

D-2888

IN THE MATTER OF
THE LICENSE OF
LORING A. GIFFORD, M.D.
RESPONDENT

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BEFORE THE

TEXAS STATE BOARD

OF MEDICAL EXAMINERS

AGREED ORDER

On this the 18 day of January, 1997, came on to be heard before the Texas State Board of Medical Examiners ("the Board" or "the Texas Board"), duly in session the matter of the license of Loring A. Gifford, M.D. ("Respondent"). On August 29, 1996, Respondent did not personally appear, but appeared through counsel, Ace Pickens, at an Informal Settlement Conference/Show Compliance Proceeding in response to a letter of invitation from the staff of the Board.

The Board was represented at the Informal Settlement Conference/ Show Compliance Proceeding by R. Russell Thomas, Jr., D.O., a member of the Board, and Thomas A. Reiser, a district review committee member. Upon recommendation of the Board's representatives, and with the consent of Respondent, the Board makes the following findings of fact and conclusions of law and enters this Order as set forth herein:

FINDINGS OF FACT

1. Respondent, Loring A. Gifford, M.D., holds Texas Medical license D-2888.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received all notice which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied.
3. On or about December 7, 1994, Respondent was arrested by federal law enforcement agents on charges of violating several federal laws directly connected to Respondent's practice of medicine in or near El Paso, Texas.

4. Subsequent to Respondent's arrest a duly empaneled grand jury of the United States District Court For The Western District Of Texas, El Paso Division, in Criminal Case No. EP-94-CR-424DB, handed down a Second Superseding Indictment charging that Respondent had engaged in numerous acts of criminal conduct, including but not limited to the following:

- conspiring to defraud and actually defrauding government health care programs and private health care insurers to the sum of approximately 1.2 million dollars by submitting false and fraudulent billings;
- tampering with a government witness, the spouse of one of Respondent's former patients, by threatening to discontinue the patient's morphine injections if the patient's spouse refused to sign a false statement exonerating Respondent of criminal wrong doing;
- billing insurers for physician services which were never performed;
- billing insurers for medical services performed by Respondent's office staff as if they were performed by Respondent, as a physician;
- double billing for medical services; and
- mail fraud.

A certified true copy of the original Second Superseding Indictment is attached hereto as Exhibit A and is incorporated herein for any and all purposes as if fully set forth at length.

5. The Second Superseding Indictment, Exhibit A, also asserted that according to Respondent's billing records Respondent had billed for 7,536 hours of psychotherapy and office visits allegedly performed in 1993. This figure of 7,536 hours represents 314 twenty-four hour days out a 365 calendar day year.

6. After a lengthy trial, a jury found Respondent guilty on ten of twelve criminal counts asserted against Respondent in the Second Superseding Indictment, Exhibit A. Specifically the jury found Respondent guilty of conspiring and defrauding health care insurers; aiding and abetting mail fraud; mail fraud; witness tampering; and engaging in monetary transactions in property derived from unlawful activity. A certified true copy of the original Verdict in Criminal Case No. EP-94-CR-424-DB is attached hereto as Exhibit B and is incorporated herein for any and all purposes as if fully set forth at length.

7. In August, 1996, Respondent was sentenced to the custody of the United States

Bureau of Prisons. A certified true copy of the Court's original Judgment is attached hereto as Exhibit C and is incorporated herein for all purposes as if fully set forth at length.

8. The conviction of Respondent on felony charges as specified in Finding of Fact Number 3-7, above, is Respondent's second conviction on federal charges connected with his medical practice.

9. In or about 1982, Respondent was convicted in a federal court on similar charges, to-wit: engaging in fraud connected with his medical practice.

10. From approximately 1983 to approximately 1987 Respondent was in the custody of the United States Bureau of Prisons.

11. Following his conviction in or about 1982, Respondent's then active medical license was cancelled. Upon Respondent's release from custody in approximately 1987, Respondent in March 1987 applied for a Texas medical license. Respondent was issued a Texas medical license with restrictions via an order of the Board dated July 10, 1988. The restrictions were lifted via an order of the Board dated January 26, 1990. Certified true copies of these orders are attached hereto respectively as Exhibit D and E and are incorporated herein for any and all purposes as if fully set forth at length.

12. Separate and apart from the federal court proceedings detailed in the above Findings of Fact Number 3-7, Board Staff has investigated certain allegations concerning Respondent's practice of medicine, to-wit:

- that Respondent prescribed dangerous drugs and/or controlled substances, including morphine, to several patients on a frequent basis without adequate medical indications to support such prescribing;
- that Respondent prescribed dangerous drugs with addictive potential and/or controlled substances to several patients thereby causing, contributing to, or potentiating their addiction to chemical substances, such as morphine; and
- that Respondent knowingly allowed members of his medical office staff to perform medical services, including writing prescriptions, ordering injections to be given, and performing psychiatric counseling, biofeedback therapy, and physical therapy, which acts they were not licensed to perform.

13. Respondent denies the allegations asserted in Finding of Fact Number 12 above.

14. While not admitting that he has violated the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, Respondent has chosen to avoid the expense and difficulties associated with litigation by entering into this Agreed Order, and agreeing to comply with the terms and conditions set forth herein.

15. Respondent reports that he is in poor physical health. Specifically Respondent reports that subsequent to his indictment on or about December 20, 1995, Respondent became one hundred (100) percent physically disabled due to detached retinas, partial blindness, ophthalmic migraines, cancer necessitating three operations and secondary depression.

16. Respondent maintains that due his poor health and total disability he wishes to retire from the practice of medicine by voluntarily and permanently surrendering his medical license.

17. By Respondent's signature on this Agreed Order, Respondent requests that the voluntary and permanent surrender of his Texas medical license be accepted to be effective on the date of the signing of this Agreed Order by the presiding officer of the Board.

18. Respondent has entered into this Agreed Order pursuant to the provisions of Section 4.02(h) of the Medical Practice Act ("the Act") V.A.C.S., article 4495b.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes the following:

1. Respondent has violated Section 3.08(2) of the Medical Practice Act ("the Act"), V.A.C.S., article 4495b, which authorizes the Board to take disciplinary action against Respondent based on Respondent's conviction of a crime of the grade of a felony or a crime of a lesser degree that involves moral turpitude.

2. Respondent has violated Section 3.08(4) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

3. Respondent has violated Section 3.08(4)(A) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of any act that is

in violation of the laws of the State of Texas if the act is connected with Respondent's practice of medicine.

4. Respondent has violated Section 3.08(4)(G) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's persistently and flagrantly overcharging or overtreating patients.

5. Respondent has violated Section 3.08(4)(H) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's failing to supervise adequately the activities of those acting under Respondent's supervision.

6. Respondent has violated Section 3.08(4)(I) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's delegating professional medical responsibility or acts to a person Respondent knew or had reason to know was not qualified by training, experience, or licensure to perform the responsibility or acts.

7. Respondent has violated Section 3.08(15) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's aiding or abetting, directly or indirectly, the practice of medicine by any person, partnership, association, or corporation not duly licensed to practice medicine by the Board.

8. Respondent has violated Section 3.08(18) of the Act, which authorizes the Board to take disciplinary action against Respondent based on Respondent's professional failure to practice medicine in an acceptable manner consistent with public health and welfare.

9. Section 4.02(h) of the Act authorizes the Board to resolve and make a disposition of this matter through an agreed order.

10. Section 4.12 of the Act authorizes the Board to take action in regard to Respondent and Respondent's medical license as set forth below.

ORDER

Based on the above Findings of Fact and Conclusions of Law, it is therefore ORDERED, ADJUDGED, AND DECREED that:

1. Respondent's voluntary and permanent surrender of his Texas medical license should be and is hereby accepted by the Board.

2. Respondent's Texas medical license, number D-2888 is therefore permanently cancelled.

3. Respondent shall immediately retire from the practice of medicine in Texas. Respondent shall not diagnose, treat or prescribe for any patient, either for a fee or gratuitously. Should Respondent diagnose and/or treat any patient for any ailment, or prescribe any drug after this date, it shall constitute a violation of this Order subjecting Respondent to disciplinary action by the Board or prosecution for practicing medicine without a license in Texas.

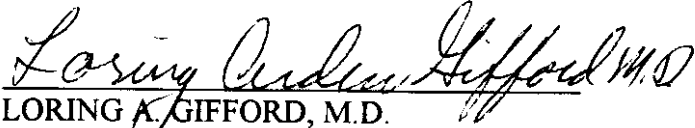
4. Respondent shall not petition the Board for reinstatement of his Texas medical license.

5. This Agreed Order supersedes all previous Orders of the Board.

THIS ORDER IS A PUBLIC RECORD.

I, LORING A. GIFFORD, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

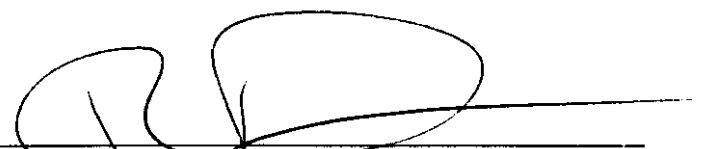
DATED: December 12, 1996


LORING A. GIFFORD, M.D.
RESPONDENT

STATE OF ~~TEXAS~~ Missouri §
COUNTY OF Christian §

BEFORE ME, the undersigned Notary Public, on this day personally appeared LORING A. GIFFORD, M.D., known to me to be the person whose name is subscribed to this instrument, an Agreed Order, and who after being by me duly sworn, on oath, stated that he executed the same for all purposes expressed therein.

Given under my hand and official seal and office this 12 day of Dec, 1996.



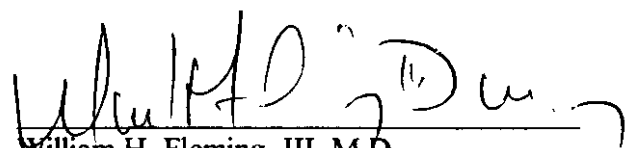
Signature of Notary Public

(Notary Seal)

Printed or typed name of Notary Public

My commission expires: FOUR E. DUREN Notary Public
Christian County State of Missouri
My Commission Expires Feb. 16, 1998

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical Examiners on this 18th day of January, ~~1996~~ 1997.



William H. Fleming, III, M.D.
President, Texas State Board of
Medical Examiners

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED

Dec 20 6 38 PM '95

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)

Criminal No. EP-94-CR-424DB

S E C O N D
S U P E R S E D I N G
I N D I C T M E N T

LOREN ARDEN GIFFORD,)
AGHAVNI PAICHUK,)
AKA ANN GIFFORD, and)
SAMARJEET SIDHU,)
Defendants.)

[Violations:
18 U.S.C. § 371; Conspiracy
18 U.S.C. §§ 2 & 1341; Aiding
and Abetting Mail Fraud.
18 U.S.C. § 1341; Mail Fraud.
18 U.S.C. §1512(b)(3);
Witness Tampering.
18 U.S.C. §1001 - False
Statements;
18 U.S.C. §1957(a) -Engaging in
monetary transactions in
property derived from specified
unlawful activity.
18 U.S.C. §1956(a)(1)(B)(i) &
(c)(4)(B) - Laundering of
monetary instruments.]

THE GRAND JURY CHARGES THAT:

COUNT ONE

(18 U.S.C. § 371/1341)

A true copy of the original. I certify.
Clerk, U.S. District Court

INTRODUCTION

M. Stjell
Deputy

At all times material to this indictment:

1. The DEFENDANT, LOREN ARDEN GIFFORD, was a licensed medical physician in the State of Texas who practiced psychiatry and "pain management" at his office located at 1300 Murchison, Suite 390, in El Paso, Texas, the Western District of Texas.

2. The DEFENDANT, AGHAVNI PAICHUK, was the wife of the DEFENDANT, LOREN ARDEN GIFFORD. She was a licensed chiropractor in



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the State of Texas. She was not licensed by the State of Texas to practice physical therapy.

3. The **DEFENDANT, SAMARJEET SIDHU**, was an individual who was not licensed in the State of Texas to practice medicine, chiropractic, or physical therapy.

4. Sunrise was a business owned and operated by the **DEFENDANT, LOREN ARDEN GIFFORD**, purportedly for the purpose of providing medical rehabilitation treatment through methods such as group therapy.

5. El Paso Addiction and Psychiatric Associates (EPA & PA) was a business owned and operated by the **DEFENDANT LOREN ARDEN GIFFORD**, purportedly for the purpose of medically treating problems of substance abuse and addiction.

6. Pain and Rehabilitation Management was a business owned and operated by the **DEFENDANT LOREN ARDEN GIFFORD**, purportedly for the purpose of medically treating pain and providing medical rehabilitation treatment.

7. CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) was a federal government sponsored program designed to provide medical insurance to qualified recipients.

8. Medicare Part B was a federal government sponsored program designed to provide medical insurance to qualified recipients.

9. Medicaid was a federal government sponsored program designed to provide medical insurance to qualified recipients.

10. Pan American Life Insurance Company, Blue Cross\Blue Shield of Texas, Young Insurance Company, GEHA (Government

Employees Hospital Administration), Provident Life and Accident Insurance Company, and Washington National Insurance Company were private health care insurance providers.

11. A "CPT" code is a standard number assigned to a medical procedure performed by an individual who is qualified to practice or prescribe that procedure, used by insurance companies and health care providers to identify services rendered for payment by insurance companies. CPT stands for (Physicians') Current Procedural Terminology.

12. A "HCFA" 1500, or Health Care Finance Administration Form #1500, is a standardized form designed and printed by the federal government and used universally in the United States by private and government health care providers and insurance companies for billing purposes.

13. All of the billing for health care related services allegedly conducted by **DEFENDANT GIFFORD** or at his direction by **DEFENDANTS PAICHUK** and **SIDHU** were billed on HCFA 1500 forms and mailed, via the United States Postal Service, according to the directions thereon, from 1300 Murchison, Suite 390, El Paso, Texas, to insurance companies.

14. CPT code number 90843 is a billing code assigned to a "psychiatric therapeutic procedure" (psychotherapy) lasting 20 to 30 minutes. The procedure requires that a licensed medical physician perform the service in order for payment to be made by an insurance company or a government sponsored program.

15. CPT code number 90844 is a billing code assigned to a "psychiatric therapeutic procedure" (psychotherapy) lasting 45 to 50 minutes. The procedure requires that a licensed medical physician perform the service in order for payment to be made by an insurance company or a government sponsored program..

16. CPT code number 99214 is a billing code assigned to an office visit for the evaluation and management of an established patient which requires at least two of the following three components: (1) a detailed history; (2) a detailed examination; (3) a medical decision making of moderate complexity.

17. CPT code number 90070 is a billing code that is not assigned to any particular treatment or drug but rather is an additional code used when the normal routine CPT coded service on an established patient requires an extended period of time or treatment.

18. Morphine is a Schedule II Controlled Substance which can only be prescribed by a licensed medical physician. Morphine can be taken orally, by a pill, or by injection. It is a narcotic drug designed and prescribed for the management of pain that does not respond to non-narcotic pain medication. Morphine has recognized abuse and dependence potential.

19. Toradal is a drug that can be prescribed by a physician to be taken orally or by injection. It is designed and prescribed for the relief of pain and inflammation.

20. Phenergan is a drug that can be prescribed by a physician to be taken orally or by injection. It is designed and prescribed

as an antihistamine and as a sedative. The duration of effect of Phenergan is four to six hours.

21. Demerol is a Schedule II Controlled Substance that can be prescribed only by a licensed physician. It can be taken orally or by injection. It is designed and prescribed for the relief of moderate to severe pain. Demerol can produce drug dependence of the morphine type and therefore has the potential for being abused.

MANNER AND MEANS OF THE CONSPIRACY

22. From on or about January 1, 1993, until on or about August 10, 1994, in the Western District of Texas, **DEFENDANTS, LOREN ARDEN GIFFORD, AGHAVNI PAICHUK, and SAMARJEET SIDHU**, aided and abetted by each other, willfully devised and intended to devise a scheme and artifice to defraud and obtain money from insurance companies and government sponsored programs including Blue Cross/Blue Shield of Texas, Medicare Part B, Medicaid, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), Young Insurance Agency, Pan American Life Insurance Company, Government Employees Health Association (GEHA), Provident Life and Accident Insurance Company, Washington National Insurance Company, and others, by means of false and fraudulent pretenses, representations, and promises.

23. **DEFENDANT LOREN ARDEN GIFFORD** regularly caused insurance companies and government sponsored programs to be billed for his services to patients for services which were not performed, were not performed as billed, or were performed by associates, such as **DEFENDANTS AGHAVNI PAICHUK and SAMARJEET S. SIDHU**, for whose

services **DEFENDANT GIFFORD** was not entitled to be reimbursed. This activity resulted in approximately \$1.2 million in fraudulent billings in 1993 and 1994.

24. **DEFENDANT LOREN ARDEN GIFFORD** caused various insurance companies and government sponsored programs to be excessively billed for approximately 7,536 hours of psychotherapy and office visits under CPT codes 90843, 90844, and 99214, allegedly conducted by him in calendar year 1993. (This figure represents 314 twenty-four hour days out of a 365 day year.)

25. **DEFENDANT LOREN ARDEN GIFFORD** caused various insurance companies and government sponsored programs to be double billed by billing CPT codes 99214 and adding to that billed service CPT code 90070, extended service for outpatient procedures, when the proper CPT code if used in lieu of the above-referenced codes would have generated less payment. These fraudulent billings totalled approximately \$32,555 in revenue generated between January 1, 1994 and August 9, 1994.

26. **DEFENDANTS LOREN ARDEN GIFFORD, and SAMARJEET S. SIDHU,** caused various insurance companies and government sponsored programs to be fraudulently billed for biofeedback services performed by **DEFENDANT SIDHU** while in truth and in fact, as **DEFENDANTS GIFFORD and SIDHU** well knew, **DEFENDANT SIDHU** had not performed said services. In connection with this part of the scheme and artifice, **DEFENDANT SIDHU** filled out interoffice fee tickets incorrectly indicating that **DEFENDANT SIDHU** had performed biofeedback services. **DEFENDANT SIDHU** knew that the fee tickets

would be supporting documentation for claims later submitted to insurance carriers and government sponsored programs .

27. **DEFENDANT LOREN ARDEN GIFFORD**, fraudulently caused insurance carriers to be billed for services allegedly performed by him during time periods in which he was out of the office. On most of these occasions, **DEFENDANT SAMARJEET S. SIDHU** was in charge of the office and performed various services he was not licensed to perform, such as counseling, writing prescriptions, and ordering that injections be given. **DEFENDANT SIDHU** knew that such services would be billed to insurance companies and government sponsored programs as if the work was performed by **DEFENDANT GIFFORD**. **DEFENDANT SIDHU** incorrectly and fraudulently filled out fee tickets in connection with this part of the scheme and artifice.

28. **DEFENDANT LOREN ARDEN GIFFORD** caused CHAMPUS to be fraudulently billed for physical therapy services allegedly performed by him which in fact were performed by **DEFENDANT AGHAVNI PAICHUK**, who was not licensed to practice physical therapy in the State of Texas. **DEFENDANT PAICHUK** knew that **DEFENDANT GIFFORD** was billing CHAMPUS under his own provider number and knew that, because she was unlicensed as a physical therapist, it was fraudulent for him to do so. In connection with this part of the scheme and artifice, **DEFENDANT PAICHUK** advertised her services in the Yellow Pages as a chiropractor and represented that her services were reimbursable through CHAMPUS. In connection with this part of the scheme and artifice, **DEFENDANT PAICHUK** personally re-diagnosed, for billing purposes, several of her patients who had

been originally diagnosed by **DEFENDANT GIFFORD**. **DEFENDANT PAICHUK** knew that these rediagnoses would be submitted to CHAMPUS as if they had been performed by **DEFENDANT GIFFORD**.

29. **DEFENDANT LOREN ARDEN GIFFORD** arranged to see patients of **DEFENDANT AGHAVNI PAICHUK**, for very brief periods of time, even when such patients had no need or desire to see him, in order to submit bills to CHAMPUS indicating that he had provided medical services to said patients. **DEFENDANT PAICHUK** had full knowledge of this part of the scheme and artifice and fully participated in it.

30. **DEFENDANT LOREN ARDEN GIFFORD** administered his practice in such a manner that large numbers of patients were encouraged to, and did in fact, come in to the office daily or several times a week in order to receive injections of pain killers such as morphine or toradal. **DEFENDANT GIFFORD** typically saw these patients for 5 to 10 minutes or 15 to 20 minutes allegedly for counseling or office visits, but consistently caused insurance companies and government sponsored programs to be billed under CPT codes falsely indicating that the counseling sessions and office visits had been longer in duration. **DEFENDANT GIFFORD** often refused to provide his patients with oral pain killers which would have required fewer visits to his office. **DEFENDANT GIFFORD** regularly encouraged his patients to continue with injections of pain killers, even when they asked to have the injections discontinued or reduced, in order that **DEFENDANT GIFFORD** could continue to fraudulently overcharge insurance companies for office

visits, counseling sessions, biofeedback treatments and chiropractic services.

THE CONSPIRACY

Beginning on or about January 1, 1993, and continuing through and including on or about August 10, 1994, in the Western District of Texas and elsewhere, the **DEFENDANTS**

**LOREN ARDEN GIFFORD,
AGHAVNI PAICHUK, and
SAMARJEET SIDHU**

intentionally and knowingly conspired and agreed with each and with others both known and unknown to the Grand Jury to devise a scheme to obtain money and property by false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme knowingly caused a matter and thing to be sent, delivered and moved by mail by the United States Postal Service according to the direction thereon, to wit; the **DEFENDANTS LOREN ARDEN GIFFORD, AGHAVNI PAICHUK, and SAMARJEET SIDHU**, in order to obtain money from insurance companies, among other things, by false and fraudulent pretenses and representations, caused HCFA 1500 billing forms and other documents, including but not limited to, letters, demands for payment, and explanation of services, to be mailed to CHAMPUS, Medicare Part B, Medicaid, Blue Cross\Blue Shield of Texas, Washington National Insurance Company, Young Insurance Company, Pan American Life Insurance Company, GEHA, Provident Life and Accident Insurance Company, and others, and requests for explanation of benefits and payments in the form of checks, among other things, to, in turn, be mailed from the aforementioned companies and to be

delivered by the United States Postal Service to **DEFENDANT, LOREN ARDEN GIFFORD** at his business in El Paso, Texas. In furtherance of the conspiracy, and in order to effect its objects, the **DEFENDANTS LOREN ARDEN GIFFORD, AGHAVNI PAICHUK, and SAMARJEET SIDHU**, and others known and unknown to the Grand Jury, committed and caused to be committed, among others, the following overt acts:

OVERT ACTS

(a). Between on and about December 2, 1993, and December 6, 1993, the **DEFENDANT LOREN ARDEN GIFFORD** was in Florida. However, the **DEFENDANT LOREN ARDEN GIFFORD** caused insurance companies and government sponsored programs to be billed for providing the following medical treatment allegedly administered by him at his office in El Paso, Texas:

<u>Patient</u>	<u>CPT Code</u>	<u>Amount</u>
D.M.	99214	\$115.00
R.B.	90844	\$150.00
J.B.	90844	\$150.00
	90782 (injection)	\$30.00
C.U.	90844	\$150.00
	90782 (injection)	\$30.00
M.Q.	99214	\$105.00
	J1885 (injection)	\$30.00
S.B.	99214	\$105.00
	90782 injection)	\$30.00
A.H.	99214	\$115.00
	99214	\$115.00

<u>Patient</u>	<u>CPT Code</u>	<u>Amount</u>
L.R.	99214	\$105.00
	J1885 (injection)	\$30.00
	99214	\$105.00
	99070 (morphine)	\$13.40

(b). Between 9:00 a.m., December 27, 1993, through and including January 3, 1994, **DEFENDANT LOREN ARDEN GIFFORD** was in Jamaica. He left signed prescriptions for injections for his regular patients which were completed and distributed by **DEFENDANT SAMARJEET SIDHU** during those dates. Additionally, **DEFENDANTS GIFFORD and SIDHU** caused insurance companies and government sponsored programs to be billed for providing, among many more, the following medical treatment allegedly administered by the **DEFENDANT LOREN ARDEN GIFFORD** at his office in El Paso, Texas during that time:

<u>Patient</u>	<u>CPT Code</u>	<u>Amount</u>
J.B.	90844	\$150.00
	90782 (x 6 injections)	\$180.00
D.M.	99214 (x 1 visit)	\$115.00
	90782 (X 5 injections)	\$150.00
R.B.	90844 (x 2 sessions)	\$300.00
	90782 (x 4 injections)	\$120.00
S.B.	90844 (x 3 sessions)	\$450.00
	90782 (x 6 injections)	\$180.00
	99214 (x 2 visits)	\$210.00

<u>Patient</u>	<u>CPT Code</u>	<u>Amount</u>
M.Q.	J1885 (x 6 injections)	\$180.00
	99214 (x 1 visit)	\$150.00
	J2270 (x 5 morphine)	\$150.00
	J2550 (x 5 injections)	\$150.00
A.H.	90782 (x 5 injections)	\$150.00
L.R.	99214 (x 6 visits)	\$630.00
	99070 (x 14 extras)	\$193.55
	J1885 (x 7 injections)	\$210.00
	J2270 (x 8 morphine)	\$240.00
	J2550 (x 7 injections)	\$210.00

(c) The **DEFENDANTS LOREN ARDEN GIFFORD and SAMARJEET SIDHU** entered into a system for compensation for **SIDHU's** employment in 1993. **GIFFORD** paid **SIDHU** according to the number of patients to whom **SIDHU** administered biofeedback, only if and when the insurance companies and government sponsored programs honored the billing. Once **GIFFORD** received payment from the insurance company, usually approximately \$59.00 per biofeedback session, he paid **SIDHU** \$25.00 of that amount.

(d) Sometime in the summer of 1994, the **DEFENDANT AGHAVNI PAICHUK** performed physical therapy for a number of patients at the **DEFENDANT LOREN ARDEN GIFFORD's** office. When the insurance companies and government sponsored programs denied payment, **PAICHUK** altered and changed the medical diagnosis for each payment and

caused the bills to be resubmitted for payment by mail to the insurance companies and government sponsored programs.

(e) Beginning on or about January 1, 1994, and continuing through July 1994, the **DEFENDANT LOREN ARDEN GIFFORD** created hundreds of billings by handwriting and signing "routing slips" instructing his office employees to bill for medical services and treatments that were not performed at all.

COUNT TWO

[18 U.S.C. §§ 2 and 1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about June 8, 1994, in the Western District of Texas, **DEFENDANTS,**

**LOREN ARDEN GIFFORD, and
AGHAVNI PAICHUK,**

aided and abetted by each other, having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "H.C." which form fraudulently represented to Medicare Part B that **DEFENDANT GIFFORD** conducted an office visit with H.C. billed as a CPT code 99214, in violation of Title 18, United States Code, Sections 2 and 1341.

COUNT THREE

[18 U.S.C. §§ 2 and 1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about March 29, 1994, in the Western District of Texas, **DEFENDANT,**

LOREN ARDEN GIFFORD,

having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "V.G." which form fraudulently represented to Medicare Part B that **DEFENDANT GIFFORD** conducted with V.G. two 60 minute psychotherapy sessions (CPT code 90844) and one biofeedback procedure (CPT code 90906), in violation of Title 18, United States Code, Sections 2 and 1341.

COUNT FOUR

[18 U.S.C. §1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about May 19, 1993, in the Western District of Texas, **DEFENDANT**

LOREN ARDEN GIFFORD,

having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "R.L." which form fraudulently represented to Medicare Part B that **DEFENDANT GIFFORD** conducted a 60 minute psychotherapy session (CPT code 90844) with R.L. in violation of Title 18, United States Code, Section 1341.

COUNT FIVE

[18 U.S.C. §§ 2 and 1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about January 21, 1994, in the Western District of Texas, **DEFENDANTS,**

**LOREN ARDEN GIFFORD, and
SAMARJEET SIDHU,**

aided and abetted by each other, having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "S.B." which form fraudulently represented to CHAMPUS that **DEFENDANT GIFFORD** conducted three 60 minute psychotherapy sessions (CPT Code 90844) and two 25 minute office visits (CPT Code 99214) with S.B. in violation of Title 18, United States Code, Sections 2 and 1341.

COUNT SIX

[18 U.S.C. §§ 2 and 1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about January 21, 1994, in the Western District of Texas, **DEFENDANTS,**

**LOREN ARDEN GIFFORD, and
SAMARJEET SIDHU,**

aided and abetted by each other, having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "L.R." which form fraudulently represented to Medicaid that, among other things, **DEFENDANT GIFFORD** conducted three 25 minute office visits (CPT Code 99214) with L.R., in violation of Title 18, United States Code, Sections 2 and 1341.

COUNT SEVEN

[18 U.S.C. §1341]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. On or about March 16, 1994, in the Western District of Texas, **DEFENDANT**

LOREN ARDEN GIFFORD,

having devised the above-described scheme and artifice to defraud and obtain money, and for the purpose of executing and in order to effect said scheme and artifice, did knowingly cause to be sent, delivered, and moved by the United States Postal Service, a health insurance claim form relating to patient "D.B." which form fraudulently double billed Washington National Insurance Company through the use of CPT code #90070, in violation of Title 18, United States Code, Section 1341.

COUNT EIGHT

[18 U.S.C. §1512(b)(3)]

On or about October 1, 1994, in the Western District of Texas,

DEFENDANT

LOREN ARDEN GIFFORD,

knowingly intimidated, threatened, and attempted to intimidate, threaten, and corruptly persuade another person to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a federal offense, in that **DEFENDANT GIFFORD**, knowing he was under federal criminal investigation, attempted to persuade a potential witness, the spouse of "John Doe III," to sign a false statement exonerating **DEFENDANT GIFFORD** of wrongdoing, by threatening to discontinue "John Doe III's" morphine treatment, in violation of Title 18, United States Code, Section 1512(b)(3).

COUNT NINE

[18 U.S.C. §1512(b)(3)]

On or about August 10, 1994, in the Western District of Texas,
DEFENDANT

AGHAVNI PAICHUK, ,

attempted to corruptly persuade another person to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission or possible commission of a federal offense, in that **DEFENDANT PAICHUK**, knowing that she and her husband, **LOREN ARDEN GIFFORD**, were under federal criminal investigation, instructed one of her husband's employees to falsely report to the Federal Bureau of Investigation (FBI) that **DEFENDANT GIFFORD** had performed all of the diagnoses on **DEFENDANT PAICHUK's** patients and to falsely report to the FBI that inflated fraudulent insurance claims filed at the direction of **DEFENDANT GIFFORD** had been caused by computer billing errors, in violation of Title 18, United States Code, Section 1512(b)(3).

COUNT TEN

[18 U.S.C. §1001]

On or about August 10, 1994, in the Western District of Texas,
DEFENDANT

SAMARJEET S. SIDHU,

in a matter within the jurisdiction of the Federal Bureau of Investigation (FBI) and the Defense Criminal Investigation Service (DCIS), departments of the United States, made materially false, fictitious, and fraudulent statements and representations, in that

DEFENDANT SIDHU told agents of the FBI and DCIS that he only performed biofeedback during the time period that he worked for **LOREN ARDEN GIFFORD**, that he had no knowledge of office procedures when **GIFFORD** was out of town, and that he did not treat any CHAMPUS patients, while in truth and in fact, as **DEFENDANT** well knew, **DEFENDANT SIDHU** performed counseling services during the time he worked for **GIFFORD**, ran the office when **GIFFORD** was out of town, and treated CHAMPUS patients, in violation of Title 18, United States Code, Section 1001.

COUNTS ELEVEN THROUGH FOURTEEN

[18 U.S.C. § 1957(a)]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. Beginning in or about January, 1993, and continuing through in or about December 1994, in the Western District of Texas and elsewhere, the **Defendant**,

LOREN ARDEN GIFFORD,

did knowingly engage and attempt to engage in monetary transactions, affecting interstate commerce, in criminally derived property of a value greater than \$10,000.00, that is, the transfer of funds by the following checks, drawn on State National Bank account number 7600096320, State National Bank being a federally insured financial institution located at 221 N. Kansas, El Paso, Texas, which property was derived from the proceeds of the

specified unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341:

<u>COUNT</u>	<u>APPROX DATE</u>	<u>AMOUNT</u>	<u>CHECK #</u>	<u>PAYEE</u>
11	9/24/93	\$10,000.00	1661	L. Arden Gifford, MD
12	9/27/93	\$10,000.00	1665	L. Arden Gifford, MD
13	10/07/93	\$18,000.00	1688	L. Arden Gifford, MD
14	4/19/94	\$24,000.00	2264	Aghavni Paichuk, DC

All in violation of Title 18, United States Code, Section 1957(a).

COUNTS FIFTEEN THROUGH EIGHTEEN

[18 U.S.C. § 1957(a)]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. Beginning in or about January, 1993, and continuing through in or about December, 1994, in the Western District of Texas, and elsewhere, the **DEFENDANT**,

AGHAVNI PAICHUK,

did knowingly engage and attempt to engage in monetary transactions, affecting interstate commerce in criminally derived property of a value greater than \$10,000.00, that is, the transfer of funds by deposits to Texas Commerce Bank (TCB) account number 156-06009492, TCB being a federally insured financial institution located in El Paso, Texas, which property was derived from the proceeds of the specified unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341:

<u>COUNT</u>	<u>APPROX DATE</u>	<u>AMOUNT</u>	<u>SOURCE OF DEPOSIT</u>
15	9/23/93	\$10,000.00	EPA & PA Check #1661
16	9/24/93	\$10,000.00	EPA & PA Check #1665
17	10/06/93	\$18,000.00	EPA & PA Check #1688
18	04/18/94	\$24,000.00	EPA & PA Check #2264

All in violation of Title 18, United States Code, Section 1957(a).

COUNTS NINETEEN THROUGH TWENTY-EIGHT

[18 U.S.C. § 1956(a)(1)(B)(i) & (c)(4)(B)]

1. Paragraphs 1 through 30 of Count One of this Indictment are realleged and incorporated by reference herein as if fully set forth.

2. Beginning in or about August 10, 1994, and continuing through in or about December, 1994, in the Western District of Texas, the **DEFENDANT**,

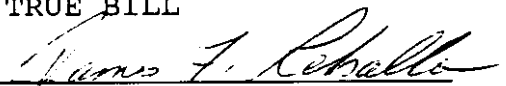
AGHAVNI PAICHUK,

knowing that monetary instruments, that is, U.S. currency in amounts described below, that were deposited in Texas Commerce Bank account number 156-06009492, represented the proceeds of unlawful activity, that is mail fraud, in violation of Title 18, United States Code, Section 1341, did knowing and willfully cause the conducting of financial transactions affecting interstate commerce, with the intent to disguise the nature, location and control of the proceeds of the specified unlawful activity, namely mail fraud:


<u>COUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>FINANCIAL TRANSACTION</u>
19	8/10/94	\$ 9,000.00	Check #266 to cash
20	8/11/94	\$ 5,000.00	Check #267 to cash
21	8/22/94	\$ 4,750.00	Cash withdrawal
22	8/24/94	\$ 4,500.00	Cash withdrawal
23	8/29/94	\$ 4,000.00	Cash withdrawal
24	9/01/94	\$ 4,000.00	Cash withdrawal
25	9/02/94	\$ 4,500.00	Cash withdrawal
26	9/19/94	\$ 4,000.00	Cash withdrawal
27	9/23/94	\$ 4,500.00	Cash withdrawal
28	9/28/94	\$22,000.00	Check # 277 to cash

All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i) and (c)(4)(B).

A TRUE BILL


 FOREPERSON

JAMES H. DeATLEY
 UNITED STATES ATTORNEY

By: 
 DEBRA P. KANOF
 Assistant United States Attorney
 State Bar No. 11093600

Filed 5-24-76

Clerk, U. S. District Court
Western District of Texas

By [Signature]
Deputy

United States District Court

WESTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

v.

VERDICT

LOREN ARDEN GIFFORD

CASE NUMBER: EP-94-CR-424-DB

WE, THE JURY, FIND: LOREN ARDEN GIFFORD

Guilty as to count 1
Guilty as to count 2
Guilty as to count 3
Guilty as to count 4
Guilty as to count 5
Guilty as to count 6

Guilty as to count 7
Guilty as to count 8
Not Guilty as to count 9
Not Guilty as to count 10
Guilty as to count 11
Guilty as to count 12

[Signature]
FOREPERSON'S SIGNATURE

5-24-76
DATE

A true copy of the original I certify,
Clerk, U. S. District Court

By: [Signature]
Deputy



[Handwritten mark]

UNITED STATES DISTRICT COURT FILED
Western District of Texas

SEP 24 12 10 PM '96

UNITED STATES OF AMERICA

v.

Case Number EP-94-CR-424-DB(1)

LOREN ARDEN GIFFORD
Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, LOREN ARDEN GIFFORD, was represented by Gary Weiser and James Dallas.

The defendant has been found not guilty on counts 10 and 11 and is discharged as to such counts.

The defendant was found guilty on counts 1,2,3,4,5,6,7,8,12 and 13 by a jury verdict on May 24, 1996 after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18 U.S.C. 1341 and 371	Conspiring to commit mail fraud	8-10-94	1
18 U.S.C. 1341 and 2	Aiding and abetting to commit mail fraud	6-8-94	2,5,6
18 U.S.C. 1341	Mail fraud	5-19-93	3,4,7
18 U.S.C. 1512	Tampering with a witness	10-1-94	8
18 U.S.C. 1957	Laundering of monetary instruments	January 1993	12,13

As pronounced on September 19, 1996, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 500.00, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 24th day of September, 1996.

Defendant's SSAN: 454-62-6936
Defendant's Date of Birth: 10-25-39

DAVID BRIONES
United States District Judge

A true copy of the original. I certify,
Clerk, U. S. District Court

[Signature]
Deputy

167-



Defendant: LOREN ARDEN GIFFORD
Case Number: EP-94-CR-424-DB(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of sixty (60) months as to counts 1; sixty (60) months as to count 2; sixty (60) months as to count 3; sixty (60) months as to count 4; sixty (60) months as to count 5; sixty (60) months as to count 6; sixty (60) months as to count 7; one-hundred and twenty (120) months as to count 8; one-hundred and twenty (120) months as to count 12; and one-hundred and twenty (120) months as to count 13, sentences of imprisonment imposed in counts 2,3,4,5,6,7, to run concurrently with that imposed in count 1; counts 12 and 13 to run concurrently with that imposed in count 8; and counts 1,2,3,4,5,6, and 7 to run concurrently with that imposed in counts 8, 12 and 13.

The Court makes the following recommendations to the Bureau of Prisons: that the defendant be committed at FCI, Bastrop Texas or FCI, Three Rivers, Texas.

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this Judgment.

United States Marshal

By _____
Deputy Marshal

Defendant: LOREN ARDEN GIFFORD
Case Number: EP-94-CR-424-DB(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years as to counts 1; three (3) years as to count 2; three (3) years as to count 3; three (3) years as to count 4; three (3) years as to count 5; three (3) years as to count 6; three (3) years as to count 7, three (3) years as to count 8; three (3) years as to count 12; and three (3) years as to count 13, terms of imprisonment imposed in counts 2,3,4,5,6,7,8,12 and 13 to be served concurrently with that imposed in count 1.

While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

- If ordered to the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
- If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
- The defendant shall not own or possess a firearm or destructive device.
- The defendant shall provide the probation officer access to any requested financial information.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: LOREN ARDEN GIFFORD
Case Number: EP-94-CR-424-DB(1)

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution to the following persons in the following amounts:

<u>Name of Payee</u>	<u>Amount of Restitution</u>
CHAMPUS	\$26,282.11
MEDICARE	\$37,814.04
MEDICAID	\$86,803.12

Payments of restitution are to be made to the Clerk, United States District Court.

Restitution shall be paid immediately. It shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement at the term of supervised release. Any balance at the commencement of the term of supervised release shall be paid on a schedule to be approved by the Court.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

Defendant: LOREN ARDEN GIFFORD
Case Number: EP-94-CR-424-DB(1)

STATEMENT OF REASONS

The court adopts the factual findings and guideline application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	30
Criminal History Category:	II
Imprisonment Range:	108 months to 135 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 15,000.00 to \$ 150,000.00
Restitution:	\$ 150,899.27

The fine is waived or is below the guideline range because of the defendant's inability to pay.

The sentence is within the guideline range, that range does exceed 24 months.