

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Criminal No. 20-
	:	
v.	:	18 U.S.C. § 1349
	:	
DAN IRVINE	:	<u>INFORMATION</u>
	:	

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

1. At all times relevant to this Information:

a. Defendant DAN IRVINE was a pharmaceutical representative and resided in New Jersey.

b. In New Jersey, the State Health Benefits Program (“SHBP”) offered medical and prescription drug coverage to qualified state and local government public employees, retirees, and eligible dependents. The School Employees’ Health Benefits Program (“SEHBP”) offered medical and prescription drug coverage to qualified local education public employees, retirees, and eligible dependents. SHBP and SEHBP each were “health care benefit programs” that affected commerce as defined in 18 U.S.C. § 24(b).

c. Pharmacy Benefits Administrator provided pharmacy benefit management services for SHBP and SEHBP beneficiaries pursuant to a contract with the State of New Jersey. Pharmacy Benefits Administrator also provided pharmacy benefit management services for beneficiaries of other insurance plans. Pharmacy Benefits Administrator adjudicated claims for reimbursement from pharmacies and paid pharmacies for valid claims. Pharmacy Benefits Administrator then billed the State of New Jersey based on the amount paid to the pharmacies for

claims on behalf of SHBP and SEHBP beneficiaries. Pharmacy Benefits Administrator was a “health care benefit program” that affected commerce as defined in 18 U.S.C. § 24(b).

2. At all times relevant to this Information:

a. In general, compounding was a practice in which a licensed pharmacist combined, mixed, or altered ingredients of one or more drugs in response to a prescription to create a medication tailored to the medical needs of an individual patient. Compounded drugs were not approved by the United States Food and Drug Administration (“FDA”); that is, the FDA did not verify the safety, potency, effectiveness, or manufacturing quality of compounded drugs.

b. Compounded drugs could be appropriately prescribed by a physician when an FDA-approved medication 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 ingredient that triggers the allergic reaction.

3. From in or about October 2015 through in or about March 2016, in the District of New Jersey, and elsewhere, defendant

DAN IRVINE

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

Object of the Conspiracy

4. It was the object of the conspiracy for defendant DAN IRVINE and others to unlawfully enrich themselves by causing the submission of false and fraudulent insurance claims to Pharmacy Benefits Administrator for medically unnecessary compounded prescription medications and by receiving a percentage of the money paid for those compounded prescription medications.

Manner and Means of the Conspiracy

5. It was part of the conspiracy that defendant DAN IRVINE and his co-conspirators learned that certain insurance companies would reimburse thousands of dollars for one individual's one-month supply of certain prescription compounded medications, including compounded vitamin combinations, libido creams, scar creams, and antifungal creams.

6. It was further part of the conspiracy that defendant DAN IRVINE had an agreement under which he would receive a portion of the amount paid by the Pharmacy Benefits Administrator to an out-of-state pharmacy ("Compounding Pharmacy") for prescriptions obtained by defendant DAN IRVINE.

7. It was further part of the conspiracy that defendant DAN IRVINE obtained insurance information for individuals who had prescription drug benefits administered by the Pharmacy Benefits Administrator, including New Jersey state employees.

8. It was further part of the conspiracy that defendant DAN IRVINE completed and caused the completion of Compounding Pharmacy prescriptions for compounded medications for individuals by selecting the medications based on their high insurance reimbursements and selecting the maximum quantities and refills to generate the highest insurance reimbursements.

9. It was further part of the conspiracy that defendant DAN IRVINE had doctors sign Compounding Pharmacy prescriptions for compounded medications for individuals without the doctors examining the individuals or determining that the individuals had a medical necessity for the compounded medications.

10. It was further part of the conspiracy that defendant DAN IRVINE faxed and caused the faxing of completed signed prescription forms from New Jersey to Compounding Pharmacy.

11. It was further part of the conspiracy that defendant DAN IRVINE received approximately \$63,017.58 in commissions for prescriptions for compounded medications.

12. It was further part of the conspiracy that defendant DAN IRVINE and others caused the Pharmacy Benefits Administrator to pay approximately \$208,989.62 in fraudulent claims for compounded medications obtained by defendant DAN IRVINE and his co-conspirators.

In violation of Title 18, United States Code, Section 1349.

FORFEITURE ALLEGATION

1. As a result of committing the offenses alleged in this Information, defendant DAN IRVINE shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses, including but not limited to a forfeiture money judgment in the amount of \$63,107.58 representing all property constituting or derived from proceeds traceable to the commission of the offense to which he is pleading guilty.

2. 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;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.



CRAIG CARPENITO
United States Attorney