

## INTRODUCTION

We, the members of the Forty-Fourth Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Controlled Substance, Drug, Device and Cosmetic Act occurring in Northampton County pursuant to Notice of Submission of Investigation No. 62, do hereby make the following findings of fact and recommendation of charges.

## OVERVIEW

The Grand Jury conducted an investigation into the criminal activities of Ajeeb Titus, M.D. ("Dr. Titus"), a family medicine physician employed at Rock Wellness, located at 2591 Baglyos Circle, Suite C50-51 in Bethlehem, Northampton County. While Dr. Titus specialized in family medicine, his practice also included pain-management and he treated patients seeking addiction treatment, specifically opiate addiction treatment through the use of Suboxone.

The Grand Jury determined that, for at least a ten-year period between January, 2010 and January, 2020, Dr. Titus violated the Controlled Substance, Drug, Device and Cosmetic Act by illegally distributing drugs to his patients in the guise of performing medical duties. Dr. Titus freely prescribed controlled substances in a manner that was not in good faith during the course of his professional practice and not in accordance with treatment principles accepted by a responsible segment of the medical profession. Few patients had a controlled substance agreement outlining the patient and physician responsibilities with respect to taking highly addictive medication. Additionally, Dr. Titus did not consistently order urine screenings to properly monitor patients who were taking Schedule II medication. Urine screenings are necessary to ensure that the medication is being taken for medical treatment - - and not being diverted for illegal activities - - and that the patients' medical history of opioid abuse is consistent with medication-taking behavior. Finally, Dr. Titus failed to keep appropriate medical records for his patients insofar as



the records did not contain any indication of physical examinations or diagnostic data to support the medication prescribed.

### **FINDINGS OF FACT**

This investigation began in June 2018 when the Pennsylvania Office of Attorney General (“OAG”) received information that Dr. Titus was overprescribing controlled substances. OAG Narcotics Agent Kelly Poray (“NA Poray”) subsequently worked with confidential informants, who were established patients of Dr. Titus. Additionally, NA Poray, in an undercover capacity, became a patient of Dr. Titus. During a routine pharmacy inspection at the Giant Pharmacy located in Coplay, the OAG received an additional complaint with respect to Dr. Titus. The head regional pharmacy manager noted that his pharmacy filled an excessive amount of prescriptions for Schedule II controlled substances written by Dr. Titus for multiple patients over long periods of time.

NA Poray appeared before the Grand Jury and testified that under her supervision and control, the first confidential informant (“Patient 1”) was seen by Dr. Titus at his office on four occasions from December 2018 through June 2019. Prior to the December visit, Patient 1 had been an established patient of the doctor, but had not seen him for years. Dr. Titus had previously treated Patient 1 for addictions to heroin and methamphetamine, and during the course of this previous treatment, he had prescribed Suboxone, a Schedule III controlled substance, to Patient 1. On each visit from December 2018 to June 2019, Patient 1 paid for the visit with pre-recorded currency. During these visits, Dr. Titus did not conduct any medical examinations; he only inquired as to the purpose of the visit. Patient 1 stated that he/she needed prescriptions, to which Dr. Titus responded by asking what he/she wanted. Patient 1 told him that he/she wanted Adderall (a Schedule II controlled substance), Lorazepam (a Schedule IV controlled substance), and

Wellbutrin (not a scheduled controlled substance). Patient 1 additionally asked for specific dosages of each prescription that he/she desired; specifically, 1mg of Lorazepam and 20mg of immediate release Adderall. Dr. Titus complied with the request and wrote out prescriptions for 1mg of Lorazepam (45 tablets) and 20mg of immediate release Adderall (60 tablets).

Dr. Titus asked Patient 1 if he/she had been seeing another doctor and Patient 1 responded that he/she was seeing Dr. Perrone from Omni Health Services in Allentown. After the visit, Patient 1 told NA Poray that Dr. Perrone is a real doctor, but does not work out of Omni Health Services. Patient 1 made this statement to see if Dr. Titus would check the records. In subsequent visits, Dr. Titus did not mention that Dr. Perrone did not work at Omni Health Services. This was indicative of the fact that Dr. Titus was not requesting patient records from previous physicians to verify the medications prescribed. During subsequent visits, Patient 1 received prescription refills for the medications listed, and, obtained an additional prescription for Morphine, a Schedule II controlled substance. At the February appointment, Patient 1 received 50 tablets of 15mg of Morphine. In March and April, Dr. Titus increased the number of Morphine tablets to 60.

NA Poray also explained that during this time, she became a "patient" of Dr. Titus. She accompanied Patient 1 on his/her visits to Dr. Titus. Both of them had their appointments at the same time and in the same examination room. NA Poray was not directly prescribed any controlled substances as medication. Because the appointments were conducted together, Dr. Titus was aware that Patient 1 was allegedly giving NA Poray medication from Patient 1's Morphine prescription. Dr. Titus did not discourage Patient 1 from sharing his/her medication with NA Poray, nor did Dr. Titus cease prescribing Morphine to Patient 1. Indeed, the Grand Jury learned that Dr. Titus refused to prescribe controlled medication to NA Poray because he had received a letter from the Drug



Enforcement Administration (“DEA”) and was, in his own words, being watched for his prescribing of controlled substances.

In March 2019, a second confidential informant, (“Patient 2”), advised NA Poray that while at Dr. Titus’ office for a friend’s appointment, he/she had an opportunity to speak with the doctor privately. Patient 2 told Dr. Titus that he/she needed money to pay-off his/her truck, and wanted to sell scheduled prescription medication if Dr. Titus was able to provide him/her with scheduled drugs. Dr. Titus agreed to Patient 2’s proposition, but stated that he kept all of the drugs at his house. Patient 2 explained to Dr. Titus he/she already had a scheduled appointment with him later that same week. Under the control of OAG agents, Patient 2 entered Dr. Titus’ office for this scheduled appointment with pre-recorded currency; however, Patient 2 was told by a staff member that he/she would not need payment for the appointment. Once Patient 2 was alone with Dr. Titus, he/she received three 100mcg/hr patches of Fentanyl, a Schedule II controlled substance. Dr. Titus informed Patient 2 that he would have more supply the following Friday. Dr. Titus then instructed Patient 2 to come to his office at 2:30 p.m. after the office was closed. Dr. Titus further instructed him/her to knock loudly on the front door and he would let Patient 2 into the building to give him/her the Fentanyl patches. Dr. Titus also gave Patient 2 his personal cellular telephone number and requested that Patient 2 call him or send him a text message when he/she arrived. After leaving the office, the Fentanyl patches were turned over to OAG agents, along with the currency previously given to him/her. The Grand Jury learned that this appointment was audio- recorded.

On March 29, 2019, Patient 2 was given pre-recorded currency and driven to Dr. Titus’ office by OAG agents. Under the direction of agents, Patient 2 attempted to reach Dr. Titus by both telephone and text message, but received no response. Patient 2 went to the front door and began knocking, but saw that there were still staff members in the office. Patient 2 waited for the



staff to leave the building. Then, he/she called Dr. Titus who answered the telephone and directed Patient 2 to the side door of the office building.

Patient 2 was observed by agents walking to the side door where Dr. Titus let him/her into the building. A short time later, Patient 2 was observed leaving the building carrying a box, which fit into the palm of his/her hand. Patient 2 told agents what occurred between him/her and Dr. Titus. NA Poray testified that Patient 2 stated that he/she told Dr. Titus that he/she would be selling the patches to someone for cash because he/she needed the money to pay-off his/her truck.

Patient 2 handed agents a box labeled "IBUProfen" that contained seven 100mcg/hr Fentanyl patches. Dr. Titus did not accept payment for the patches and the pre-recorded currency was returned to the agents. 8/13

On April 12, 2019, under the control of agents, Patient 2 met with Dr. Titus again. Patient 2 was followed to the parking lot of Dr. Titus's office and observed walking from his/her vehicle to the rear of the building to meet with Dr. Titus. A few moments later, Patient 2 was observed walking from the rear of the building and returning to his/her vehicle. Patient 2 then met with agents at a pre-determined location where he/she handed agents a plastic bag labeled "Xyzal." The bag contained the following contents: 1) A prescription for 12 Clonazepam pills (Schedule IV controlled substance); 2) Five 12mcg/hr Fentanyl patches; 3) Four Zubsolv pills (generic Suboxone pills; a Schedule III controlled substance); and 4) One bottle containing eight Morphine pills.

The Grand Jury learned that based upon the evidence received, NA Poray queried Dr. Titus' prescribing habits through a search of the Prescription Drug Monitoring Program ("PDMP"). The PDMP is a state-run program that collects and distributes data regarding



prescriptions and dispensing of federally controlled substances. It was determined that Dr. Titus was prescribing a large amount of Schedule II narcotics.

NA Poray testified that she reviewed the Schedule II reports, and, in an effort to determine whether Dr. Titus was utilizing improper prescribing practices, she calculated the morphine milligram equivalents (“MME”) per day for the various patients. The Grand Jury learned that according to the Center for Disease Control (“CDC”), clinicians should use caution when prescribing opioids at any dosage, should carefully reassess evidence of individual benefits and risks when considering increasing dosage to  $\geq 50$  MME/day, and should avoid increasing dosage to  $\geq 90$  MME/day, or carefully justify a decision to titrate dosage to  $\geq 90$  MME/day. RB  
or equal

Discovering numerous patients with levels higher than 120 MMEs per day, and armed with evidence obtained during the course of the investigation, NA Poray obtained and executed search warrants for specific patient files at Dr. Titus’ office on August 27, 2019 and January 24, 2020. These patient files were subsequently sent to Stephen Thomas, M.D. (“Dr. Thomas”), an expert in pain management and anesthesiology, for an opinion as to whether the prescriptions were written 1) in good faith in the usual course of professional practice; 2) within the scope of the doctor/patient relationship; and, 3) in accordance with the accepted treatment principles of any responsible segment of the medical community. The Grand Jury learned that Dr. Thomas has been previously qualified as an expert in these areas in state and federal court, including courts in the Commonwealth of Pennsylvania. While specifics to each patient are addressed below, Dr. Thomas noticed a common theme running through the patient files. With the exception of one patient identified below, there were no controlled substance agreements in the file. While not legally required, the execution of such agreements is considered a “best practice” in the medical field. A controlled substance agreement is a contract between a patient and a doctor outlining the



responsibilities of the patient and physician regarding the prescription of controlled substances. These agreements not only inform the patients of the risks of taking the medication, but also minimize or avoid diversion of these substances for sale or transfer on the street. In the agreement, the doctor outlines the requirement of urine screening to monitor controlled substances levels. The physician may ask that the patient exclusively obtain controlled substances only from the physician. The agreement may require the patient to bring in their medication for a pill count, ensuring that the patient is taking the medication in a medically safe manner, as well as not diverting the medication.

In his review of the files, Dr. Thomas found that Dr. Titus did not effectively use urine screening to monitor patients taking Schedule II medication to ensure medication was taken according to prescribed medical treatment and not diverted for illegal activities. Further, Dr. Titus' Suboxone patients did not undergo urine screening at all, a necessary aspect of this treatment, to ensure that the patients' medical history of opioid abuse was consistent with medication taking behavior.

Dr. Thomas found that Dr. Titus failed to keep appropriate medical records for his patients; indeed they lacked any indication of physical examinations or diagnostic data to support the medication prescribed. Dr. Thomas also noted that Dr. Titus did not make progress notes on the patient charts in any of the files. He did not detail how the patient was progressing or responding to the medication, nor did he notate the success or failure of the selected course of treatment. Dr. Thomas also observed that there was no evidence of Dr. Titus utilizing the PDMP to ascertain whether the patients for whom he was writing Schedule II narcotic prescriptions were obtaining them from other physicians.



Dr. Thomas reviewed the records of the following patients of Dr. Titus<sup>1</sup>:

**C.D.** RB

Dr. Thomas reviewed C.D.'s records from June 23, 2015 through January 2, 2019, which indicated that the patient received: 1) Tramadol (a Schedule IV controlled substance); 2) Tapentadol (a Schedule II controlled substance); 3) Pregabalin (a Schedule V controlled substance); 4) Oxymorphone (a Schedule II controlled substance); 5) OxyContin (a Schedule II controlled substance); 6) Morphine; and 7) Lorazepam. On one occasion, C.D. was prescribed Fentanyl patches. The medical diagnoses in the file were not substantiated and, according to Dr. Thomas, dispensing medication in the absence of a medical rationale would not be in accordance with the accepted treatment principles of any responsible segment of the medical community. Further, there was no evidence that the controlled substances were prescribed for a medically legitimate purpose.

**A.J.** RB

A.J.'s records from December 12, ~~2007~~ through July 5, 2019 were reviewed by Dr. Thomas. Dr. Thomas indicated that between December, 2017 and June, 2018, this patient's diagnosis was for opioid dependence and Dr. Titus prescribed Buprenorphine/Naloxone (Suboxone). In 2018, without clinical support in the records, Dr. Titus prescribed 30mg of Oxycodone tablets and 15 mg of Morphine Sulfate to A.J. According to Dr. Thomas, prescribing opioids to an opioid-dependent person would not be in accordance with the accepted treatment principles of any responsible segment of the medical community. Further, there was no evidence that the controlled substances were prescribed for a medically legitimate purpose.

**P.K.**

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<sup>1</sup> For privacy reasons, the patients are identified by initials.

P.K.'s records from October 2010 through July 2019 were reviewed by Dr. Thomas. P.K. had a myriad of diagnoses including narcotics dependence, insomnia, attention deficit disorder, back pain, myalgia, myositis and long term exposure to high risk medication. Without providing any medical documentation for their uses, Dr. Titus prescribed Adderall, Buprenorphine/Naloxone (Suboxone) and Buprenorphine with Naloxone (Subutex), Benzodiazepines (Schedule IV controlled substances), Clonazepam, Lorazepam, Morphine and Methadone (a Schedule II controlled substance). Dr. Thomas opined that the prescription of opioids to an opioid-dependent person was not for a medically legitimate purpose or in the usual course of professional practice.

**M.M.**

M.M.'s records from December, 2014 through August, 2019 were reviewed by Dr. Thomas. M.M. was prescribed 15 mg of Oxycodone, 5 mg of Oxycodone, Percocet and 10 mg of Methadone. M.M. presented to Dr. Titus with a variety of complaints, none of which in the opinion of Dr. Thomas warranted the prescriptions that were written for him. Dr. Thomas noted that in Pennsylvania, it is inconsistent with legitimate prescribing practices for physicians to prescribe Methadone for drug treatment outside of an opioid treatment program. In Dr. Thomas' opinion, the medical record available for his review did not offer any support for the assertion that the prescriptions were for a medically legitimate purpose in the usual course of professional practice.

**J.S.**

Dr. Thomas reviewed J.S.'s medical records from the time period of September, 2012 through June, 2017. J.S. was receiving treatment for numerous diagnoses including the initial complaint of a fall, back and shoulder pain, depression, long term exposure to high risk medication, hypertension, obesity and erectile dysfunction. According to the patient file, Titus prescribed Pregabalin, Phentermine (a Schedule IV controlled substance), OxyContin, Oxycodone,



Clonazepam and Methadone. A review of the PDMP revealed that Dr. Titus re-filled the prescriptions for Methadone and OxyContin before the medication should have run out. For example, a 30-day prescription of this medication was issued on July 11, 2016 and again on July 27, 2016, 14 days short of the prescribed interval. The Grand Jury learned that to justify the early refill, Dr. Titus increased the dose, shortening the number of days in the supply without indicating a reason for this change in the file. Dr. Thomas opined that there was no pharmacovigilance of the part of the prescriber, and the prescription practices were not in accordance with the accepted treatment principles of any responsible segment of the medical community.

**G.T.**

G.T. had only two visits with Dr. Titus, in December, 2018 and May, 2019, respectively. There were no medical notes to document these visits, but G.T. was prescribed Suboxone, Lorazepam and Adderall. Because of the lack of medical documentation to support the prescriptions, in Dr. Thomas' opinion, the prescribing was not for a medically legitimate purpose.

**N.V.**

Dr. Thomas reviewed N.V.'s medical records for the time period of October, 2016 through November, 2017. N.V. came to Dr. Titus complaining of lower back pain and was diagnosed with lower extremity pain, long-term exposure to high risk medication, bipolar mood disorder, anxiety state, narcotics dependence, chest pain and low back pain. Dr. Titus prescribed Suboxone, Subutex, Clonazepam and Methadone to him. Dr. Thomas noted that Methadone and Subutex were prescribed at the same time, and, according to Dr. Thomas, these medications taken together could cause serious harm. He also noted that Dr. Titus' prescription of Methadone for the treatment of opioid use disorder, as stated above, is not permissible in Pennsylvania. In Dr.

Thomas' opinion, the absence of documentation indicated that the prescribing practice for this patient was not for a medically legitimate purpose.

**L.A.**

Dr. Thomas reviewed L.A.'s medical records for the time period of June, 2018 through January, 2020. L.A had chronic back pain, and she came to Dr. Titus for help with opioid dependence. Although Dr. Titus did not complete a medical profile to confirm this diagnosis, he initially prescribed Suboxone to her. He then changed this prescription to Subutex. The Grand Jury learned that Subutex is normally only prescribed for pregnant women and/or those with a reaction to Suboxone because of its high potential for abuse. The medical records did not reveal that L.A. had either condition. For the treatment of her back pain, Dr. Titus prescribed Hydrocodone with Acetaminophen, an opioid-based prescription. Over one year later, Dr. Titus changed this prescription to Methadone. Dr. Titus attempted to transition L.A. back to Hydrocodone, then Suboxone and Subutex. In Dr. Thomas' opinion, based on her history with opioids, the prescription of opioid-based medication without compelling medical indication was life threatening. Dr. Thomas opined that the prescribing for this patient was not for a medically legitimate purpose in the usual course of practice.

**W.C.**

Dr. Thomas reviewed W.C's medical records for two visits on March 8 and April 2 of 2018. W.C. came to Dr. Titus for help with chronic back pain for which she had suffered from for over two decades, and had undergone multiple surgical procedures. While there was a documented medical history, the physical examination that Dr. Titus conducted showed relative normalcy. In March 2018, Dr. Titus prescribed 30 mg of OxyContin (60 tablets) and 15 mg of Oxycodone. For the latter prescription, Dr. Titus wrote three prescriptions ranging in pill number (60 for the first



month, 28 for the second month and 22 tablets for the third month). W.C. returned on April 2 complaining that she had fractured her foot and needed additional medication. Dr. Titus wrote her a prescription for an additional 60 tablets of 15 mg of Oxycodone, but W.C. altered this prescription and was arrested. In Dr. Thomas' opinion, Dr. Titus provided high-dose medication to a new patient without a proper medical work-up. He further opined that had Dr. Titus checked the PDMP, he would have known that W.C. had seen 38 doctors for Schedule II medication over six years and been alerted to her pattern. Because of these deficiencies, Dr. Thomas stated that Dr. Titus was not prescribing for a medically legitimate purpose in the usual course of professional practice.

In addition to seizing the above patient files during the execution of the search warrant at Dr. Titus' office in August, 2019, agents also located a patient's bank account statements, letters from patients to Dr. Titus and court-related correspondence involving one of his patients. Fentanyl patches and Zubsolv pills were also found. These items were packaged in the same manner as those given to Patient 2 in April, 2019. Agents also seized the following items:

- a. One box containing four Fentanyl, 100mcg/hr patches prescribed by Dr. Titus to patient H.H.;
- b. One pill bottle containing 65 pills and labeled Oxymorphone, a Schedule II controlled substance, HCL 5mg prescribed by Dr. Titus to patient H.H.;
- c. One pill bottle containing 56 pills and labeled Morphine, 15mg prescribed by Dr. Titus to patient M.J.;
- d. One pill bottle containing 59 pills labeled Amphetamine Salts, a Schedule II controlled substance, 10mg prescribed by Dr. Titus to patient J.C.;
- e. One pill bottle containing 78 pills and labeled Oxycodone, HCL 10mg prescribed by Dr. Titus for patient L.T.;
- f. One pill bottle containing 95 pills labeled Oxycodone, HCL 5mg prescribed by Dr. Titus to patient L.T.;
- g. One pill bottle containing 2 ½ pills and labeled Buprenorphine, 8mg prescribed by Dr. Titus to patient J.B.;
- h. One pill bottle containing 20 pills and labeled Dextro-Amphet, a Schedule II controlled substance, ER 25mg prescribed by Dr. Titus to patient R.F.;



- i. One pill bottle containing 22 pills and labeled Amphetamine, a Schedule II controlled substance, ER 20mg prescribed by Dr. Titus for patient R.F;
- j. One pill bottle containing 56 pills labeled OxyContin, 10mg prescribed by Dr. Titus for patient P.B;
- k. One pill bottle containing one pill labeled Methadone, 10mg prescribed by Dr. Titus for patient B.F;
- l. One pill bottle containing 21 pills labeled Suboxone, 8-2mg prescribed by Dr. Titus for patient S.G;
- m. One pill bottle containing 23 pills and labeled Morphine, Sulfate 15mg IR prescribed by Dr. Titus for patient R.M; and
- n. One pill bottle containing 12 pills and labeled Methadone, 5mg prescribed by Dr. Titus to patient L.A

Dr. Titus also gave agents consent to search his vehicle, where they found the following two additional prescription bottles:

- o. One pill bottle containing five pills and labeled Clonazepam, a Schedule IV controlled substance, 0.5mg prescribed by Dr. Scott Berman to patient A.Z; and
- p. One pill bottle containing 47 ½ pills and labeled Diazepam, a Schedule IV controlled substance, 5mg prescribed by Dr. Titus to patient P.A

The Grand Jury learned that when agents spoke with Dr. Titus, he admitted that, on one occasion, he met a patient at the back door and provided <sup>her</sup> ~~him~~ with narcotics. *KB*

Pursuant to DEA regulations, collection and disposal of controlled substances is only regulated to any registrant authorized by the Administration and/or federal, state, tribal, or local law enforcement when in the course of official duties. 21 U.S.C. § 822 (c). The Grand Jury finds that the medications listed above do not appear to have been obtained in conformance with this regulation as there is no legitimate reason why Dr. Titus would be in possession of his patients' medications or the pill bottle of one of Dr. Berman's patients.

Court-related correspondence found during the search of the office involved W.C., a patient whom Dr. Titus had readily provided with controlled substances despite her prior history of abuse. The correspondence concerned the prosecution of W.C. for illegally altering a prescription that Dr. Titus had written for her. NA Poray interviewed W.C. During the interview, W.C stated that she



knew a male who was also receiving prescriptions from Dr. Titus, and would then sell them to others. W.C stated she had been looking for a doctor who would give her prescriptions without a thorough examination, and that Dr. Titus immediately prescribed her Oxycodone and Xanax on her very first visit. W.C. also stated that Dr. Titus is a known "script writer" and "ruins lives."