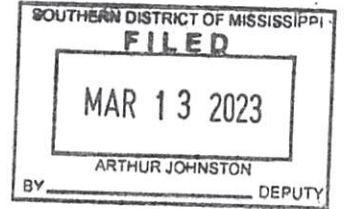


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



UNITED STATES OF AMERICA

v.

GREGORY ALVIN AUZENNE, M.D.

INFORMATION

CRIMINAL NO. *3:23CR20-KS-MTP*

42 U.S.C. § 1320a-7b(a)(3)

The United States Attorney Charges:

At all times relevant to this Information:

GENERAL ALLEGATIONS

Health Care Benefit Programs and Claims Adjudication

1. The United States Department of Defense, through the Defense Health Agency, administered the TRICARE program (“TRICARE”), which was a comprehensive health care insurance program that provided health care benefits to United States military personnel, retirees, and their families.

2. In addition, various private insurance companies provided health care benefits for individuals enrolled with their plans.

3. TRICARE and these private insurance companies were each a “health care benefit program,” within the meaning of Title 18, United States Code, Section 24(b), and TRICARE was also a “Federal health care program,” within the meaning of Title 42, United States Code, Section 1320a-7b(f).

4. Individuals who qualified for TRICARE benefits were referred to as “beneficiaries.”

5. Individuals who qualified for benefits from these private insurance companies were referred to as “members.”

6. Medical service providers, including hospitals, clinics, physicians, nurse practitioners,

and pharmacies (“providers”), meeting certain criteria, could enroll with health care benefit programs, including TRICARE and these private insurance companies, and provide medical services to beneficiaries and members. Providers would then submit claims, either electronically or in hard copy, to health care benefit programs seeking reimbursement for the cost of items and services provided.

7. TRICARE and the other health care benefit programs provided prescription drug coverage, including prescriptions for compounded medications, to eligible beneficiaries and members through their pharmacy programs or similar drug plans.

8. TRICARE’s pharmacy program and other health care benefit programs’ drug plans were administered by Pharmacy Benefit Managers (“PBMs”), whose responsibilities included adjudicating and processing payment for prescription drug claims submitted by eligible pharmacies. PBMs also audited participating pharmacies to ensure compliance with their rules and regulations.

9. Specifically, TRICARE, through the United States Department of Defense, contracted with Express Scripts to be its PBM.

10. Providers, including pharmacies, seeking to provide medications and other pharmaceuticals to beneficiaries and members entered into contractual relationships with PBMs, either directly or indirectly, and agreed to comply with all applicable laws, rules, and regulations, including all applicable federal and state anti-kickback laws.

11. For prescription drugs, including compounded medications, to be reimbursed, health care benefit programs required that prescription drugs be dispensed pursuant to valid prescriptions and be medically necessary for the treatment of covered illnesses or conditions. In other words, health care benefit programs would not reimburse prescription drugs, including compounded

medications, which were not medically necessary or dispensed without valid prescriptions. Additionally, health care benefit programs, including TRICARE, would not reimburse prescription drugs procured through the payment of kickbacks and bribes.

12. Upon receiving prescriptions from beneficiaries and members and dispensing prescription medications, pharmacies submitted claims to health care benefit programs or PBMs. Health care benefit programs or PBMs reimbursed pharmacies at specified rates, minus any copayments to be paid by beneficiaries or members.

Relevant Entities and Individuals

13. Rush Health Systems, LLC (“RHS”) was a Mississippi limited liability company doing business in Lauderdale County, Mississippi. At all relevant times, RHS provided, among other services, pain management to beneficiaries and members.

14. Custom Care Pharmacy, LLC (“Custom Care Pharmacy”) was a Mississippi limited liability company doing business in Hinds County, Mississippi. At all relevant times, Custom Care Pharmacy operated as a pharmacy capable of compounding medications and contracted with health care benefit programs, through PBMs, to provide health care items and services to members.

15. SafeMeds Solutions LLC d/b/a Rx Remedies (“Rx Remedies Pharmacy”) was a Mississippi limited liability company doing business in Madison County, Mississippi. At all relevant times, Rx Remedies Pharmacy operated as pharmacy capable of compounding medications, and contracted with health care benefit programs, through PBMs, to provide health care items and services to beneficiaries and members.

16. Defendant **GREGORY ALVIN AUZENNE, M.D.** (“AUZENNE”), of Lauderdale County, Mississippi, was licensed to practice medicine and had the ability to prescribe medications in the states of Mississippi, Alabama, and Texas, and practiced medicine through

RHS. AUZENNE also had a 20% interest in Custom Care Pharmacy.

17. Marco Bisa Hawkins Moran (“Moran”), of Hinds County, Mississippi, was a pharmacist licensed to dispense pharmaceuticals in the state of Mississippi. Moran had an ownership interest in Custom Care Pharmacy. Additionally, Moran, and companies owned and controlled by Moran, co-owned and marketed compounded medications on behalf of Rx Remedies Pharmacy.

THE FRAUDULENT SCHEME AND THE FAILURE TO DISCLOSE

18. In exchange for kickback and bribes, Moran completed pre-signed, blank, preprinted prescriptions by indicating which medications were to be dispensed, typically indicating that numerous refills were authorized, and ultimately delivered the fraudulent prescriptions to, among other pharmacies, Custom Care Pharmacy and Rx Remedies Pharmacy. Based on these fraudulent prescriptions, Custom Care Pharmacy and Rx Remedies Pharmacy dispensed, and refilled, medically unnecessary compounded medications to beneficiaries and members, for which TRICARE, via Express Scripts, reimbursed Rx Remedies Pharmacy approximately \$116,623.23, from in or around March through May 2014.

19. By no later than May 2014, AUZENNE was aware that Moran had been submitting fraudulent prescriptions for compounded medications under AUZENNE’s name to pharmacies, including Custom Care Pharmacy and Rx Remedies Pharmacy, and causing those pharmacies to dispense, and refill, medically unnecessary compounded medications, and submit fraudulent claims to TRICARE and other health care benefit programs for reimbursement. AUZENNE concealed and failed to disclose this unlawful billing, where AUZENNE had a financial interest in Custom Care Pharmacy and knew or should have known that Custom Care Pharmacy was not entitled to any payments from TRICARE associated with this unlawful billing.

COUNT 1

20. The allegations at paragraphs 1 through 19 of this Information are re-alleged and incorporated by reference as though fully set forth herein.

21. In or around May 2014, in Lauderdale County, in the Southern District of Mississippi, and elsewhere, the defendant, **GREGORY ALVIN AUZENNE, M.D.**, having knowledge of the occurrence of events affecting the initial or continued right to pharmacy benefits and payments from a Federal health care program, to wit, TRICARE, concealed and failed to disclose such events with an intent that it would fraudulently allow Custom Care Pharmacy to secure such benefit and payment for prescriptions for compounded medications to Rx Remedies Pharmacy and Marco Moran, when no such benefit and payment was authorized.

In violation of Title 42, United States Code, Section 1320a-7b(a)(3).

FORFEITURE ALLEGATIONS

22. Upon conviction of the offense alleged in Count 1, **GREGORY ALVIN AUZENNE, M.D.** shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense—to wit, \$116,623.23—pursuant to Title 18, United States Code, Section 982(a)(7).

23. If any of the property described above as being subject to forfeiture, 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 that 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 the defendant up to the value of the forfeitable property described above.



DARREN J. LAMARCA
United States Attorney

GLENN S. LEON
Chief, Criminal Division, Fraud Section
United States Department of Justice

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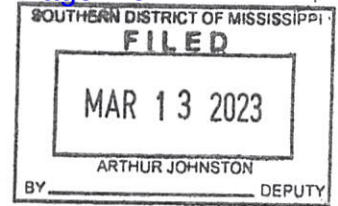
NOTICE OF MAXIMUM PENALTY

Count 1:

Fraudulent Failure to Disclose

42 U.S.C. § 1320a-7b(a)(3)

- Not more than one (1) year of imprisonment
- Not more than a \$20,000 fine
- Not more than one (1) year supervised release
- \$100 special assessment



CRIMINAL CASE COVER SHEET

U.S. District Court

PLACE OF OFFENSE:

CITY: _____

COUNTY: Lauderdale

RELATED CASE INFORMATION:

SUPERSEDING INDICTMENT _____ DOCKET # 3:23CR20-KS-MTP
SAME DEFENDANT _____ NEW DEFENDANT _____
MAGISTRATE JUDGE CASE NUMBER _____
R 20/ R 40 FROM DISTRICT OF _____

DEFENDANT INFORMATION:

JUVENILE: ___ Yes X No

MATTER TO BE SEALED: ___ YES X NO

NAME/ALIAS: Gregory Alvin Auzenne, M.D.

U.S. ATTORNEY INFORMATION:

AUSA Erin O. Chalk BAR # 101721

INTERPRETER: X No ___ YES LIST LANGUAGE AND/OR DIALECT: _____

LOCATION STATUS: ARREST DATE _____

___ ALREADY IN FEDERAL CUSTODY AS OF _____

___ ALREADY IN STATE CUSTODY

___ ON PRETRIAL RELEASE

U.S.C. CITATIONS

TOTAL # OF COUNTS: 1 _____ PETTY 1 MISDEMEANOR _____ FELONY

(CLERK'S OFFICE USE ONLY)	INDEX KEY/CODE	DESCRIPTION OF OFFENSE CHARGED	COUNT(S)	
Set 1	<u>42:1320A.M</u>	<u>42 U.S.C. § 1320(a)-7b(a)(3)</u>	<u>Fraudulent Failure to Disclose</u>	<u>1</u>
Set 2	_____	_____	_____	_____
Set 3	_____	_____	_____	_____
Set 4	_____	_____	_____	_____
Set 5	_____	_____	_____	_____

SIGNATURE OF AUSA: Erin O. Chalk