

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA \* CRIMINAL NO. 20-143  
v. \* SECTION: "A"  
BONNIE DIAZ \*  
\* \* \*

FACTUAL BASIS

The Defendant, **BONNIE DIAZ** (hereinafter, the "Defendant" or "**DIAZ**"), has agreed to enter a plea of guilty pursuant to a plea agreement. **DIAZ** has agreed to plead guilty to misprision of a felony in violation of Title 18, United States Code, Section 4 as charged in Count One of the Bill of Information.

Should this matter have proceeded to trial, the Defendant stipulates that the Government would have proven, through the introduction of credible testimony from witnesses and from Special Agents from the United States Department of Defense – Office of the Inspector General and Homeland Security Investigations, and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the Defendant. Both the Government and the Defendant do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the Defendant is pleading guilty. Unless stated otherwise, the following acts occurred within the jurisdiction of the Eastern District of Louisiana.

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
X Dkt \_\_\_\_\_  
CrRmDep \_\_\_\_\_  
Doc. No \_\_\_\_\_

AUSA LM  
Defendant BD  
Defense Counsel BC

Beginning in or around March 2014, and continuing through in or around October 2016, in the Eastern District of Louisiana and elsewhere, the Defendant had knowledge of and concealed and did not make immediately known to a judge or some or other person in civil or military authority of the United States a scheme and artifice to defraud TRICARE, a federal health care benefit program affecting commerce, and other health care benefit programs (in violation of Title 18, United States Code, Section 1347), in violation of Title 18, United States Code, Section 4.

Prime Pharmacy was located in Slidell, Louisiana and was established on or around March 2014. Prime Pharmacy was primarily a closed-door pharmacy whose primary business focus was the production of compounded medication, which, when created properly, were drugs combined, mixed, or altered by licensed pharmacists or other practitioners to meet the specialized needs of individual patients.

The Defendant was the office manager of Prime Pharmacy. The Pharmacist-in-Charge (“PIC”) was responsible for supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to Prime Pharmacy’s pharmacy practice.

The owner, C.B., on behalf of Prime Pharmacy, contracted with various entities, including Pharmacy Benefit Managers (“PBMs”), obligating Prime Pharmacy to collect copayments from beneficiaries in order to be reimbursed by various health care benefit programs, including TRICARE. Additionally, C.B. worked with AUZINE to market the compounded medications produced by Prime Pharmacy.

Beginning in or around March 2014, Prime Pharmacy employees and owners selected formulas for compounded medications, not based on scientific evaluations of effectiveness or individualized patient need but rather, to maximize reimbursement from TRICARE and other

health care benefit programs (“High-Yield Compounded Medications”). Prime Pharmacy then produced significant volumes of these High-Yield Compounded Medications at Prime Pharmacy. **DIAZ** edited pharmacy pads based upon recommendations of M.D. and was aware that these edits were based solely upon reimbursement rates.

**DIAZ** documented a log of copays that were not being collected for the prescription creams in violation of the Express Scripts agreement. She also aided in the creation of the prescription pads by making edits at the express recommendation of M.D. **DIAZ**’s family member collected over \$180,000 in commission/kickback fees for serving as a marketer; however, he did little to no work for these fees. **DIAZ** was aware of approximately \$1,000,000 of fraudulent funds received from Tricare.

At one point, **DIAZ** emailed conspirators telling AUZINE and the IT manager not to appear at the pharmacy on a particular day that inspectors performing an audit were present. This was because **DIAZ** knew AUZINE and the IT manager, acting as marketers, were not pharmacy employees and should not have been present for audit.

Prime Pharmacy created a series of preprinted prescription forms encouraging and directing prescribers (doctors) to prescribe these High-Yield Compounded Medications to TRICARE beneficiaries. **DIAZ** was instructed to and ran these Medications (“soft adjudications”) through the reimbursement software, to determine what Medications would provide the highest reimbursement rates and were therefore not what was medically necessary for a patient. Prime Pharmacy paid marketers and others when signed prescriptions from doctors were obtained that were reimbursed by TRICARE and other health care benefit programs.

Beginning in or around March 2014, and continuing through in or around April 2016, Prime Pharmacy dispensed prescriptions for High-Yield Compounded Medications to beneficiaries of TRICARE and other health care benefit programs that were not medically necessary, induced by kickback/commission payments, or where copayments were either waived or credited by Prime Pharmacy, and accordingly, submitted or caused to be submitted false and fraudulent claims for reimbursement to TRICARE, other health care benefit programs, and PBMs.

TRICARE and other health care benefit programs, as well as PBMs, relied upon Prime Pharmacy's false and fraudulent representations (a) that the medications dispensed were medically necessary; (b) not induced by kickback payments; or (c) that copayments were properly collected.

In sum, the evidence would establish that **DIAZ** had knowledge of the actual commission of events that constituted a felony cognizable by a court of the United States, namely, health care fraud. The Government would further establish that **DIAZ** did not as soon as possible make known that information and did further attempt to conceal the information.

**Limited Nature of Factual Basis**

This proffer of evidence is not intended to constitute a complete statement of all facts known by **DIAZ** and/or the Government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for her guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the plea of guilty to the charged offense by **DIAZ**.

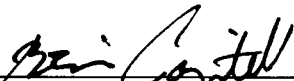
AUSA           KM            
Defendant           BD            
Defense Counsel           JSC

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, *inter alia*, Special Agents from the United States Department of Defense – Office of the Inspector General and Homeland Security Investigations, other witnesses, and admissible, tangible exhibits.

READ AND APPROVED:

  
\_\_\_\_\_  
BONNIE DIAZ  
Defendant

9/23/21  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
BRIAN CAPITELLI  
Counsel for Defendant

9/23/21  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
KATHRYN MCHUGH  
Assistant United States Attorney

9/23/21  
\_\_\_\_\_  
DATE