

CERTIFICATION

STATE OF NEW YORK, COUNTY OF QUEENS
SUPREME COURT, CRIMINAL TERM, SS:

I hereby certify that on August 2, 2022 I have compared the document
attached hereto.

Indictment - Case # 72032-22
12 Pages

with the originals filed in my office and the same is a correct transcript
therefrom and of the whole of such original in witness whereunto I have
affixed my signature and seal.



County Clerk and Clerk of the
Supreme Court - Queens County
NO FEE - OFFICIAL USE

SUPREME COURT OF THE STATE OF NEW YORK
QUEENS COUNTY: CRIMINAL TERM

SID
ULD READ
7052H
CORRECT
ON
RECORD

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

PAYAM TOOBIAN, M.D.
CR-025288-21QN
NYSID: 1541707H
52 H
AMERICA'S IMAGING CENTER, INC.
CR-025289-21QN,

Defendants.

A3. 8/1/22

JUL 06 2022
INDICTMENT

Queens County
Indictment Number
688 / 2022


IND-72032-22/001
002

COUNTS

- | | | |
|---------|--|---|
| COUNT 1 | GRAND LARCENY IN THE THIRD DEGREE, PL § 155.35(1) | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 2 | HEALTH CARE FRAUD IN THE THIRD DEGREE, PL § 177.15 | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 3 | MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, SSL § 366-d(2)(b)(i), (4) | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 4 | MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, SSL § 366-d(2)(b)(i), (4) | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 5 | MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, SSL § 366-d(2)(b)(i), (4) | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 6 | FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, PL § 175.10 | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 7 | FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, PL § 175.10 | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |
| COUNT 8 | FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, PL § 175.10 | (Toobian M.D., Payam)
(America's Imaging Center, Inc.) |

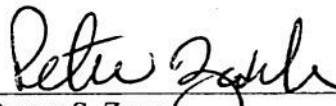
- COUNT 9 FALSIFYING BUSINESS RECORDS IN (Toobian M.D., Payam)
THE FIRST DEGREE, PL § 175.10 (America's Imaging Center, Inc.)
- COUNT 10 FALSIFYING BUSINESS RECORDS IN (Toobian M.D., Payam)
THE FIRST DEGREE, PL § 175.10 (America's Imaging Center, Inc.)
- COUNT 11 FALSIFYING BUSINESS RECORDS IN (Toobian M.D., Payam)
THE FIRST DEGREE, PL § 175.10 (America's Imaging Center, Inc.)
- COUNT 12 FALSIFYING BUSINESS RECORDS IN (Toobian M.D., Payam)
THE FIRST DEGREE, PL § 175.10 (America's Imaging Center, Inc.)
- COUNT 13 FALSIFYING BUSINESS RECORDS IN (Toobian M.D., Payam)
THE FIRST DEGREE, PL § 175.10 (America's Imaging Center, Inc.)

A TRUE BILL


Grand Jury Foreperson

Dated: July, 6 2022
Queens County, New York

LETITIA JAMES
Attorney General of the State of New York

By: 
PETER S. ZADEK
Special Assistant Attorney General
Medicaid Fraud Control Unit
300 Motor Parkway, Suite 210
Hauppauge, NY 11788-5522

COUNT ONE

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC. of the crime of GRAND LARCENY IN THE THIRD DEGREE, in violation of Penal Law Section 155.35(1), committed as follows:

PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC., and as the operator of Long Island Radiology Associates, P.C. ("LIRA") doing business as Empire Imaging of Forest Hills, ("Empire Imaging"), from on or about and between January 14, 2014 and August 18, 2017, in Queens County and elsewhere in the State of New York, stole property from Healthfirst, Inc., a managed care organization funded by the New York State Medical Assistance program ("Medicaid") and the value of said property exceeded three thousand dollars (\$3,000), in that: to inflate the amount of money HealthFirst, Inc. paid to LIRA, Defendant PAYAM TOOBIAN, M.D. directed employees under his supervision to add unordered and medically unnecessary radiological tests to the orders of treating physicians who referred patients to Empire Imaging for radiological testing. Without the consent, approval, or direction of the treating physicians who were responsible for the underlying care of those patients, Defendant PAYAM TOOBIAN, M.D. caused LIRA employees to perform those unordered and medically unnecessary radiological tests, including magnetic resonance imaging ("MRI") tests of the brain, MRIs of the cervical spine, and MRIs of the lumbar spine, all "with contrast," which involved injecting the chemical Gadolinium into a patient's veins. Moreover, Defendant PAYAM TOOBIAN, M.D. caused employees under his supervision to add procedure codes and false clinical-diagnosis information for those unordered and medically unnecessary

radiological tests on claims for reimbursement to HealthFirst, Inc., which falsely certified that the added radiological procedures were ordered by another medical professional, medically necessary, and provided consistent with all rules and regulations of the Medicaid program, when in fact said claims were not ordered by another medical professional, nor were they medically necessary, nor were they provided consistent with all rules and regulations of the Medicaid program. Relying on the accuracy of those false claims, HealthFirst, Inc. paid LIRA in excess of three thousand dollars (\$3,000.00) to which LIRA was not entitled.

COUNT TWO

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC. of the crime of HEALTH CARE FRAUD IN THE THIRD DEGREE, in violation of Penal Law §177.15, committed as follows:

PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. ("LIRA") doing business as Empire Imaging of Forest Hills, ("Empire Imaging"), from on or about and between October 10, 2016 and August 18, 2017, in the County of Queens and elsewhere in the State of New York, with intent to defraud a health plan, knowingly and willfully caused LIRA to provide materially false information and omit material information for the purpose of requesting payment from a health plan for a health care item and service, and as a result of such information or omission, LIRA wrongfully received payment, and a portion of the payment, as the case may be, from a single health plan, in a period not more than one year, which exceeded ten thousand dollars (\$10,000.00) in the aggregate, to wit: to inflate the amount of money paid to LIRA,

Defendant PAYAM TOOBIAN, M.D. directed employees under his supervision to add procedure codes for unordered and medically unnecessary radiological tests on claims for reimbursement to HealthFirst, Inc and MetroPlus Health Plan ("MetroPlus"), managed care organizations funded by the New York State Medical Assistance program ("Medicaid"). Those claims falsely certified that the added radiological procedures were ordered by another medical professional, medically necessary, and provided consistent with all rules and regulations of the Medicaid program, when in fact said claims were not ordered by another medical professional, nor were they medically necessary, nor were they provided consistent with all rules and regulations of the Medicaid program. As a result of such false information and material omissions, in a period not more than one year, LIRA wrongfully received payment from HealthFirst, Inc. and MetroPlus in excess of ten thousand dollars (\$10,000.00) in the aggregate, to which LIRA was not entitled.

COUNT THREE

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, in violation of Social Services Law §366-d(2)(b)(i), (4), committed as follows:

From on or about and between 2008 and October 20, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills, each being a medical assistance provider, offered, agreed to give and gave payment and other consideration to M.M., a physician whose full name is known to the Grand Jury, for the referral of services for which payment was

made under Title Eleven of Article Five of the Social Services Law and thereby obtained money and property having a value in excess of seven thousand five hundred dollars (\$7,500.00).

COUNT FOUR

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, in violation of Social Services Law §366-d(2)(b)(i), (4), committed as follows:

From on or about and between February 10, 2014 and July 5, 2016, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills, each being a medical assistance provider, offered, agreed to give and gave payment and other consideration to R.P., a physician whose full name is known to the Grand Jury, for the referral of services for which payment was made under Title Eleven of Article Five of the Social Services Law and thereby obtained money and property having a value in excess of seven thousand five hundred dollars (\$7,500.00).

COUNT FIVE

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of MEDICAL ASSISTANCE PROVIDER; PROHIBITED PRACTICES, in violation of Social Services Law §366-d(2)(b)(i), (4), committed as follows:

From on or about and between 2006 and October 5, 2016, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high

managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills, each being a medical assistance provider, offered, agreed to give and gave payment and other consideration to J.H., a physician whose full name is known to the Grand Jury, for the referral of services for which payment was made under Title Eleven of Article Five of the Social Services Law and thereby obtained money and property having a value in excess of seven thousand five hundred dollars (\$7,500.00).

COUNT SIX

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about January 18, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Radiological Information System Electronic Patient Information Records of Empire Imaging pertaining to patient M.R., a person whose full name is known to the Grand Jury.

COUNT SEVEN

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about August 14, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Radiological Information System Electronic Patient Information Records of Empire Imaging pertaining to patient I.C., a person whose full name is known to the Grand Jury.

COUNT EIGHT

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about August 18, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as

Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Radiological Information System Electronic Patient Information Records of Empire Imaging pertaining to patient M.G., a person whose full name is known to the Grand Jury.

COUNT NINE

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about August 15, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Radiological Information System Electronic Patient Information Records of Empire Imaging pertaining to patient N.M., a person whose full name is known to the Grand Jury.

COUNT TEN

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the

crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about February 1, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. ("LIRA") doing business as Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Case Information Report of EviCore Healthcare pertaining to patient W.R., a person whose full name is known to the Grand Jury.

COUNT ELEVEN

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about January 19, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. ("LIRA") doing business as Empire Imaging of Forest Hills ("Empire Imaging"), with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Case Information

Report of MedSolutions / EviCore Healthcare pertaining to patient S.A., a person whose full name is known to the Grand Jury.

COUNT TWELVE

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about January 18, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as Empire Imaging of Forest Hills, with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Case Information Report of MedSolutions / EviCore Healthcare pertaining to patient M.R., a person whose full name is known to the Grand Jury.


COUNT THIRTEEN

The Grand Jury of the County of Queens, State of New York, by this Indictment, accuses the defendants: PAYAM TOOBIAN, M.D. and AMERICA'S IMAGING CENTER, INC., of the crime of FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE, in violation of Penal Law Section 175.10, committed as follows:

On or about February 10, 2017, in Queens County and elsewhere in the State of New York, PAYAM TOOBIAN, M.D., acting individually and in concert as a high managerial agent acting within the scope of his employment and on behalf of corporate defendant AMERICA'S IMAGING CENTER, INC. and as the operator of Long Island Radiology Associates, P.C. doing business as

Empire Imaging of Forest Hills, with intent to defraud that included an intent to commit another crime and to aid and conceal the commission thereof, caused false entries to be entered in the business records of an enterprise, to wit, the Case Information Report of MedSolutions / EviCore Healthcare pertaining to patient J.K., a person whose full name is known to the Grand Jury.

LETITIA JAMES
Attorney General of the State of New York

By: 
PETER S. ZADEK
Special Assistant Attorney General
Medicaid Fraud Control Unit
300 Motor Parkway, Suite 210
Hauppauge, NY 11788-5522

