

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

Criminal Case No. 13-cr-00354-REB

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. JOEL E. MILLER,

Defendant

INDICTMENT

Counts One-Nine: Health Care Fraud

18 U.S.C. § 1347

Counts Ten-Nineteen: Money Laundering

18 U.S.C. § 1956(a)(1)(A)(i)

Counts Twenty-Thirty-Four: Distributing/Dispensing Controlled Substances

21 U.S.C. § 841(a)(1) & (b)(1)(C), (b)(1)(E), (b)(2)

Count Twenty-Six: Distributing/Dispensing Controlled Substances to a Person Under 21

21 U.S.C. § 859(a)

Count Thirty-Five: False Material Information

21 U.S.C. §§ 843(a)(4)(A) & (d)

Forfeiture Allegation

The Grand Jury Charges:

COUNTS ONE THROUGH NINE

Health Care Fraud

18 U.S.C. § 1347

A. INTRODUCTION

At all times material to this Indictment:

1. **JOEL E. MILLER** was a licensed physician in the state of Colorado. **MILLER** obtained Doctor of Osteopathic Medicine (D.O.) degree in 1990 and was licensed to practice medicine in Colorado in 1994. Beginning in or about 2003 **MILLER** practiced medicine in Moffat County, Colorado. Beginning in or about 2008 **MILLER** opened a solo private medical practice located at 535 Yampa Avenue, Craig, Colorado. The legal name of his business was DODXRX, doing business as High Country Medical.

2. **JOEL E. MILLER** maintained business bank account number x4607 at Wells Fargo Bank in the name DODXRX, P.C., d.b.a. Old Town Medical. Payments for medical services from health care benefit providers were primarily deposited directly into this account. In addition, payroll checks, including to **MILLER**, and payments to a billing service provider, were paid from this account.

3. On or about September 21, 2009, the State of Colorado Board of Medical Examiners (“Board”), in Case Number 2009-001364-A, entered a Stipulation and Final Agency Order in which the Board issued a Letter of Admonition against **JOEL E. MILLER** based upon findings **MILLER** misprescribed neuropsychiatric medications to certain patients. The Board ordered **MILLER**, among other things, to attend a continuing medical education course “in the area of prescribing” and provide proof of completion of such a course.

4. On or about March 15, 2011, **JOEL E. MILLER** sent a letter to the Board acknowledging completion of the ordered course. In the letter, **MILLER** informed the Board he learned, among other things:

“Multiple medications are a risk factor for adverse drug reactions.”

“It does remind me to be very careful with medications individually and the use polypharmacy and it’s impact in the aging population. *[sic]*”

Controlled Substances

5. The Controlled Substances Act (“CSA”) governs the manufacture, distribution, and dispensation of controlled substances in the United States. The term “controlled substance” means a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV, and V, as designated by Title 21, United States Code, Section 802 (6) and the Code of Federal Regulations.

a. The term “Schedule II” means the drug or other substance has a high potential for abuse. The drug has a currently accepted medical use with severe restrictions, and the abuse of the drug or other substance may lead to severe psychological or physical dependence.

b. The term “Schedule III” means the drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I or II. The drug or other substance has a currently accepted medical use in treatment in the United States. Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

c. The term “Schedule IV” means the drug or other substance has a low potential for abuse relative to the drugs or substances in Schedule III. The drug or substance has a currently accepted medical use in treatment in the

United States. Abuse of the drug or other substance may lead to limited physical dependence and psychological dependence relative to the drugs or other substances in Schedule III.

6. The Drug Enforcement Administration (“DEA”) issues registration numbers to qualifying doctors, who then become authorized to dispense Schedule II, III, IV, and V controlled substances. To issue a prescription for a controlled substance, a doctor must use a DEA registration number.

7. **JOEL E. MILLER** possessed a Drug Enforcement Administration registration number, which authorized him to prescribe controlled substances in Schedules II through V.

Health Care Benefit Programs

8. The term “health care benefit program,” as defined in Title 18, United States Code, Section 24, means any public or private plan or contract, affecting commerce, under which any medical benefit, item or service was provided to any individual, and included any individual or entity who was providing a medical benefit, item or service for which payment may be made under the plan or contract. This definition includes Medicare, Medicaid, and privately operated health care plans included herein.

The Medicaid System

9. The Medicaid system was designed under the Social Security Act (Title 42, United States Code, Section 301, *et. seq.*) for the payment of medical costs associated

with the treatment of indigent patients. The Medicaid system was administered by each state individually, but was funded in part with federal funds. The United States Department of Health and Human Services (“HHS”) provided federal funding to the State of Colorado Medicaid System.

10. The Colorado Department of Health Care Policy and Financing (“HCPF”) was the single state agency that administered and monitored the Medicaid program. HCPF was assisted by its contract fiscal intermediary, ACS, 518 17th Street, Suite 400, Denver, Colorado.

11. Provider participation in the Medicaid program was voluntary. A participating provider was a person, organization, or institution with a valid participation agreement. The provider signed a Provider Participation Agreement which stated:

Provider, and person signing the claim or submitting electronic claims on Provider’s behalf, understand that failure to comply with any of the above in a true and accurate manner will result in any available administrative or criminal action available to the Department, the State Attorney General’s Medicaid Fraud Control Unit, or other government agencies. The knowing submission of false claims or causing another to submit false claims may subject the persons responsible to criminal charges, civil penalties, and/or forfeitures.

12. Upon receipt of Medicaid claims from providers, the fiscal agent (ACS) processed the claims, and advised HCPF of the amount to be paid to the provider. HCPF then prepared and paid the claim, either in the form of a state warrant mailed to the provider or representative, or by electronic funds transmission to the bank account of the provider or representative, in the reimbursement amount determined by the fiscal agent pursuant to HCPF rules and guidelines.

13. Medicaid also paid for prescriptions for eligible Medicaid patients. Physicians issuing the prescriptions were not required to be a participating Medicaid provider. The pharmacies entered the data from the prescriptions into an electronic data base system known as the “Point of Sale” system along with the recipient’s eligibility Medicaid identification number. The data was transmitted to determine whether the recipient’s eligibility was current and if the drug prescribed was listed on the Colorado drug formulary. The claim was reviewed, processed and if approved, paid to the pharmacy.

14. One of the critical conditions for the payment of a prescription was that the medication had been authorized for a legitimate, medically necessary purpose.

15. **JOEL E. MILLER** was an authorized provider of physician services under the Colorado Medicaid program. **MILLER**, via High Country Medical, had been a participating provider in the Medicare and Medicaid programs in Colorado since approximately 2008.

16. Regardless of his provider status, prescriptions issued by **JOEL E. MILLER** to eligible Colorado Medicaid recipients could be filled and dispensed by Medicaid-participating pharmacies and paid for by Medicaid.

The Medicare Program

17. HHS, through the Centers for Medicare and Medicaid Services (“CMS”), administered the Medicare Program, which was a federally-funded medical benefits program to provide health care services to the elderly and disabled. Provider

participation in the Medicare program was voluntary. A participating provider is a person, organization, or institution with a valid participating physician or supplier agreement.

18. Trailblazer's Health Enterprises was the Medicare Administrative Contractor ("MAC") which administered and monitored the Medicare program for Part A and Part B in Colorado. MACs were private entities that made payments to providers for services rendered to Medicare beneficiaries. They were responsible for processing Medicare claims arising within their assigned geographic area, including determining whether the claim was for a covered service. The MAC also assigned the provider a unique provider identification number, which was a necessary identifier for billing purposes.

19. The Medicare Prescription Drug Program, Part D, was administered by the commercial health insurance plans chosen by the Medicare beneficiary. The health insurance plans were private entities that made payments to the pharmacies for the prescriptions. They were responsible for processing Medicare claims arising within their assigned geographic area, including determining whether the claim was for a covered service.

20. In regard to pharmacy claims, the participating pharmacy electronically submitted the claim to the beneficiary's health plan. The claim was reviewed, processed and if approved, paid to the pharmacy.

21. One of the critical conditions for the payment of a prescription is that the medication was authorized for a reasonable, medically necessary purpose. (Medicare

Benefit Policy Manual, Chapter 16.)

22. Under Medicare regulations, the provider submitted either a hard copy claim (Health Insurance Claim Form, CMS 1500) or an electronic claim to the assigned Medicare program's MAC. When a provider submitted a claim to Medicare, it included information such as the beneficiary's name, address and date of birth, Medicare's personal identification number, date and type of service provided, place of service, procedure code, diagnosis code, amount billed and other relevant medical information.

On the reverse side of the CMS 1500 appeared notices and information to the provider:

Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under law and may be subject to civil penalties.

23. Under the section entitled "Signature of Physician or Supplier (Medicare, CHAMPUS, FECA and Black Lung)," stated:

I certify that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by me or were furnished incident to my professional service by my employee under my immediate personal supervision, except as otherwise expressly permitted by Medicare or CHAMPUS regulations.

24. The claim was reviewed, processed and if approved, paid to the provider via mail or electronically to their bank account.

25. To receive Medicare reimbursement, providers of services to Medicare beneficiaries were required to make appropriate application to the MAC and execute a written Provider Agreement. The Provider Agreement obligated the provider to know,

understand and follow all Medicare regulations and rules. In the Medicare provider enrollment application, under section #15 Certification Statement, items #7 and #8 state:

I understand that the Medicare identification number issued to me can only be used by me or by a provider or supplier to whom I have reassigned my benefits under current Medicare regulations, when billing for services rendered by me. I will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare, and will not submit claims with deliberate ignorance or reckless disregard of their truth or falsity.

26. **JOEL E. MILLER** was an authorized provider of physician services under the Medicare program.

CPT Codes

27. Medical providers and health care benefit programs used well-known and standard insurance processing codes to identify certain medical diagnoses and medical treatments or procedures. The codes for medical procedures were called "CPT" codes (physicians' Current Procedural Terminology, published by the American Medical Association). Medical providers recorded diagnoses and medical procedures on a standard claim form known in the industry as the Health Care Financing Administration 1500 (HCFA-1500) form, which was then sent to the patients' health care benefit program. CPT codes must be designated on the HCFA-1500 claim form by the health care provider and then submitted either by mail or electronically to the health care benefit program for payment.

28. Specific CPT codes were also assigned for evaluation and management ("E/M") services provided to established patients in a physician's office (some of the E/M

services were known as “office visits”). Among these E/M services were office visits billed under CPT codes “99211,” “99212,” “99213,” “99214,” and “99215.” Insurance companies reimbursed health care providers at increasing rates based upon the level of complexity indicated by the office visit codes. For example, CPT code 99214 was used for office visits for evaluation and management of an established patient which required the physician to perform at least two of the following three components: a detailed history; a detailed examination, and moderately complex medical decision-making.

29. By submitting claims using these CPT codes, providers represented to Medicare, Medicaid, and other insurances the services depicted in the codes were, in fact, performed and/or provided. Reimbursement rates for the CPT codes were set through a “fee schedule” created by Medicare. The fee schedule outlined the maximum amount the government and/or the insurance company allows the provider to collect for a given service.

Prescriptions

30. The PDMP, or Colorado Prescription Drug Monitoring Program, was a statewide electronic database which collected designated data on substances dispensed in the state. The agency then distributed, to those authorized by law, the informational data for purposes of their profession. The PDMP was primarily used by medical professionals to determine whether particular patients had sought scheduled drugs from other sources. The main principles behind the PDMP were to identify and subsequently deter prescription drug abuse, dependence and diversion. **JOEL E. MILLER** was

authorized to utilize the PDMP database.

31. Prescriptions for controlled substances issued by **JOEL E. MILLER** to patients would be presented by patients at various pharmacies, and claims for many of these prescriptions would be submitted to health care benefit programs for reimbursement and payment.

Relevant Controlled Substances

32. Oxycodone was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as “OxyContin,” “OxyIR,” “Percocet,” “Percodan,” “Endocet,” and “Tylox.” Common street names included “Oxy,” “O,” “OC,” and “Perc.”

33. Morphine was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as “Kadian,” “MS Contin,” “MSIR,” and “Avinza.”

34. Fentanyl was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as “Fentora.” Common street names included “chicklets” and “lolly pops.”

35. Hydromorphone was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as “Dilaudid.”

36. Hydrocodone was a narcotic drug, a Schedule III controlled substance, and was marketed commonly as “Lorcet,” “Lortab,” “Vicodin,” “Zydone,” and “Tussionex.”

37. Propoxyphene was a narcotic drug, a Schedule IV controlled substance, and, combined with acetaminophen, was marketed commonly as “Darvocet.” It was withdrawn from the U.S. market in November 2010.

38. Alprazolam was an anti-anxiety drug, a Schedule IV controlled substance, and was marketed commonly as “Xanax” and “Niravam.” Common street names included “Zannies.”

39. Diazepam was a hypnotic or sedative drug, a Schedule IV controlled substance, and was marketed commonly as “Valium.”

40. Lorazepam was an anti-anxiety drug, a Schedule IV controlled substance, and was marketed commonly as “Ativan.”

41. Clonazepam was an anticonvulsant and sedative drug, a Schedule IV controlled substance, and was marketed commonly as “Klonopin.”

42. Temazepam was an anti-anxiety drug, a Schedule IV controlled substance, and was marketed commonly as “Restoril.”

43. Zolpidem was a hypnotic or sedative drug, a Schedule IV controlled substance, and marketed commonly as “Ambien.”

44. Amphetamine was a stimulant, a Schedule II controlled substance, and marketed commonly as “Adderall.”

45. Pregabalin was a pain medication, a Schedule V controlled substance, and marketed commonly as “Lyrica.”

46. Carisoprodol was a muscle relaxant, scheduled in January 2012 as a Schedule IV muscle relaxant, and marketed commonly as “Soma.”

47. Phentermine was a stimulant, a Schedule IV controlled substance, and marketed commonly as “Fastin,”

48. Buprenorphine was a narcotic drug, a Schedule III controlled substance,

and marketed commonly as “Suboxone.”

B. SCHEME

That on or about and between May 2008 and September 2012, in the District of Colorado and elsewhere, the defendant,

JOEL E. MILLER,

did knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit programs, namely Medicaid, Medicare, and commercial health care plans, and to obtain, by means of material false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, the above-named health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services.

C. MANNER AND MEANS

The manner and means by which the scheme was carried out are as follows:

1. **JOEL E. MILLER** prescribed controlled substances to patients without determining a sufficient medical necessity for the prescription of controlled substances.
2. **JOEL E. MILLER** prescribed controlled substances to patients in a manner which was inconsistent with the usual course of professional practice and for other than legitimate medical purpose.
3. **JOEL E. MILLER** prescribed pharmaceuticals to patients for whom the prescription was not intended, and directed the persons to whom he prescribed the pharmaceuticals to give the prescription to third parties.

4. **JOEL E. MILLER** caused patients to fill prescriptions for controlled substances at various pharmacies, allowing the pharmacies to file claims and obtain reimbursement for those prescriptions from health care benefit programs used by the patients submitting the prescriptions issued by **MILLER**.

5. **JOEL E. MILLER** required patients to pay for follow-up visits to obtain additional prescriptions for controlled substances.

6. **JOEL E. MILLER** prescribed controlled substances in quantities and dosages that would cause patients to abuse, misuse, and become addicted to the controlled substances.

7. **JOEL E. MILLER** prescribed quantities and combinations of controlled substances to patients but failed to adequately medically address the misuse and abuse of the prescribed controlled substances of the patients.

8. **JOEL E. MILLER** prescribed controlled substances to patients knowing that his patients were addicted to the controlled substances, were misusing the controlled substances, or “doctor-shopping,” and were requesting additional quantities of controlled substances to support the patients’ drug habits.

9. **JOEL E. MILLER** prescribed controlled substances to patients knowing that his prescribing endangered his patients’ lives, and if taken as directed, his prescriptions would be expected to result in accidental overdoses.

10. **JOEL E. MILLER** prescribed controlled substances to patients in such strengths and quantities that his prescribing became a contributing factor in the patients’

overdose deaths.

11. **JOEL E. MILLER** pre-signed prescriptions and allowed office employees to distribute controlled substance prescriptions to patients in his absence and without a doctor's examination of the patient.

12. **JOEL E. MILLER** engaged in "upcoding," a fraudulent practice whereby providers bill health care benefit programs using a CPT code with a higher reimbursement rate than is justified for the services actually rendered.

13. **JOEL E. MILLER** billed and caused his business to bill for services not rendered.

14. **JOEL E. MILLER** illegally dispensed controlled substances from his medical office.

15. **JOEL E. MILLER** and others performed acts and made statements to hide and conceal, and cause to be hidden and concealed, the fraudulent scheme and the acts committed in furtherance thereof.

D. EXECUTION OF THE SCHEME

That on or about the dates set forth below, in the District of Colorado and elsewhere, for the purpose of executing and attempting to execute a scheme to defraud health care benefit programs and to obtain their money and property by false and fraudulent pretenses, representations and promises, and attempting to do so, the defendant knowingly and willfully caused money to be obtained from health care benefit programs named herein, based upon false and fraudulent claims that the defendant

caused to be submitted for medical services and procedures:

COUNT	DATE	CPT CODE	PATIENT	HEALTH CARE PROGRAM
ONE	8/16/2010	96372, 13301	S.V. (Death Resulted)	Medicare
TWO	2/18/2009	99204	K.M.	Medicaid
THREE	6/16/2009	99215	K.M.	Medicaid
FOUR	10/30/2009	99213	L.D.	CIGNA
FIVE	4/12/2010	99214	S.K.	Medicaid
SIX	12/16/2010	99213	Y.C.	Medicaid
SEVEN	4/7/2011	99213	C.M.	Medicare
EIGHT	7/12/2011	99213	L.W.	United HC
NINE	1/18/2012	99213	S.F.	Medicaid

All in violation of Title 18, United States Code, Section 1347.

COUNTS TEN THROUGH NINETEEN
Money Laundering
18 U.S.C. §§ 1956(a)(1)(A)(i)

1. The allegations contained in Sections A and C of Counts One through Nine are hereby expressly incorporated as if set forth herein.

2. That on or about the dates set forth below, in the District of Colorado and elsewhere, the defendant,

JOEL E. MILLER,

did knowingly conduct and cause to be conducted financial transactions affecting interstate and foreign commerce, specified below, which involved the proceeds of a specified unlawful activity, that is, health care fraud in violation of Title 18, United States Code, Section 1347, with the intent to promote the carrying on of said specified unlawful activity, and that while conducting such financial transactions, the defendant knew that the property involved in the financial transaction represented the proceeds of some form of unlawful activity:

COUNT	CHECK DATE	CHECK NUMBER	AMOUNT	TRANSACTION
TEN	6/23/2009	100151	\$14,235.41	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Miller
ELEVEN	7/20/2009	100161	\$13,000.00	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Miller
TWELVE	7/20/2009	100162	\$4,274.58	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Tagmar
THIRTEEN	4/29/2010	100290	\$6,292.40	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Miller
FOURTEEN	6/7/2010	100309	\$2,464.62	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Tagmar
FIFTEEN	9/17/2010	Transfer	\$1,000.00	Transfer from Acct. x5607 to Account x6451 to Miller
SIXTEEN	9/29/2010	100370	\$2,831.85	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Tagmar

COUNT	CHECK DATE	CHECK NUMBER	AMOUNT	TRANSACTION
SEVENTEEN	1/31/2011	Transfer	\$3,000.00	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Miller
EIGHTEEN	1/31/2011	100436	\$2,660.58	Check from DODXRX, P.C. Wells Fargo Acct. x5607 to Tagmar
NINETEEN	5/16/2011	Transfer	\$1,000.00	Transfer from Acct. x5607 to Acct. x1361 to Miller

All in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

INTRODUCTION TO COUNTS TWENTY THROUGH THIRTY-FOUR
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1), (b)(1)(C)&(E), (b)(2) & (b)(3), § 859

The allegations contained in Sections A and C of Counts One through Nine are hereby expressly incorporated as if set forth herein.

COUNT TWENTY
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(E), (b)(2)

That on or about March 3, 2009, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, controlled substances to patient L.D., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, and zolpidem, a Schedule

IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E) and 841(b)(2).

COUNT TWENTY-ONE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C)

That on or about June 16, 2009, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient K.M., and that this offense involved a quantity of fentanyl, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT TWENTY-TWO
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(E), (b)(2)

That on or about September 15, 2009, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, controlled substances to patient D.M., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, and diazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E) and 841(b)(2).

COUNT TWENTY-THREE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C)

That on or about April 12, 2010, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient S.K., and that this offense involved a quantity of fentanyl, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(C).

COUNT TWENTY-FOUR
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C), (b)(1)(E), (b)(2)
(Death Resulting)

That on or about August 16, 2010, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient S.V., and that this offense involved a quantity of fentanyl, a Schedule II controlled substance, hydrocodone, a Schedule III controlled substance, and alprazolam and clonazepam, Schedule IV controlled substances, and death resulted from the use of hydrocodone, alprazolam and clonazepam, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E) and 841(b)(2).

COUNT TWENTY-FIVE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C)

That on or about December 16, 2010, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient Y.C, and that this offense involved a quantity of amphetamine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT TWENTY-SIX
Dispensing or Distribution of Controlled Substances
21 U.S.C. §§ 841(a)(1)&(b)(2) & 859(a)

That on or about March 8, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

a person at least 18 years of age, did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient E.W., and that this offense involved a quantity of lorazepam, a Schedule IV controlled substance, to a person under the age of 21, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(2) and Title 21, United States Code, Section 859.

COUNT TWENTY-SEVEN
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C), (b)(2)

That on or about April 7, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, controlled substances to patient C.M., and that this offense involved a quantity of morphine and oxycodone, Schedule II controlled substances, and clonazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and 841(b)(2).

COUNT TWENTY-EIGHT
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C)

That on or about April 20, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient L.W., and that this offense involved a quantity of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT TWENTY-NINE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C), (b)(2)

That on or about July 27, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, controlled substances to patient C.H., and that this offense involved a

quantity of hydrocodone, a Schedule II controlled substance, and diazepam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), and 841(b)(2).

COUNT THIRTY
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(C)

That on or about November 28, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient S.G., and that this offense involved a quantity of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THIRTY-ONE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(E), (b)(2)

That on or about December 22, 2011, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient S.F., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, and zolpidem, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1),

841(b)(1)(E) and 841(b)(2).

COUNT THIRTY-TWO
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(E), (b)(2), (b)(3)

That on or about January 18, 2012, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, controlled substances to patient S.F., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, zolpidem, a Schedule IV controlled substance, and carisoprodol, a Schedule V controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E), 841(b)(2) and 841(b)(3).

COUNT THIRTY-THREE
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1), (b)(1)(E), (b)(2), (b)(3)

That on or about April 12, 2012, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient P.C., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, alprazolam, a Schedule IV controlled substance, and carisoprodol, a Schedule V controlled substance, in violation

of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E), 841(b)(2) and 841(b)(3).

COUNT THIRTY-FOUR
Dispensing or Distribution of Controlled Substances
21 U.S.C. § 841(a)(1) & (b)(1)(E), (b)(2)
(Death Resulting)

That on or about May 2, 2012, in the District of Colorado, the defendant,

JOEL E. MILLER,

did knowingly and intentionally dispense and distribute, and cause to be dispensed and distributed, a controlled substance to patient P.B., and that this offense involved a quantity of hydrocodone, a Schedule III controlled substance, and diazepam, a Schedule IV controlled substance, and death resulted from the use of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(E) and 841(b)(2).

COUNT THIRTY-FIVE
False Material Information
21 U.S.C. § 843(a)(4)(A)

1. On or about September 19, 2012, in the District of Colorado and elsewhere, the defendant,

JOEL E. MILLER,

did knowingly and intentionally furnish false and fraudulent material information in, and omit material information from, an application required to be made, kept and filed under the Controlled Substances Act.

2. Specifically, in an application filed with the Drug Enforcement Administration (“DEA”), for registration pursuant to 21 U.S.C. Section 823, required for eligibility to dispense controlled substances, the defendant stated he had no liabilities, whereas, in truth and in fact, the defendant’s license to practice medicine had been previously suspended by the State of Colorado.

3. The false and fraudulent information was material to the determination of eligibility for DEA registration.

All in violation of Title 21, United States Code, Section 843(a)(4)(A).

FORFEITURE ALLEGATION

1. The allegations contained in Counts One through Thirty-Five of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 982(a)(7), 18 U.S.C. § 982(a)(1), and 21 U.S.C. § 853.

2. Upon conviction of the violations alleged in Counts One through Nine of this Indictment involving violations of 18 U.S.C. § 1347, defendant,

JOEL E. MILLER,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section

982(a)(7) any and all of the defendant's right, title and interest in all property constituting and derived from gross proceeds the defendant obtained directly and indirectly as a result of such offense.

3. Upon conviction of the violations alleged in Counts Ten through Nineteen of this Indictment involving violations of 18 U.S.C. §§ 1956(a)(1)(A)(I), the defendant,

JOEL E. MILLER,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1) any and all of the defendant's right, title and interest in all property, real or personal, involved in such offense, or all property traceable to such property.

4. Upon conviction of the violations alleged in Counts Twenty through Thirty-Five this Indictment involving violations of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), the defendant,

JOEL E. MILLER,

shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853 any and all of the defendant's 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.

5. If any of the property described in paragraphs one through four 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

subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

A TRUE BILL:

Ink signature on file in the Clerk's Office
FOREPERSON

JOHN F. WALSH
United States Attorney

By: s/ Michelle M. Heldmyer
MICHELLE M. HELDMYER
Assistant United States Attorney
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Attorney for the United States of America

DEFENDANT: Joel Edward Miller

YOB: 1958

ADDRESS: Craig, Colorado

COMPLAINT FILED? _____ YES NO

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ____ YES NO

OFFENSE: **COUNT 1-9:** Health care fraud, in violation of 18 U.S.C. § 1347

COUNTS 10-19: Money Laundering, in violation of 18 U.S.C. § 1956(a)(1)(A)(i)

COUNTS 20, 22, 31: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(E) and 841(b)(2)

COUNTS 21, 23, 25, 28, 30: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 841(b)(1)(C)

COUNT 24: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(C), 841(b)(1)(E) and 841(b)(2) (death resulting)

COUNT 26: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1) and 841(b)(2) and 21 U.S.C. § 859(a)

COUNTS 27, 29: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(C) and 841(b)(2)

COUNTS 32, 33: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(E), 841(b)(2) and 841(b)(3)

COUNT 34: Dispensing of controlled substances, in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(E) and 841(b)(2) (death resulting)

COUNT 35: Furnishing false and fraudulent material information, in violation of 21 U.S.C. § 843(a)(4)(A) and (d)

CRIM. FORFEITURE: 18 U.S.C. § 982(a)(7) & 982(a)(1), 21 U.S.C. § 853.

LOCATION OF OFFENSE (COUNTY/STATE): Moffatt County, Colorado

PENALTY: **COUNT 1 (death resulting):** Life imprisonment, NMT \$250,000 fine, NMT 5 years supervised release, \$100 Special Assessment Fee, Restitution

COUNTS 2-9: NMT 10 years imprisonment, NMT \$250,000 fine, NMT 3 years supervised release, \$100 Special Assessment Fee, Restitution

COUNTS 10-19: NMT 20 years imprisonment, NMT \$500,000 fine or twice the value of the property involved, whichever is greater, NMT 3 years supervised release; \$100.00 Special Assessment Fee

COUNTS 24, 34 (death resulting): NMT Life imprisonment and NLT 20 years imprisonment, NMT \$1,000,000 fine, NLT 5 years supervised release; \$100.00 Special Assessment Fee

COUNTS 21, 23, 25, 27, 28, 29, 30: NMT 20 years imprisonment, NMT \$1,000,000 fine, NLT 3 years supervised release; \$100.00 Special Assessment Fee

COUNTS 20, 22, 31, 32, 33: NMT 10 years imprisonment, NMT \$250,000 fine, NLT 3 years supervised release; \$100.00 Special Assessment Fee

COUNT 26: NMT 10 years and NLT one year imprisonment, NMT \$500,000 fine, NLT 2 years supervised release; \$100.00 Special Assessment Fee

COUNT 35: NMT 4 years imprisonment, NMT \$250,000 fine, NMT 1 year supervised release; \$100.00 Special Assessment Fee

CRIMINAL FORFEITURE: Forfeiture

AGENT: John Gjellum, Special Agent DEA

AUTHORIZED BY: Michelle M. Heldmyer, Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL: 5 days or more

THE GOVERNMENT **will** seek detention in this case

The statutory presumption of detention is applicable to this defendant.

OCDETF CASE: Yes No