

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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U.S. DISTRICT COURT
SOUTHERN DIST OHIO
WEST DIV CINCINNATI

UNITED STATES OF AMERICA : Case No. 1:13-CR-084
: Judge Michael Barrett
:
v. : SUPERSEDING INDICTMENT
: 18 U.S.C. § 2
: 18 U.S.C. § 1035
ABUBAKAR ATIQ DURRANI : 18 U.S.C. § 1341
: 18 U.S.C. § 1347
: 21 U.S.C. § 841
: Notice of Forfeiture

THE GRAND JURY CHARGES THAT:

Introductory Allegations

1. Defendant ABUBAKAR ATIQ DURRANI ("Durrani") is a citizen of the Republic of ~~Pakistan~~ and is a permanent resident of the United States of America.
2. From approximately 2005 to the present, DURRANI has worked as a spine surgeon in ~~and~~ around the Southern District of Ohio, primarily in Cincinnati, Ohio.
3. Prior to 2009, DURRANI was an employee at Children's Hospital in Cincinnati, Ohio.
4. Beginning in 2009, DURRANI opened a private practice called Center for Advanced Spine Technologies, Inc. ("CAST"). DURRANI is the sole owner of CAST.
5. CAST primarily operated two offices, one in Evendale, Ohio at 10475 Reading Road, Suite 206, Cincinnati, Ohio, 45241, and one in Northern Kentucky at 6905B Burlington Pike, Florence, KY 41042.

6. From at least 2009 through the present, DURRANI has performed numerous spine surgeries through his private practice, CAST. The surgeries were often performed at different hospitals in the Cincinnati area or through an outpatient surgery facility called JourneyLite Surgery Center ("JourneyLite"). JourneyLite is owned in part by DURRANI and is also located at 10475 Reading Road, Cincinnati, Ohio 45241.
7. DURRANI previously had privileges to perform surgeries at Children's Hospital, Christ Hospital, Deaconess Hospital, Good Samaritan Hospital, and West Chester Hospital, but no longer has privileges at any of those hospitals. From approximately 2011 through May 2013, DURRANI primarily performed surgeries at JourneyLite and West Chester Hospital. DURRANI no longer has privileges at West Chester Hospital as of May 2013.
8. Throughout his practice at CAST, DURRANI has provided medical services to recipients of Medicare, Medicaid, Anthem, Humana, United HealthCare, and other healthcare benefit programs as that term is defined in Section 24(b) of Title 18, United States Code.

Scheme to Defraud

9. Based on the investigation, beginning in approximately 2008 and continuing through the present, in the Southern District of Ohio and elsewhere, DURRANI derived significant profits by convincing patients to undergo medically unnecessary spinal surgeries and by billing private and public healthcare benefit programs for those fraudulent services.
10. In some circumstances, DURRANI's scheme to defraud resulted in serious bodily injury.
11. The scheme and artifice to defraud that DURRANI devised, executed and attempted to execute included the following patterns and practices at times:

- a. DURRANI would persuade the patient that surgery was the only option, when in fact the patient did not need surgery.
- b. DURRANI would tell the patient the medical situation was urgent and that surgery was needed right away. He would also falsely tell the patient that he/she was at risk of grave injuries without the surgery.
- c. For cervical spine patients, DURRANI would often tell a patient that there was a risk of paralysis or the head would fall off if the patient was in a car accident because there was almost nothing attaching the head to the patient's body.
- d. DURRANI often did not read or ignored the radiology ~~reports~~ written by the radiologists for the imaging studies that DURRANI ~~ordered~~ (e.g. xrays, CT scans, and MRIs).
- e. DURRANI would provide his own exaggerated and ~~dire~~ reading of the patient's imaging that was inconsistent with or plainly contradicted by the report written from the radiologist. At times, DURRANI provided a ~~false~~ reading of the imaging.
- f. DURRANI would order a pain injection for a level of the spine that was inconsistent with the pain stated by the patient or the imaging. DURRANI also scheduled patients for surgeries without learning or waiting for the results of certain pain injections or related therapies.
- g. DURRANI often dictated his operative reports or other patient records months after the actual treatment.

- h. DURRANI's operative reports and treatment records contained false statements about the diagnosis for the patient, the procedure performed, and the instrumentation used in the procedure.
 - i. When a patient experienced complications resulting from the surgery, DURRANI at times failed to inform the patient of or misrepresented the nature of the complications.
 - j. As part of the scheme, DURRANI made false statements to colleagues about the success of his surgical practices. He specifically told an EDS conference that he only had one complication -- a broken screw found on a routine follow-up appointment and the patient did not realize that the screw was broken. Those statements were false.
12. DURRANI also made false statements to patients about why a surgery would not be performed at a certain hospital. He also made false statements regarding why he no longer practiced at certain hospitals.
13. Many of the patients treated by DURRANI for back and neck pain were left in a worse position due the unnecessary surgeries he performed, as well as the related health care fraud and false statements.
14. As part of this scheme to defraud, DURRANI performed unnecessary procedures and made false statements in relation to lumbar, thoracic, and cervical surgeries.

COUNTS 1, 3, 5, 7, 9, 11, 13, 15, and 17
18 U.S.C. §§ 1347 and 2

15. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.
16. On or about the dates set forth below, DURRANI recommended a significant fusion surgery at the C1-C2 level based upon a diagnosis of instability and in most cases, a pannus. The imaging and medical records in fact show that the patients did not have any instability or a pannus at that level, and did not need surgery. DURRANI engaged in health care fraud by making a false diagnosis, making false statements about the indications and necessity of the surgery to the patients, and performing or attempting to perform unnecessary procedures on the patients based upon these false statements.
17. In the Southern District of Ohio, on the dates set forth below, Defendant DURRANI knowingly and willfully executed and attempted to execute the above-described scheme and artifice to defraud, obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of health care benefit programs as defined in Title 18, United States Code, Section 24(b), in connection with the delivery of, billing, and payment for health care benefits, items, and services:

COUNT 1	Patient 1	Diagnosis on March 15, 2012. Attempted surgery.
COUNT 3	Patient 2	Diagnosis on November 8, 2012. Attempted surgery.
COUNT 5	Patient 3	Diagnosis on Sept. 20, 2012. Surgery on Dec. 26, 2012.
COUNT 7	Patient 4	Diagnoses on March 17, June 23, and July 21, 2011. Surgery on Sept. 9, 2011.

COUNT 9	Patient 5	Diagnoses on Feb. 23 and April 22, 2010. Surgery on May 24, 2010.
COUNT 11	Patient 6	Diagnosis on March 25, 2010. Surgery on August 8, 2010.
COUNT 13	Patient 7	Diagnosis on March 24, 2011. Surgery on June 8, 2011.
COUNT 15	Patient 8	Diagnosis on August 18, 2011. Surgery on November 18, 2011.
COUNT 17	Patient 9	Diagnosis on 9/29/09, April 27 & May 4, 2010. Surgery on August 11, 2010.

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

COUNTS 2, 4, 6, 8, 10, 12, 14, 16, and 18
18 U.S.C. § 1035

18. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.

19. On or about the dates set forth below, in the ~~Southern~~ District of Ohio and elsewhere, defendant DURRANI, knowingly and willfully ~~made~~ a materially false, fictitious, and fraudulent statements, representations, and writings, namely his diagnosis and statement of surgical necessity, in connection with the ~~delivery~~ of health care benefits, items, and services involving a health care benefit program as defined in 18 U.S.C. § 24(b):

COUNT 2	Patient 1	Diagnosis on March 15, 2012.
COUNT 4	Patient 2	Diagnosis on November 8, 2012.
COUNT 6	Patient 3	Diagnosis on Sept. 20, 2012. False description of instrumentation for Dec. 26, 2012 surgery.
COUNT 8	Patient 4	Diagnoses on March 17, June 23, and July 21, 2011.

COUNT 10	Patient 5	Diagnoses on Feb. 23 and April 22, 2010.
COUNT 12	Patient 6	Diagnosis on March 25, 2010.
COUNT 14	Patient 7	Diagnosis on March 24, 2011. False statement of EDS diagnosis.
COUNT 16	Patient 8	Diagnosis on August 18, 2011.
COUNT 18	Patient 9	Diagnosis on 9/29/09, April 27 & May 4, 2010.

All in violation of Title 18, United States Code, Section 1035.

COUNT 19
18 U.S.C. §§ 1347 and 2

20. The grand jury restates and incorporates paragraphs 1-14 above as if full restated ~~herein~~.

21. Patient 5, whose identity is known to the grand jury, was a patient of DURRANI.

DURRANI diagnosed Patient 5 with herniated thoracic discs and degenerated discs ~~at~~

T5-6, T6-7, T7-8, T8-9 and a deformity which was contrary to the radiological ~~report~~.

On November 3, 2009, DURRANI recommended a fusion surgery on all four ~~levels~~. He performed the surgery on December 9, 2009. The imaging and other records ~~confirm that~~

Patient 5 did not need surgery and that DURRANI's interpretation of the imaging ~~was~~ false.

22. From on or about November 3, 2009 through December 9, 2009, in the Southern District of Ohio, Defendant DURRANI knowingly and willfully executed and attempted to execute the above-described scheme and artifice to defraud, obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of health care benefit programs as defined in Title 18, United States Code, Section 24(b), in connection with the delivery of,

billing, and payment for health care benefits, items, and services for Patient 5.

DURRANI's scheme to defraud resulted in serious bodily injury to Patient 5.

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

COUNT 20
18 U.S.C. §§ 1347 and 2

23. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.

24. Patient 10, whose identity is known to the grand jury, was a patient of DURRANI.

DURRANI diagnosed Patient 10 with severe spinal stenosis from L3-L5. DURRANI recommended and performed a laminoplasty on Patient 10 on March 24, 2008. The imaging and other records confirm that Patient 10 did not have spinal stenosis and did not need surgery.

25. On or about March 24, 2008, in the Southern District of Ohio, Defendant DURRANI knowingly and willfully executed and attempted to execute the above-described scheme and artifice to defraud, obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of health care benefit programs as defined in Title 18, United States Code, Section 24(b), in connection with the delivery of, billing, and payment for health care benefits, items, and services for Patient 10. DURRANI's scheme to defraud resulted in serious bodily injury to Patient 10.

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

COUNT 21
18 U.S.C. § 1035(a)(1)

26. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.
27. From on or about July 27, 2009 through January 27, 2010, in the Southern District of Ohio and elsewhere, Defendant DURRANI, knowingly and willfully falsified, concealed, and covered up by any trick, scheme or device a material fact, as specified below, in connection with the delivery of health care benefits, items, and services involving a health care benefit program as defined in 18 U.S.C. § 24(b).
28. Specifically, Defendant DURRANI performed a surgery on Patient 11 on or about July 27, 2009 during which a guidewire **broke** off and was left in Patient 11's body.
29. Defendant DURRANI knew the **guidewire** broke and was left in the patient, but failed to disclose the guidewire issue to **the patient** during repeated office visits paid by a healthcare benefit program. **When later** confronted by the patient about the guidewire, DURRANI falsely denied that **the guidewire** was left in the patient.
30. Defendant DURRANI then **recommended** another surgery with the patient (that was paid through a healthcare benefit program) and removed the guidewire during the surgery without telling the patient.

All in violation of Title 18, United States Code, Section 1035.

COUNT 22
18 U.S.C. §§ 1341 and 2

31. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.
32. As described above, Defendant DURRANI devised and intended to devise a scheme to defraud healthcare benefit programs, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.
33. As part of the scheme, Defendant DURRANI made false statements in an effort to maintain a good reputation and image within the medical and patient community in the Southern District of Ohio and elsewhere.
34. As part of this scheme, Defendant DURRANI made false **statements** to patients, hospitals, and during sworn deposition testimony regarding the ~~reasons that~~ he no longer maintained privileges at certain hospitals.
35. As part of this scheme, Defendant DURRANI made false **statements to** hospitals as part of his applications to obtain, renew, or reinstate his credentials **or** privileges at the hospitals. Specifically, he concealed peer review or disciplinary activity by other hospitals and malpractice actions that had been filed against him **and** whether he was subject to certain peer review actions.
36. As part of this scheme, Defendant DURRANI also made false **statements** to patients regarding why the patients could not have surgery at certain hospitals to conceal the fact that he no longer had privileges at certain hospitals.
37. On or about January 3, 2011, in the Southern District of Ohio, for the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, Defendant DURRANI knowingly caused to be delivered by a private and

commercial interstate carrier, namely Federal Express, according to the direction thereon, to wit: an application form for the reappointment of privileges at West Chester Hospital was sent from DURRANI's practice by Federal Express.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 23
18 U.S.C. § 1035(a)(2)

38. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.

39. On or about May 21, 2013, in the Southern District of Ohio and elsewhere, defendant DURRANI, knowingly and willfully made materially false, fictitious, and fraudulent statements, or representations, as specified below, in connection with the delivery of health care benefits, items, and services involving a health care benefit program as defined in 18 U.S.C. § 24(b). Specifically, Defendant DURRANI falsely told Patient 12 that her surgery could not occur at West Chester Hospital because the patient's insurance could not be accepted there in order to conceal the fact that his privileges at West Chester Hospital were suspended.

All in violation of Title 18, United States Code, Section 1035(a)(2).

COUNT 24
18 U.S.C. §§ 1347 and 2

40. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.

41. Patient 13, whose identity is known to the grand jury, was a patient of Defendant DURRANI. Defendant DURRANI scheduled Patient 13 for a surgery on September 22, 2010. Defendant DURRANI did not perform the surgery and was present for only a brief portion of the surgery.

42. The surgery was performed by another surgeon, whose identity is known to the grand jury. At the time of the surgery, that surgeon had not been approved by Medicare as a provider.

43. The surgery was billed to Medicare and falsely listed Defendant DURRANI as the primary surgeon.

44. On or about September 22, 2010, in the Southern District of Ohio, Defendant DURRANI knowingly and willfully executed and attempted to execute the above-described scheme and artifice to defraud, obtain, by means of materially false and fraudulent pretenses, representations, and ~~promises~~, money and property owned by and under the custody and control of health ~~care~~ benefit programs as defined in Title 18, United States Code, Section 24(b), in ~~connection~~ with the delivery of, billing, and payment for health care benefits, items, and ~~services~~ for Patient 13.

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

COUNTS 25-36

21 U.S.C. § 841(a)(1) and 841(b)(1)(C)

45. The grand jury restates and incorporates paragraphs 1-14 above as if full restated herein.

46. On or about the dates set forth below, in the Southern District of Ohio and elsewhere, Defendant DURRANI, a registrant authorized to dispense controlled substances, knowingly and intentionally distributed the quantities set forth below of a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, outside the scope of professional practice; to wit, Defendant DURRANI pre-

signed blank prescription pads and instructed others to write prescriptions for these Schedule II drugs while DURRANI was out of the country:

	Patient	Date of Script	Dosage
COUNT 25	Patient 14	2/6/2012	90 pills of 5 MG oxy
COUNT 26	Patient 15	2/7/2012	90 pills of 5 MG oxy
COUNT 27	Patient 16	2/14/2012	90 pills of 5 MG oxy
COUNT 28	Patient 17	10/19/2012	60 pills of 5 MG oxy
COUNT 29	Patient 18	10/22/2012	180 pills of 10 MG oxy
COUNT 30	Patient 19	10/23/2012	120 pills of 10 MG oxy
COUNT 31	Patient 20	1/29/2013	90 pills of 5 MG oxy
COUNT 32	Patient 21	2/1/2013	120 pills of 5 MG oxy
COUNT 33	Patient 22	2/4/2013	120 pills of 5 MG oxy
COUNT 34	Patient 23	4/30/2013	90 pills of 10 MG oxy
COUNT 35	Patient 24	5/9/2013	120 pills of 15 MG oxy
COUNT 36	Patient 25	5/14/2013	120 pills of 10 MG oxy

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

FORFEITURE ALLEGATION 1

Upon conviction of one or more of the offenses alleged in Counts 1, 3, 5, 7, 9, 11, 13, 15, 17 and 19 (health care fraud) of this Indictment, defendant ABUBAKAR ATIQ DURRANI shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations,

representing the amount of proceeds obtained as a result of the offenses, 18 U.S.C. § 1347, health care fraud.

All in accordance with 18 U.S.C. § 982(a)(7), and Rule 32.2(a), Federal Rules of Criminal Procedure.

FORFEITURE ALLEGATION 2

The allegations contained in Counts 25-36 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Section 841, the defendant, ABUBAKAR ATIQ DURRANI, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offenses and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense(s).

FORFEITURE SUBSTITUTE ASSETS

If any of the property described above in Forfeiture Allegations 1 or 2, as a result of any act or omission of the defendant:

- (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;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

All pursuant to 18 U.S.C. § 982(a)(7) and 28 U.S.C. § 2461(c).

A TRUE BILL.


Grand Jury Foreperson

CARTER M. STEWART
United States Attorney



ANTHONY SPRINGER
Cincinnati Branch Chief