

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Criminal No. 18-
	:	
JASON NARDACHONE	:	18 U.S.C. § 1349

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

COUNT ONE
(Conspiracy to Commit Health Care Fraud)

1. Unless otherwise indicated, at all times relevant to this Indictment:
 - a. Defendant JASON NARDACHONE was a resident of Nutley, New Jersey and a New Jersey public school teacher.
 - b. CC-1 was a resident of New Jersey.
 - c. CC-2 was an advanced nurse practitioner and resident of New Jersey, who was paid to prescribe medically unnecessary compounded medications.
 - d. Robert Agresti (“Agresti”) was a physician practicing medicine in New Jersey and who was paid to prescribe medically unnecessary compounded medications.

j. The SHBP, SEHBP, and PBM-1 each were “health care benefit programs” that affected commerce as defined in 18 U.S.C. § 24(b).

k. 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.”

l. 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.

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

The Compounding Fraud Scheme

n. At least as early as in or around 2014, companies marketing various compounded medications for certain compounding pharmacies (the “marketing companies”) began targeting individuals (“beneficiaries”) 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 exorbitant prices, which were substantially more expensive than their FDA-approved drug therapeutic equivalent.

o. These marketing companies would recruit and pay 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.

p. For these 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 marketing company would be paid a percentage of the reimbursement amount received for each successfully adjudicated claim referred by that marketing company and its sales representatives.

q. Marketing companies 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 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 prescriptions; and (2) for each prescription attributable to those in the sales representative's downline.

2. From in or around September 2015 through in or around February 2016, in the District of New Jersey and elsewhere, defendant

JASON NARDACHONE

did knowingly and intentionally conspire with others to knowingly and willfully 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, or under the custody or control of, a health care benefit program in connection with the delivery of or payment for health care benefits, items or services, contrary to Title 18, United States Code, Section 1347.

Object of the Conspiracy

3. It was an object of the conspiracy for defendant JASON NARDACHONE and others to fraudulently obtain money by causing the submission of false and fraudulent insurance claims for medically unnecessary compounded prescription medications to the SEHBP.

Manner and Means of the Conspiracy

4. It was a part of the conspiracy that CC-1 was recruited to become a particular marketing company's sales representative for certain compounded medications, such as pain creams, scar creams, and metabolic supplements, and that CC-1 recruited defendant JASON NARDACHONE, a SEHBP beneficiary, to obtain medically unnecessary self-prescriptions through the SEHBP, a paying health plan.

5. It was further part of the conspiracy that defendant JASON NARDACHONE convinced other SEHBP beneficiaries, such as Individual-1, Individual-2, and Individual-3, to obtain medically unnecessary compounded prescriptions, by paying Individual-1, Individual-2, and Individual-3 cash bribes of approximately five hundred dollars.

6. It was further part of the conspiracy that Agresti, CC-2, and other medical providers that were paid to prescribe medically unnecessary compounded medications (collectively, the "Prescribers") prescribed defendant JASON NARDACHONE, Individual-1, Individual-2, and Individual-3 compounded medications without regard to medical need (the "Prescriptions").

7. It was further part of the conspiracy that defendant JASON NARDACHONE, knowing that the Prescriptions were medically unnecessary, caused the billing of the Prescriptions to PBM-1 and the SEHBP.

8. It was further part of the conspiracy that, as a result of defendant JASON NARDACHONE's participation in the scheme to bill for medically unnecessary compounded medications, from at least as early as in or around

September 2015 through in or around February 2016, defendant JASON NARDACHONE caused a loss to the SEHBP of at least approximately \$564,754.16.

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

FORFEITURE ALLEGATION

1. The allegations contained in Paragraphs 1 through 8 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture, pursuant to 18 U.S.C. § 982(a)(7).

2. Upon conviction of the Federal health care offense (as defined in 18 U.S.C. § 24) alleged in this Indictment, defendant JASON NARDACHONE 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 Indictment.

Substitute Assets Provision

3. 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).

A TRUE BILL

FOREPERSON


CRAIG CARPENITO
United States Attorney

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**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

JASON NARDACHONE

INDICTMENT FOR

18 U.S.C. § 1349

A True Bill,

Foreperson

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