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WILLIAM T. WALSH JR
CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

: Criminal No. 19-

905(ccc)

v.

: Hon.

ROBERT DELAGENTE

: 21 U.S.C. § 846
: 21 U.S.C. § 841(a)
: 18 U.S.C. § 1519
: 18 U.S.C. § 2

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNT ONE
(Conspiracy to Distribute Controlled Substances)

1. At all times relevant to this Indictment:
 - a. Defendant ROBERT DELAGENTE was a resident of Oakland, New Jersey and was a licensed physician in the State of New Jersey.
 - b. DELAGENTE was also a registered practitioner with the United States Drug Enforcement Administration (“DEA”), which allowed him to dispense and issue prescriptions for Schedule II through Schedule V controlled substances so long as it was in the usual course of professional practice and for a legitimate medical purpose.

c. DELAGENTE was part of a medical practice called North Jersey Family Medicine (“NJFM”), located in Oakland, New Jersey.

d. Patient-1, Patient-2, and Patient-3 were each patients of DELAGENTE who received prescriptions for controlled substances from DELAGENTE in New Jersey.

The Controlled Substances Act

2. The Controlled Substances Act (“CSA”), codified in Title 21 of the United States Code, and its promulgating regulations, classified drugs into five schedules depending on a drug’s acceptable medical use and its potential for abuse and dependency.

3. Schedule I controlled substances, such as heroin, did not have an acceptable medical use in the United States. Schedule II through Schedule V controlled substances had acceptable medical uses.

4. Schedule II controlled substances, such as oxycodone, Percocet (a branded drug containing oxycodone and acetaminophen), and Adderall, have acceptable medical uses but were severely restricted. Schedule II drugs had a high potential for abuse, which could lead to severe psychological or physical dependence. Oxycodone was an opioid pain medication and had very high potential for abuse and risk of fatal overdose.

5. The medical use of Schedule II controlled substances, such as oxycodone or OxyContin, are severely restricted because such drugs have a high potential for abuse and severe psychological and physical dependence.

Schedule III controlled substances have a lower abuse potential than those in Schedule II but a higher abuse potential than those in Schedule IV. Schedule V controlled substances have the least potential for abuse compared to Schedule I through IV controlled substances and consist primarily of preparations containing limited quantities of certain narcotics.

6. Title 21, United States Code, Section 841(a)(1), provided that “[e]xcept as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally . . . to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.”

7. Title 21, United States Code, Section 802(10), provided that the term “dispense” meant “to deliver a controlled substance to an ultimate user . . . by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery.” Title 21, United States Code, Section 802(21), provided that “‘practitioner’ means a physician”

8. The CSA authorized Schedule II through Schedule V controlled substances to be dispensed to individuals by a valid prescription. 21 U.S.C. § 829.

9. For a prescription for a controlled substance to be valid, it must be issued for a legitimate medical purpose by a registered practitioner acting in

the usual course of his or her professional practice. 21 C.F.R. § 1306.04 (“An 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 [21 U.S.C. § 829]”).

10. In addition to requirements imposed by the State of New Jersey, physicians or practitioners must obtain and maintain a registration with the DEA authorizing them to prescribe controlled substances in the Schedules in which they are registered. 21 C.F.R. § 1306.03. Consequently, a registered practitioner issuing prescriptions for controlled substances not in the usual course of professional treatment and not for a legitimate medical purpose violates the provisions of the CSA and is subject to its penalties. 21 C.F.R. § 1306.04.

11. From in or around May 2014 through in or around May 2019, in the District of New Jersey, and elsewhere, defendant

ROBERT DELAGENTE

a licensed physician, did knowingly and intentionally conspire and agree with others, known and unknown, to distribute and dispense, outside the usual course of professional practice and not for a legitimate medical purpose, mixtures and substances containing detectable amounts of Schedule II through Schedule V controlled substances, contrary to Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

In violation of Title 21, United States Code, Section 846.

COUNTS TWO THROUGH FOUR
(Distribution of Controlled Substances)

12. The Grand Jury incorporates paragraphs 1 through 10 of this Indictment as if fully set forth here.

13. On or about the dates set forth below, in the District of New Jersey, and elsewhere, defendant

ROBERT DELAGENTE

did knowingly and intentionally distribute and dispense, outside the usual course of professional practice and not for a legitimate medical purpose, mixtures and substances containing detectable amounts of Schedule II controlled substances, each of which constitutes a separate count of this Indictment as follows:

Count	Approximate Date of Distribution	Patient	Controlled Substance
2	May 11, 2016	Patient-1	Oxycontin
3	June 3, 2016	Patient-2	Oxycodone
4	February 6, 2018	Patient-3	Oxycodone

in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

COUNT FIVE
(Falsification of Records)

14. The Grand Jury incorporates paragraphs 1 through 10 of this Indictment as if fully set forth here.

15. On or about June 21, 2018, law enforcement executed a court-authorized search warrant at NJFM's medical practice and collected patient records from DELAGENTE (the "June 21, 2018 Patient Records").

16. According to a review of the June 21, 2018 Patient Records, several patient records contained information that was falsified to conceal the fact that DELAGENTE had not seen certain patients for an office visit before writing them prescriptions for controlled substances.

17. On or about April 26, 2019, law enforcement served a subpoena on NJFM seeking medical records for various patients, many of whom were included in the June 21, 2018 Patient Records (the "April 26, 2019 Subpoena"). DELAGENTE was the only medical doctor working at NJFM at this time.

18. On or about May 6, 2019, NJFM provided information responsive to the April 26, 2019 Subpoena (the "May 6, 2019 Patient Records").

19. A comparison of the May 6, 2019 Patient Records to the June 21, 2018 Patient Records revealed that DELAGENTE had materially altered and falsified the May 6, 2019 Patient Records to try to justify the medical need for the prescriptions DELAGENTE had written. For example, in several of the May 6, 2019 Patient Records DELAGENTE added a section under the heading "HPI" (standing for History of Present Illness) indicating several different conditions

that patients were supposedly suffering from. The conditions were often identical among different patients. DELAGENTE also added a section to several of the May 6, 2019 Patient Records entitled “PLAN,” which purported to set forth warnings that DELAGENTE had expressed to patients concerning the dangers of the pain medication that DELAGENTE was prescribing. The May 6, 2019 Patient Records also included multiple instances in which DELAGENTE “[e]lectronically signed”—or finalized—the medical record after the April 26, 2019 subpoena had been served.

20. An employee of NJFM reported witnessing DELAGENTE altering and falsifying the May 6, 2019 Patient Records.

21. The distribution and dispensing, outside the usual course of professional practice and not for a legitimate medical purpose, of prescription medications containing detectable amounts of controlled substances is a matter within the jurisdiction of the Federal Bureau of Investigation (“FBI”), which is an agency within the United States Department of Justice.

22. From on or about April 26, 2019 through on or about May 9, 2019, in Bergen County, in the District of New Jersey, and elsewhere, defendant

ROBERT DELAGENTE

did knowingly alter, conceal, cover up, falsify, and make a false entry in various medical records from North Jersey Family Medicine, LLC, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter that the defendant knew and contemplated was within the jurisdiction of the any department and agency of the United States, namely, the FBI.

In violation of Title 18, United States Code, Sections 1519 and 2.

FORFEITURE ALLEGATION

1. The allegations set forth in this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

2. As a result of committing controlled substance offenses as charged in Counts One through Four of this Indictment, defendant

ROBERT DELAGENTE

shall forfeit to the United States of America, pursuant to 21 U.S.C. § 853, any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such violation, and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violations alleged in this Indictment.

3. If any of the property described above, 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 party;
- 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 divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL



CRAIG CARPENITO
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

ROBERT DELAGENTE

INDICTMENT FOR

21 U.S.C. § 846
21 U.S.C. § 841(a)(1)
18 U.S.C. § 1519
18 U.S.C. § 2

A True Bill,

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