APR 15 2021

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO

#### IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO WESTERN DIVISION

UNITED STATES OF AMERICA,	) <u>INDICTMENT</u>
Plaintiff,	3:21 CR 260
ν.	) CASE NO. JUDGE KNEPP
GREGORY J. GERBER,	Title 18, United States Code, Section 1347; Title 21, United
Defendant.  ) States Code, Sections 841(a (b)(1)(C), (b)(1)(E)(i), and	

#### **GENERAL ALLEGATIONS**

At all times relevant to this Indictment:

#### I. The Defendant and Other Entities

- 1. Defendant GREGORY J. GERBER was a medical doctor licensed by the State of Ohio Medical Board on or about March 16, 1999. Defendant specialized in Physical Medicine and Rehabilitation and Anesthesiology with a sub-specialty in Pain Medicine.
- 2. On or about May 18, 2011, Defendant filed and caused to be filed with the State of Ohio articles of organization for Gregory J. Gerber, MD, LLC.
- 3. From on or about October 11, 2011, through on or about September 23, 2014, Defendant's primary practice location was 2819 Hayes Avenue, Suite 7, Sandusky, Ohio, in the Northern District of Ohio, Western Division. From on or about September 23, 2014, through August 22, 2018, Defendant's primary practice location was 2819 Hayes Avenue, Suite 4, Sandusky, Ohio, in the Northern District of Ohio, Western Division. Defendant was the sole physician at this office location.
- 4. C.A. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around November 2011 through in or around July 2018.

- 5. Ma.G. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around August 2012 through in or around August 2018.
- 6. Mi.G. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around November 2011 through in or around August 2018.
- 7. L.I. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around December 2013 through in or around September 2017.
- 8. E.S. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around June 2014 through in or around March 2017.
- 9. T.S. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around July 2010 through in or around April 2017.
- 10. L.S. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around October 2017 through in or around June 2018.
- 11. W.T. was a patient of Defendant to whom Defendant prescribed controlled substances from in or around May 2013 through in or around July 2018.

#### II. The Controlled Substances Act

- 12. The Controlled Substances Act ("CSA") governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions, the CSA made it "unlawful for any person knowingly or intentionally" to "distribute or dispense . . . a controlled substance."
- 13. The term "controlled substance" meant a drug or other substance included in Schedules I, II, III, IV, or V of the CSA. The term "dispense" meant to deliver a controlled substance by, or pursuant to the lawful order of, a practitioner. It also included the prescribing and administering of a controlled substance. The term "distribute" meant to deliver (other than

by administrating or dispensing) a controlled substance. The term "practitioner" meant a physician, medical doctor, dentist, or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he or she practiced, to distribute or dispense a controlled substance in the course of professional practice.

- 14. Individual practitioners who wanted to distribute or dispense controlled substances in the course of professional practice were required to register with the Attorney General of the United States before they were legally authorized to do so. Such individual practitioners were assigned a registration number by the United States Drug Enforcement Administration ("DEA").
- 15. Practitioners registered with the Attorney General were authorized under the CSA to write prescriptions for, or to otherwise dispense, Schedule II, III, IV, and V controlled substances, so long as they complied with the requirements of their registrations.
- 16. As a medical doctor licensed in Ohio, Defendant was a "practitioner" within the meaning of the CSA. He was also registered to prescribe controlled substances under DEA registration number BG3750545.
- 17. For medical doctors, compliance with the terms of their registrations meant that they could issue a prescription for a controlled substance to a patient only if the prescription was "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice." 21 C.F.R. § 1306.04(a). A doctor violated the CSA and Code of Federal Regulations if he issued a prescription for a controlled substance outside the usual course of professional medical practice and not for a legitimate medical purpose.
- 18. The scheduling of controlled substances was based on each substance's potential for abuse, among other considerations. Relevant for this Indictment, drugs that had a high

potential for abuse and could lead to severe psychological or physical dependence were classified as Schedule II controlled substances. Drugs that had a lower potential for abuse and could lead to limited physical or psychological dependence were classified in Schedules III through V.

- methadone belonged to the opiate analgesic class of drugs used to treat moderate to severe pain. These drugs were commonly called opioids and were listed as Schedule II controlled substances with a high risk of addiction and abuse. Oxycodone was sold under brand names that included OxyContin and Xtampza ER. Oxycodone was combined with acetaminophen and sold under brand names that included Percocet. Oxymorphone was sold under the brand names Opana and Opana ER. Hydrocodone was combined with acetaminophen and sold under brand names that included Vicodin and Norco. Hydromorphone was sold under brand names that included Dilaudid and Exalgo. Morphine was sold under brand names that included MS Contin. Methadone was sold under brand names that included Methadose and Dolophine. In addition to its primary use as a pain reliever, Methadone also could be used, separately, as part of drug addiction detoxification and maintenance protocol.
- 20. Fentanyl was also an opiate analgesic, used to treat severe pain, and listed as a Schedule II controlled substance with a high risk of addiction and abuse. Fentanyl was sold (i) as a transdermal patch under brand names that included Duragesic; (ii) as a transmucosal lozenge under brand names that included Actiq; (iii) as a sublingual spray under brand names that included Subsys; and (iv) as a buccal or sublingual tablet under brand names that included Fentora.

- 21. Buprenorphine belonged to the opiate analgesic class of drugs and was listed as a Schedule III controlled substance. Buprenorphine was sold as a transdermal patch under the brand name Butrans and was used to treat moderate to severe pain.
- 22. Dronabinol belonged to the class of drugs called cannabinoids and was listed as a Schedule III controlled substance. Dronabinol was sold under the brand name Marinol and was used to treat cancer chemotherapy-related nausea and vomiting.
- 23. Diazepam, clonazepam, lorazepam, and alprazolam belonged to a class of drugs called benzodiazepines and were listed as Schedule IV controlled substances. These drugs were used to treat anxiety, seizures, and insomnia, among other conditions. They were sold under brand names that included Valium, Klonopin, Ativan, and Xanax.
- 24. Carisoprodol belonged to the muscle relaxant class of drugs and was listed as a Schedule IV controlled substance. It was used to treat pain and discomfort associated with various muscle injuries. It was sold under brand names that included Soma.
- 25. Controlled substances prescribed in certain dangerous combinations often produced dire effects on patients. In 2016, the United States Centers for Disease Control and Prevention ("CDC") recommended that physicians avoid prescribing opioids and benzodiazepines in combination—such as oxycodone, hydrocodone or morphine with diazepam, lorazepam or alprazolam—whenever possible. Together, the drugs caused severe respiratory depression, including respiratory depression leading to death. Over 30% of opioid overdoses involved benzodiazepine use. On August 31, 2016, the FDA issued a "black box" warning for prescribing opioids in combination with benzodiazepines. The warning stated in part:

FDA is warning patients and their caregivers about the serious risks of taking opioids along with benzodiazepines or other central nervous system (CNS) depressant medicines, including alcohol. Serious risks include unusual dizziness or lightheadedness,

extreme sleepiness, slowed or difficult breathing, coma, and death. These risks result because both opioids and benzodiazepines impact the CNS, which controls most of the functions of the brain and body.

26. Prescription drugs, such as those containing opioids and benzodiazepines, could be sold on the illegal secondary market, such as at the street level, for significant sums of money.

#### III. Medicare, Medicaid and Private Insurers

- A. Programs
- 27. Congress enacted the Medicare Program on July 30, 1965, under Title XVIII of the Social Security Act. Medicare provided medical insurance benefits to any person age 65 or older and to certain disabled persons. Medicare was a health care benefit program within the meaning of Title 18, United States Code, Section 24(b); it was a public plan, affecting commerce, under which medical benefits, items and services were provided to individuals.
- 28. Medicare Part B (Medical Insurance) helped cover doctors' services, outpatient care, and supplies, when they were ordered by a doctor and medically necessary.
- 29. Medicare Part D (Prescription Drug Program) was administered by commercial health insurance plans chosen by the Medicare beneficiary. These health insurance plans, known as Part D Plan Sponsors, were private entities that made payments to dispensing pharmacies for prescriptions. A Part D Plan Sponsor could be a prescription drug plan, a Medicare Advantage organization that offered a Medicare Advantage prescription drug plan, a Program of All-Inclusive Care for the Elderly ("PACE") organization offering a PACE plan including qualified prescription drug coverage, or a cost plan offering qualified prescription drug coverage.
- 30. Medicaid was a federal health care benefit program designated to provide medical services, equipment, and supplies to certain individuals and families with low income as outlined in the Social Security Act (Title 42, United States Code, Section 1396 *et seq.*). Medicaid was a

health care benefit program within the meaning of Title 18, United States Code, Section 24(b); it was a public plan, affecting commerce, under which medical benefits, items and services were provided to individuals. The United States Department of Health and Human Services ("HHS") historically funded approximately sixty percent of Ohio's Medicaid program. The Ohio Department of Medicaid ("ODM") administered the Medicaid program in Ohio.

- 31. Ohio providers that provided services to an eligible Medicaid recipient claimed Medicaid reimbursement from ODM pursuant to written provider agreements. ODM received, processed and paid those claims according to Medicaid rules, regulations, and procedures.
- 32. Private health insurers, such as Anthem Blue Cross and Blue Shield and Aetna, ("private insurers") were health care benefit programs under Title 18, United States Code, Section 24(b).
  - B. Reasonable and Necessary Services
- 33. Medicare, Medicaid, and private insurers prohibited payment for items and services that were not "reasonable and necessary" to diagnose and treat an illness or injury. Medicare claim forms, for example, required the provider who made a claim for services to certify that the services were "medically indicated and necessary for the health of the patient." Pursuant to the rules and regulations of the Ohio Medicaid Program, Medicaid only paid for services that were actually performed by qualified individuals, were medically necessary, and provided in accordance with federal and state laws, rules and regulations. Medicaid and private insurers similarly required providers to certify that services were medically necessary. Only claims that were medically necessary were entitled to reimbursement.

- C. Drug Coverage and Specific Drugs
- 34. Like the payment of outpatient or other services, Medicare, Medicaid, and private insurers would pay to fill drug prescriptions only if those prescriptions were medically necessary. Controlled substance prescriptions that were written outside the usual course of medical practice and not for a legitimate medical purpose were medically unnecessary and ineligible for payment.
- 35. For a drug to qualify for Medicare Part D reimbursement, the Medicare Prescription Drug Benefit Manual required that it be provided only for "medically accepted indications." A medically accepted indication included uses approved by the FDA or off-label uses supported by one or more of three compendia specified in Section 1927(g)(1)(B) of the Social Security Act.
- 36. For a drug to qualify for Ohio Medicaid reimbursement, the Ohio Medicaid Pharmacy program required that it be provided for an FDA-approved use. Medicaid generally excluded coverage for off-label uses.
- 37. Subsys was approved by the Food and Drug Administration ("FDA") solely for breakthrough cancer pain in patients who were already receiving, and already tolerant to, around-the-clock opioid therapy for their persistent cancer pain. None of the compendia listed any approved off-label uses for Subsys; therefore, Subsys only qualified for Medicare Part D reimbursement when provided for its FDA-approved use. Similarly, Subsys only qualified for Medicaid reimbursement when provided for its FDA-approved use absent compelling clinical evidence supporting off-label use provided by the physician.
- 38. Marinol was approved by the FDA solely to treat appetite loss in persons with Acquired Immune Deficiency Syndrome ("AIDS") and cancer chemotherapy-related nausea and vomiting. The compendia supported the use of Marinol to treat patients for postoperative nausea

and vomiting; therefore, Marinol only qualified for Medicare Part D reimbursement when provided for its FDA-approved use or for postoperative nausea and vomiting. Marinol only qualified for Medicaid reimbursement when provided for its FDA-approved use absent compelling clinical evidence supporting off-label use provided by the physician.

#### D. Billing

- 39. The American Medical Association assigned and published five-digit codes known as the Current Procedural Terminology ("CPT") codes, which were a systematic listing of procedures and services performed or ordered by health care providers. The purpose of CPT codes was to provide uniform language that accurately described medical, surgical, and diagnostic services and supplies, thereby providing an effective means for reliable nationwide communication among physicians, patients, and third parties.
- 40. Health care claim forms, both paper and electronic, contained certain patient information and service billing codes, including CPT codes. Health care programs had established payment schedules based on the codes billed by the provider. By designating a certain code, the provider certified to the health care program that a given treatment was actually rendered in compliance with the code requirements and was medically necessary. These treatment billing codes were well known to the medical community, providers, and health care insurance companies. The procedures and services represented by CPT codes were health care benefits, items, and services within the meaning of Title 18, United States Code, Section 24(b).
- 41. Evaluation and Management ("E&M") Services were medical services that physicians provided to patients in an office or hospital setting. When billing for a typical office visit for an established patient, a physician could bill E&M CPT codes 99211, 99212, 99213, 99214, or 99215, the latter being the highest code level and reimbursement amount.

42. When billing for an E&M Service for a new patient in an office setting, a physician could bill a separate set of E&M CPT codes (99201, 99202, 99203, 99204, or 99205). CPT code 99205 represented the highest level of care and reimbursement amount for an office visit for a new patient.

#### IV. INSYS AND SUBSYS

- 43. Insys Therapeutics, Inc. ("Insys") manufactured Subsys. Insys promoted Subsys through a speaker's bureau program. Under the speaker's bureau program, Insys representatives engaged doctors to speak about and promote Subsys to other medical professionals. Typical speaking engagements involved a dinner presentation at a designated restaurant. Insys paid the speaking doctor an agreed honorarium and reimbursed any attendant expenses.
- 44. On or about February 24, 2012, GERBER joined the Insys speaker's bureau. From in or around January 2013 through in or around June 2016, GERBER gave approximately 83 speaking presentations at various restaurants and doctor's offices. For each of these purported presentations, Insys paid Defendant between approximately \$1,500 and \$3,700. During that same time, Defendant received approximately \$175,000 from Insys in honoraria for speaking engagements and other payments related to Subsys. During that same time, Defendant wrote over approximately 835 Subsys prescriptions.

### COUNTS 1-51 (Distribution of Controlled Substances, 21 U.S.C. §§ 841(a)(1), (b)(1)(C), (b)(1)(E)(i), and (b)(2))

The Grand Jury charges:

45. The factual allegations contained in Paragraphs 1 through 26 and 43 through 44 are incorporated by reference as if fully restated herein.

46. On or about the following dates in the Northern District of Ohio, Western Division, Defendant GREGORY J. GERBER did knowingly and intentionally distribute and dispense Schedules II, III and IV controlled substances, by issuing prescriptions outside the usual course of professional practice and not for a legitimate medical purpose, as described by count in the table below:

Count	Patient	Approximate Date Rx Written	Substance	Strength	Quantity	
1	C.A.	10/24/2016	Oxycodone	30 mg	240	
2	C.A.	10/24/2016	Diazepam	10 mg	60	
3	C.A.	10/24/2016	Oxymorphone	40 mg	60	
4	C.A.	10/24/2016	Oxymorphone	20 mg	60	
5	C.A.	10/24/2016	Methadone	10 mg	270	
6	C.A.	4/5/2017	Oxycodone	30 mg	240	
7	C.A.	4/5/2017	Diazepam	10 mg	60	
8	C.A.	4/5/2017	Oxymorphone	40 mg	60	
9	C.A.	4/5/2017	Oxymorphone	20 mg	60	
10	C.A.	4/5/2017	Methadone	10 mg	270	
11	Ma.G.	4/25/2017	Oxycodone	10 mg	240	
12	Ma.G.	1/30/2018	Oxycodone	10 mg	240	
13	Mi.G.	9/19/2016	Oxymorphone	20 mg	60	
14	Mi.G.	9/19/2016	Oxycodone	30 mg	120	
15	Mi.G.	9/19/2016	Carisoprodol	350 mg	90	
16	L.I.	10/25/2016	Fentanyl	800 mcg	120	
17	L.I.	10/25/2016	Oxymorphone	40 mg	60	
18	L.I.	10/25/2016	Oxycodone	30 mg	120	
19	L.I.	10/25/2016	Dronabinol	10 mg	90	
20	E.S.	7/14/2016	Oxycodone	40 mg	60	
21	E.S.	7/14/2016	Oxycodone	30 mg	120	
22	T.S.	10/26/2016	Fentanyl	600 mcg	120	
23	T.S.	10/26/2016	Oxymorphone	40 mg	120	
24	T.S.	10/26/2016	Hydromorphone	8 mg	240	
25	T.S.	3/22/2017	Oxymorphone	40 mg	120	
26	T.S.	3/22/2017	Oxymorphone	20 mg	60	
27.	T.S.	3/22/2017	Hydromorphone	8 mg	240	
28	T.S.	3/22/2017	Diazepam	5 mg	60	
29	L.S.	10/31/2017	Oxycodone	5 mg	60	
30	L.S.	11/29/2017	Oxycodone	5 mg	120	
31	L.S.	11/29/2017	Dronabinol 5 mg		30	
32	L.S.	1/10/2018	Oxycodone	5 mg	120	
33	L.S.	1/10/2018	Dronabinol	5 mg	60	

Count	Patient	Approximate	Substance	Strength	Quantity
		Date Rx Written			
34	L.S.	4/2/2018	Oxycodone	5 mg	120
35	L.S.	4/2/2018	Dronabino1	5 mg	60
36	L.S.	5/1/2018	Oxycodone	10 mg	90
37	L.S.	5/1/2018	Oxycodone	9 mg	60
38	L.S.	5/1/2018	Dronabinol	10 mg	60
39	L.S.	5/1/2018	Alprazolam	0.5 mg	15
40	L.S.	5/29/2018	Oxycodone	10 mg	120
41	L.S.	5/29/2018	Oxycodone	9 mg	60
42	L.S.	5/29/2018	Dronabinol	10 mg	60
43	L.S.	5/29/2018	Alprazolam	0.5 mg	15
44	L.S.	6/27/2018	Oxycodone	10 mg	120
45	L.S.	6/27/2018	Oxycodone	9 mg	60
46	L.S.	6/27/2018	Alprazolam	0.5 mg	30
47	W.T.	6/13/2017	Oxycodone	40 mg	90 -
48	W.T.	6/13/2017	Oxycodone	30 mg	180
49	W.T.	11/2/2017	Oxycodone	40 mg	90
50	W.T.	11/2/2017	Oxycodone	30 mg	180
51	W.T.	11/2/2017	Dronabinol	10 mg	120

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C), (b)(1)(E)(i), and (b)(2).

#### COUNT 52 (Health Care Fraud, 18 U.S.C. § 1347)

The Grand Jury further charges:

- 47. The factual allegations contained in Paragraphs 1 through 3, 12 through 38 and 43 through 44 are incorporated by reference as if fully restated herein.
- 48. From in or around January 2010, through on or about August 22, 2018, Defendant GREGORY J. GERBER devised and intended to devise a scheme and artifice to defraud and to obtain money from federal health care benefit programs by means of false and fraudulent pretenses, representations and promises.
  - 49. It was part of the scheme to defraud that GERBER:
    - a. Performed inadequate patient physical and historical examinations;

- b. Failed to establish evidence-based, objective diagnoses for patients' pain;
- c. Failed to establish the presence of patients' intractable pain and the signs, symptoms and causes of the underlying pain mechanisms;
- d. Failed to formulate individualized treatment plans in patient medical records;
  - e. Used false diagnoses to prescribe controlled substances;
- f. Prescribed controlled substances without adequately investigating pain complaints, including failing to perform and order appropriate diagnostic tests;
- g. Prescribed controlled substances without considering other treatment modalities;
- h. Increased the dosage of controlled substances, and prescribed controlled substances for prolonged time periods, without evidence of efficacy;
  - i. Prescribed excessive doses of controlled substances;
  - j. Failed to consult with medical specialists in treating patients;
- k. Ignored signs of patient addiction and drug abuse, and failed to consult with addiction medicine specialists and other substance abuse professionals, to obtain a formal assessment of addiction and drug abuse;
- Prescribed opioids and benzodiazepines concurrently without a significant,
   valid medical diagnosis;
- m. Wrote medically unnecessary prescriptions of Subsys in return for the payment of honoraria, expenses and other things of value from Insys;
- n. Conducted speaker's bureau programs for Insys that purported to provide substantive medical information about Subsys to physicians and other healthcare providers but in

fact contained little to no educational value and were made to people who could not prescribe controlled substances;

- o. Wrote Subys prescriptions in return for the payment of honoraria,
   expenses and other things of value from Insys;
- p. Submitted and caused the submission of billings to Medicare, Medicaid and private insurers for Subsys prescriptions for patients who did not have breakthrough cancer pain; and
- q. Submitted and caused the submission of billings to Medicare, Medicaid and private insurers for medically unnecessary controlled substance prescriptions.
- Northern District of Ohio, Western Division, and elsewhere, Defendant GREGORY J. GERBER knowingly and willfully executed and attempted to execute the above described scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare, Medicaid and private insurers, and to obtain by means of false and fraudulent pretenses, representations and promises described herein, money and property owned by, and under the custody and control of Medicare, Medicaid and private insurers, in connection with the delivery of and payment for health care benefits, items, and services, that is, medically unnecessary controlled substance prescriptions, in violation of Title 18, United States Code, Section 1347.

#### COUNT 53 (Health Care Fraud, 18 U.S.C. § 1347)

The Grand Jury further charges:

- 51. The factual allegations contained in Paragraphs 1 through 3, 27 through 32, and 39 through 42 and are incorporated by reference as if fully restated herein.
- 52. From in or around January 2010, through on or about August 22, 2018, Defendant GREGORY J. GERBER devised and intended to devise a scheme and artifice to defraud and to obtain money from federal health care benefit programs by means of false and fraudulent pretenses, representations and promises.
  - 53. It was part of the scheme to defraud that Defendant:
- a. Failed to adequately document and maintain patient medical files, including the reason for the patient encounter, relevant medical history, physical examination findings, prior diagnostic tests, clinical assessment, impression and diagnosis, plan for care and progress, and care provider; and
- b. Submitted and caused the submission of billings to Medicare, Medicaid and private insurers for E&M services using inflated or upcoded CPT codes that reflected a service more costly than that which was actually performed.
- 54. From in or around January 2010 through on or about August 22, 2018, in the Northern District of Ohio, Western Division, and elsewhere, Defendant GREGORY J. GERBER knowingly and willfully executed and attempted to execute the above described scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is Medicare, Medicaid and private insurers, and to obtain by means of false and fraudulent pretenses, representations and promises described herein, money and property owned by, and under the custody and control of Medicare, Medicaid and

private insurers, in connection with the delivery of and payment for health care benefits, items, and services, that is, inflated and upcoded E&M services, in violation of Title 18, United States Code, Section 1347.

#### A TRUE BILL.

Original document - Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.

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# FILED 3:21 CR 260 APR 15 2021 JUDGE KNEPP

United States v. Gregory J. Gerber

Clerk of Court, United States District Court Ohio Northern District - CLEVELAND

A TRUE BILL.

FOREPERSON

BRIDGET M. BRENNAN Acting United States Attorney Case: 3:21-cr-00260-JRK Doc #: 1 Filed: 04/16/21 18 of 19. PageID #: 18

Revised 12/20/11 (CP)

## JUDGE KNEPP

#### UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

CRIMINAL DESIGNATION FORM (To be completed by the U.S. Attorney)

FILED

CRIMINAL CATEGORY: 1. X General	Criminal Felony		APR 15 2021
2. All Misde	meanor, Minor, and Petty Offense	es.	
OFFENSE(S) CHARGED: Title and Section	TW-101155 5-4-4047 791	. 0411666	CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF OHIO CLEVELAND
	Title 18 0.3.C. Section 1347; 11th	le 21 U.S.C. Sec	tions 841(a)(1),(b)(1)(c),(b)(1)(E)(i), and (b)(2)
Description of Offense	Health Care Fraud; Distribution	of Controlled	Substances
Statutory Penalty:	Max 20 years; \$250,000 Fine; 3 y	ears SRV; and	\$100 S.A.
THE UNITED STATES ATTORNEY CERTI	FIES:		
This superseding indictment or supersed	ng Information supersedes and sup	plants the entire	e previously filed indictment or information.
This supplemental information adds a col	unt or counts for a defendant (or def	fendants) in a p	reviously filed indictment or information.
THE SUPERSEDING INDICTMENT, SU ASSIGNED TO THE SAME JUDGE	PERSEDING INFORMATION OR S	SUPPLEMENTA	AL INFORMATION TO BE DIRECTLY
Case No	Judicial	Officer	
	<ul><li>w), and this new case involves o</li></ul>	only the said d	ing or is on probation or supervised efendant(s); OR criminal transactions as are charged in
Case No	Judicial (	Officer	,
Other Information:			9
Not Applicable.	THE SHALL SEED AND A SHALL SHA	de la Texas	
(THIS RELATED CASE IS TO BE FILED BY RA	ANDOM DRAW, AFTER WHICH RE	EASSIGNMENT	PURSUANT TO LCrR 57.9 MAY BE SOUGHT.)
PREVIOUSLY FII	LED CRIMINAL CAUSE, IF AN	Y (INCLUDIN	G COMPLAINTS)
CASE NO.			ludicial Officer
COUNTY THAT CONTROLS AS TO THE LO	CATION OF COLIDT WHERE T	THIS CASE IS	DEINO EILED.
	(OLIFOLES)		
COUNTY: Lucas		ANT'S RESIDEN	CE 2. SITUS OF ALLEGED CRIME
	☐3. OTHER		
NAME AND ADDRESS OF DEFENDANT(S)	to the state of th	Attorney(s):	
	rederal Will Required	NI [	John B. Gibbons
Defendant(s):		Address I	
Name Gregory J. Gerber			55 Public Square, Suite 2100
Address 110 Washington Street	9	City, Zip	Cleveland, OH 44113
City, Zip Port Clinton, OH 43452		Telephone	216-363-6086
Telephone N/A		E-Mail	jgibbons 4@sbcglobal.net
Assistant US Attorney Megan R. Miller	Asset/Forfe	eiture handled	by: N/A
Date 04/14/2021   Megur	Telephone	216-622-3	855

Case: 3:21-cr-00260-JRK Doc #: 1 Filed: 04/16/21 19 of 19. PageID #: 19

3:21 CR 260 JUDGE KNEPP

FILED

#### UNITED STATES OF AMERICA vs. GREGORY J. GERBER

APR 15 2021

NAME: Gregory Gerber

**AGE:** 55

DEF. No. 1 of 1

ADDRESS: 110 Washington Street, Port Clinton, Ohio 43452 SSN: XXX-XX-5440

**OFFENSE(S) CHARGED:** 

COUNT(S)	TITLE/SECTION	TYPE*	DESCRIPTION	PENALTY
1-51	21:841(a)(1), (b)(1)(c), (b)(1)(E)(i), and (b)(2)	F	Distribution of Controlled Substances	Up to Twenty (20) years imprisonment and/or \$250,000 fine
52	18:1347	F	Health Care Fraud	Up to Ten (10) years imprisonment and/or \$250,000 fine
53	18:1347	F	Health Care Fraud	Up to Ten (10) years imprisonment and/or \$250,000 fine

NUMBER OF YEARS SUPERVISED RELEASE: At least 3 years

ASSESSMENT, IF ANY: (53) x 100

**AMOUNT: \$5,300** 

**MAGISTRATE'S NO.:** N/A

BOND:

 $\square$  MADE

 $\square$  NOT MADE

☐ INCARCERATED

 $\boxtimes$  NOT SET

**DATE OF OFFENSE:** Counts 1-5: 10/24/16; Counts 6-10: 4/5/17; Count 11: 4/25/17; Count 12: 1/30/18; Counts 13-15: 9/19/16; Counts 16-19: 10/25/16; Counts 20-21: 7/14/16; Counts 22-24: 10/26/16; Counts 25-28: 3/22/17; Count 29: 10/31/17; Counts 30-31: 11/29/17; Counts 32-33: 1/10/18; Counts 34-35: 4/2/18; Counts 36-39: 5/1/18; Counts 40-43: 5/29/18;

Counts 44-46: 6/27/18; Counts 47-48: 6/13/17; Counts 49-51: 11/2/17;

Counts 52-53: 1/2010-8/22/18

SENTENCING GUIDELINES: 57-71 Months

NAME OF ATTORNEY: John Gibbons

ASSISTANT U.S. ATTORNEY:

Megan R. Miller

Reg. No. 0085522 (OH)

\*Felony

Petty: MI (Minor) MS (Misdemeanor)