

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Criminal No. 20-
	:	
JOHN CUFFARI	:	
	:	18 U.S.C. § 1349

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

1. Unless otherwise indicated, at all times relevant to this Information:
 - a. Defendant JOHN CUFFARI was a resident of New Jersey.
 - b. Physician-1 was a resident of New Jersey and a medical doctor licensed to practice medicine in New Jersey.
 - c. Pharmacy-1 was a compounding pharmacy located in Louisiana.
 - d. Pharmacy-2 was a compounding pharmacy located in California.
 - e. The University was a public university located in Passaic County, New Jersey. Defendant CUFFARI was an employee of the University. Individual-1 and Individual-2 were residents of New Jersey and were also employed at the University.

The University's Employee Health Benefits Program

f. The University offered its employees health care coverage, including medical and prescription drug coverage (the "University's health care plan"). Covered employees were referred to as "beneficiaries."

g. A Pharmacy Benefits Management Company ("PBM-1") provided pharmacy benefit management services for beneficiaries pursuant to a contract with the University. PBM-1 adjudicated claims for reimbursement from pharmacies and paid pharmacies for valid claims submitted on behalf of beneficiaries. PBM-1 then billed the University based on the amount paid to the pharmacies, and the University reimbursed PBM-1.

Compounding

h. In general, "compounding" was a practice in which a licensed pharmacist, or a licensed physician, combined, mixed, or altered ingredients of a drug to create a medication tailored to the needs of an individual patient. Pharmacies engaged in the practice of compounding were referred to as "compounding pharmacies."

i. Compounded drugs were not approved by the Food and Drug Administration ("FDA"); that is, the FDA did not verify the safety, potency, effectiveness, or manufacturing quality of compounded drugs.

j. Generally, compounded drugs were prescribed by a physician when an FDA-approved drug did not meet the health needs of a particular patient. For example, if a patient was allergic to a specific ingredient in an FDA-approved medication, such as a dye or preservative, a compounded drug could

be prepared excluding the substance that triggered the allergic reaction. Compounded drugs also could be prescribed when a patient could not consume a medication by traditional means, such as an elderly patient or child who could not swallow an FDA-approved pill and needed the drug in a liquid form that was not otherwise available.

The Compounding Fraud Scheme

2. Starting at least as early as in or around 2013 and continuing through in or around July 2016, companies marketing various compounded medications (the “marketing companies”) and certain compounding pharmacies began targeting individuals covered under health insurance plans with prescription benefits that paid for various compounded medications (the “paying health plans”) because the compounded medications could be billed to paying health plans at substantially higher rates than a FDA-approved drug therapeutic equivalent.

3. During the same time period, the University offered its employees health insurance coverage under a paying health plan. The University’s health care plan, PBM-1, and the other paying health plans each were “health care benefit programs” that affected commerce as defined in 18 U.S.C. § 24(b).

4. Marketing companies recruited and paid individuals as “sales representatives” to either: (1) obtain compounded medications, regardless of medical necessity, for themselves (“self-prescriptions”) or family members through their paying health plans; or (2) recruit others with paying health plans to obtain compounded medications, regardless of medical necessity.

5. For the marketing companies to profit, they either had direct relationships with certain compounding pharmacies, or affiliated themselves with other marketing companies that had relationships, either directly or indirectly, with other compounding pharmacies. Through these various relationships, a marketing company agreed to direct prescriptions to certain compounding pharmacies, and in exchange, the compounding pharmacy would pay the marketing company a percentage of the reimbursement amount for each successfully adjudicated claim referred by that marketing company and its sales representatives.

6. Marketing companies and compounding pharmacies encouraged their sales representatives to recruit other sales representatives, or bring other individuals into the scheme “under” them. Any individual recruited would be considered a sales representative’s “downline.” The marketing companies and/or compounding pharmacies companies paid sales representatives a portion of the reimbursement amount they received for: (1) each prescription the sales representative directly caused to be filled, including self-prescriptions and family member prescriptions; and (2) for each prescription attributable to those in the sales representative’s downline.

7. From in or around November 2014 through in or around July 2016, in the District of New Jersey and elsewhere, the defendant,

JOHN CUFFARI,

did knowingly and willfully conspire and agree with others to execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money owned by, and under the custody and control of, a health care benefit program in connection with the delivery of or payment for health care benefits, items and services, contrary to Title 18, United States Code, Section 1347.

Object of the Conspiracy

8. It was an object of the conspiracy for defendant JOHN CUFFARI and others to fraudulently obtain money by causing the submission of false and fraudulent insurance claims for medically unnecessary compounded prescription medications to the University's health care plan and various other paying health plans.

Manner and Means of the Conspiracy

9. It was a part of the conspiracy that defendant JOHN CUFFARI acted a "sales representative" selling various compounded medications, such as, but not limited to, pain creams, scar creams, wound creams, and metabolic supplements/vitamins, for various marketing companies and compounding pharmacies, including, but not limited to Pharmacy-1 and Pharmacy-2 (collectively, the "Cuffari Compounding Entities").

10. It was further a part of the conspiracy that the Cuffari Compounding Entities obtained payment from paying health plans for the compounded medications defendant JOHN CUFFARI sold on their behalf. The Cuffari Compounding Entities paid defendant JOHN CUFFARI a percentage of the adjudication or reimbursement amount for each prescription for compounded medication defendant JOHN CUFFARI caused to be billed to a paying health plan, regardless of medical necessity.

11. It was further a part of the conspiracy that in order to induce the paying health plans to pay for the compounded medications, defendant JOHN CUFFARI made it appear as if the compounded medications were medically necessary, when in fact they were not.

12. It was further a part of the conspiracy that, in order to profit as a sales representative for the Cuffari Compounding Entities, defendant JOHN CUFFARI caused others, such as Individual-1 and Individual-2, to receive medically unnecessary compounded medications. Defendant JOHN CUFFARI did so by, among other things, providing cash to individuals in exchange for their receipt of medically unnecessary compounded medications.

13. It was further a part of the conspiracy that the paying health plans were billed for medically unnecessary compounded medications that Individual-1, Individual-2, and others received.

14. It was further a part of the conspiracy that to obtain medically unnecessary prescriptions for compounded medications, defendant JOHN CUFFARI caused payments to be made to Physician-1 to prescribe compounded

medications to these individuals regardless of medical necessity. Defendant JOHN CUFFARI caused payments to be made to Physician-1 of approximately \$300 in cash for every prescription Physician-1 authorized and that resulted in a paid claim.

15. As a result of defendant JOHN CUFFARI's participation in the scheme to bill for medically unnecessary compounded medications, from in or around November 2014 through in or around July 2016, defendant JOHN CUFFARI caused a loss to the paying health plans of at least \$5,329,214.88.

All in violation of Title 18, United States Code, Section 1349.

FORFEITURE ALLEGATION

16. The allegations contained in Paragraphs 1 through 15 of this Information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture, pursuant to 18 U.S.C. § 982(a)(7).

17. Upon conviction of the Federal health care offense (as defined in 18 U.S.C. § 24) alleged in this Information, defendant JOHN CUFFARI shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real or personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense (as defined in 18 U.S.C. § 24) alleged in this Information.

Substitute Assets Provision

18. If any of the above-described forfeitable property, 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 person;
- (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;

the United States shall be entitled to forfeiture of substitute property, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b).


CRAIG CARPENITO
United States Attorney

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