

3. The Controlled Substances Act (“CSA”) governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA made it unlawful for any person to knowingly or intentionally manufacture, distribute, or dispense a controlled substance or conspire to do so.

4. Medical practitioners, such as physicians and nurse practitioners, who were authorized to prescribe controlled substances by the jurisdiction in which they were licensed to practice medicine, were authorized under the CSA to prescribe, or otherwise distribute, controlled substances, if they were registered with the Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 1306.03. Upon application by the practitioner, the DEA assigned a unique registration number to each qualifying medical practitioner including physicians and nurse practitioners.

5. The CSA and its implementing regulations set forth which drugs and other substances were defined by law as “controlled substances,” and assigned those controlled substances to one of five Schedules (Schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

6. A controlled substance assigned to Schedule II meant that the drug had a high potential for abuse, was highly addictive, and that the drug had a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions. Abuse of a Schedule II controlled substance could lead to severe psychological and/or physical dependence. Pursuant to the CSA and its implementing regulations:

a. Hydrocodone was classified as a Schedule II controlled substance after October 2014, before which time it was classified as a Schedule III controlled substance. It was an opioid pain medication.

b. Oxycodone was classified as a Schedule II controlled substance. Oxycodone was sold generically and under a variety of brand names, including OxyContin®, Roxicodone®, Endocet®, and Percocet®. Oxycodone, an opioid pain medication, was about fifty percent stronger than morphine.

c. Hydrocodone and oxycodone were among the Schedule II opioid controlled substances that had the highest potential for abuse and associated risk of fatal overdose.

7. Chapter 21 of the Code of Federal Regulations, Section 1306.04, governed the issuance of prescriptions and provided, among other things, that a prescription for a controlled substance “must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” Chapter 21 of the Code of Federal Regulations, Section 1306.04, further directed that “[a]n order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [the CSA] and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.”

COUNTS ONE - FIFTEEN
Unlawfully Distributing and Dispensing Controlled Substances and
Aiding and Abetting
(21 U.S.C. § 841 & 18 U.S.C. § 2)

8. Paragraphs 1 through 7 of this Bill of Information are realleged and incorporated by reference as though fully set forth herein.

9. On or about the dates specified below, in the Eastern Division of the Western District of Tennessee, defendant **GUTGSELL**, aiding and abetting and aided and abetted by others known and unknown to the Grand

Jury, did intentionally and knowingly unlawfully distribute and dispense the following Schedule II controlled substances not for a legitimate medical purpose and outside the scope of professional practice:

Count	Patient	Date	Drug	Active Ingredient MG	Pill Count
1	B.P.	12/19/2016	Hydrocodone	10	90
2	B.P.	1/3/2017	Hydrocodone	7.5	21
3	T.S.	11/18/2015	Oxycodone	10	90
4	T.S.	12/18/2015	Oxycodone	10	90
5	T.S.	1/13/2016	Oxycodone	10	90
6	T.S.	3/1/2016	Oxycodone	10	90
7	T.S.	3/31/2016	Oxycodone	10	90
8	T.S.	4/30/2016	Oxycodone	10	90
9	T.S.	5/31/2016	Oxycodone	10	90
10	T.S.	6/30/2016	Oxycodone	10	90
11	T.S.	7/28/2016	Oxycodone	10	90
12	T.S.	9/1/2016	Oxycodone	10	90
13	T.S.	10/25/2016	Oxycodone	10	120
14	T.S.	11/21/2016	Oxycodone	10	120
15	T.S.	12/20/2016	Oxycodone	10	90

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

NOTICE OF CRIMINAL FORFEITURE
(21 U.S.C. § 853)

10. The allegations contained in Count 1 - 15 of this Bill of Information are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

11. Pursuant to Title 21, United States Code, Section 853, the United States gives notice to defendant **GUTGSELL** that upon conviction of an offense in violation of Title 21, United States Code, Section 841, the following property shall be subject to forfeiture:

- a. All property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense; and
- b. All property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense.

12. The defendant **GUTGSELL** is notified that upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture.

13. In the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the defendants up to the total value of the

property subject to forfeiture.

DATED: September 15, 2020

D. Michael Dunavant

D. MICHAEL DUNAVANT
UNITED STATES ATTORNEY

Katherine E. Payerle

DANIEL KAHN
ACTING CHIEF, FRAUD SECTION

By: Katherine Payerle
Assistant Chief, Fraud Section