

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 20-544-1 (RBK)
:
v. : 18 U.S.C. § 1349
:
BRIAN SOKALSKY : SUPERSEDING INFORMATION
:

The defendant having waived in open court prosecution by Indictment, the Attorney for the United States, acting pursuant to authority conferred by 28 U.S.C. § 515, charges:

COUNT 1
(Conspiracy to Commit Health Care Fraud)

1. At all times relevant to this Superseding Information:
 - a. Defendant BRIAN SOKALSKY was a doctor of osteopathy with medical practices in Ocean City and Somers Point, New Jersey.
 - b. Matthew Tedesco, who is listed as a co-conspirator but charged elsewhere, was a pharmaceutical sales representative.
2. At all times relevant to this Superseding Information:
 - a. In New Jersey, the State Health Benefits Program (“SHBP”) offered medical and prescription drug coverage to qualified state and local government public employees, retirees, and eligible dependents. The School Employees’ Health Benefits Program (“SEHBP”) offered medical and prescription drug coverage to qualified local education public employees, retirees, and eligible

dependents. SHBP and SEHBP each were “health care benefit programs” that affected commerce as defined in 18 U.S.C. § 24(b).

b. “Pharmacy Benefits Administrator” provided pharmacy benefit management services for SHBP and SEHBP beneficiaries and other insurance plan beneficiaries pursuant to contracts with the insurance plans. Pharmacy Benefits Administrator adjudicated claims for reimbursement from pharmacies and paid pharmacies for valid claims. Pharmacy Benefits Administrator then billed the insurance plans based on the amount paid to the pharmacies for the claims. Pharmacy Benefits Administrator was a “health care benefit program” that affected commerce as defined in 18 U.S.C. § 24(b).

c. In general, compounding was a practice in which a licensed pharmacist combined, mixed, or altered ingredients of one or more drugs in response to a prescription to create a medication tailored to the medical needs of an individual patient. Compounded drugs were not approved by the United States Food and Drug Administration (“FDA”); that is, the FDA did not verify the safety, potency, effectiveness, or manufacturing quality of compounded drugs.

d. Compounded drugs could be appropriately prescribed by a physician when an FDA-approved medication did not meet the health needs of a particular patient. For example, if a patient was allergic to a specific ingredient in an FDA-approved medication, such as a dye or preservative, a compounded drug could be prepared excluding the ingredient that triggers the allergic reaction.

3. Central Rexall Drugs, Inc. (“Central Rexall”) was a pharmacy located in Louisiana that prepared compound medications. When Central Rexall received a prescription for a compound medication for an individual with prescription drug coverage administered by Pharmacy Benefits Administrator, Central Rexall would electronically verify coverage with Pharmacy Benefits Administrator, fill the prescription by mailing the compound medication to the individual, bill Pharmacy Benefits Administrator for the prescription, and receive payment from Pharmacy Benefits Administrator.

4. From in or about April 2015 through in or about February 2016, in Atlantic County, in the District of New Jersey, and elsewhere, defendant

BRIAN SOKALSKY

did knowingly and willfully conspire and agree with Matthew Tedesco and others to execute a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program in connection with the delivery of and payment for health care benefits, items, and services, contrary to Title 18, United States Code, Section 1347.

Object of the Conspiracy

5. It was the object of the conspiracy for defendant BRIAN SOKALSKY, Matthew Tedesco, and others to unlawfully enrich themselves by: (1) causing the submission of false and fraudulent insurance claims for prescription medications to Pharmacy Benefits Administrator, which enabled Matthew Tedesco and others to

receive a percentage of the money that Pharmacy Benefits Administrator paid to Central Rexall for the prescription medications, and (2) steering individuals recruited to receive Central Rexall prescription medications to defendant BRIAN SOKALSKY's medical practice, which enabled him to receive insurance payments for those unnecessary patient visits.

Manner and Means of the Conspiracy

6. It was part of the conspiracy that Matthew Tedesco and others learned that Pharmacy Benefits Administrator would reimburse up to thousands of dollars for one individual's one-month supply of certain compounded and non-compounded prescription medications, including vitamins, scar creams, pain creams, anti-fungal gels, and libido creams.

7. It was further part of the conspiracy that Matthew Tedesco recruited individuals ("the Recruiters") to identify people who had prescription drug benefits administered by Pharmacy Benefits Administrator ("the Recruits") and who would agree to receive Central Rexall prescription medications.

8. It was further part of the conspiracy that, for the prescriptions they arranged, Matthew Tedesco and others would receive from Central Rexall a percentage of the amount that Central Rexall received from Pharmacy Benefits Administrator for the medication. In turn, Matthew Tedesco and others would pay a percentage of the amount received from Central Rexall to the Recruiters.

9. It was further part of the conspiracy that Recruiters, in turn, offered Recruits money and other remuneration in exchange for agreeing to receive the prescription medications.

10. It was further part of the conspiracy that Matthew Tedesco approached defendant BRIAN SOKALSKY about signing Central Rexall prescriptions for those recruited to participate in the scheme, and defendant BRIAN SOKALSKY agreed to do so.

11. It was further part of the conspiracy that, in exchange for defendant BRIAN SOKALSKY's agreement to sign Central Rexall prescriptions for patients referred to him, Matthew Tedesco, himself and/or through his Recruiters, referred more than 30 patients to defendant BRIAN SOKALSKY's medical practice.

12. It was further part of the conspiracy that defendant BRIAN SOKALSKY would bill insurance plans and receive payments for seeing patients referred to his practice by Matthew Tedesco and the Recruiters.

13. It was further part of the conspiracy that the Recruits saw defendant BRIAN SOKALSKY to obtain Central Rexall prescriptions with high reimbursement rates under their specific insurance plans, including those with benefits under the SHBP and SEHBP.

14. It was further part of the conspiracy that Matthew Tedesco provided defendant BRIAN SOKALSKY with pre-printed Central Rexall prescription forms.

15. It was further part of the conspiracy that Recruiters also provided Recruits with pre-printed prescriptions forms to take to defendant BRIAN SOKALSKY for his signature.

16. It was further part of the conspiracy that Matthew Tedesco would notify defendant BRIAN SOKALSKY in advance of appointments made by Recruits who were coming to see him for the sole purpose of obtaining the prescriptions.

17. It was further part of the conspiracy that defendant BRIAN SOKALSKY instructed Matthew Tedesco, who in turn instructed the Recruiters, that individuals coming to his practice to obtain Central Rexall prescriptions should specifically ask for or reference the medications while in the patient exam room with him.

18. It was further part of the conspiracy that most Recruits did not have a prior doctor-patient relationship with defendant BRIAN SOKALSKY and did not return to his medical practice after seeing him to obtain the Central Rexall prescriptions.

19. It was further part of the conspiracy that defendant BRIAN SOKALSKY signed or authorized Central Rexall prescriptions that were not medically necessary or appropriate. For example:

- a. Defendant BRIAN SOKALSKY signed prescriptions for medications for patients who did not have conditions the medications were supposed to treat, including libido creams for young women who did not have underlying medical conditions to justify the prescriptions.
- b. On certain instances, defendant BRIAN SOKALSKY authorized prescriptions for compound medications for individuals before he saw them for a patient visit or medically evaluated them.

- c. Defendant BRIAN SOKALSKY signed and authorized prescriptions for medications that were not discussed during the individual's visit with defendant BRIAN SOKALSKY, including medications for medical conditions not discussed with defendant BRIAN SOKALSKY.
- d. Defendant BRIAN SOKALSKY often prescribed medications without examining or documenting any medical condition that would be treated by the medication.
- e. Defendant BRIAN SOKALSKY often prescribed excessive quantities of the prescription medications and authorized the maximum number of refills for those medications. For example, defendant BRIAN SOKALSKY sometimes prescribed 240 grams of scar cream with 11 refills, for a total of 2,880 grams of scar cream.

20. It was further part of the conspiracy that, after defendant BRIAN SOKALSKY signed a prescription, he or someone acting at his direction caused the prescription to be faxed to Central Rexall in Louisiana, which then filled the prescription and billed Pharmacy Benefits Administrator.

21. It was further part of the conspiracy that when Pharmacy Benefits Administrator stopped covering a particular medication and Central Rexall substituted a different combination of ingredients, Matthew Tedesco gave defendant BRIAN SOKALSKY a list of patients who needed new prescriptions, and defendant BRIAN SOKALSKY authorized the new prescriptions without examining or talking to the patients.

22. It was further part of the conspiracy that Pharmacy Benefits Administrator and insurance plans paid more than \$5 million for compound medications prescribed by defendant BRIAN SOKALSKY.

In violation of Title 18, United States Code, Section 1349.

FORFEITURE ALLEGATIONS

1. Upon conviction of the conspiracy offense alleged in Count 1 of this Superseding Information, defendant BRIAN SOKALSKY shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense alleged in Count 1, representing all property constituting or derived from proceeds traceable to the commission of the offense alleged in Count 1 to which he pleads guilty.

2. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.



VIKAS KHANNA
Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. § 515

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