

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 18-cr-00293-RBJ

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN VAN WU,

Defendant.

INDICTMENT

Counts 1-12: 21 U.S.C. §§ 841(a)(1) and (b)(1)(C)

Distribution of Oxycodone Outside the Usual Course of Medical Practice
and for Illegitimate Purposes

Counts 13-16: 18 U.S.C. §§ 1341 and 2

Mail Fraud

Count 17: 18 U.S.C. § 1519

Falsification of Records

Criminal Forfeiture Allegations

21 U.S.C. § 853; 18 U.S.C. § 982(a)(7)

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment:

COUNTS 1 -12

I. Background

A. *The Controlled Substances Act*

1. The Controlled Substances Act governs the manufacture, distribution, and dispensing of controlled substances in the United States. The Controlled Substances Act defines a “controlled substance” as a drug or other substance included within one of five schedules.

2. Drugs are placed into these schedules based on their potential for abuse, among other things. Schedule II controlled substances have a high potential for abuse; have a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and abuse of the drug or other substance may lead to severe psychological or physical dependence. Oxycodone is a Schedule II controlled substance.

3. A licensed doctor can prescribe a controlled substance such as oxycodone only if the doctor is authorized to do so under a license issued by the Drug Enforcement Administration (“DEA”) and only if the prescription is written for a legitimate medical purpose and is within the usual course of medical practice.

B. The Defendant and His Medical Clinic

4. The defendant, JOHN VAN WU, was a medical doctor licensed, until approximately July 16, 2015, to practice in the State of Colorado and authorized under DEA registration number BW6329533 to prescribe controlled substances for legitimate medical purposes and within the usual course of medical practice. WU was the owner and operator of ADVANCED HEALTH CARE ONE CENTER and HEALTH CARE ONE, P.C.

II. The Defendant’s Diversion Scheme

5. Between approximately November 2013 and September 2014 the defendant, JOHN VAN WU, used his medical license and his DEA registration to provide medically

unjustified prescriptions for oxycodone, which prescriptions were not for legitimate medical purposes and outside the usual course of medical practice.

6. The defendant, JOHN VAN WU, used medical offices located at, among other places, 2789 West Alameda Avenue in Denver, Colorado, and 1675 Carr Street, Unit 101N in Lakewood, Colorado, to provide medically unjustified prescriptions for oxycodone to patients that WU had not examined. WU sold prescriptions, issued without any legitimate medical purpose and outside the usual course of medical practice, for cash when presented him with the driver's licenses of others to whom WU could issue the prescription. These prescriptions were then taken to pharmacies, filled, and abused for recreational purposes.

7. To make these prescriptions appear legitimate, and within the usual course of medical practice, the defendant, JOHN VAN WU, created fake medical files containing false information about the services provided and the medical necessity of those services.

8. Between approximately November 2013 and September 2014, the defendant, JOHN VAN WU, wrote prescriptions with no legitimate medical purpose and outside the course of medical practice for approximately 1,980 tablets containing, in total, approximately 57.60 grams of oxycodone.

9. On or about the dates identified below, within the District of Colorado, the defendant, JOHN VAN WU, did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, to the patients identified below, mixtures and substances containing a detectable amount of oxycodone, a controlled substance, with such dispensing and distribution being done outside the usual course of professional practice and for a purpose other

than a legitimate medical purpose, and did aid, abet, counsel, command, induce, or procure the same.

Count	Patient	Date	Controlled Substance	Schedule
1	H.N	5/20/14	Oxycodone	II
2	S.N.	1/25/14	Oxycodone	II
3	S.N.	2/22/14	Oxycodone	II
4	S.N.	4/18/14	Oxycodone	II
5	S.N.	5/18/14	Oxycodone	II
6	S.N.	8/16/14	Oxycodone	II
7	T.N.	1/4/14	Oxycodone	II
8	T.N.	3/14/14	Oxycodone	II
9	T.N.	3/30/14	Oxycodone	II
10	T.N.	4/29/14	Oxycodone	II
11	T.N.	5/27/14	Oxycodone	II
12	T.N.	7/19/14	Oxycodone	II

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

COUNTS 13-16

I. Background: The Private Health Care Benefit Programs

10. The defendant JOHN VAN WU's scheme involved approximately fourteen private sector employee benefit plans. These plans constituted "health care benefit programs"

as that term is defined by Title 18, United States Code, Section 24(b), in that they were private plans and contracts, affecting commerce, under which medical benefits, items, and services were provided to individuals (the “Private Benefit Programs”). The provision of these medical benefits, items, and services occurred via certain agreements with Anthem, UnitedHealth Group, Aetna, Cigna, and Horizon Blue Cross Blue Shield of New Jersey. These health care benefit programs also were covered under Section (3)(1) of the Employee Retirement Income Security Act of 1974 as they were established and maintained by an employer for the purpose of providing for its participants and their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care and benefits.

11. The Private Benefit Programs compensated medical service providers for medical services that they actually rendered and were medically necessary.

12. To receive reimbursement from the Private Benefit Programs, medical service providers submitted, or caused the submission of, claims, either electronically or in writing, to the Private Benefit Programs for payment of services, either directly or through a billing company.

13. The Private Benefit Programs required providers to keep written medical records that accurately reflected patient histories, pertinent medical conclusions, examination and test results, and recommendations for services to be rendered. Providers were required to document the support for the submission of any claims to the Private Benefit Programs and the Private Benefit Programs were allowed to review the relevant patient files to determine whether the claim was, in fact, supported.

14. Providers submitted claims to the Private Benefit Programs using billing codes, also called current procedural terminology or “CPT” codes, which were numbers referring to

specific descriptions of the medical services provided to patients. For example, an office visit, also referred to as an “evaluation and management service” would be billed to a Private Benefit Program using a CPT code corresponding to the relative length and complexity of the visit.

Longer, more complex, visits received higher reimbursements.

II. The Defendant’s Mail Fraud Scheme

15. In or about and between January 2011 and March 2015, both dates being approximate and inclusive, within the District of Colorado and elsewhere, the defendant, JOHN VAN WU, did knowingly and intentionally devise a scheme and artifice to defraud the Private Benefit Programs, and to obtain money and property from the Private Benefit Programs by means of materially false and fraudulent pretenses, representations and promises.

16. The defendant, JOHN VAN WU, enriched himself through the execution of the fraud scheme by submitting and causing to be submitted claims to the Private Benefit Programs for medically unnecessary services, services that were not actually provided, and services that were falsely billed at levels of service higher than the service performed; and by engaging in deceptive acts and contrivances intended to hide information, mislead, avoid suspicion and avert further inquiry into the nature of the services offered. For example:

a. WU submitted and caused the submission of claims for services purportedly rendered to patients D.K., L.H. and D.T. on days when those patients were, in fact, outside of the country and thus not capable of receiving medical services from WU;

b. WU submitted and caused the submission of claims for services such as injections that were not performed;

c. WU submitted and caused the submission of claims that misrepresented the services provided and that falsely billed for a level of service higher than the level of service actually performed. That is, WU submitted and caused the submission of claims for lengthy, detailed, and complicated office visits when, in fact, these visits did not occur at all or his patients received relatively short office visits for routine and uncomplicated ailments;

d. In order to make these claims appear legitimate, WU created medical files containing false information about patients' diagnoses, the services provided and the medical necessity of those services.

17. On or about the dates set forth below, for the purpose executing such scheme and artifice, the defendant, JOHN VAN WU, knowingly caused and aided and abetted another who knowingly caused to be delivered by United States mail addressed to Advanced Health Care One at 1675 Carr St., Suite 101N, Lakewood, CO 80214, according to the direction thereon, envelopes containing the checks described below:

Count	Approximate Date	Description
13	5/25/13	Check number 7006596698, in the amount of \$2,074.53 sent by Anthem Blue Cross Blue Shield and addressed to Advanced Health Care One, containing payments for, among others, claims purportedly rendered to D.K. by JOHN VAN WU on April 13, 2013
14	9/11/13	Check number 7006871613, in the amount of \$4,662.65 sent by Anthem Blue Cross Blue Shield and addressed to Advanced Health Care One, containing payments for, among others, claims purportedly rendered to L.H. by JOHN VAN WU on August 6, 2013
15	4/11/15	Check number 7008237707, in the amount of \$6,052.56 sent by Anthem Blue Cross Blue Shield and addressed to Advanced Health Care One, containing payments for, among others, claims purportedly rendered to L.H. by JOHN VAN WU on March 2, 2015, March 9, 2015 and March 16, 2015.
16	3/20/15	Check number 7008189249, in the amount of \$602.49 sent by Anthem Blue Cross Blue Shield and address to Advanced

		Health Care One, containing payments for, among others, claims purportedly rendered to T.D. by JOHN VAN WU on December 19, 2014 and January 9, 2015.
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All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 17

18. On or about March 16, 2016, within the District of Colorado, the defendant, JOHN VAN WU did knowingly alter, conceal, cover up, falsify and make false entries in a record, document and tangible object, specifically records relating to the provision of controlled substances to patients and to the treatment of Private Benefit Program patients, with the intent to impede, obstruct and influence the investigation and proper administration of such matters within the jurisdiction of departments and agencies of the United States, specifically the Drug Enforcement Administration and the Department of Labor, and in relation to and in contemplation of any such matter and cause.

All in violation of Title 18, United States Code, Section 1519; and Title 18, United States Code, Section 2

CRIMINAL FORFEITURE ALLEGATIONS

19. The allegations contained in Counts 1 through 16 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 21 U.S.C. § 853 and 18 U.S.C. § 982.

20. Upon conviction of the violations alleged in Counts 1 through 12 of this Indictment involving violations of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), the defendant JOHN VAN WU shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853 any and all of the defendants' right, title, and interest in all

property constituting and derived from any proceeds obtained directly and indirectly as a result of such offense, and in all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such offense, including, but not limited to, a money judgment in the amount of proceeds obtained by the defendants.

21. Upon conviction of the violations alleged in Counts 13 through 16 of this Indictment involving violations of 18 U.S.C. § 1341, the defendant, JOHN VAN WU, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7) any and all of the defendants' right, title, and interest in all property, real or personal, involved in such offense, or all property traceable to such property, including, but not limited to, a money judgment in the amount of proceeds obtained by the conspiracy and by the defendants, for which the defendants are joint and severally liable.

22. If any of the property described above, as a result of any act or omission of the defendants:

- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p),

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incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property.

A TRUE BILL:

Ink Signature on file in the Clerk's Office
FOREPERSON

ROBERT C. TROYER
UNITED STATES ATTORNEY

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