

APR 10 2019
BY [Signature]
DEPUTY CLERK

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 JOHN M. POLSTON)

No. 2-19-00006
18 U.S.C. § 2
21 U.S.C. § 841(a)(1)

INDICTMENT

THE GRAND JURY CHARGES:

Introduction

At all times material to this Indictment:

1. **JOHN M. POLSTON** was a pharmacist and licensed by the State of Tennessee, Department of Health, Board of Pharmacy (“Board”) under license number 6655 on November 18, 1985.

2. **JOHN M. POLSTON** was the Pharmacist-in-Charge (“PIC”) of Oakley Pharmacy, Inc. d/b/a Dale Hollow Pharmacy, which was a retail pharmacy licensed with the Tennessee Board of Pharmacy under License Number 3817. Dale Hollow Pharmacy operated at 201 McArthur Avenue, Celina, in Clay County, Tennessee 38551. **JOHN M. POLSTON**, and other pharmacists at Dale Hollow Pharmacy, distributed and dispensed controlled substances at Dale Hollow with Dale Hollow’s Drug Enforcement Administration (“DEA”) License Number FD2546197.

3. On March 6, 2017, **JOHN M. POLSTON** signed a Memorandum of Understanding with the DEA, that required, among other things, to abide by all federal, state, and local laws and regulations pertaining to controlled substances, and required compliance with Tennessee state laws and regulations on dispensation of buprenorphine only products, and limited

the filling of controlled substances prescriptions to only patients living within a 60 mile radius of Dale Hollow Pharmacy.

4. From on or about the date on which the Consent Order was entered, until around February 2019, **JOHN M. POLSTON** repeatedly and consistently dispensed controlled substances, including highly addictive opioids, through Dale Hollow Pharmacy's DEA License, Number FD2546197.

5. Under the Controlled Substances Act, Title 21, United States Code, Section 841(a) *et seq.*, and Title 21, Code of Federal Regulations, Section 1306.04, a prescription for a controlled substance is not legal or effective unless issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

COUNTS ONE THROUGH TWENTY-ONE

6. Paragraphs 1 through 5 are re-alleged and incorporated by reference as though fully set forth herein.

7. On or about the dates set forth in each count below, in the Middle District of Tennessee,

JOHN M. POLSTON

did knowingly, intentionally, and without authority, dispense and distribute, without a legitimate medical purpose and outside the usual course of professional practice, a mixture and substance containing a detectable amount of Morphine Sulfate and Oxycodone, Schedule II controlled substances, and Carisoprodol and Alprazolam, Schedule IV controlled substances, as listed below, each of which constitutes a separate count of this Indictment:

| Count | Approximate Date of Distribution | Patient | Controlled Substance |
|--------------|---|----------------|-----------------------------|
| 1 | 4/27/2017 | R.T | Morphine Sulfate |
| 2 | 4/27/2017 | R.T. | Oxycodone |
| 3 | 4/27/2017 | R.T. | Carisoprodol |
| 4 | 7/10/2017 | B.S. | Oxycodone |
| 5 | 7/10/2017 | B.S. | Oxycodone-Acetaminophen |
| 6 | 7/10/2017 | B.S. | Morphine Sulfate |
| 7 | 7/10/2017 | B.S. | Carisoprodol |
| 8 | 7/10/2017 | B.S. | Alprazolam |
| 9 | 7/26/2017 | R.T | Morphine Sulfate |
| 10 | 7/26/2017 | R.T. | Oxycodone |
| 11 | 7/26/2017 | R.T. | Carisoprodol |
| 12 | 8/11/2017 | B.S. | Oxycodone |
| 13 | 8/11/2017 | B.S. | Morphine Sulfate |
| 14 | 8/11/2017 | B.S. | Oxycodone-Acetaminophen |
| 15 | 8/11/2017 | B.S. | Carisoprodol |
| 16 | 8/11/2017 | B.S. | Alprazolam |
| 17 | 12/06/2017 | B.S. | Oxycodone |
| 18 | 12/06/2017 | B.S. | Oxycodone-Acetaminophen |
| 19 | 12/06/2017 | B.S. | Morphine Sulfate |
| 20 | 12/06/2017 | B.S. | Carisoprodol |
| 21 | 12/06/2017 | B.S. | Alprazolam |

All in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION

THE GRAND JURY FURTHER CHARGES:

8. The allegations contained in the Indictment are re-alleged and incorporated by reference as if fully set forth in support of this forfeiture allegation.

9. Upon conviction of any Count in the Indictment (Unlawful Distribution of a Controlled Substance), **JOHN M. POLSTON** shall forfeit to the United States of America, pursuant to Title 21, United States Code, Section 853:

- (A) any property constituting, or derived from, any proceeds the defendant obtained, directly or indirectly, as a result of the offense; and
- (B) any of the defendant's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense,

including but not limited to the following:

- a. a money judgment in an amount to be determined, representing the amount of proceeds **JOHN M. POLSTON** obtained as a result of such offense and the value of any property used or intended to be used to commit or facilitate the commission of such offense.

SUBSTITUTE PROPERTY

10. If any of the property described above, as a result of any act or omission of **JOHN M. POLSTON**:

- a. cannot be located upon the exercise of due diligence.
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been comingled with other property that cannot be divided without difficulty,

the United States shall be entitled to forfeiture of the substitute property, and it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of **JOHN M. POLSTON** up the value of said property listed above as subject to forfeiture.

A TRUE BILL


FOREPERSON

DONALD Q. COCHRAN
UNITED STATES ATTORNEY



SCOTT ARMSTRONG
United States Department of Justice
Criminal Division, Fraud Section
Director, Health Care Fraud

JOSEPH BEEMSTERBOER
United States Department of Justice
Criminal Division, Fraud Section
Deputy Chief, Health Care Fraud



SARAH K. BOGNI
ASSISTANT UNITED STATES ATTORNEY