

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**SEALED  
INDICTMENT**

**THOMAS G. MERRILL**  
\_\_\_\_\_ /

**THE GRAND JURY CHARGES:**

**COUNTS ONE THROUGH ONE HUNDRED**

**A. Introduction**

At all times material to this Indictment:

1. The Florida Department of Health (DOH), Office of Medical Quality Assurance, Tallahassee, Florida, regulated the licensing and practice of medical and osteopathic doctors and other medical practitioners. The state laws concerning the practice of medicine and osteopathic medicine were set forth to ensure that every physician and osteopathic physician practicing in Florida meets the minimum standards and requirements for safe practice. The DOH prohibited medical and osteopathic physicians from practicing in Florida when they fell below the minimum competency and licensing requirements or otherwise presented a danger to the public.

2. Florida Statute 458.326 authorized licensed physicians to prescribe controlled substances under Schedules II through V to a person for treatment of intractable pain, provided

that the physician did so in accordance with that level of care, skill, and treatment recognized by a reasonable prudent physician under similar conditions and circumstances.

3. All licensed physicians and osteopathic physicians were required to comply with the Standards For The Use of Controlled Substances For Treatment of Pain for the practice of medicine and osteopathic medicine in Rules 64B8-9.013 and 64B15-14.005.

4. Florida Statute 459.015 prohibited an osteopathic physician from prescribing, dispensing, or administering any legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. The statute further provided that it would be legally presumed that prescribing, dispensing, or administering legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities was not in the best interest of the patient and was not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

5. THOMAS G. MERRILL was an osteopathic physician licensed by the State of Florida and possessed medical license number OS00003716.

6. THOMAS G. MERRILL possessed a Drug Enforcement Administration registration number that authorized him to prescribe controlled substances in Schedules II through V.

7. THOMAS G. MERRILL was not authorized to dispense any controlled substances nor was he authorized to possess or maintain any controlled substances to dispense.

8. THOMAS G. MERRILL operated a medical business known as "Magnolia Medical Clinic," located at 116 Avenue East, Apalachicola, Florida.

9. THOMAS G. MERRILL was paid a salary by Gulf Pines Hospital for operating Magnolia Medical Clinic and providing medical services to patients.

10. Magnolia Medical Clinic, along with Gulf Pines Hospital, Port St. Joe, Florida were owned by Marquis Management Group, Inc.

11. THOMAS G. MERRILL would submit to agents of Gulf Pines Hospital lists of patients seen and medical services provided at Magnolia Medical Clinic for billing by Gulf Pines Hospital to various health care benefit programs.

12. The Medicaid system was designed under the Social Security Act (Title 42, United States Code, Section 301, et seq.) for the payment of medical costs associated with the treatment of indigent patients. The Medicaid system was administered by each state individually, but was funded in part with federal funds. The United States Department of Health and Human Services (HHS) provided federal funding to the State of Florida Medicaid System which was administered by the Florida Agency for Health Care Administration (AHCA) pursuant to contracts with HHS. AHCA in turn contracted with Affiliated Computer Services, Inc. (ACS) (formerly with Consultec, Incorporated) which was a fiscal intermediary designated to serve as the paying agent. ACS received, adjudicated and paid Medicaid claims submitted by Medicaid participating providers, and reimbursed most medically necessary services performed, ordered, or supervised by a licensed physician based upon an established fee schedule. Florida physicians and other health care providers submitted claims for payment to ACS (formerly to Consultec) via mail and electronic submission on a "Health Insurance Claim Form." The processing facility for claims submitted to ACS was located in Pittsburgh, Pennsylvania. ACS was responsible for adjudicating these claims and making payment to individual providers based upon the claim submitted. The payments were issued from Tallahassee, Florida.

13. Medicaid would pay for prescriptions for eligible Medicaid patients. Physicians issuing the prescriptions were not required to be a participating Medicaid provider. The pharmacies would enter the data from the prescription into an electronic data base system known as the Point of Sale (POS) system along with the recipient's eligibility Medicaid identification number. The data would be transmitted to determine whether the recipient's eligibility was current and if the drug prescribed was listed on the Florida drug formulary. If so, the pharmacy would be notified either that the claim was valid and would be paid, or that the claim was denied and the reason listed. If valid, the pharmacy would then fill the prescription and the drug would then be provided to the recipient.

14. THOMAS G. MERRILL and Gulf Pines Hospital were authorized providers of physician services under the Florida Medicaid program, and prescriptions issued by THOMAS G. MERRILL to eligible Florida Medicaid recipients could be filled and dispensed by Medicaid participating pharmacies.

15. Tricare, formerly known as Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), was a federally funded medical benefits program provided by the federal government to help pay for: civilian medical care rendered to dependents of uniformed services personnel; to retired uniformed services personnel and their dependents; and to dependents of deceased uniformed services personnel. Tricare contracted with Palmetto Government Benefit Administrators (PGBA) to administer the Tricare program, particularly in processing and paying claims. For all prescriptions filled by pharmacies for Tricare beneficiaries, the claims for payment were processed and paid by PGBA located in Florence, South Carolina

and a check was mailed to the pharmacy where the prescription was filled, or directly to the beneficiary.

16. Prescriptions for controlled substances issued by THOMAS G. MERRILL to patients would be presented by patients at various pharmacies, and many of these claims would be submitted to health care benefit programs for reimbursement and payment.

17. Medicaid, Tricare, and Blue Cross Blue Shield of Florida (hereinafter “Blue Cross”) were health care benefit programs as defined in Title 18, United States Code, Section 24, and operated health care public and private plans and contracts under which medical benefits, items, and services were provided to individuals.

18. Oxycodone was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as OxyContin, OxyIR, Percocet, Percodan, Endocet, Roxicodone, and Tylox.

19. Morphine was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as Kadian and Avinza.

20. Fentanyl was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as Duragesic.

21. Amphetamine was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as Adderal and Amphetamine Salt Combo.

22. Hydrocodone was a narcotic drug, a Schedule III controlled substance, and was marketed commonly as Lorcet, Lortab, Vicodin, and Tussionex.

23. Codeine phosphate was a narcotic drug, a Schedule II controlled substance, and was marketed commonly as Ascomp with Codeine

24. Phendimetrazine was a stimulant drug, a Schedule III controlled substance, and was marketed commonly as Melfiat.

25. Alprazolam was an anti-anxiety drug, a Schedule IV controlled substance, and was marketed commonly as Xanax.

26. Diazepam was a hypnotic or sedative drug, a Schedule IV controlled substance, and was marketed commonly as Valium.

27. Zolpidem was a hypnotic or sedative drug, a Schedule IV controlled substance, and marketed commonly as Ambien.

28. Phentermine was a stimulant drug, a Schedule IV controlled substance, and marketed commonly as Adipex.

#### **B. Scheme**

Between on or about January 1, 2000, and until on or about May 4, 2004, in the Northern District of Florida, and elsewhere, the defendant,

#### **THOMAS G. MERRILL,**

did knowingly and willfully devise and intend to devise a scheme to defraud and to obtain money and property from Medicaid, Tricare, and Blue Cross, by means of material false and fraudulent pretenses, representations, and promises, well knowing that the pretenses, representations, and promises were false and fraudulent.

#### **C. Manner and Means**

The manner and means by which the scheme was carried out included the following:

1. It was part of the scheme that THOMAS G. MERRILL would and did prescribe controlled substances to patients without performing a physical examination and without

determining a sufficient medical necessity for the prescription of controlled substances.

2. It was further part of the scheme that THOMAS G. MERRILL would and did cause his patients to fill prescriptions at various pharmacies, allowing patients to obtain reimbursement for those prescriptions from health care benefit programs used by the patients submitting the prescriptions issued by THOMAS G. MERRILL.

3. It was further part of the scheme that THOMAS G. MERRILL would and did refer patients to specific pharmacies to fill repeated prescriptions for controlled substances, and would warn patients against filling prescriptions at certain pharmacies since the pharmacies would ask too many questions about the quantity and combination of controlled substances prescribed.

4. It was further part of the scheme that THOMAS G. MERRILL would and did require patients to pay for follow-up visits to obtain additional prescriptions for controlled substances.

5. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe excessive and inappropriate quantities and combinations of controlled substances to patients outside the usual course of professional practice.

6. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe excessive and inappropriate quantities of non-controlled substances along with controlled substances to patients outside the usual course of professional practice.

7. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe quantities and combinations of controlled substances to patients but failed to monitor the use and abuse of the prescribed controlled substances of the patients.

8. It was further part of the scheme that THOMAS G. MERRILL would and did direct patients to obtain over-the-counter cough medicine containing dextromethorphan to utilize with the prescribed controlled substances to increase the effect of the controlled substances.

9. It was further part of the scheme that THOMAS G. MERRILL would and did continue to prescribe addictive controlled substances notwithstanding prior overdoses by the patients on the prescribed drugs and the receipt of information by THOMAS G. MERRILL that particular patients were abusing their controlled substances, were selling their controlled substances, were addicted, and were “doctor-shopping.”

10. It was further part of the scheme that THOMAS G. MERRILL would and did meet with certain patients together, without performing any physical examinations or diagnostic tests, prescribe identical quantities and combinations of controlled substances to patients, and charge the patients individually for separate office visits.

11. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe quantities and combinations of controlled substances to patients without actually seeing the patient and without documenting the controlled substance prescription(s) prescribed, or any medical justification for the prescription, in the patient’s file.

12. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe controlled substances in quantities and dosages that would cause patients to abuse, misuse, and become addicted to the controlled substances.

13. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe controlled substances to patients knowing that the patients were addicted to and were misusing the controlled substances and were requesting additional quantities of controlled



substances for the patients' drug habit.

14. It was further part of the scheme that THOMAS G. MERRILL would and did prescribe controlled substances to patients that resulted in the overdose deaths of patients from the use of the prescribed controlled substances.

15. It was further part of the scheme that THOMAS G. MERRILL would and did accept payment from Medicaid patients in cash at the time he provided the patients with prescriptions for controlled substances, despite the fact that Medicaid would have paid Merrill for providing medical services to the Medicaid patients.

16. It was further part of the scheme that THOMAS G. MERRILL would and did cause pharmacies that filled prescriptions for controlled substances issued by THOMAS G. MERRILL to submit claims to various health care benefit programs by mail and electronic means for payment and reimbursement.

17. It was further part of the scheme that THOMAS G. MERRILL would and did cause Gulf Pines Hospital to submit false and fraudulent claims to various health care benefit programs by mail and electronic means for payment and reimbursement, the claims being for medical services THOMAS G. MERRILL provided to patients, specifically office visits and prescribing of controlled substances.

#### **D. The Wire Communications**

On or about the dates listed below, in the Northern District of Florida, the defendant herein, for the purpose of executing the above described scheme and artifice to defraud and for so obtaining money and property from the below listed health care benefit programs, and attempting to do so, did cause to be transmitted in interstate commerce by means of wire

communications certain signs, signals, and sounds, that is, electronic billings and payments for the following described medical claims:

<b>COUNT</b>	<b>DATE</b>	<b>MEDICAL CLAIM</b>	<b>HEALTH CARE PROGRAM</b>
1	April 18, 2002	Office visit	Tricare
2	April 30, 2002	Office visit	Tricare
3	May 11, 2002	Office visit	Blue Cross
4	July 4, 2002	Office visit	Blue Cross
5	July 19, 2002	Office visit	Tricare
6	August 6, 2002	Prescription	Medicaid
7	August 13, 2002	Office visit	Tricare
8	January 28, 2003	Office visit	Blue Cross
9	April 2, 2003	Office visit	Blue Cross
10	April 2, 2003	Office visit	Blue Cross
11	July 3, 2003	Prescription	Medicaid
12	August 1, 2003	Prescription	Medicaid
13	August 29, 2003	Prescription	Medicaid
14	September 30, 2003	Prescription	Medicaid
15	October 27, 2003	Prescription	Medicaid
16	October 28, 2003	Prescription	Medicaid
17	November 2, 2003	Prescription	Medicaid
18	March 1, 2004	Prescription	Medicaid

All in violation of Title 18, United States Code, Sections 1343 and 2.

## **COUNT NINETEEN**

### **A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

### **B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit programs, namely, Medicaid, Tricare, and Blue Cross, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control of the above-named health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services.

### **C. Manner and Means**

The manner and means by which the scheme and artifice was carried out are as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

### **D. Execution Of The Scheme**

That between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, and attempting to do so, defendant THOMAS G.

MERRILL did cause money to be obtained from the health care benefit programs identified above based upon false claims defendant THOMAS G. MERRILL caused to be submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit programs identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, the prescriptions were issued outside the usual course of professional practice, and the defendant lacked any documentation in patient files justifying said prescriptions, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services.

All in violation of Title 18, United States Code, Sections 1347 and 2.

## **COUNT TWENTY**

### **A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

### **B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud a health care benefit program, namely, Blue Cross, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control

of the above-named health care benefit program, in connection with the delivery of and payment for health care benefits, items and services.

**C. Manner and Means**

The manner and means by which the scheme and artifice was carried out were as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**D. Execution Of The Scheme**

That on or about June 21, 2002, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, defendant THOMAS G. MERRILL did cause money to be obtained from the health care benefit program identified above based upon false claims defendant THOMAS G. MERRILL caused to be submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit program identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, the prescriptions were issued outside the usual course of professional practice, and the defendant lacked any documentation in patient files justifying said prescriptions, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services, and said violation resulted in the death of a person.

All in violation of Title 18, United States Code, Sections 1347 and 2.

**COUNT TWENTY-ONE**

**A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud a health care benefit program, namely, Medicaid, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control of the above-named health care benefit program, in connection with the delivery of and payment for health care benefits, items and services.

**C. Manner and Means**

The manner and means by which the scheme and artifice was carried out were as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**D. Execution Of The Scheme**

That on or about May 30, 2003, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, defendant THOMAS G. MERRILL did cause money to be obtained from the health care benefit program identified above based upon false claims defendant THOMAS G. MERRILL caused to be

submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit program identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, the prescriptions were issued outside the usual course of professional practice, and the defendant lacked any documentation in patient files justifying said prescriptions, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services, and said violation resulted in the death of a person.

All in violation of Title 18, United States Code, Sections 1347 and 2.

## **COUNT TWENTY-TWO**

### **A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

### **B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit program, namely, Medicaid, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control of the above-named health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services.

### **C. Manner and Means**

The manner and means by which the scheme and artifice was carried out were as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

### **D. Execution Of The Scheme**

That between on or about July 15, 2003, and July 18, 2003, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, defendant THOMAS G. MERRILL did cause money to be obtained from the health care benefit program identified above based upon false claims defendant THOMAS G. MERRILL caused to be submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit program identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, the prescriptions were issued outside the usual course of professional practice, and the defendant lacked any documentation in patient files justifying said prescriptions, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services, and said violation resulted in the death of a person.

All in violation of Title 18, United States Code, Sections 1347 and 2.

### **COUNT TWENTY-THREE**



**A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit program, namely, Medicaid, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control of the above-named health care benefit program, in connection with the delivery of and payment for health care benefits, items and services.

**C. Manner and Means**

The manner and means by which the scheme and artifice was carried out were as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**D. Execution Of The Scheme**

That on or about August 29, 2003, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, defendant THOMAS G. MERRILL did cause money to be obtained from the health care benefit program identified above based upon false claims defendant THOMAS G. MERRILL caused to

be submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit program identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, and the defendant lacked any documentation in patient files justifying said prescriptions, the prescriptions were issued outside the usual course of professional practice, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services, and said violation resulted in the death of a person.

All in violation of Title 18, United States Code, Sections 1347 and 2.

#### **COUNT TWENTY-FOUR**

##### **A. Introduction**

Part A of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

##### **B. Scheme**

Between in or about January, 2000, and on or about May 4, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and willfully execute and attempt to execute a scheme to defraud health care benefit program, namely, Medicaid, and to obtain, by means of material false pretenses, representations and promises, money and property owned by, and under the custody and control of the above-named health care benefit program, in connection with the delivery of and payment

for health care benefits, items and services.

**C. Manner and Means**

The manner and means by which the scheme and artifice was carried out were as follows:

Part C of Counts One through Eighteen is realleged and incorporated by reference as if set forth fully herein.

**D. Execution Of The Scheme**

That between on or about October 28, 2003, and on or about November 2, 2003, in the Northern District of Florida and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice to defraud and to obtain money and property by false and fraudulent, pretenses, representations and promises, defendant THOMAS G. MERRILL did cause money to be obtained from the health care benefit program identified above based upon false claims defendant THOMAS G. MERRILL caused to be submitted for medical services and procedures that were not provided and not medically necessary, and did cause pharmacies to obtain money from the health care benefit program identified above by causing the pharmacies to file claims for filling prescriptions for controlled substances issued by THOMAS G. MERRILL that were false and fraudulent in that the prescriptions were not based upon medical necessity, the prescriptions were issued outside the usual course of professional practice, and the defendant lacked any documentation in patient files justifying said prescriptions, thus making the prescriptions not authorized for the pharmacies to obtain reimbursement for such services, and said violation resulted in the death of a person.

All in violation of Title 18, United States Code, Sections 1347 and 2.

**COUNT TWENTY-FIVE**

That between on or about October 16, 2000, and October 17, 2000, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT TWENTY-SIX**

That on or about December 19, 2000, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT TWENTY-SEVEN**

That on or about March 26, 2001, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT TWENTY-EIGHT**

That on or about April 26, 2001, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT TWENTY-NINE**

That on or about October 25, 2001, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone, alprazolam, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY**

That on or about February 11, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-ONE**

That on or about February 15, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone, phentermine, diazepam, and tussionex, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-TWO**

That on or about March 5, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-THREE**

That on or about March 11, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone, phentermine, diazepam, and tussionex, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-FOUR**

That on or about April 11, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-FIVE**

That on or about April 23, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone and phendimetrazine, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-SIX**

That on or about May 28, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-SEVEN**

That on or about June 10, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-EIGHT**

That on or about June 20, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT THIRTY-NINE**

That on or about June 21, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, alprazolam, and diazepam, and death resulted from the use of such oxycodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.



**COUNT FORTY**

That on or about July 19, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-ONE**

That on or about August 6, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-TWO**

That on or about October 15, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-THREE**

That on or about December 26, 2002, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-FOUR**

That on or about January 28, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-FIVE**

That on or about January 29, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-SIX**

That on or about February 7, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-SEVEN**

That on or about March 4, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-EIGHT**

That on or about April 2, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, phentermine, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FORTY-NINE**

That on or about April 2, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY**

That on or about April 30, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-ONE**

That on or about May 1, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of oxycodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FIFTY-TWO**

That on or about May 15, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-THREE**

That on or about May 30, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-FOUR**

That on or about June 12, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-FIVE**

That on or about June 16, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-SIX**

That on or about June 17, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-SEVEN**

That on or about June 20, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-EIGHT**

That on or about June 23, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT FIFTY-NINE**

That on or about June 23, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SIXTY**

That on or about June 30, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone, alprazolam, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SIXTY-ONE**

That on or about July 3, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and fentanyl, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SIXTY-TWO**

That on or about July 14, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SIXTY-THREE**

That on or about July 14, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.



**COUNT SIXTY-FOUR**

That on or about July 15, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SIXTY-FIVE**

That on or about July 18, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of morphine, and death resulted from the use of such morphine, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SIXTY-SIX**

That on or about August 1, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and fentanyl, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SIXTY-SEVEN**

That on or about August 5, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, hydrocodone, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SIXTY-EIGHT**

That on or about August 22, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SIXTY-NINE**

That on or about August 29, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and fentanyl, and death resulted from the use of such fentanyl, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY**

That on or about September 11, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, fentanyl, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-ONE**

That on or about September 22, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-TWO**

That on or about September 23, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-THREE**

That on or about September 28, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-FOUR**

That between on or about September 30, 2003 and on or about October 1, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of morphine, hydrocodone, alprazolam, and zolpidem in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-FIVE**

That on or about October 6, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of oxycodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-SIX**

That on or about October 11, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of fentanyl, hydrocodone, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-SEVEN**

That on or about October 28, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-EIGHT**

That on or about November 2, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of morphine and zolpidem, and death resulted from the use of such morphine, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SEVENTY-NINE**

That on or about November 3, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, ascomp with codeine, and alprazolam in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT EIGHTY**

That on or about November 13, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-ONE**

That on or about November 24, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-TWO**

That on or about November 26, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-THREE**

That on or about December 4, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, ascomp with codeine, and alprazolam in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-FOUR**

That on or about December 8, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-FIVE**

That on or about December 29, 2003, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C)and (D), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-SIX**

That on or about January 8, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-SEVEN**

That on or about January 30, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.



**COUNT EIGHTY-EIGHT**

That on or about February 10, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT EIGHTY-NINE**

That on or about February 26, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of amphetamines and hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY**

That on or about March 1, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY-ONE**

That on or about March 2, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, a controlled substance, and that this offense involved a quantity of oxycodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT NINETY-TWO**

That on or about March 8, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, ascomp with codeine, and alprazolam in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT NINETY-THREE**

That on or about March 9, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and hydrocodone, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY-FOUR**

That between on or about March 30, 2004 and on or about May 1, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, amphetamine, hydrocodone, alprazolam, and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY-FIVE**

That on or about March 31, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY-SIX**

That on or about April 5, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally distribute, and caused to be distributed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT NINETY-SEVEN**

That on or about April 7, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of oxycodone, butalbital with codeine, and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and (D), and Title 18, United States Code, Section 2.

**COUNT NINETY-EIGHT**

That on or about April 8, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and alprazolam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**COUNT NINETY-NINE**

That on or about April 19, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2

**COUNT ONE HUNDRED**

That on or about April 20, 2004, in the Northern District of Florida, the defendant,

**THOMAS G. MERRILL,**

did knowingly and intentionally dispense, and caused to be dispensed, controlled substances, and that this offense involved a quantity of hydrocodone and diazepam, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D), and Title 18, United States Code, Section 2.

**CONTROLLED SUBSTANCE FORFEITURE**

The allegations contained in Counts Twenty-Five through One Hundred of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures, pursuant to the provisions of Title 21, United States Code, Section 853.

From his engagement in the violations charged in Counts Twenty-Five through One Hundred of this Indictment, punishable by imprisonment for more than one year, the defendant,

**THOMAS G. MERRILL,**

shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, all of his interest in any and all of the defendant's right, title and interest in any property, real and personal, constituting, and derived from, proceeds traceable to such offenses,

If any of the property subject to forfeiture, as a result of acts or omissions of the defendant:

1. cannot be located upon the exercise of due diligence;
2. has been transferred, sold to, or deposited with a third party;
3. has been placed beyond the jurisdiction of this Court;

4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

All pursuant to Title 21, United States Code, Section 853(a).

### **TITLE 18 FORFEITURE**

The allegations contained in Counts One through Twenty-Four of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

1. From his engagement in any or all of the violations alleged in Counts One through  
Twenty-Four of this Indictment, the defendant,

### **THOMAS G. MERRILL,**

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all of his interest in any and all of the defendant's right, title and interest in any property, real and personal, constituting, and derived from, proceeds traceable to such offenses,

If any of the property subject to forfeiture, as a result of acts or omissions of the defendant:

1. cannot be located upon the exercise of due diligence;
2. has been transferred, sold to, or deposited with a third party;
3. has been placed beyond the jurisdiction of this Court;

4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(a)(7) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

A TRUE BILL:

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

\_\_\_\_\_  
GREGORY R. MILLER  
United States Attorney

\_\_\_\_\_  
STEPHEN M. KUNZ  
Assistant United States Attorney