Arnett admitted that she went to the office to meet Welch on February 26, 2014, after the office closed due to the water being turned off. Welch had been in the Dentrrix system attempting to alter records. TJ Arnett admitted that she and Welch altered patient records by



deleting evidence that they had billed for core buildups for the months that had not already been closed out.

42. A review of Welch's computers and Dentrix system determined that Welch and TJ Arnett had in fact altered medical records and made adjustments to patient's accounts.

All of these events occurred in Marion County, Indiana.

Sheila Green, Special Agent  
United States Department of Health and Human Services  
Office of Inspector General/Office of Investigations



Subscribed and sworn to before me this 19th day of June, 2018.