

1 **AFFIDAVIT IN SUPPORT OF ARREST WARRANT**

2 I, JoAnne Martinez, am a Peace Officer with the California Department of Justice, Office
3 of the Attorney General. I have been employed as a Special Agent with the Attorney General's
4 Office, Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA), since January 1996.

5 I completed the Peace Officer Standard and Training Certified Academy. I have also
6 attended a California Peace Officer's Standards and Training school for specialized investigations
7 of Medi-Cal Fraud, Patient Abuse, and Drug Diversion cases. Additionally, I possess a Bachelor of
8 Science degree in Criminal Justice.

9 I have attended continuing education classes on the investigation of Medi-Cal/Medicare
10 fraud, and have participated in numerous Medi-Cal/Medicare fraud investigations. I have received
11 informal training relating to Medi-Cal/Medicare fraud from other experienced Medi-Cal /Medicare
12 Agents, supervising agents, as well as prosecuting attorneys.

13 From the training and experience described above, I have become familiar with the
14 rules/regulations that govern health care providers who bill services to the Medi-Cal/Medicare
15 program, including rules/regulations relating to the claims processing, the payment of claims, and
16 record retention.

17
18 **DESCRIPTION OF THE MEDI-CAL PROGRAM**

19 I have personal knowledge that the California State Medi-Cal program provides state and
20 federal funds to qualified individuals, known as beneficiaries, who are in need of basic medical
21 goods and services. Qualified beneficiaries are issued a beneficiary identification card (BIC)
22 certifying their program eligibility.

23 Individuals and businesses who administer medical goods and services to Medi-Cal
24 beneficiaries are called providers. Providers are given unique individual or group numbers, known
25 as provider numbers. Providers are required to have separate provider numbers for each office
26 location. The beneficiaries are required to produce their BIC to the provider upon receiving
27 treatment or service.

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FEB 05 2009

DESCRIPTION OF THE MEDICARE PROGRAM

Clerk of the Superior Court
By R. Bryant

Medicare, as established by the Social Security Act (42 U.S.C. § 301, et seq.), provides insurance coverage for individuals who are over 65 or have certain recognized disabilities that qualify for medical outpatient services, including physician services, Durable Medical Equipment (DME), and diagnostic testing.

The Center for Medicare and Medicaid Services ("CMS") is the governmental body responsible for the administration of the Medicare program. CMS contracts with private insurance companies to process and pay Medicare claims. Insurance companies that process Medicare's DME claims are called "carriers." The carrier that processes outpatient claims for Southern California is National Heritage Insurance Company ("NHIC").

Approved Medicare providers can submit claims either on paper or electronically. Electronic claims are submitted to Medicare using specific billing software and submitted through an electronic data interface, such as a modem.

Medicare reimburses providers for certain medically necessary treatment, tests, therapy, medical equipment and supplies. All Medicare providers are required to ensure that services are "provided economically, and only when, and to the extent, medically necessary," (42 U.S.C § 1320c-5(a)). Generally, Medicare requires a provider to obtain a completed prescription, Certificate of Medical Necessity ("CMN"), or other order form signed by the beneficiary's treating physician, before delivering or billing for covered medical tests, therapy, equipment or supplies. The Medicare program is a federally funded health insurance program under Title 18 of the Social Security Act, which provides health care services to persons age 65 and older, and to disabled persons.

CMS administers the Medicare program through contracts extended to private companies known as fiscal intermediaries, or "carriers". The carrier reviews claims submitted by health care providers to determine the amount of each claim that Medicare will allow. This is known as the "allowable amount." In general, Medicare will pay 80% of the legitimate amount on a covered claim. The remaining amount (20%) is paid by private insurance, Medi-Cal or the patient.

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1 a reward. Special Agent (SA) Mike Afana reviewed the MSN supplied by Trammell and saw that
2 BTC charged Medicare \$3,050.89 for multiple therapy services from 8/2/2005 to 8/31/2005.

3 On March 2, 2006, SA Afana and I interviewed Trammell at his residence in the Potiker
4 Family Senior Residence in downtown San Diego. Trammell said he was asked on several occasions
5 by his neighbor "Libby" (later identified as Librada Comduran), to sign medical documents in
6 exchange for \$100.00. On two separate occasions Trammell received \$100.00 cash for signing his
7 name on five or six blank medical forms. Trammell also gave Libby a copy of his Medi-
8 Cal/Medicare cards. The medical forms were completely blank except for pre-printed text located
9 on the left side. Trammell repeatedly signed his name on the right side of the form, believing that
10 by signing each line, he was confirming receipt of medical services. Trammell said there were
11 several different types of therapeutic services listed on each form. Libby gave Trammell several
12 different pens in various ink colors. Trammell believed this was to make it appear that he was
13 signing on different dates. Trammell did not receive any of the services for which he signed. Libby
14 also solicited other seniors at Potiker with the same offer.

15 Joy Brown (RN Investigator at Medicare Benefit Integrity Trust Solutions, LLC, the Program
16 Safeguard Contractor for Centers for Medicare and Medicaid Services (CMS)) told SA Afana that
17 from May 2005 to January 2006, BTC billed Medicare \$82,090.60 for therapy services allegedly
18 provided to fourteen other Medicare beneficiaries residing at Potiker.

19 20 Additional Patient Interviews

21 On September 13 and 14, 2007, Special Agent Roseann Peragine of Health & Human
22 Services, BMFEA Special Agent Olun Graves, and I interviewed six of the fourteen Potiker
23 residents linked to Medicare billings by BTC. We found the following:

24
25 Charles Dewald: Dewald said he was unfamiliar with BTC and had never received physical or
26 respiratory therapy services. A woman in the building named "Lupe" asked if he wanted to make
27 \$100.00 and receive a wheelchair by going to a clinic in Los Angeles (LA). Dewald went with Lupe
28 and four other seniors in a van to the LA clinic. Once there, Lupe collected all Medi-Cal/Medicare

1 cards from the seniors and gave them to the female "doctor," who then instructed Dewald to sign his
2 name about 50 times on a "bunch" of forms. Once he finished signing, Lupe paid him \$100.00.
3 Several months later Dewald saw that his MSN contained billing for procedures from BTC, a place
4 he had never been. Dewald identified Librada Santos Comduran from a photo lineup as the person
5 known to him as "Lupe."

6 Dewald's primary care physician, Dr. Gaidry did not know and had never referred Dewald
7 to Dr. John W. Miles, the physician CMS identified as the listed provider of services at BTC.
8 According to billing records from CMS, BTC received \$3,071.57 from Medicare for allegedly
9 rendering therapy services to Dewald from 9/7/2005 to 9/29/2005.

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11 **E. and C. Parker:** Mr C. Parker said he has never been to BTC. Mrs. E. Parker did not recognize
12 the name. Neither recall receiving physical/respiratory services in the past 2 years. Both have regular
13 physicians who are not associated with BTC. They never heard of Dr. Kamran Hassidim, the
14 physician CMS records indicate referred the Parkers to BTC for therapy services. CMS records
15 indicate that Medicare paid BTC \$12,255.32 for allegedly providing therapy services to E. Parker
16 from 5/2/2005 to 7/29/2005, and 10/5/2005 to 10/27/2005; And \$15,580.09 for allegedly providing
17 therapy to C. Parker from 5/2/2005 to 7/29/2005, and 10/3/2005 to 11/29/2005.

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19 **A. Ross:** Ross said he has never heard of or been to BTC. His primary care physician for the past
20 30 years has been Dr. Feinstein at Mercy Hospital. Ross just started physical therapy for arthritis
21 but not with BTC. The only other clinic he has visited is in Lemon Grove. A couple years ago, he
22 was approached by a young Filipino woman who said she could take him to a doctor in Lemon
23 Grove for "good medical treatment for his arthritis." Ross said he went with the woman to the clinic
24 once or twice. He does not remember the name of the doctor who saw him. Shortly thereafter, he
25 noticed questionable billings on his Medicare statement. Then, he was contacted by the FBI, asking
26 if he received allergy tests at the Lemon Grove clinic. Ross has never received allergy testing.

27 Ross never heard of Dr. Mark M. Chung or Dr. Khehar Bhupinder; CMS records indicate
28 they were referring providers to BTC. CMS records show that Medicare paid BTC \$8,194.57 for

1 rendering services to Ross from 5/2/2005 to 6/30/2005, and from 10/11/2005 to 11/30/2005.

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3 **H. Broussard:** Broussard has never received physical or respiratory therapy, and has never been
4 to BTC. His primary care physicians are Dr. Garcia and Dr. Deborah Beyer at UCSD.

5 A woman in his building said she would pay him \$100.00 if he went to a clinic in Chula
6 Vista and complete a medical survey. He agreed, and later followed the woman "Nora" to the nearby
7 trolley tracks where both were picked up by another female (Hispanic, 40s, light complexion) driving
8 a white station wagon. The female driver took them to a nearby 7-Eleven convenience store where
9 she instructed Broussard to sign his name 15 or 16 times on a "bunch" of forms. While he was
10 signing the forms, she had him switch writing pens 4 or 5 times. She also made a copy of his
11 California Senior ID, Medi-Cal and Medicare cards. Once he signed the forms, Nora paid him
12 \$100.00. Nora told Broussard she receives \$35.00 for every person she brings to the lady driving
13 the white station wagon. Broussard asked Nora about going to the clinic for the survey. Nora said
14 the clinic manager would call him. Broussard never received a phone call.

15 When Broussard received his MSN dated 3/22/ 2006, he saw that Dr. Chang was listed as
16 a referring physician for several visits to BTC, a place he had never been. Broussard called the 1-
17 800-Medicare phone number listed on the statement and spoke to a woman in Baltimore who advised
18 him to send copies of his Medicare statement to her and to call BTC.

19 Broussard went to the BTC address listed on the statement and wrote down the phone number
20 posted on the door. He then went to the underground parking lot where he saw a white station
21 wagon which looked to be the same vehicle driven by the young Hispanic female who picked him
22 up at the trolley. Broussard called BTC and asked for Dr. David Chang. Broussard was told that
23 no one by that name worked there. When Broussard explained that his Medicare statement showed
24 billing for therapy at BTC and that he had never been there, she connected him to the BTC manager
25 (a male) who said that it was a "billing mistake" and that he would "make restitution" to Medicare.
26 Broussard gave us a note that Nora had written to him. Written on the back of the note was the name
27 Nora Moreland. According to CMS records, Medicare paid BTC \$6,125.96 for allegedly rendering
28 therapy services to Broussard from 10/5/2005 to 11/30/2005. According to Medicare records, no

1 restitution was ever made.

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3 **R.Ulrich:** Ulrich said he has never received physical or respiratory therapy services at BTC.
4 About 5 years ago following an auto accident, Ulrich received physical therapy at an in-patient
5 rehabilitation facility across from Mercy Hospital. Three years ago, his wallet was lost near the
6 trolley. The wallet contained his driver's licence and Medicare card. CMS records indicate that
7 Medicare paid BTC \$9,203.41 for allegedly rendering therapy services to Ulrich from 10/6/2005 to
8 12/29/2005, identifying Dr. William Davis as referring provider for billings from BTC.

9
10 **R. Gilbert:** Gilbert said she has never received physical or respiratory therapy and she has never
11 been to BTC. Two years ago, while living at Potiker, she was approached by a filipino man (now
12 deceased) and woman who said they would pay her \$100.00 to go to a clinic in Lemon Grove. Once
13 there, she received an EKG, ultrasound, and asked to sign several medical forms. She showed the
14 clinic staff her Medicare/Medi-Cal cards. Gilbert said she was also approached by a woman who
15 lived at Potiker known as "Nora," who said she would pay her \$100.00 to go a clinic in Los Angeles
16 (LA). Gilbert's previous primary care physician was Dr. Eisenhart at Scripps Hospital. Her current
17 doctor is Dr. Leslie Wells at Mercy Hospital. She has never heard of Dr. Kenneth Taylor, the
18 physician CMS identified as the referring provider to BTC. CMS records indicate that Medicare paid
19 BTC \$8,934.38 for allegedly rendering therapy services to Gilbert from 9/6/2005 to 11/29/2005.

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21 **Interview of Sridhar Gopalakrishnan**

22 On November 2, 2007, Special Agent Peragine, Special Agent Graves, Deputy Attorney
23 General Carlos Chavarria, and I interviewed Sridhar Gopalakrishnan (Sri Gopal). Gopal purchased
24 BTC from a previous owner, and provided the following statement:

25 Gopal owns and operates a home healthcare business called Excel Home Healthcare (EHH)
26 in La Mesa, California. EHH provides in-home Physical Therapy (PT), Occupational Therapy (OT)
27 and skilled nursing services to patients recently discharged from the hospital.

28 In May of 2006, Gopal learned that an outpatient therapy center in Hillcrest named Balboa

1 Therapy Center, Inc. was for sale, and wished to add to his home healthcare business. Gopal called
2 BTC and spoke to one of the owners, Sanjay Patel, also of Indian descent. Patel said that he and his
3 wife owned the business, and they needed to sell quickly and return to England to help his sister.
4 Gopal asked Patel if BTC was profitable, to which Patel responded that in 2005, BTC grossed \$1.8
5 million with a net profit of \$180,000.00, mainly from Medicare billing. Patel told Gopal that he was
6 desperate to leave the country as soon as possible and was therefore willing to let the business go for
7 \$150,000.00.

8 Gopal thought \$150,000.00 was an excellent price based on the annual profit. Gopal visited
9 BTC. Everything appeared in order, and employees appeared to be working. Gopal's accountant Ron
10 Mitchell received from Patel all of BTC's tax returns, bank records, invoices and account receivable
11 records. Mitchell reviewed them and gave Gopal the "go ahead" to purchase BTC.

12 Patel's attorney, Robert Butterfield, drew up a simple sales contract for both parties to sign.
13 Gopal retained attorney Jill Osmus, who reviewed the agreement and made only one change on the
14 first page to which both parties agreed: \$25,000.00 of the \$150,000.00 would be set aside in a trust
15 account with Butterfield until the Medicare provider number was transferred into Gopal's name.
16 Butterfield was instructed to draft an amended sales contract for both parties to sign. These final
17 discussions occurred just a few days prior to June 14, 2006.

18 On June 14, 2006, Gopal learned his father was gravely ill and planned a return to India.
19 Patel agreed to run BTC until Gopal's return, and e-mailed Butterfield's amended sales contract to
20 Gopal that night. Gopal received the amended sales contract from Patel but only reviewed the 1st
21 page section regarding the \$25,000.00 held in trust.

22 The next morning, June 15, 2006, Gopal and his wife Anitha Krishnan, signed the contract
23 and gave it in person to Patel at BTC. Gopal flew to India for two weeks. Upon his return, Gopal
24 found that business at BTC was very slow. Patel told Gopal that business was slow because he
25 (Patel) had not done any marketing while Gopal was gone.

26 The next month, July 2006, Gopal estimated that he was paying about \$23,000.00 per month
27 in overhead, while the clinic was only generating \$5,000.00 per month in income. After several
28 failed attempts to draw in more patients from local physicians, Gopal telephoned Patel to question

1 him about the drop in revenue. Patel avoided Gopal's questions, giving excuses as to why he was
2 not available to talk. Gopal began questioning BTC staff. Their collective responses were that
3 patient flow at BTC had always been slow. Gopal began sensing that something was wrong.
4 Looking at the purchase-sale agreement, Gopal discovered that the seller had added a section on page
5 two disclaiming responsibility for billing irregularities being investigated by federal authorities.

6 In October 2006, Gopal was contacted by Special Agent Craig Constable (U.S. Department
7 of Health and Human Services, Office of Inspector General in Santa Ana, CA), who requested to see
8 medical files for several Medicare patients. Gopal searched the patient files left at BTC by Patel,
9 but could not find any records for the persons on Constable's list. Gopal identified California
10 Drivers License Soundex photo #D4812144 as the person he knew to be Sanjay Patel.

11 Interview of Monique Viveros

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13 On January 31, 2008, SA Graves and HHS/OIG SA Peragine, interviewed Monique Viveros.

14 Viveros was hired by Sanjay Patel to work as an assistant at BTC from May 2004 to
15 December 2005, during which time Patel was at the office everyday; Patel's wife, Leena Patel was
16 the co-owner. BTC's respiratory therapist saw about four patients a day and the physical therapist
17 saw only a few patients a day. Viveros reviewed medical billing reports which she gave to Patel.
18 Patel used a billing service to submit claims to Medicare. During her time at BTC, Viveros
19 received telephone calls from two persons inquiring about their medical billing statements. Per
20 Patel's instructions, any calls about medical billing were immediately transferred to him. Viveros
21 does not know what was said during those calls. Patel told Viveros that he was selling the business
22 because he was moving to London, England to help his sister. One month after selling the business,
23 Patel called Viveros on her cell phone asking if BTC was still getting referrals from the medical
24 directors. During this time, Viveros was approached by Federal Agents asking to review 12 patient
25 files. Viveros was only able to locate one or two from their list; the other 10 names did not exist
26 in their records. According to Viveros, when the business was sold, all patient files remained at BTC.

Interview of Gary Lanswick

On January 31, 2008, SA Graves and SA Peregrine interviewed Gary Lanswick.

Lanswick was hired by Sanjay Patel to work at BTC as a respiratory therapist. Patel employed a physical therapist who worked Mondays, Wednesdays and Fridays. Lanswick worked at BTC five days a week, but saw most patients on Mondays, Wednesdays and Fridays, treating an average of only two to three patients a day; On Tuesdays and Thursdays, he treated maybe one or two at the most. There were no more than 20-30 active patients receiving treatment at any one time.

Many of the patient referrals were from the three medical directors. Other patients came to BTC from a pulmonologist in South Bay with whom Lanswick was acquainted, and a few from doctors in the Grossmont area. Patel met with the medical directors and staff on a regular basis to discuss BTC operations and patient charts.

Lanswick said that he completed billing forms and gave them to Patel, who in turn, would forward them to the biller, a woman in Orange County. Patel instructed the staff that if any patient called with questions or complaints regarding their billing, they were to be immediately referred to him (Patel).

On several occasions when Patel was not in the office, Lanswick received phone calls from patients who said they had been sent Medicare statements showing billing for treatment at BTC when they had never been there. Lanswick also determined there were no corresponding patient files at BTC for those patients who complained. Each time Lanswick received one of these calls he prepared a message for Patel explaining the phone call. After about three or four messages, Patel called Lanswick into his office. This occurred approximately six months before Patel sold BTC to Gopal. Patel told Lanswick there was a mix-up with patient files, possibly due to similar names. Certain patients who were treated in Los Angeles and Orange County, were billed by the biller as though they had been treated at BTC. Lanswick became suspicious and asked if Patel was doing anything illegal; Patel denied that he was. Patel told Lanswick he was selling BTC because of the death of his brother-in-law in the United Kingdom; Patel had to return to the UK to help his sister run a business that his brother-in-law had been running prior to his death. After the sale, Patel called Lanswick a few times to inquire about the business, but told Lanswick not to tell Gopal that he

1 called.

2 **Interview with Jennifer Batuyong**

3 On April 25, 2008, SA Peregrine and SA Adrian Bubb interviewed Jennifer Batuyong.

4 Batuyong worked at BTC as a medical assistant from April 2004 until December 2005, when
5 BTC abruptly closed. Her duties were to check in patients, perform front and back office duties, and
6 assist the physical therapist. Patel was present at BTC almost every day. BTC only treated 5 to 10
7 patients a day and only had a total active population pool of 20 patients.

8 Twice a month, Batuyong prepped the billing by comparing the patient appointment book
9 to the dates of service on individual billing sheets prepared by the therapists. Batuyong then gave
10 Patel all the paperwork in an unsealed envelope for his review. After reviewing the billing
11 paperwork, Patel always returned it to Batuyong with the envelope sealed.

12 About two months prior to BTC being sold, several persons called BTC to complain about
13 getting Medicare bills for services allegedly performed at BTC when they had never been there.
14 Batuyong looked up their names, but found no patient files. Other BTC staff did not recognize these
15 persons either. Batuyong told Patel about the complaints and lack of corresponding patient files.
16 Patel said he would take care of it. In January 2005, Patel instructed Batuyong to hold onto the
17 billing and not send it out. The billing stacked up in the filing cabinet.

18 Patel sold BTC to a new owner in 2005. He did not tell the staff he was selling BTC until
19 a month prior. He explained to staff that he was leaving the country and someone new was taking
20 over.

21 During the time the new owner was running BTC, a man from Medicare came to the office
22 looking for patient information. Batuyong and Viveros were given a list of patient names and told
23 to look for their files. The patients listed had never been seen at BTC.

24
25 **Interview with Candice Claudio**

26 On March 10, 2008, SA Graves and I, interviewed former employee Candice Claudio.

27 Patel hired Claudio as a part time physical therapist, and started at BTC in August 2005,
28 working Mondays, Wednesdays, and Fridays, 8:00 a.m. to 12:00 p.m. Claudio's job duties were to

1 evaluate and treat patients and to complete patient progress reports. During Claudio's shift, she
2 treated about four to five patients a day. Gary Lanswick was the respiratory therapist. Before
3 selling the business, Patel was at the office everyday, and was always in complete control of the
4 medical billing and clinic's day-to-day operation.

5 6 Review of Business Documents and Applications

7 According to the California Secretary of State website, Balboa Therapy Center, Inc., was
8 incorporated on 1/16/2003 under corporate filing #C02293710, listing Leena Patel as President.

9 The Medicare program application for BTC, in the section marked "Ownership Interest
10 and/or Managing Control Information," identifies: Sanjay J. Patel, SS [REDACTED] DOB:
11 [REDACTED] with an effective date of 01/01/2005; Under the "Authorized Official Name" section of the
12 application, Sanjay J. Patel, is identified as CEO, effective 01/24/2005. The signature appears to be
13 Sanjay Patel's based on a comparison I made with the signature on Patel's California Driver's
14 License # [REDACTED]

15 On June 18, 2008, OIG/HHS SA Peragine received notification that Trust Solutions had sent
16 an overpayment recovery letter to BTC that came back as non-deliverable. The letter informed BTC
17 that Medicare had made a determination of overpayment based on their recent review of BTC's
18 Medicare billings. According to the letter, Trust Solutions ran a statistically valid random sample
19 of 190 claims with dates of service from August 1, 2005 to April 30, 2007, to determine if the
20 services were medically reasonable and necessary. Since BTC failed to produce any requested
21 medical documentation, Trust Solutions was unable to substantiate the services, resulting in an
22 "overpayment" determination totaling \$1,397,619.82.

23 24 Billing and Payment Data History

25 In April 2008, OIG/HHS SA Peragine obtained BTC billing and payment data history for July
26 12, 2005 through June 15, 2006 from Trust Solutions, LCC. Upon review of this data, we found that
27 during the above time frame, Medicare paid BTC over \$2.3 million dollars for allegedly rendering
28 therapy services to hundreds of patients that were supposedly referred by the three medical directors

1 and many other local San Diego physicians. Using the same BTC billing and payment history, we
2 extracted those specific Medicare beneficiaries who were supposedly referred to BTC by the three
3 medical directors, Dr. Mercandetti, Dr. Khehar, and Dr. Guzman. We interviewed each of the three
4 medical directors and provided them with a list of Medicare recipient names allegedly referred to
5 BTC. The results follow:

6
7 **Alex Mercandetti MD:** On June 2, 2008, SA Peragine and I interviewed Dr. Alex Mercandetti.
8 Dr. Mercandetti said that Sanjay Patel asked him to work at BTC as a medical director. Dr.
9 Mercandetti agreed. Dr. Mercandetti said that as medical director he was responsible for
10 overseeing the pulmonary rehabilitation program. Regular quarterly meetings were held at which
11 time information on the patients were presented and patient treatments assessed. The other two
12 medical directors were Dr. Khehar and Dr. Guzman.

13
14 **Bhupinder Khehar, MD:** On June 2, 2008, SA Peragine and I interviewed Dr. Bhupinder Khehar.
15 Dr. Khehar said that he was one of three medical directors for BTC. He worked in this capacity for
16 approximately 12 to 18 months. The other two medical directors were his office partner Dr. Alex
17 Mercandetti and Dr. Oscar Guzman. Dr. Mercandetti was originally the sole medical director at
18 BTC since he is a pulmonologist and BTC was originally set up as a pulmonary rehabilitation
19 facility. At some point, BTC's original owner Sanjay Patel, decided he wanted to offer physical
20 therapy. That is when Dr. Khehar became a director. As a medical director, Dr. Khehar oversaw
21 treatment plans and participated in regular meetings for which BTC provided a small stipend. The
22 subsequent owner, Gopal, told Khehar that Patel was billing for services not provided, using medical
23 director provider numbers to authenticate these fraudulent services.

24 Dr. Khehar said he was shocked and upset that Patel was using the medical directors in this
25 way. Dr. Khehar referred no more than 30 to 40 patients to BTC. From a list of 125 beneficiaries
26 BTC listed as referrals by Dr. Khehar, he identified only 39 as his patients. The others were not his
27 patients, he did not recognize their names, and did not refer them to BTC for services.

28 On June 30, 2008, SA Peragine reviewed BTC billing and payment data from Trust Solutions

1 and calculated that from July 12, 2005 thru June 15, 2006, Medicare paid BTC over \$392,000.00,
2 for allegedly rendering therapy services to beneficiaries supposedly referred to BTC by Dr. Khehar;
3 Yet, Dr. Khehar said the beneficiaries were not his patients.
4

5 **Oscar Guzman, MD:** On April 25, 2008, SA Peregrine and SA Craig Eastep interviewed Oscar
6 Guzman, MD. He provided the following statement: Dr. Guzman is a rehabilitation specialist, who
7 served as a medical director at BTC for approximately one or two years. He was offered the position
8 by Sanjay Patel. Two other doctors, Dr. Mercandetti and Dr. Khehar also served as directors. The
9 directors and staff attended regular meetings, for which he received about \$150.00 per hour. He did
10 not receive payment for referring patients, and referred no more than a total of ten therapy patients
11 to BTC for treatment. Patel had a business consultant named Rhodna Ludwig who helped Patel open
12 BTC. She appeared to know what she was doing. Patel told Dr. Guzman that he had to sell BTC
13 because an in-law in the UK was really sick and he had to go help manage his business.
14

15 **Rhodna Ludwig:** On July 21, 2008, SA Craig Eastep and I, SA JoAnne Martinez, interviewed
16 Rhodna Ludwig. Ludwig provided the following in summary:

17 Ludwig has 38 years of working experience in medical administration and was referred to
18 Sanjay Patel (positively identified with CDL Soundex [REDACTED] through one of her previous
19 employment contacts. Patel said he was going into the medical business for the first time and needed
20 help setting up. Patel was opening a new CORF (Comprehensive Outpatient Rehabilitation Facility)
21 named Balboa Therapy Center on Fourth Avenue near Scripps/Mercy Hospital in San Diego,
22 California. Most of the set-up funding for BTC came from Patel's father-in-law, who traveled back
23 and forth from India to check on the business. Patel was at the business everyday; he handled all
24 financial matters including accounts receivable/payable, deposits and payroll.

25 Ludwig assisted Patel with getting BTC Medicare certified. She prepared the billing and
26 mailed it to a female Asian biller in Orange County. Patel found three physicians; Alex Mercandetti,
27 Khehar and Oscar Guzman, to serve as medical directors. In August 2003, BTC was officially open
28 for business. Ludwig said that patient flow the entire time she was there was very light. At times,

1 several days would pass before a single patient came in for treatment. Each of the three medical
2 directors referred only a few patients to BTC. Ludwig told Patel that his CORF was in a location
3 already saturated with well established competing facilities. Business at BTC got so slow that Patel
4 tried to recruit another doctor in the area to be BTC's medical director by promising some type of
5 fee-splitting arrangement. Dr. Mercandetti got very angry when he found out about it.

6 In September 2004, Ludwig quit working with BTC. Subsequently, Patel hired a part-time
7 physical therapist and two females to work the front reception area. Based on the location and
8 business operations, there was "no possible way" that BTC could ever generate enough physician
9 referrals to substantiate \$2 million dollars in Medicare payments during the period of time it was
10 known to be operating.

11 12 Resident Status & Border Crossing

13 On September 3, 2008, I spoke to Special Agent Katie Viorel, California Department of
14 Justice, Bureau of Investigations and Intelligence regarding Sanjay Patel's United States border
15 activity. SA Viorel inquired with Greg Phelan, Senior Special Agent with the US Department of
16 Homeland Security, Immigration & Customs Enforcement regarding all US border activity by Sanjay
17 Patel (DOB: [REDACTED] from 2000 to present date. Phelan reported to SA Viorel that there has
18 been only one US border crossing by Patel since 1/1/2000. On 8/31/08, Patel traveled from Miami,
19 Florida to the Cayman Islands on a cruise ship. He never went to the United Kingdom. Both Sanjay
20 and Leena Patel are citizens of India currently residing in the United States with green cards.

21 22 Additional Referring Physicians

23 In July and September 2008, I sent out letters with a questionnaire attached to random
24 referring Medicare providers/physicians listed on Balboa Therapy Center's (BTC) Medicare billing
25 and payment summary generated by Trust Solutions, LLC. The letter/questionnaire to referring
26 physicians asked whether beneficiaries listed on the billing and payment summary were actually their
27 patients, and if so, did they ever refer the patients to Balboa Therapy Center for treatment.

28 Forty-five (45) referring physicians responded to my letter/questionnaire. Three (3)

1 physicians responded that they referred a combined total of six (6) patients to BTC, resulting in total
2 Medicare payments of \$5,646.43. Conversely, forty-two (42) physicians responded that they had
3 never seen the one hundred and forty-two (142) beneficiaries identified as their patients, and
4 never referred them to BTC. For the patients related to these 42 physicians, Medicare paid BTC a
5 total of \$948,477.58 for services never rendered.

6 7 Review of Bank Records

8 In January 2008, SA Peragine obtained the Medicare Electronic Funds Transfer enrollment
9 form for BTC that was filed with National Government Services, Medicare Part A. The form was
10 dated 7/2/2004; effective 7/12/2004, by S. Patel DBA Balboa Therapy Center to Wells Fargo Bank,
11 account number [REDACTED], held under the name Balboa Therapy Center.

12 On April 11, 2008, I served a search warrant on Wells Fargo Bank account number
13 [REDACTED], held under the name Balboa Therapy Center. The search warrant was signed by the
14 Honorable John M. Thompson, Judge of the Superior Court of San Diego.

15 I reviewed bank records seized in the search warrant from Wells Fargo Bank and found the
16 following:

17 1) Wells Fargo Bank account # [REDACTED] was opened on April 12, 2004, under the names
18 Leena Patel (DOB: [REDACTED]) and Sanjay Patel [REDACTED]
19 [REDACTED] DBA Balboa Therapy Centers. Sanjay Patel appears to be the signatory on every
20 check drawn on this account (I compared the signatures on the checks with the signature on
21 Patel's California Driver's License [REDACTED]). They appeared the same.

22
23 2) Between July 1, 2005 and June 15, 2006, Medicare electronically deposited over \$2.3
24 million dollars into account [REDACTED] for therapy services allegedly rendered to
25 Medicare patients at Balboa Therapy Center.

26
27 3) Between August 10, 2005 and February 14, 2006, approximately \$1,126,650.00 was
28 electronically wire transferred out of account [REDACTED] into the following:

1
2 A) \$353,488.00 into AR Management Group Inc., located at 12620 Brookhurst
3 Street, Ste #4, Garden Grove, CA 92840. According to the California Secretary of
4 State, the registered agent of AR Management Group Inc., is Aziz Sabry.

5 B) \$511,972.08 into Advanced Clinical Group Inc., located at 12620 Brookhurst
6 Street, Ste #4, Garden Grove, CA 92840. According to the California Secretary of
7 State, the registered agent of Advanced Clinical Group Inc., is Aziz Sabry.

8 C) \$211,295.18 into G. G. Therapy Group, located at 12416 Bay Hill Ct., Garden
9 Grove, CA 92843. According to the California Secretary of State, there is no record
10 of a California Corporation held under the name G.G. Therapy Group, nor is there
11 any record of a fictitious business name of G. G. Therapy Group ever having been
12 filed with the Orange County Records Office.

13
14 4) Between August 4, 2005 and April 19, 2006, eight checks totaling \$97,000.00 were
15 drawn on account [REDACTED] and paid to Leena Patel. Seven of the nine checks appeared
16 to be endorsed by Sanjay Patel (I compared the signatures on the checks with the signature
17 on Patel's California Driver's License [REDACTED] They appeared to be the same.

18
19 5) Between July 15, 2005 and July 29, 2006, three checks totaling \$106,000.00, drawn on
20 account [REDACTED] were paid to Advanced Clinical Group, Inc. Typed in the memo
21 section of all three checks is "Services Rendered."

22
23 6) On August 24, 2005, three checks totaling \$90,000.00 (\$30,000.00 each check) were
24 drawn on account [REDACTED] and paid to Gustavo Lomelin. Written in the memo section
25 of all three checks is "G.G. Villa No. 15 Bugambillas de casa Mexicana 'Alma A. Andrade'".

26
27 7) Between July 16, 2005 and June 6, 2006, Alex Mercandetti, MD, was paid a total of
28 \$3,900.00; Oscar Guzman, MD, was paid a total of \$4,200.00; Bhupinder Khehar, MD, was
paid a total of \$12,075.00 from Wells Fargo Bank account [REDACTED]

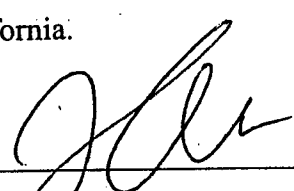
1 CONCLUSION

2 Based on facts set forth in this declaration, I believe that from July 12, 2005 through June
3 15, 2006, Librada Santos Comduran solicited to pay unlawful remuneration to Medi-Cal
4 beneficiaries in violation of Welfare & Institutions Code §14107.2. Sanjay J. Patel AKA Sanjay
5 Kumar Patel, Leena Bharat Kumar Patel AKA Leena Patel and Librada Santos Comduran then used
6 this and other information to defraud the Medicare program by receiving payment for false and
7 fraudulent claims submitted to the Medicare program for therapy services not rendered to Medicare
8 beneficiaries. I further believe they used the identities of Medicare beneficiaries and those of local
9 physicians (Medicare providers), listing them as referring providers, without their knowledge as part
10 of this ongoing scheme to defraud and steal from the Medicare Program over \$1,340,477.00. As a
11 result, there is probable cause to believe that Librada Santos Comduran, Sanjay J. Patel AKA Sanjay
12 Kumar Patel and Leena Bharat Kumar Patel AKA Leena Patel unlawfully used the identity of
13 another to steal and receive over \$400.00 in violation of Penal Code §§487(a), 496(a) and 530.5(a);
14 engaged in Health Care Fraud in violation of Penal Code §550(a)(6), and Money Laundering in
15 violation of Penal Code §186.10(a)(1).

16 DECLARATION

17 I declare under penalty of perjury that the foregoing is true and correct. Executed on the

18 5th day of February 2008 at San Diego, California.

19
20 
21 JoAnne Martinez
22 Special Agent
23 California Department of Justice
24 Bureau of Medi-Cal Fraud and Elder Abuse
25
26
27
28

ORDER FOR ARREST WARRANT

Based on this complaint and declaration in support of issuance of Arrest Warrant, I respectfully request that a warrant be issued for the arrest of defendants pursuant to Penal Code section 813 et seq.

IT IS HEREBY ORDERED:

1. That arrest warrants shall issue for the following persons, who are to be admitted to bail in the following sums:

2. Prior to and as a condition of release on bail, each of the following persons must first surrender their passport to this Court.

1) SANJAY J. PATEL AKA SANJAY KUMAR PATEL

Recommended Bail: \$1,250,000.00. *John*

DOB: [REDACTED]

CII No. N/A

CDL No. [REDACTED]

SSN: [REDACTED]

Sex: Male

Race: Indian

Hair: Black

Eyes: Brown

Height: 5'11"

Weight: 168

Residence: 461 [REDACTED] [REDACTED] [REDACTED]

2) LEENA BHARAT KUMAR PATEL, aka LEENA PATEL

Recommended Bail: \$1,250,000.00. *John*

1 DOB: [REDACTED]

2 CII No. N/A

3 CDL No. [REDACTED]

4 SSN: [REDACTED]

5 Sex: Female

6 Race: Indian

7 Hair: Black

8 Eyes: Brown

9 Height: 4'10"

10 Weight: 120

11 Residence: [REDACTED]

12 3) LIBRADA SANTOS COMDURAN, aka's LIBRADA SCOTT and LIBRADA SANTOS

13 NASET

14 Recommended Bail: \$50,000.00. *for*

15

16 DOB: [REDACTED]

17 CII No. N/A

18 CDL No. [REDACTED]

19 SSN: [REDACTED]

20 Sex: Female

21 Race: Filipino

22 Hair: Black

23 Eyes: Brown

24 Height: 4'11"

25 Weight: 160

26 Residence: 525 14th Street, Apt #242, San Diego, CA 92101

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28

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2
3 SUBSCRIBED AND SWORN TO before me
4 on this 5 day of February 2009.

5
6 Robert F. O'Neill

7 SUPERIOR COURT JUDGE

8 County of San Diego
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