

COPY

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

PROthonotary
2007 DEC 19 AM 9:17
Department of State

**Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs**

vs.

**Harold Pascal, M.D.,
Respondent**

Docket No.

File No. 06-49-10515

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended ("Act"), 63 P.S. §422.1 et seq.

2. At all relevant and material times, **Harold Pascal, M.D.** ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, license number MD-038956-L.

3. Respondent admits that the following facts are true:

a. Respondent's license is current through 12/31/08, but may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is 233 E Brown Street, East Stroudsburg, PA 18301 but the prosecutor has reason to believe that Respondent resides at 5007 Poole Road East Stroudsburg, PA

c. Respondent last practiced in the Pocono area.

d. On or about December 18, 2006, Respondent was arrested in Monroe County, Pennsylvania and charged with illegally prescribing controlled substances (35 P.S. 780-113 (a)(14)) among other charges. A copy of this Criminal Complaint is attached hereto and incorporated by reference as **EXHIBIT 1**.

4. The Commonwealth alleges that, by virtue of the foregoing, Respondent violated the Act at 63 P.S. Section 422.42 (8) (unprofessional/immoral conduct) in that Respondent has been charged with drug law violations relating to his practice of medicine.

5. The Respondent agrees that for the purposes of this proceeding before the Pennsylvania State Board of Medicine, this Consent Agreement shall have the same effect as if proven and ordered after a full hearing, and in so doing and intending to be legally bound, the participants consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §422.41 (8) as well as the Board's regulations at 49 Pa Code §16.92.

b. The Respondent shall **permanently and voluntarily surrender** his license, No MD-038956-L. Upon adoption of this Order the Respondent shall continue to cease and desist from practicing in this Commonwealth and shall not represent himself as a license of the Pennsylvania State Board of Medicine in any manner whatsoever. The Respondent shall not apply to renew or reinstate his license. Within ten days of the adoption of this Order that the Respondent shall, if not already done, surrender his wall certificate, registration certificate and wallet card by mailing them to Andrew E. Demarest, Prosecuting Attorney, Legal Office, Department of State, 2601 North Third St, Harrisburg, PA 17105.

6. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

7. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

8. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

9. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

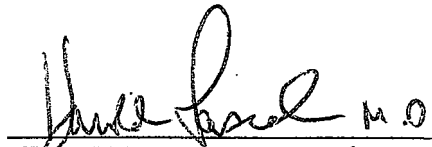
10. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

11. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



Andrew Demarest
Prosecuting Attorney
Department of State

DATED: Dec 4, 2007



Harold Pascal, M.D.
Respondent

DATED: Oct 3rd, 2007

Magisterial District Number: 43-2-02

District Justice Name: HON. Michael R. Muth

Address: 98 Day Street
East Stroudsburg, PA 18301

Telephone: (570) 420-3496

COMMONWEALTH OF PENNSYLVANIA

VS:

DEFENDANT:

Harold Pascal, M.D.
5007 Poole Road
East Stroudsburg, PA 18301

Docket No.: CR 268-06

Date Filed: 12-18-06

OTN: K574231-0

Defendant's Race/Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Native American <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian <input type="checkbox"/> Unknown	Defendant's Sex <input type="checkbox"/> Female <input checked="" type="checkbox"/> Male	Defendant's D.O.B. 03-29-1935	Defendant's Social Security # [REDACTED]	Defendant's SID#
Defendant's A.K.A.	Defendant's Vehicle Information: Plate Number State	Registration Sticker (MM/YY)	Defendant's Driver's License Number: 21 003 415 State: PA	
Complaint/Incident Number BN 10065-05C	Complaint/Incident Numbers if other Participants			UCR/NIBRS Code

District Attorney's Office ☒ Approved ☐ Disapproved because: _____

(The district attorney may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing.
Pa.R.Cr.P.107.)

SDAG Lawrence M. Cherba

(Name of Attorney for Commonwealth - Please Print or Type)

(Signature of Attorney for Commonwealth)

(Date)

I, Troy G. Serfass

(Name of Affiant - Please Print or Type)

254

(Officer Badge Number/I.D.)

of Pennsylvania Office of Attorney General

PA 0392000

BN 10065-05C

(Identify Department or Agency Represented and Political Subdivision)

(Policy Agency ORI Number)

(Originating Agency Case Number (OCA))

do hereby state: (check the appropriate box)

☒ I accuse the above named defendant who lives at the address set forth above

☐ I accuse the defendant whose name is unknown to me but who is described as _____

☐ I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe

with violating the penal laws of the Commonwealth of Pennsylvania at 233 East Brown St., East Stroudsburg, Monroe County and 442 Mahoning St., Lehigh, Carbon County

(Place-Political Subdivision)

in Monroe and Carbon

Counties on or about

September 5, 2005 through November 6, 2006

Participants were: (if there were participants, place their names here, repeating the name of above defendant)

The acts committed by the accused were:

(Set forth a
without moi

advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated, case, you must cite the specific section and subsection of the statute or ordinance allegedly violated.)

EXHIBIT

1

Docket Number: CR 268-06

PRESCRIBING AND DELIVERING CONTROLLED SUBSTANCES OUTSIDE THE SCOPE OF TREATMENT PRINCIPLES 35 P.S. § 780-113(a)(14) (F)

In that the defendant on several occasions from September 5, 2005 through September 2, 2006 from 233 East Brown Street, East Stroudsburg, Monroe County, Pennsylvania did dispense, deliver, and/or prescribe controlled substances not within the scope of the patient relationship or not in accordance with treatment principles accepted by any responsible segment of the medical profession or not in good faith in the course of his professional practice, to wit, the defendant, a practitioner, did deliver and/or dispense and/or prescribe to **Agent Troy Serfass**, in his undercover capacity, Xanax, Adderall, Lunesta and Ambien (Schedule II and IV controlled substances). The defendant did not perform a proper medical or physical exam before prescribing anti-anxiety medicine and narcotics. **Agent Serfass** also received controlled substances for another person who was not examined and did not exist.

PRESCRIBING AND DELIVERING CONTROLLED SUBSTANCES OUTSIDE THE SCOPE OF TREATMENT PRINCIPLES 35 P.S. § 780-113(a)(14) (F)

In that the defendant from September 28, 2005 through November 6, 2006 from 233 East Brown Street, East Stroudsburg, Monroe County, Pennsylvania and / or 422 Mahoning Street, Lehighton, Carbon County, Pennsylvania did dispense, deliver and/or prescribe controlled substances either not within the scope of the patient relationship or in accordance with treatment principles accepted by any responsible segment of the medical profession or in good faith in the course of his professional practice, to wit, the defendant, a practitioner did deliver and/or dispense and/or prescribe controlled substances Xanax, and Ambien or the generic equivalent of these drugs (Schedule II and IV controlled substances) to **Agent Robert Bruce** from the defendant's office in a manner not accepted by any responsible segment of the medical profession. **Agent Bruce** was given controlled substances by merely asking the defendant for them and knowing that **Agent Bruce** claimed to be sharing the substances with another person and while abusing alcohol.

PRESCRIBING AND DELIVERING CONTROLLED SUBSTANCES OUTSIDE THE SCOPE OF TREATMENT PRINCIPLES 35 P.S. § 780-113(a)(14) (F)

In that the defendant on several occasions from October 26, 2005 through November 6, 2006 from 233 East Brown Street, East Stroudsburg, Monroe County, Pennsylvania did dispense, deliver, and/or prescribe controlled substances not within the scope of the patient relationship or not in accordance with treatment principles accepted by any responsible segment of the medical profession or not in good faith in the course of his professional practice, to wit, the defendant, a practitioner, did deliver and/or dispense and/or prescribe to **Agent Janene Holter**, in her undercover capacity, Xanax, Adderall, Lunesta and Ambien (Schedule II and IV controlled substances). The defendant did not perform a proper medical or physical exam before prescribing anti-anxiety medicine and narcotics. **Agent Holter** received controlled substances without being requested to fill out a personal history form, a medical background form, or without questioning why she was requesting a prescription for Xanax.

PRESCRIBING AND DELIVERING CONTROLLED SUBSTANCES OUTSIDE THE SCOPE OF TREATMENT PRINCIPLES 35 P.S. § 780-113(a)(14) (F)

In that the defendant on several occasions from August 2, 2006 through August 9, 2006 from 233 East Brown Street, East Stroudsburg, Monroe County, Pennsylvania did dispense, deliver, and/or prescribe controlled substances not within the scope of the patient relationship or not in accordance with treatment principles accepted by any responsible segment of the medical profession or not in good faith in the course of his professional practice, to wit, the defendant, a practitioner, did deliver and/or dispense and/or prescribe to **Agent Delores Morgan**, in her undercover capacity, Xanax, and Ambien (Schedule IV controlled substances). The defendant did not perform a proper medical or physical exam before prescribing the anti-anxiety medicine. **Agent Morgan** received controlled substances without being requested to fill out a personal history form, a medical background form, or without questioning why she was requesting a prescription for Xanax.

medically unnecessary, services under medical assistance or also knowingly submit false information for the purpose of obtaining greater compensation than that to which he was legally entitled for furnishing services under medical assistance, in violation of 62 P.S. § 1407(a)(1).

Medicaid Fraud, Unlawful Receipt of Remuneration, 62 P.S. § 1407(a)(2) (F-3)

On or about September 13, 2005 through April 5, 2006, in a continuing course of conduct, the defendant did knowingly or intentionally solicit or receive any remuneration, including kickback, bribe or rebate, directly or indirectly, in cash or in kind from any person in connection with the furnishing of services for which payment may be in whole or in part under the medical assistance program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the medical assistance program, in violation of 62 P.S. § 1407(a)(2).

Medicaid Fraud, Unlawful Referral of Recipient to Another MA Provider, 62 P.S. § 1407(a)(6) (F-3)

On or about September 13, 2005 through April 5, 2006, in a continuing course of conduct, the defendant did knowingly or intentionally submit a claim or refer a recipient to another provider by referral, order or prescription for services, supplies or equipment which are not documented in the record in the prescribed manner, and are of little or no benefit to the recipient, are below the accepted medical treatment standards or are unneeded by the recipient. 62 P.S. § 1407(a)(6).

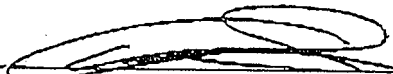
all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of

- | | | | |
|--------------------------------|---------------------------------|---------------------------------------|----------------------|
| 1. <u>780-113</u>
(Section) | <u>(b) (14)</u>
(Subsection) | of the <u>35 P.S.</u>
(PA Statute) | <u>4</u>
(counts) |
| 2. <u>1407</u>
(Section) | <u>(a) (6)</u>
(Subsection) | of the <u>62 P.S.</u>
(PA Statute) | <u>1</u>
(counts) |
| 3. <u>1407</u>
(Section) | <u>(a) (2)</u>
(Subsection) | of the <u>62 P.S.</u>
(PA Statute) | <u>1</u>
(counts) |
| 4. <u>1407</u>
(Section) | <u>(a) (1)</u>
(Subsection) | of the <u>62 P.S.</u>
(PA Statute) | <u>1</u>
(counts) |

I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made. (In order for a warrant of arrest to issue, the attached affidavit of probable cause must be completed and sworn to before the issuing authority.)

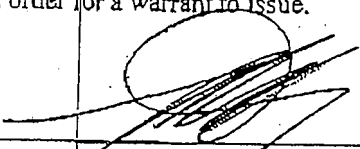
I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA.C.S. § 4904) relating to unsworn falsification to authorities.

December 18, 2006.


(Signature of Affiant)

AND NOW, on this date December 18, 2006, I, POLE, certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed in order for a warrant to issue.

3-2-02
(Magisterial District)


(Issuing Authority) SEAL

Docket Number:

CR 21e8-06

AFFIDAVIT of PROBABLE CAUSE

In August of 2005, your affiant received information indicating that Dr. Harold Pascal was alleged to be fraudulently writing prescriptions for controlled substances in Carbon and Monroe Counties of Pennsylvania. Subsequent to the receipt of this information, your affiant was assigned to investigate these activities relative to those allegations.

Since the receipt of this assignment, your affiant has been actively engaged in a criminal investigation into the crimes of Medicaid Fraud and violations of the Controlled Substance, Drug, Device and Cosmetic Act, in and around the Carbon and Montgomery Counties areas of Pennsylvania.

The investigation has resulted in the development of evidence relative to the allegations specified. That evidence was submitted to the Twenty-Fourth Statewide Investigating Grand Jury sitting in Harrisburg, Pennsylvania. On November 30, 2006, the Twenty-Fourth Statewide Investigating Grand Jury issued Presentment #25, recommending the arrest of Dr. Harold Pascal for violations of the Pennsylvania Controlled Substance, Drug, Device, and Cosmetic Act and the Fraud and Abuse Control Act of the Public Welfare Code.

The aforementioned Presentment was accepted by the Honorable Barry F. Feudale, Supervising Judge of the Twenty-Fourth Statewide Investigating Grand Jury by Order dated December 1, 2006. Copies of the Order accepting the Presentment and the Presentment are attached hereto and incorporated herein by reference.

Having read and reviewed this Presentment, and after having participated in this investigation and considering all the facts and circumstances, your affiant is adopting the Presentment and incorporating it fully into the Affidavit of Probable Cause.

Your affiant avers that the testimony before the Twenty-Fourth Statewide Investigating Grand Jury is consistent with the information contained in Presentment #25 and with the information developed within the course of this investigation specified herein.

Furthermore, Presentment #25 shows that it is based upon evidence which the Twenty-Fourth Statewide Investigating Grand Jury reviewed and evaluated which includes sworn testimony of witnesses appearing and physical evidence presented to the Twenty-Fourth Statewide Investigating Grand Jury and finds that is comports with the findings of the general investigation conducted by the Office of Attorney General, Bureau of Narcotics Investigation and Drug Control, Criminal Law Division.

I, Troy G. Serfaty, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

(Signature of Affiant)

Sworn to me and subscribed before me this

day of

Dec 2006

Date

District Justice

commission expires first Monday of January, 2012

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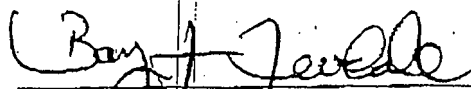
IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA
: 118 E.D. MISC. DKT. 2005
THE TWENTY-FOURTH STATEWIDE :
: DAUPHIN COUNTY COMMON PLEAS
INVESTIGATING GRAND JURY : NO. 320 M.D. 2005
:
: NOTICE NO. 17

ORDER ACCEPTING PRESENTMENT NO. 25

1. The Court finds Presentment No. 25 of the Twenty-Fourth Statewide Investigating Grand Jury is within the authority of said Grand Jury and is in accordance with the provisions of the Investigating Grand Jury Act, 42 Pa.C.S. § 4541, et seq. Accordingly, this Presentment is accepted by the Court.
2. The County for conducting the trial of all charges pursuant to this Presentment shall be Monroe County.
3. The Attorney General of the Commonwealth of Pennsylvania, or his designee, is hereby authorized to prosecute as recommended in this Presentment by instituting appropriate criminal proceedings in the aforesaid County.

SO ORDERED this 15th day of December, 2006.



BARRY F. FEUDALE
Supervising Judge
The Twenty-Fourth Statewide Investigating
Grand Jury

EXHIBIT
2

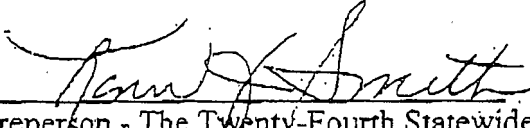
IN THE COURT OF COMMON PLEAS
DAUPHIN COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA
: 118 E.D. MISC. DKT. 2005
THE TWENTY-FOURTH STATEWIDE :
INVESTIGATING GRAND JURY : DAUPHIN COUNTY COMMON PLEAS
: NO. 320 M.D. 2005
: NOTICE NO. 17

TO THE HONORABLE BARRY F. FEUDALE, Supervising Judge:

PRESENTMENT NO. 25

We, the Twenty-Fourth Statewide Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that various violations of the criminal laws have occurred. So finding with not fewer than twelve concurring, we do hereby make this Presentment to the Court.


Foreperson - The Twenty-Fourth Statewide
Investigating Grand Jury

DATED: Nov. 30, 2006

INTRODUCTION

We, the members of the Twenty-Fourth Statewide Investigating Grand Jury, having received evidence pertaining to suspected violations of the Crimes Code, the Controlled Substance, Drug, Device and Cosmetic Act and the Medicaid Fraud Statute, occurring in Carbon and Monroe Counties, Pennsylvania, pursuant to Notice of Submission of Investigation No. 17, do hereby make the following findings of fact and recommendation of charges:

FINDINGS OF FACTS

In November of 2006, this grand jury heard testimony about a joint investigation conducted by the Office of Attorney General's (OAG) Bureau of Narcotics Investigation and Drug Control (BNIDC) and Medicaid Fraud Control Section (MFCS). BNIDC Agent Delores Morgan and MFCS Agent Ralph Zezza testified before the grand jury concerning the illegal distribution of prescriptions for controlled substances by a licensed physician in and around Carbon and Monroe Counties, Pennsylvania and related Medicaid fraud.

On November 27, 2006, Agent Morgan testified that, in August 2005, the OAG began an investigation into the suspected illegal prescription practices of Harold Pascal, M.D., who resides at 5007 Poole Road, East Stroudsburg, Monroe County, Pennsylvania. According to records maintained by Pennsylvania Department of State, Dr. Pascal is a duly registered and licensed medical doctor in the Commonwealth of Pennsylvania, (License #MD#038956-L), and a licensed psychologist, (License #PS003172L). According to the records maintained by the United States Drug Enforcement Agency (DEA), Dr. Pascal is duly registered and licensed to prescribe,

Pascal operates two (2) medical offices: a primary office located at 233 East Brown Street, East Stroudsburg, Monroe County; and a secondary office located at 442 Mahoning Street, Lehighton, Carbon County, which consists of one room located within the office of Attorney Cindy Dydra.

The normal hours of operation at the 233 East Brown Street office are Mondays and Wednesdays from approximately 3:00 P.M. to 5:00 P.M. Based on information obtained in the course of the investigation, it is believed that, during the course of these office hours, Dr. Pascal sees an average of thirty (30) to sixty (60) patients each day. The normal hours of operation for the secondary office at 442 Mahoning Street, Lehighton, Carbon County are 8:30 A.M. to 9:30 A.M. on Mondays and 12:00 P.M. to 1:00 P.M. on Wednesdays. Patients are seen in a generic room which is not equipped with any type of medical examination furniture. Over the course of this investigation, twenty-seven (27) prescriptions for controlled substances were purchased from Dr. Pascal by BNIDC agents acting in an undercover capacity. During their visits to the Dr. Pascal's office, undercover agents made purchases of illegal prescriptions with cash and money orders. Some agents were required to make cash payments for their office visits and Dr. Pascal also billed the Medical Assistance (MA) program using a fictitious Pennsylvania MA "ACCESS card" that one of the agents, Troy Serfass, provided to Pascal. During all of the undercover prescription purchases, the method, manner and conversation between the agents and Dr. Pascal followed a similar pattern: after a short dialogue between the undercover agents and Dr. Pascal during which the agents

money.

At no time during of the undercover agents' controlled purchases did any of the agents receive a physical examination or psychiatric treatment of any kind. The undercover agents openly discussed with Dr. Pascal his prescription writing habits, the activity in his office, the sale of drugs by patients, the delivery of drugs to others, the money made by selling the pills, the addictive nature of the pills prescribed, the "pharmacy shopping" of other patients, and the illegal acceptance of money over what Pascal was entitled to under the MA program.

During the course of the agents' undercover purchases, Agent Serfass, (acting in his undercover role), conducted hours of surveillance of Dr. Pascal's waiting room as well as in his office's parking lots. He observed that the length of time most patients spent with Dr. Pascal during a typical office visit was consistent with the amount of time Pascal spent with our undercover agents during their visits. The agents had numerous conversations with other patients in the waiting room. On several occasions, the undercover agents were instructed by patients in the waiting room to compose a list of drugs they wanted and present it to Dr. Pascal. These patients talked about their prescription pill addiction and the necessity to see Dr. Pascal. Patients in the waiting room joked about how quick the visits were and admitted that they were only there for prescriptions. On days where the number of patients waiting to see Dr. Pascal was greater than usual, agents observed more than one patient entering Dr. Pascal's office at a time. On several occasions, agents observed 15-20 patients standing in line at the locked door of 233 East Brown Street Office waiting for Dr. Pascal to arrive.

initiated by Agent Serfass following his receipt of information from a confidential informant, "the CI." The CI reported to Agent Serfass that Dr. Pascal was over-prescribing medication to him/her and his/her family members, one of whom is a juvenile.

The CI stated that he/she has been a patient of Dr. Pascal's for approximately six (6) months and Dr. Pascal writes him/her a prescription for any type of medication that he/she requests. The CI stated that he/she was forced to see Dr. Pascal because Pascal is the school district's selection as supervising physician for his/her juvenile child. With regard to the CI, it was Dr. Pascal's practice to bill Medicaid in addition to demanding cash payments from the CI. Further, the psychiatric services that he billed to Medicaid were not offered or provided during the charged office visit. Dr. Pascal did not visibly keep or refer to patient files during the CI's office visits. When the CI asked for his/her records, Dr. Pascal continually made excuses for his failure to produce them.

The CI offered to introduce Agent Serfass, acting in an undercover capacity, to Dr. Pascal. The CI explained that Dr. Pascal has office hours in the East Stroudsburg office, on Mondays and Wednesdays from 3:00 P.M. to 5:00 P.M., but that patients would start lining up outside of his locked office around 1:00 P.M. and stand in line awaiting Dr. Pascal's arrival. Sometimes as many as twenty (20) people wait in the line. There is no receptionist so it is common for the patients to write their names on a sign-in sheet to avoid arguments over the order in which Dr. Pascal will see patients. The CI told Agent Serfass that he would be able to walk in, without an appointment, and

receive the same.

SUMMARY OF THE UNDERCOVER BUYS:

Agent Morgan testified as follows regarding the specifics of the undercover prescription purchases made by Agent Serfass, posing as "John Fenner":

On Wednesday, August 3, 2005, Agent Serfass and the CI traveled to 233 E. Brown Street, East Stroudsburg, Monroe County. At approximately 3:10 P.M., Dr. Pascal arrived and went into his office. Agent Serfass and the CI went into the waiting room and observed 11 patients there. Agent Serfass monitored the time each patient was in with the doctor and found it to average 2 to 3 minutes. At approximately 3:24 P.M., Agent Serfass and the CI went into Dr. Pascal's office. Dr. Pascal asked about the purpose of the CI's visit and stated that he could not give him/her anymore drugs. Dr. Pascal described the CI as a "pain in my ass" stating that the CI "even calls him at home." The CI told Dr. Pascal that he/she was unhappy with his/her previous prescription and wanted Ritalin, to which Dr. Pascal responded in the negative. Nevertheless, Dr. Pascal took his prescription pad out of his black leather briefcase and started to write out the prescription. The CI told him exactly what to write and Dr. Pascal did so. The CI then introduced Agent Serfass to Dr. Pascal and asked Dr. Pascal if he would treat Agent Serfass as a patient. Dr. Pascal asked Agent Serfass what type of prescription he usually obtains. Agent Serfass told Dr. Pascal that he would like some Xanax, which is a Schedule II controlled substance. In response, Dr. Pascal asked Agent Serfass for his name and wrote out a prescription for Xanax in the name of John Fenner. Dr. Pascal then handed Agent Serfass the Xanax prescription

of that fact. When asked about the price of the visit, Dr. Pascal told the agent the cost would be \$60.00, which Agent Serfass paid in cash.

Dr. Pascal wrote the Diagnostic Related Group Code ("DRG Code") at the top right of the prescription. A check of this DRG Code shows it is for Mental Disorders (code 296.30) and lists it as Major Depressive Disorder, recurrent Episode-unspecified. Dr. Pascal did not perform any medical exam, did not have Agent Serfass fill out a medical questionnaire nor a medical history form. No check of Agent Serfass' blood pressure or heart rate was performed. Dr. Pascal did not ask any medical questions nor ask why the Xanax was needed.

On Monday, August 15, 2005, Agent Serfass and the CI went to Dr. Pascal's East Stroudsburg office. There was no one in the waiting area at the time and the door to the doctor's office was open. Agent Serfass and the CI went into see Dr. Pascal. Dr. Pascal asked about the purpose of the CI's visit. The CI and Dr. Pascal had a conversation about the large quantity and varied types of prescriptions that the CI had obtained in the prior months. Dr. Pascal then asked Agent Serfass if he had anything that he wanted to say. Agent Serfass told the doctor that he was having a problem focusing and sleeping. Pascal asked Agent Serfass if a prescription for Welbutrin would help. The CI suggested Valium, a Schedule II controlled substance, and the doctor replied "no," stating that Valium could cause brain damage. The CI suggested Adderall, a Schedule II controlled substance, 10 mg. twice a day, and Agent Serfass told Dr. Pascal he had used it for a year and a half and that it has worked for him in the past. Dr. Pascal pointed out that Adderall is the same type of drug as Valium. The doctor

that he would pay cash.

The doctor told Agent Serfass and the CI that he "does not know how they get over on all the speed" they are taking; that the prescriptions were amphetamine based; and that they were really not appropriate. The doctor again asked Agent Serfass his name, which Agent Serfass spelled out for the doctor as he wrote a prescription for Adderall (10mgs. Qty: 60, twice a day). The doctor stated that the visit would cost \$40.00, and Agent Serfass handed the doctor \$40.00 in cash. The doctor placed DRG Code 314.01 in the upper right hand side of the prescription. This code is used to identify attention deficit disorder, with mention of hyperactivity.

On Wednesday, September 14, 2005, Agent Serfass and the CI 1 again traveled to the East Stroudsburg office. Upon entering the office Dr. Pascal asked the pair what they wanted and whether it was "addictive stuff." When Dr. Pascal asked Agent Serfass what he wanted, Agent Serfass requested a refill of his current medication and the CI requested Xanax and Adderall. Dr. Pascal then questioned whether the entire family was on the "stuff" and if the entire family was addicted. Dr. Pascal again asked Agent Serfass for his name and how to spell it. Dr. Pascal asked Agent Serfass if he wanted Adderall 20mg.'s, once or twice a day. Agent Serfass replied, "twice." When the doctor finished writing the Adderall prescription he began to write out the Xanax prescription and stated, "Xanax, I'll give you .5mg twice a day." The doctor then handed Serfass both prescriptions and charged him \$30.00, which Serfass paid in cash.

On the prescription Dr. Pascal wrote DRG Code 296.30 at the top right of the prescription. This code identifies Mental Disorders, and is listed as a Major Depressive

the upper right hand side of the Adderall prescription. This code identifies Attention-Deficit Disorder, with mention of Hyperactivity. During this visit Dr. Pascal did not remember Agent Serfass' name, but was still willing to write the prescriptions.

On Wednesday, October 19, 2005, Agent Serfass went to the East Stroudsburg office to see the doctor. Dr. Pascal arrived carrying his black briefcase and began seeing patients. Agent Serfass observed the black leather briefcase next to the doctor and on his lap he had a yellow legal pad containing a list of names. Dr. Pascal's prescription pad was on top of the yellow pad. Dr. Pascal questioned Agent Serfass about the CI's absence, stating that she was probably sick due to her drug abuse. The doctor asked Agent Serfass for the spelling of both his last and first names, and then asked Agent Serfass what prescription he was currently taking. Serfass replied that he was taking Adderall 20mg and Xanax .5mg., twice a day. Pascal asked Agent Serfass if he was addicted to the medication and Agent Serfass answered that he was not. Dr. Pascal told Agent Serfass that he had hoped that Agent Serfass was not addicted and handed Agent Serfass one prescription for Adderall, and one for Xanax, both Schedule II controlled substances. Agent Serfass then showed the Doctor an advertisement for Lunesta and stated that his girlfriend was having trouble sleeping and would like some Lunesta. The doctor asked for the Xanax prescription back and added the drug Lunesta onto Agent Serfass' prescription. When Agent Serfass asked the doctor what the cost of the visit would be, the doctor asked for \$30.00. Agent Serfass handed the doctor two \$20.00 dollar bills. Pascal stated that he would make up the difference to Agent Serfass at the next visit because he had no change.

Stroudsburg office and he observed Dr. Pascal arrive with a black leather briefcase. When Agent Serfass went in to see the doctor he handed Pascal a piece of paper with a copy of a fictitious MA ACCESS card in the name of John Fenner, along with personal information and the dates of Agent Serfass' previous visits. Agent Serfass observed Dr. Pascal holding a yellow legal pad containing names and his black leather briefcase was nearby. On top of the yellow legal pad was Pascal's prescription pad. Dr. Pascal asked if the MA card was valid for the previous visits whereupon Agent Serfass indicated that it should be retroactive. Dr. Pascal then asked Agent Serfass if he was using too many addictive drugs. Agent Serfass responded that he was only taking Adderall and Xanax, Schedule II controlled substances. Dr. Pascal told Agent Serfass to be careful because both substances are addictive. The doctor asked Agent Serfass about the Xanax he was taking. Agent Serfass asked the doctor for Lunesta but the doctor replied that the MA card would not pay for it. Agent Serfass then told the doctor that it was for Agent Serfass' girlfriend. Dr. Pascal suggested she use Ambien, a Schedule IV controlled substance. When Agent Serfass asked the doctor if he could just write the prescription in her name, Dr. Pascal stated that he would not. However, Agent Serfass then asked Dr. Pascal to put the prescription in his name so he could utilize his prescription benefits to obtain the controlled substance for his girlfriend. Dr. Pascal agreed to do so. The doctor then handed Agent Serfass the two prescriptions and quoted Agent Serfass a fee of \$40.00. Agent Serfass handed the doctor that amount in cash.

Stroudsburg office. Agent Serfass signed the sign-in sheet that was taped to the front door of Dr. Pascal's office. There were approximately fifteen (15) people standing outside waiting for the doctor. The doctor finally arrived carrying his black leather briefcase. Shortly after the office opened, Dr. Pascal came out of his office and asked for everyone's insurance cards so he could make copies of them. Agent Serfass volunteered to make copies of the new cards. Dr. Pascal instructed the people in the office to give their insurance cards to Agent Serfass so he could copy them. Agent Serfass proceeded to the first floor office area and explained to Sara Camerei, an individual located there, that he was copying insurance cards upon the request of Dr. Pascal.

When Agent Serfass went into the see the doctor he handed him the copies of the patients' insurance cards. Agent Serfass observed an open black leather briefcase next to the doctor and a yellow legal pad containing names on his lap. His prescription pad was on top of the yellow pad. Dr. Pascal had a date book sitting in his black leather briefcase. Dr. Pascal discussed a billing problem he was having with Agent Serfass' MA card. Dr. Pascal then asked Agent Serfass what medications he was taking. Agent Serfass told him he was using Adderall and Xanax, Schedule II controlled substances. Agent Serfass reminded Dr. Pascal to write a prescription for Ambien, purportedly for Agent Serfass' girlfriend. Dr. Pascal wrote a prescription for Ambien in Agent Serfass's undercover name. Agent Serfass reported to Dr. Pascal that the CI was selling pills for \$5.00 a piece. The doctor stated that he was aware of that situation. The doctor gave Agent Serfass the prescriptions for Adderall 20mg, 2 times per day, Xanax, 1mg, 2

visit.

On Wednesday, February 15, 2006, Agent Serfass went to the East Stroudsburg office. Agent Serfass signed in and was patient number nine (9) on the sign-in log. At approximately 2:50 P.M., Dr. Pascal arrived at the office. He was carrying his black leather briefcase. At 3:39 P.M., Agent Serfass went seen by Dr. Pascal. Agent Serfass again gave him a copy of the fictitious MA card, along with the dates of his previous visits. Dr. Pascal asked Agent Serfass what drugs he was using. Agent Serfass told Dr. Pascal what prescriptions he wanted. Agent Serfass again requested a prescription for Ambien for his girlfriend. Dr. Pascal then wrote out the prescriptions in the name of John Fenner, for Adderall 20mg, 2 times per day, Xanax 1mg, 2 times per day and the Ambien 10mg, 1 time per day, with 1 refill for the Xanax and the Ambien. Dr. Pascal charged Agent Serfass \$40.00 for the visit.

On Wednesday, March 15, 2006, Agent Serfass went to the East Stroudsburg office. Agent Serfass entered the office area and signed in on the sign-in sheet. Numerous patients were already listed on the sheet. Agent Serfass met with Dr. Pascal, who was sitting in his chair with his black leather briefcase to his left. Pascal had his black appointment book and his prescription pad on his lap. Agent Serfass told the doctor that he wanted a prescription for Adderall, a Schedule II controlled substance. Dr. Pascal told Agent Serfass that Adderall was addictive and habit forming. Agent Serfass then requested that the Xanax and the Ambien be ordered on 2 separate prescriptions. Agent Serfass also requested 2 refills for the Xanax and Ambien prescriptions. Agent Serfass offered the doctor an extra \$20.00 for the added refill. Dr.

then asked about the milligrams needed for the Xanax and Ambien prescriptions. After again providing Dr. Pascal with his undercover name, Agent Serfass was told by Dr. Pascal that MA was not paying for all of the services for which he was claiming reimbursement. Agent Serfass then asked the doctor how much for the visit. He replied, "forty dollars." The doctor accepted the \$40.00 in cash which he put in his pocket. Dr. Pascal gave Agent Serfass a prescription for Adderall 20 mg, 2 times per day, Xanax 1mg, 2 times a day and Ambien 10 mg, 1 time a day, with two refills on the Xanax and Ambien.

On Monday, March 27, 2006, Agent Serfass went to the East Stroudsburg office. The agent entered the office area and signed in on the sign-in sheet. Approximately 9 other patients were listed on the sheet. When Agent Serfass went in to see Dr. Pascal, the black leather briefcase was resting on a couch in his office. Agent Serfass handed Dr. Pascal a list of the drugs he needed (based on the advice of another patient to an undercover agent) and a \$50.00 dollar bill. Dr. Pascal put the money in his pocket. Dr. Pascal then picked up the prescription pad and started to write out the prescriptions. Dr. Pascal then referred to the MA billings and said he needed to talk to his secretary, to look up Fenner. Agent Serfass then told Dr. Pascal that there had been an HMO-related error and that the problem was fixed. Agent Serfass then asked for two refills on his medication and the doctor stated that he would not write the refills because the drugs are so addictive. Agent Serfass pointed out that he had just given Dr. Pascal \$50.00. Dr. Pascal indignantly asked Agent Serfass if he was trying to buy medications. Agent Serfass replied that he was not. Dr. Pascal then handed back

times per day and Ambien 10mg 1 time per day, with one refill for the Xanax and the Ambien.

On Wednesday, April 05, 2006, Agent Serfass went to the East Stroudsburg office. When Agent Serfass entered the office area and signed the sign-in sheet, he noticed approximately twelve (12) patients' names on the sheet. Dr. Pascal arrived at 2:28 P.M., carrying his black leather briefcase. An unknown female and unknown male entered the waiting area and signed in. Agent Serfass overheard the conversation between these two unknown individuals. The female told the male that it was not a busy day; that on one occasion she was patient number sixty (60); and the doctor was only on patient number ten (10). When Agent Serfass met with Dr. Pascal, he was seated in his chair and his black leather briefcase was on a nearby sofa.

Agent Serfass handed Dr. Pascal a slip of paper containing a list of drugs and \$40.00 dollars in pre-recorded U.S. currency. Dr. Pascal indicated that he was surprised to see Agent Serfass so soon after his last visit. Dr. Pascal then asked Agent Serfass his last name. Agent Serfass told Dr. Pascal a fictitious story about the CI selling Xanax and that he/she came to Agent Serfass' house and took ten (10) pills from him. Dr. Pascal referred to CI#1 as "messed up." Dr. Pascal then handed Agent Serfass the list of drugs back, as well as the prescriptions for Adderall 20mg, 2 times per day, Xanax .5 mgs, 3 times a day and Lunesta .3 mg, 1 time a day.

On Wednesday, August 2, 2006, Agent Serfass went to the East Stroudsburg office. There were approximately fifteen (15) patients standing in front of the door. When Dr. Pascal arrived he was carrying his black leather briefcase.

with his black leather briefcase on the floor. Agent Serfass handed Dr. Pascal a piece of paper stating "Adderall 20 mg - Xanax 1mg Qty 60 and Lunesta Qty: 30", and \$60.00 incash. Dr. Pascal put the money in his pocket and began to write the prescriptions. Dr. Pascal asked how many people were out in the waiting room and Agent Serfass responded that he was patient number seven (7) of twenty-seven (27). Agent Serfass told Dr. Pascal that his MA card was still good. Dr. Pascal handed Agent Serfass the prescriptions.

Agent Serfass also conducted surveillance on this date while waiting in the office and while sitting in the parking lot. He estimated that Dr. Pascal saw seventy (70) patients from 2:30 P.M. to 5:30 P.M. Agent Serfass' visit lasted approximately three (3) minutes in duration. The sign-in log for this date was as high as fifty-seven (57) names and often multiple patients went in to see Pascal at one time.

The following is the list of prescriptions that were given to Agent Serfass:

NAME	DATE	DRUG	STRENGTH	QTY	REFILLS	\$ Paid
John Fenner	08/03/05	Xanax	0.5 mg	90	1	\$ 60.00
John Fenner	08/15/05	Adderall	10 mg	60	0	\$ 40.00
John Fenner	09/13/05	Xanax	0.5 mg	60	1	\$ 30.00
John Fenner	10/19/05	Xanax	0.5 mg	60	1	\$ 40.00
John Fenner	10/19/05	Adderall	20 mg	60	0	
John Fenner	10/19/05	Lunesta	.3 mg	60	1	
John Fenner	12/14/05	Xanax	0.5 mg	60	1	\$ 40.00

John Fenner	12/14/05	Adderall	20 mg	60	0	
John Fenner	01/11/06	Xanax	1.0 mg	60	1	\$ 40.00
John Fenner	01/11/06	Ambien	10 mg	60	1	
John Fenner	01/11/06	Adderall	20 mg	60	0	
John Fenner	02/15/06	Xanax	1.0 mg	60	1	\$ 40.00
John Fenner	02/15/06	Ambien	10 mg	30	1	
John Fenner	02/15/06	Adderall	20 mg	60	0	
John Fenner	03/15/06	Adderall	20 mg	60	0	\$ 40.00
John Fenner	03/15/06	Xanax	1.0 mg	60	2	
John Fenner	03/15/06	Ambien	10 mg	30	2	
John Fenner	03/27/06	Adderall	20 mg	60	0	\$ 50.00
John Fenner	03/27/06	Xanax	1.0 mg	60	1	
John Fenner	03/27/06	Ambien	10 mg	30	1	
John Fenner	04/05/06	Adderall	20 mg	60	0	\$ 40.00
John Fenner	04/05/06	Xanax	.5 mg	90	1	
John Fenner	04/05/06	Lunesta	.3 mg	30	1	
John Fenner	08/02/06	Adderall	20 mg	60	0	\$ 60.00
John Fenner	08/02/06	Xanax	1 mg	60	1	
John Fenner	08/02/06	Lunesta	.3 mg	30	1	

posing as "Robert Stetzer," made to Dr. Pascal. Agent Bruce went to see Dr. Pascal in the guise of being a new patient and made several undercover prescription purchases from Dr. Pascal using the name Robert Stetzer. Dr. Pascal never filled out any personal history forms with Agent Bruce, any medical background forms, nor did Pascal elicit any personal information from Agent Bruce.

On Wednesday, September 28, 2005, Agent Bruce entered Dr. Pascal's East Stroudsburg office and signed in on the sign-in sheet. Agent Bruce eventually entered Dr. Pascal's office, closing the door behind him. The doctor was seated away from the desk, facing Agent Bruce. The doctor held out his hand and asked Agent Bruce his name, whereupon Agent Bruce introduced himself as Bob Stetzer. Dr. Pascal asked Agent Bruce why he needed to be seen by the doctor. Agent Bruce told Dr. Pascal that he had concentration problems; that he was a nervous wreck; that he lost his job; and that he was getting divorced and his wife would not allow him to see his children. He stated that he felt anxious and didn't know why. The doctor asked Agent Bruce a few general questions about his personal life and then stated that he was going to give Agent Bruce a prescription for Xanax. When Agent Bruce asked how much he owed Dr. Pascal for the visit, the doctor asked if Agent Bruce had insurance. Agent Bruce responded that he did not because he lost his job. Dr. Pascal then quoted Agent Bruce a reduced fee of \$30.00. Dr. Pascal instructed Agent Bruce to take the Xanax only when he needed it. During this visit, Dr. Pascal never asked Agent Bruce for his medical history, did not have or create a medical file and did not ask him any health related questions. Agent Bruce received a prescription for Xanax 1mg-Qty: 90 with 1 refill.

him 60 days, or until November 28th, 2005.

On Wednesday, October 19, 2005, Agent Bruce entered Dr. Pascal's East Stroudsburg office waiting room. Agent Bruce signed in as patient number seven. When Agent Bruce entered the doctor's office he advised Dr. Pascal that he finished the previous prescription. He further advised Dr. Pascal that the medication was working for him, but he needed more. Dr. Pascal again asked about his insurance information. Agent Bruce reminded Dr. Pascal that he did not have insurance and would pay cash. Dr. Pascal asked Agent Bruce his name and asked what type of pills he was using. Agent Bruce told Dr. Pascal that he was using Xanax. Dr. Pascal indicated that he would write Agent Bruce another prescription for Xanax and asked if Agent Bruce wanted any additional medication. Agent Bruce told Dr. Pascal he wanted more medications, but did not know his options. Dr. Pascal advised Agent Bruce that they would talk about the subject during their next visit. Dr. Pascal asked Agent Bruce if he was drinking alcohol with the prescription. Agent Bruce indicated that he was drinking, but had cut down on his alcohol intake. Dr. Pascal charged Agent Bruce \$30.00.

On Wednesday, January 11, 2006, Agent Bruce arrived at the 233 East Brown Street office. Agent Bruce signed the sign-in sheet that was taped to the front door of Dr. Pascal's office and waited to see Dr. Pascal. When Agent Bruce went in to see Dr. Pascal, he handed the doctor a money order for \$40.00. Agent Bruce indicated that he wanted to renew his Xanax prescription.

Agent Bruce asked for a three month supply. Dr. Pascal agreed and asked Agent Bruce for his name and suggested a 1mg tablet, which is double the dosage that

attention and the doctor wrote the prescription for the previous dosage. During this visit Agent Bruce told Dr. Pascal that his girlfriend was stealing his prescriptions. Dr. Pascal handed Agent Bruce the prescription for the Xanax, .5 mg, Qty: 90, 2 refills (a three-month supply).

On Wednesday, January 25, 2006, Agent Bruce arrived at the 233 East Brown Street office, and signed in on the sheet that was posted on the front door. At approximately 2:45 P.M., the doctor arrived and began seeing patients. When Agent Bruce entered the office he handed Dr. Pascal a money order from a Turkey Hill store for \$30.00. Agent Bruce stated that he was there to obtain a refill of his Xanax prescription. Dr. Pascal then asked Agent Bruce what dose he was taking. Again, Dr. Pascal suggested a higher dosage of Xanax than Agent Bruce had previously been prescribed. Agent Bruce advised Dr. Pascal of his previous dosage and then stated that his girlfriend was stealing his pills and getting drunk. Dr. Pascal had no reaction to that statement and gave Agent Bruce a prescription for Xanax, 1mg, Qty: 90, 1 refill, whereupon Agent Bruce left the office.

During the course of the office visits on January 11th and January 25th, Agent Bruce received five months worth of prescriptions for Xanax from Dr. Pascal after telling Dr. Pascal that his girlfriend was drinking alcohol and using his Xanax.

On Wednesday, February 15, 2006, when Agent Bruce arrived at the 233 East Brown Street office and entered Dr. Pascal's waiting room, about twelve people had already signed-in and were awaiting the arrival of Dr. Pascal. When Agent Bruce entered the doctor's office and greeted Dr. Pascal, he handed Dr. Pascal a money order

everything was going. Agent Bruce stated that he was there to get his refill for Xanax. Agent Bruce told Dr. Pascal that he helped his girlfriend stop abusing alcohol with his Xanax. Dr. Pascal asked Agent Bruce how many milligrams of Xanax he was using and Agent Bruce replied that it was one milligram, twice a day. Dr. Pascal stated that he would give him sixty (60) tablets with two refills. Agent Bruce told Dr. Pascal that he gave him ninety (90) tablets the last time. Agent Bruce then told Dr. Pascal that he had given him an additional \$20.00 for an extra refill. Dr. Pascal responded that he would give Agent Bruce three refills. Dr. Pascal asked Agent Bruce how to spell his last name. The doctor stated that he was giving Agent Bruce three refills and that he was happy that the Xanax was working for Agent Bruce's girlfriend.

On March 22, 2006 Agent Bruce went to Dr. Pascal's Lehighton office. Agent Bruce waited outside with the other patients until the doctor's arrival. Agent Bruce met with Dr. Pascal and requested ninety (90) Xanax 1 mg, thirty (30) Ambien 10mg, refilled. As Dr. Pascal wrote the prescriptions, Agent Bruce handed him \$40.00 in cash. The visit lasted 1 minute and 35 seconds.

On August 9, 2006, Agent Bruce went to Dr. Pascal's Lehighton office. Agent Bruce entered the office and signed in on the sign-in sheet. He was the fourth patient to sign in that morning. At 11:58 A.M., the doctor arrived carrying his black leather briefcase, and began seeing patients. At 12:17 P.M., Agent Bruce entered the doctor's office, exchanged greetings with the doctor, and told him that he needed his Xanax prescription. Agent Bruce handed Dr. Pascal a money order for forty dollars (\$40.00). The doctor asked Agent Bruce if he was abusing the Xanax. Agent Bruce told Dr.

the Xanax worked better when he used alcohol with it. Dr. Pascal told Agent Bruce that drinking alcohol with Xanax would "kill his liver". The doctor then handed a prescription to Agent Bruce. The prescription was for Xanax, one (1) milligram, Qty: 90 (three a day) with three refills.

In an eleven month period, Dr. Pascal prescribed Agent Bruce twenty-three (23) months worth of prescriptions for Xanax.

On November 6, 2006 Agent Bruce entered the Lehighton office and signed in as patient number thirty-eight (38). Agent Bruce met with Dr. Pascal and requested his Xanax and Ambien prescriptions. Dr. Pascal asked Agent Bruce if he used three Xanax a day and then asked him to spell his name. Agent Bruce gave Dr. Pascal a \$40.00 money order, which Pascal placed in his pocket. Dr. Pascal then handed Agent Bruce the prescriptions that he requested.

The following is the list of prescriptions that were given to Agent Bruce.

NAME	DATE	DRUG	STRENGTH	QTY	REFILLS	
Robert Stetzer	9/28/05	Xanax	1.0 mg	90	1	2 months supply
Robert Stetzer	10/19/05	Xanax	0.5 mg	60	1	2 months supply
Robert Stetzer	11/20/05	Xanax	0.5 mg	90	3	4 months supply
Robert Stetzer	01/11/06	Xanax	0.5 mg	90	2	3 months supply
Robert Stetzer	01/25/06	Xanax	1.0 mg	90	1	2 months supply
Robert Stetzer	02/15/06	Xanax	1.0 mg	60	3	4 months supply
Robert Stetzer	03/22/06	Xanax	1.0 mg	90	1	2 months supply

Robert Stetzer	08/09/06	Xanax	1.0 mg	90	3	4 months supply
Robert Stetzer	11/06/06	Xanax	1.0 mg	90	1	2 months supply
Robert Stetzer	11/06/06	Ambien	10.0	30	1	2 months supply

Agent Morgan testified about undercover visits that Agent Janene Holter, posing as "Denise Bailey," made to Dr. Pascal. Prior to her first visit, Agent Holter had never met Dr. Pascal. During her first visit, Dr. Pascal did not fill out a personal history form, a medical background form nor obtained any information from Agent Holter about why she felt she needed Xanax.

On Wednesday, October 26, 2005, Agent Holter arrived at the 233 East Brown Street office to see Dr. Pascal. Agent Holter signed the patient log under the name of Denise Bailey. Upon entering Dr. Pascal's office, Agent Holter observed a black leather briefcase next to the doctor on a couch. Dr. Pascal had a yellow legal pad containing names on his lap, along with a prescription pad. Holter advised the doctor that she was there for "her Xanax" (having never been there before this date). Agent Holter asked the doctor for a five milligram dosage. Dr. Pascal advised Agent Holter that he would not put her on five milligrams, but rather .5 milligrams. She told the doctor that he was correct and that she was taking it twice a day. The doctor again asked her name and she told him that it was Denise Bailey. Dr. Pascal then handed her a prescription for Xanax and she then handed Dr. Pascal \$40.00 dollars in cash. Dr. Pascal wrote DRG Code 296.30 on the top left of her prescription and also gave her

Depressive Disorder, recurrent episode-unspecified.

On Wednesday, December 14, 2005, Agent Holter arrived at the 233 East Brown Street office in East Stroudsburg. The doctor arrived at 3:45 P.M. Nearly an hour later, Agent Holter entered the doctor's waiting area and signed in as patient number twenty-five (25) using the name, Denise Bailey. As Agent Holter entered the office to meet with Dr. Pascal, she observed a black leather briefcase next to the doctor on a couch. Dr. Pascal had a yellow legal pad containing names on his lap and a prescription pad. Agent Holter advised the doctor that she was there for "her Xanax". Dr. Pascal asked her what dosage she was using. She advised the doctor that she was using a .5 mg dosage. The doctor asked Agent Holter her name and she replied that it was Denise Bailey. Dr. Pascal then handed Agent Holter a prescription for Xanax and she handed Dr. Pascal \$40.00 in cash.

On Wednesday, January 25, 2006, Agent Holter arrived at the 233 East Brown Street office and signed in to see Dr. Pascal. When Agent Holter entered the office, she noticed a black leather briefcase next to the doctor on a couch. Dr. Pascal had a yellow legal pad containing names on his lap and a prescription pad. Agent Holter told Dr. Pascal that she was requesting Adderall and Xanax. When Dr. Pascal questioned Agent Holter about the effectiveness of the medication, she told the doctor that she was happy with it and that she had increased the frequency of the doses to three times a day. Dr. Pascal asked Agent Holter if she was addicted. She denied being addicted to Xanax. Dr. Pascal then wrote prescriptions for Xanax, 1 mg, Qty: 90, 1 refill and Adderall thirty (30) milligrams XR (extended release), Qty: 30. Dr. Pascal handed the

Order.

Dr. Pascal wrote DRG Code 314.01 on the Adderall prescription. This code is used to identify Attention-Deficit Disorder, with mention of Hyperactivity. During the past visits with Dr. Pascal, he did not prescribe Agent Holter Adderall, only Xanax. He also increased the quantity of Xanax from Qty: 60 on the 12/14/05 prescription to Qty: 90 on this visit and doubled the milligrams from .5 to 1 mg.

During Agent Holter's time spent in the waiting room, numerous patients stated that they write which drugs they want on a piece of paper and Dr. Pascal writes them prescriptions for those medications. One patient told Agent Holter that she hadn't visited Dr. Pascal in awhile, so she wrote all of her medication down so she knew what prescriptions she wanted from Dr. Pascal.

On Wednesday, March 16, 2006, Agent Holter went to the 223 East Brown Street office and signed in on the sign-in sheet. Dr. Pascal was already in his office and was seeing patients. Upon entering the doctor's office, Agent Holter noticed a black leather briefcase next to the doctor, on the floor. Dr. Pascal had a legal pad containing names on his lap and a prescription pad. Agent Holter handed Dr. Pascal a piece of paper that listed the drugs that she wanted. Dr. Pascal read it aloud. Dr. Pascal then wrote Agent Holter prescriptions for those medications. Agent Holter asked Dr. Pascal if he had an office in Carbon County and/or Schuylkill County. Dr. Pascal informed her that he has an office in Lehighton, Carbon County. Dr. Pascal wrote the address and hours of that office on a memo pad and gave it to her. Agent Holter also asked Dr. Pascal about the operations of his office. Pascal reported that his counselors "bill off of him" and they are

received prescriptions for exactly the medications that she wrote down on the piece of paper. On her previous visit Holter requested and received Adderall. During this visit Holter increased her milligrams for the Adderall and added Lunesta. Agent Holter paid Dr. Pascal with a \$40.00 money order for this visit.

On November 6, 2006 Agent Holter went to the East Stroudsburg office and signed in as patient number twenty-six (26). While waiting for her turn, ten (10) more patients signed in to see Dr. Pascal. Upon meeting with Dr. Pascal, Agent Holter handed the doctor a piece of paper containing the following list: "Adderall, 20mg-60, Ambien 10mg-30 and Xanax 1mg-60". Dr. Pascal wrote Holter three prescriptions exactly as she had requested. Agent Holter handed the doctor \$50.00 in cash.

The following is the list of Prescriptions that were given to SNA Holter:

NAME	DATE	DRUG	STRENGTH	QUANTITY	REFILLS	AMT PD
Denise Bailey	10/26/05	Xanax	0.5 mg	60	1	\$ 40.00
Denise Bailey	12/14/05	Xanax	0.5 mg	60	1	\$ 40.00
Denise Bailey	01/25/06	Xanax	1 mg	90	1	\$ 40.00
Denise Bailey	01/25/06	Adderall	30mg-XR	30	0	
Denise Bailey	03/16/06	Adderall	20 mg	60	0	\$40.00
Denise Bailey	03/16/06	Xanax	1 mg	60	1	
Denise Bailey	03/16/06	Lunesta	3 mg	30	1	
Denise Bailey	11/06/06	Adderall	20 mg	60	0	\$50.00
Denise Bailey	11/06/06	Xanax	1mg	60	1	
Denise Bailey	11/06/06	Ambien	10mg	30	1	

Agent Morgan also testified about her undercover visits, posing as "Kelly Stetzer," to Dr. Pascal. Prior to her first visit, Agent Morgan had never met Dr. Pascal. Dr. Pascal did not fill out a personal history form for Agent Morgan, a medical background form, nor bothered to obtain any other information from her.

and signed in on the sign-in sheet as patient number fifty-one (51). When Agent Morgan finally entered Dr. Pascal's office, she noted that the doctor was seated in a chair and had two other chairs placed directly in front of, and facing, him. There was no desk between the doctor and these chairs. Agent Morgan sat in the left chair and greeted the doctor. She asked Pascal if he remembered her (knowing that they had never met). Pascal immediately responded "yes" and asked her for her name. She replied, "Kelly" and he responded with "oh yes, Kelly, I remember you." Pascal asked how she was doing and asked what he could do for her. Agent Morgan asked him for a prescription for Xanax. He then took out his prescription pad and said "yes, for how many?" She asked him for a .5mg dosage. He then wrote a prescription for .5mg of Xanax and stated that it would be for 60 tablets, one tablet twice a day. Dr. Pascal did not conduct any type of physical examination of Agent Morgan nor have any conversation with her about the Xanax she requested. Dr. Pascal asked her for her last name. She stated that it was Stetzer and then spelled it for him. After writing the prescription, Pascal asked her about her love life. She told Pascal that things were good and thanked him for writing her the prescription. He stated "that is good". She then handed Dr. Pascal \$40.00 in cash which he took and placed inside his shirt pocket.

On August 9, 2006, Agent Morgan went to the East Stroudsburg office and signed in on the patient sign-in sheet as patient number eight. At approximately 1:35 P.M., Agent Morgan observed Dr. Pascal arrive and enter his office. Agent Morgan immediately went inside the waiting room, located outside of Dr. Pascal's office.

his office, the doctor stated "I guess you're back." Agent Morgan responded "yes", and he asked her "what happened?" She stated that she needed another prescription for Xanax. He asked her how much she needed. Agent Morgan asked him for sixty (60) tablets, .5mg. dosage. Pascal said "O.K.", picked up his prescription pad, and asked her for her last name and its spelling. She stated "Stetzer" and spelled it for him. He then asked for her first name and she said "Kelly". While he was writing the prescription, she asked him if he had anything to help her sleep. He responded "Like?" Agent Morgan then asked for Ambien. He immediately stated "O.K., take one before bed time." He then asked her how she was doing. Agent Morgan replied "O.K." She then asked Dr. Pascal if he would accept a money order for payment for her visit. Dr. Pascal agreed and Agent Morgan handed him a \$40.00 money order.

Agent Morgan received three prescriptions from Dr. Pascal in one week for both Xanax and Ambien. Each Xanax prescription authorized a sixty (60) day supply of pills. Dr. Pascal prescribed Agent Morgan sixty (60) days worth of Xanax only seven days after prescribing her the original sixty (60) day supply.

The following is the list of prescriptions that were given to Agent Morgan.

NAME	DATE	DRUG	STRENGTH	QUANTITY	REFILLS	AMT PD
Kelly Stetzer	08/02/06	Xanax	0.5 mg	60	1	\$ 40.00
Kelly Stetzer	08/09/06	Xanax	0.5 mg	60	1	\$ 40.00
Kelly Stetzer	08/09/06	Ambien	10 mg	30	1	\$ 40.00

DR. PASCAL'S MEDICAL ASSISTANCE PARTICIPATION

program, and as such, entered into a provider agreement with the Department of Public Welfare (DPW), which mandates that he comply with all applicable state and federal laws and regulations. Dr. Pascal has been an MA provider since 1981.

Agent Zezza further testified that \$6.00 is the maximum amount that a provider may charge a MA recipient as a co-payment. Medicaid regulations mandate that all Medicaid payments made to a provider, combined with any co-payment paid by the recipient, shall constitute full reimbursement to the provider for covered services rendered to MA recipients.

Agent Zezza testified that Agent Serfass' fictitious Pennsylvania ACCESS card, was issued by the DPW. The ACCESS card is the identification card issued to individuals who qualify for state assisted medical benefits under the MA Program. The card was issued in the name of "John Fenner," to be used by Agent Serfass in an undercover capacity acting as a MA recipient. Agent Serfass presented the card to Dr. Pascal on multiple visits. Dr. Pascal accepted the card and acknowledged in conversation that MA would be paying for the medications prescribed by Dr. Pascal and that Dr. Pascal would be seeking MA reimbursement for the office visits. Agent Zezza further testified that according to the Provider Reimbursement and Operations Management System, a data base maintained by the DPW, Dr. Pascal submitted claims for reimbursement from the MA Program for six of the "John Fenner" office visits from September 13, 2006 through April 5, 2006. Agent Zezza testified that the MA Program reimbursed Dr. Pascal for each of those visits in the amount of \$22.00 per visit.

Based on the evidence we have obtained and considered, which establishes a *prima facie* case, we, the members of the Twenty-Fourth Statewide Investigating Grand Jury recommend that the Attorney General, or his designee, institute criminal proceedings against the following individual and charge him with the listed offenses:

DR. HAROLD PASCAL

Violation of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-113(a)(14);

Medicaid Fraud, 62 P.S. §§ 1407(a)(1), (a)(2), and (a)(6)

ORDER

AND NOW, this 18th day of December, 2007 the State Board of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**



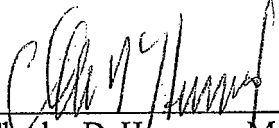
Basil L. Merenda
Commissioner

Date of mailing:

For the Commonwealth:

For Respondent:

STATE BOARD OF MEDICINE


Charles D. Hummer, M.D.
Chairman

December 19, 2007

Andrew E. Demarest, Esquire
P. O. Box 2649
Harrisburg, PA 17105-2649

Harold J. Pascal, M.D.

aed

