

COPY

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

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

William G. Ellien, M.D.,
Respondent

Docket No. 0724-49-13
File No. 13-49-02961

Department of State

2013 JUN 27 AM 10:41

PROTHONOTARY

NOTICE AND ORDER OF AUTOMATIC SUSPENSION

WHEREAS, the records of the State Board of Medicine ("Board") reflect that William G. Ellien, M.D., ("Respondent"), is the holder of a license to practice medicine and surgery in the Commonwealth of Pennsylvania, license number MD-038057-E.

WHEREAS, the prosecuting attorney for the Commonwealth has filed a Petition for Automatic Suspension (Attachment A), including a certified copy of the Indictment, Summary of Pleas Agreement and Judgment in a Criminal Case in the case of United States of America v. William George Ellien, filed in the United States District Court for the Southern District of Georgia at Case No. CR413-030, evidencing that Respondent pleaded guilty to unlawful distribution of schedule II, III, and IV controlled substances in violation of Title 21, United States Code, Section 841(a)(1), 21 U.S.C. §841(a)(1).

WHEREAS, on or about May 24, 2013 a Judgment in a Criminal Case was issued by the United States District Court for the Southern District of Georgia that sentenced Respondent to 30 months imprisonment followed by supervised release for three years to Count One of the Indictment at Case No. CR413-30 for his crime of unlawful distribution of schedule II, II and IV

controlled substance, a violation of Title 21, United States Code, Section 841(a)(1), 21 U.S.C. §§841(a)(1).

WHEREAS, Title 21 of the United States Code, Section 841(a)(1) specifies the following:

§ 841 Prohibited Acts

(a) Unlawful acts. Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally —

(1) To manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, a controlled substance;

21 U.S. C. §841(a)(1).

WHEREAS, Title 21 of the Code of Federal Regulations, Section 1306.4(a) specifies, in pertinent part:

§ 1306.04 Purpose of issue of prescription

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.

21 C.F.R. § 1306.04(a).

WHEREAS, Percocet is a Schedule II narcotic controlled substances. 35 P.S. §780-104.

WHEREAS, Hydrocodone is a Schedule II controlled substance. 35 P.S. §780-104.

WHEREAS, the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act¹ (Drug Act) at 35 P.S. §§780-113(a)(14) provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

(14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practitioner or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in

¹ Act of April 14, 1972 (P.L. 233, No. 64), as amended, 35 P.S. §§ 780-101 *et seq.*

accordance with treatment principles accepted by a responsible segment of the medical profession.

35 P.S. § 780-113(a)(14).

WHEREAS, The Drug Act at 35 P.S. §§780-113(f)(2) classifies violations of Subsection 113(a)(14) regarding Schedule II Controlled Substances as a felony, as follows:

(f) Any person who violates clause ...(14)... of subsection (a) with respect to:

(2) Any other controlled substance or counterfeit substance classified in Schedule I, II, or III, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding five years, or to pay a fine not exceeding \$15,000, or both.

35 P.S. § 780-113(f)(2).

WHEREAS, the offense of Distribution of Oxycodone without a legitimate medical purpose, would be a felony if prosecuted under Subsection 113(f)(2) of the Drug Act, 35 P.S. §§780-113(f)(2).

WHEREAS, section 40(b) of the Medical Practice Act² provides in pertinent part:

“(b) Automatic Suspensions. - A license or certificate issued under this act shall automatically be suspended upon the legal commitment to an institution of a licensee or a certificate holder because of mental incompetency from any cause upon filing with the Board a certified copy of such commitment, conviction of a felony under the act of April 14, 1972 (P.L. 233, No. 64), known as the Controlled Substance, Drug, Device and Cosmetic Act or conviction of an offense under the laws of another jurisdiction, which if committed in this Commonwealth would be a felony under the Controlled Substance, Drug, Device and Cosmetic Act. As used in this section, the term “conviction” shall include a judgment, an admission of guilt or a plea of nolo contendere. Automatic suspension under this subsection shall not be stayed pending an appeal of a conviction. Restoration of such license or certificate shall be made as hereinafter provided in the case of revocation or suspension of such license or certificate.”

63 P.S. §422.40(b) (emphasis added).

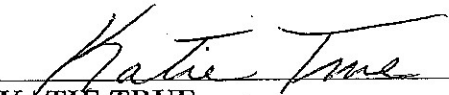
² Act of December 20, 1985 (P.L. 457, No. 112) as amended, 63 P.S. §§422.1 *et seq.*

NOW THEREFORE, upon consideration of the allegations set forth in the Petition for Automatic Suspension (Petition), Respondent's license no. MD-038057-E shall be automatically suspended under the authority of section 40(b) of the Act, 63 P.S. § 422.40(b), unless Respondent files a response to the Petition and a request for a hearing by July 17, 2013. If a response to the Petition and a request for a hearing are not filed within the time period set forth above, Respondent's license will be automatically suspended effective July 17, 2013, and a Final Order to that effect will be issued forthwith. Responses to the Petition and any hearing held in connection with the responses shall be limited to the issues of whether Respondent was convicted of the offense(s) as alleged in the Petition or, whether conviction of the offense(s), if committed under the laws of another jurisdiction, would be a felony in this Commonwealth under the act of April 14, 1972 (P.L. 233, No. 64), as amended, 35 P.S. §§780-101 – 780-144 (known as the Controlled Substance, Drug, Device and Cosmetic Act).


Responses to the petition and any request for hearing shall be filed with Prothonotary, Bureau of Professional and Occupational Affairs, 2601 N. Third Street, Harrisburg, PA 17110. A copy of the response and request for hearing shall be served on the prosecuting attorney identified in the Petition at the address set forth below.

BY ORDER:

BUREAU OF PROFESSIONAL
AND OCCUPATIONAL AFFAIRS


KATIE TRUE
COMMISSIONER

STATE BOARD OF MEDICINE


ANDREW J. BEHNKE, M.D.
CHAIR

Respondent's Addresses:

William G. Ellien, M.D.
1545 Lakespur Place
Tupelo, MS 33801

And

William G. Ellien, M.D.
Register No. 17849-021
USP Atlanta
P.O. Box 150160
Atlanta, GA 30315

Prosecuting Attorney:

Keith E. Bashore, Esquire
P.O. Box 2649
Harrisburg, PA 17105-2649

Board Counsel:

Wesley J. Rish, Esquire

Date of Mailing:

June 27, 2013

Attachment A

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

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

William G. Ellien, M.D.,
Respondent

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:
:
: Docket No. 0784 -49-13
: File No. 13-49-02961
:
:
:

PROTHONOTARY
2013 JUN 27 AM 10:41
Department of State

PETITION FOR AUTOMATIC SUSPENSION

AND NOW comes the Commonwealth of Pennsylvania, by and through its Prosecuting Attorney, Keith E. Bashore, and files this Petition for Automatic Suspension and in support thereof avers the following:

1. William G. Ellien, M.D. ("Respondent") is the holder of Pennsylvania license no. MD-038057-E, which was initially issued by the State Board of Medicine ("Board") on March 25, 1987, authorizing Respondent to practice medicine and surgery in the Commonwealth of Pennsylvania.

2. Respondent's license no. MD-038057-E expired as of December 31, 2008.

3. Respondent retains a property interest in his license until and unless it is revoked by the Board.

4. At all times pertinent to the allegations in this Petition, Respondent was licensed to practice medicine and surgery in the Commonwealth of Pennsylvania.

5. Respondent's last known address on file with the Board is 1545 Larkspur Place, Tupelo, MS 38801; but the prosecuting attorney has reason to believe that Respondent's current address is Inmate William G. Ellien, Register No. 17849-021, USP Atlanta, P.O. Box 150160, Atlanta, GA 30315.

6. On or about February 7, 2013, a Grand Jury issued an Indictment in the United States District Court for the Southern District of Georgia in the matter of United States of America v.

William George Ellien at Case Number CR413-030, which charged Respondent with Unlawful Distribution of Schedule II, III, and IV Controlled Substances, in violation of Title 21, United States Code, Section 841(a)(1), 21 U.S.C. §841(a)(1).

7. According to Count One of the Indictment referenced in paragraph 6, the Respondent did knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, quantities of Schedule II controlled substances, including Percocet, quantities of Schedule III controlled substances, including hydrocodone, and quantities of Schedule IV controlled substances, including alprazolam, not for a legitimate medical purpose and not in the usual course of professional practice.

8. On or about May 23, 2013, the Respondent entered a guilty plea to Count One of the Indictment in the United States District Court for the Southern District of Georgia in the matter of United States of America v. William George Ellien at Case Number CR413-030.

9. On or about May 24, 2013, a Judgment in a Criminal Case was issued by Judge William T. Moore, Jr. of the United States District Court for the Southern District of Georgia in the matter of United States of America v. William George Ellien at Case Number CR413-030, which sentenced Respondent for his guilty plea to the crime of Unlawful Distribution of Schedule II, III, and IV Controlled Substances, in violation of Title 21, United States Code, Section 841(a)(1), 21 U.S.C. §841(a)(1).

10. According to the Judgment in a Criminal Case referenced in paragraph 9, the Respondent was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months on Count One of the Indictment; to be followed by supervised release for a term of three (3) years; along with other terms and conditions.

11. Certified copies of the Indictment, Summary of Plea Agreement, and Judgment in a Criminal Case referenced in paragraphs 6, 8, and 9 are attached as **Exhibit A**, **Exhibit B**, and **Exhibit C** respectively.

12. Title 21 of the United States Code, Section 841(a)(1) specifies the following:

§ 841 Prohibited Acts

(a) Unlawful acts. Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally -

* * * *

(1) To manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance;

21 U.S.C. §841(a)(1)

13. Title 21 of the Code of Federal Regulations, Section 1306.04(a) specifies in pertinent part:

§ 1306.04 Purpose of issue of prescription

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.

21 CFR §1306.04(a)

14. Percocet is a Schedule II controlled substance. 35 P.S. §780-104

15. Hydrocodone is a Schedule III controlled substance. 35 P.S. §780-104

16. The Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, P.L. 233 as amended ("Drug Act"), 35 P.S. §§780-101 et seq., at 35 P.S. §780-113(a)(14), provides:

(a) The following acts and the causing thereof within the Commonwealth are hereby prohibited:

* * * *

(14) The administration, dispensing, delivery, gift or prescription of any controlled substance by any practitioner or professional assistant under the practitioner's direction and supervision unless done (i) in good faith in the course of his professional practice; (ii) within the scope of the patient relationship; (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.

35 P.S. §780-113(a)(14)

17. The Drug Act at 35 P.S. §780-113(f)(2) classifies violations of Subsection 113 (a)(14)

as follows:

- (f) Any person who violates clause...(14)...of subsection (a) with respect to:

* * * *

- (2) Any other controlled substance or counterfeit substance classified in Schedule I, II, or III, is guilty of a felony and upon conviction thereof shall be sentenced to imprisonment not exceeding five years, or to pay a fine not exceeding fifteen thousand dollars (\$15,000), or both.

35 P.S. §780-113(f)(2)

18. The criminal offense of Unlawful Distribution of Schedule II, III, and IV Controlled Substances to which the Respondent pleaded guilty and for which he was sentenced as referred to above in paragraph 9, would be a felony if prosecuted under Subsection 113(f)(2) of the Drug Act, 35 P.S. §780-113(f)(2).

19. Section 40(b) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, as amended, provides in part:

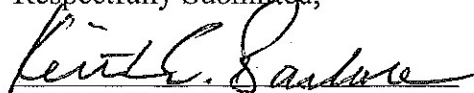
- (b) Automatic suspensions. - A license or certificate issued under this act shall automatically be suspended upon the ...conviction of an offense under the laws of another jurisdiction, which, if committed in this Commonwealth, would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act. As used in this section the term "conviction" shall include a judgment, an admission of guilt or a plea of nolo contendere.

63 P.S. §422.40(b)

WHEREFORE, based upon Respondent's conviction for Unlawful Distribution of Schedule II, III, and IV Controlled Substances under Title 21, United States Code, Section 841(a)(1), 21 U.S.C. §841(a)(1), which would be a felony under The Controlled Substance, Drug, Device and Cosmetic Act at 35 P.S. §780-113(a)(14), the Commonwealth petitions the Board to notify the Respondent that pursuant to Section 40(b) of the Medical Practice Act, 63 P.S. §422.40(b), Respondent's license to practice medicine and surgery in the Commonwealth of Pennsylvania has been automatically suspended, and that it order Respondent to cease and desist from the practice of medicine and surgery in the Commonwealth of Pennsylvania, surrender his

licensure documents to the Board and for such other relief as the Board deems appropriate.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Keith E. Bashore", written over a horizontal line.

Keith E. Bashore

Prosecuting Attorney

Commonwealth of Pennsylvania

Department of State

DATED: 6/24/13

FILED
U.S. DISTRICT COURT
SAVANNAH, GA.

2013 FEB -7 PM 2:57

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA

SAVANNAH DIVISION

CLERK [Signature]
SO. DIST. OF GA.

UNITED STATES OF AMERICA)	INDICTMENT NO.
)	CR 413-030
v.)	VIO: 21 U.S.C. § 841
)	Unlawful Distribution of Schedule II,III,
WILLIAM GEORGE ELLIEN)	IV Controlled Substances
Defendant)	

THE GRAND JURY CHARGES THAT:

INTRODUCTION

ATTEST: A TRUE COPY
Certified to 6/20/13
[Signature]
Deputy Clerk

At all times material to this Indictment:

1. The Controlled Substances Act, 21 U.S.C. §§ 841 et. seq.(CSA) governs the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA makes it "unlawful for any person knowingly or intentionally ... to manufacture, distribute, or dispense ... a controlled substance," or conspire to do so.
2. Medical practitioners authorized to prescribe or dispense controlled substances by the jurisdiction in which they are licensed to practice medicine are authorized under the CSA to write prescriptions for or otherwise dispense controlled substances if they are registered with the Attorney General of the United States. Such medical practitioners are each assigned a unique registration number by the Drug Enforcement Administration (DEA).
3. A controlled substance is prescribed by a medical practitioner (physician) in the usual course of a professional practice and, therefore, lawfully, if the substance is prescribed by the physician in good faith as part of his medical treatment of a patient in accordance with the

EXHIBIT
A

standard of medical practice generally recognized and accepted in the United States. Under Chapter 21, Code of Federal Regulations, Section 1306.04(a), medical practitioners registered with the DEA cannot issue a prescription unless it is "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research [is] not a prescription within the meaning and intent of [the CSA] and the person knowingly filling such a purported prescription, as well as the person issuing it, [is] subject to the penalties provided for violations of the provisions relating to controlled substances."

4. The CSA and its implementing regulations set forth which drugs and other substances are defined by law as "controlled substances," and those controlled substances are then assigned to one of five schedules, Schedule I, II, III, IV, or V, depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

5. The term "Schedule II" means that the drug or other substances has a high potential for abuse; the drug has a currently accepted medical use with severe restrictions; and abuse of the drug or other substances may lead to severe psychological or physical dependence.

6. The term "Schedule III" means that the drug or other substances has a high potential for abuse less than the drugs listed in Schedule II; the drug has a currently accepted medical use with severe restrictions; and abuse of the drug or other substances may lead to severe psychological or physical dependence.

7. The term "Schedule IV" means that the drug or other substance has a low potential for

abuse relative to the drugs or other substances in Schedule II; the drug or other substances has a currently accepted medical use in treatment; and abuse of the drug or other substances may lead to limited physical or psychological dependence relative to the drugs or substance in Schedule III.

COUNT ONE
UNLAWFUL DISTRIBUTION OF
SCHEDULE II, III, AND IV CONTROLLED SUBSTANCES


8. Paragraphs 1 through 7 of the General Allegations section of this Indictment are re-alleged and incorporated fully herein by reference.

9. From an unknown date, but at least beginning in or about 2009, up to and including in or about December 2012, in Chatham County, in the Southern District of Georgia, the defendant, **WILLIAM GEORGE ELLIEN**, did knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, quantities of Schedule II controlled substances, including Percocet, quantities of Schedule III controlled substances, including hydrocodone, and quantities of Schedule IV controlled substances, including alprazolam, not for a legitimate medical purpose and not in the usual course of professional practice, contrary to Title 21, United States Code, Section 841(a)(1).


A TRUE BILL

— Grand Jury Foreperson —

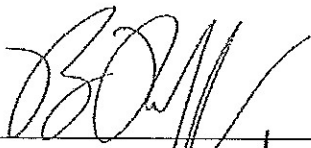
Signatures on Following Page



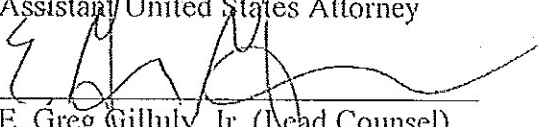
Edward J. Tarver
United States Attorney



James D. Durham
First Assistant United States Attorney



Brian T. Rafferty
Criminal Chief
Assistant United States Attorney



E. Greg Gilluly, Jr. (Lead Counsel)
Assistant United States Attorney
Tennessee Bar No. 019397

Minimum Mandatory No
Rule 35/5K1.1 No
Appeal Waiver No
Other No

ATTEST: A TRUE COPY

Certified to 6/20/13
M. A. Hill
Deputy Clerk

UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF GEORGIA

SAVANNAH DIVISION

UNITED STATES OF AMERICA

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)

INDICTMENT

V.

)
)
)
)

CR: 4:13-00030

WILLIAM ELLIEN

CLERK
SO. DIST. OF GA.
2013 MAY 23 AM 9:11

FILED
U.S. DISTRICT COURT
SAVANNAH, GA.

SUMMARY OF PLEA AGREEMENT

This summary of the plea agreement is for the convenience of the Court, and does not constitute a part of the body of the agreement itself, which follows in full hereafter.

DEFENSE COUNSEL: George Asinc

ASSISTANT U.S. ATTORNEY: E. Greg Gilluly, Jr.

STATUTE CHARGED:

Count 1: 21 U.S.C. § 841(a)(1) (Unlawful Distribution of Schedule II, III, and IV Controlled Substances)

COUNT PLEADING TO:

Count 1: 21 U.S.C. § 841 (Unlawful Distribution of Schedule II, III, and IV Controlled Substances)

**EXHIBIT
B**

PENALTIES:

21 U.S.C. § 841 (Unlawful Distribution of Schedule II, III, and IV Controlled Substances)

Imprisonment for not more than 20 years

A fine of up to \$1,000,000

A Special Assessment of \$100.00

A term of supervised release of not less than 3 years

ELEMENTS

Count 1: 21 U.S.C. § 841(a)(1)

First: That the defendant unlawfully, knowingly and intentionally dispensed and distributed controlled substances;

Second: The controlled substances were distributed and dispensed not for a legitimate medical purpose and not in the usual course of professional practice; and

Third: The controlled substances were substances as defined as Schedule II, III, and IV controlled substances.

SUMMARY OF GOVERNMENT'S PROMISES:

Provided the Defendant truthfully admits the offense and relevant conduct to the Court and to the Probation Office, and does not engage in any additional criminal conduct from the time of his signing of the plea agreement in this case, the Government agrees:

To not oppose a recommendation from the Probation Office that the Defendant receive a reduction in sentence for acceptance of responsibility pursuant to § 3E1.1(a) of the Sentencing Guidelines;

To move the Court pursuant to § 3E1.1(b) of the Sentencing Guidelines for an additional one (1) level decrease in Defendant's offense level based upon the Defendant's timely notification to authorities of his intention to enter a plea of guilty, if applicable.

SUMMARY OF DEFENDANT'S PROMISES:

The Defendant agrees:

To plead guilty to Count 1 of the Indictment referenced herein, charging a violation of 21 U. S. C. § 841(a)(1) (Unlawful Distribution of Schedule II, III, and IV Controlled Substances) and to truthfully admit the illegal conduct and factual basis contained in the plea;

To timely pay the mandatory special assessment of \$100.

Minimum Mandatory	<u>No</u>
Rule 35/5K1.1	<u>No</u>
Appeal Waiver	<u>No</u>
Other	<u>No</u>

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA)	
)	INDICTMENT
V.)	CR 4:13-00030
)	
WILLIAM ELLIEN)	
)	

PLEA AGREEMENT

DEFENSE COUNSEL: George Asinc

ASSISTANT U.S. ATTORNEY: E. Greg Gilluly, Jr.

STATUTE CHARGED :

Count 1: 21 U.S.C. § 841(a)(1) (Unlawful Distribution of Schedule II, III, and IV
Controlled Substances)

COUNT PLEADING TO:

Count 1: * 21 U.S.C. § 841 (Unlawful Distribution of Schedule II, III, and IV
Controlled Substances)

PENALTIES:

21 U.S.C. § 841 (Unlawful Distribution of Schedule II, III, and IV Controlled Substances)

Imprisonment for not more than 20 years

A fine of up to \$1,000,000

A Special Assessment of \$100.00

A term of supervised release of not less than 3 years

ELEMENTS

Count 1: 21 U.S.C. § 841(a)(1)

First: That the defendant unlawfully, knowingly and intentionally dispensed and distributed controlled substances;

Second: The controlled substances were distributed and dispensed not for a legitimate medical purpose and not in the usual course of professional practice; and

Third: The controlled substances were substances as defined as Schedule II, III, and IV controlled substances.

SUMMARY OF GOVERNMENT'S PROMISES:

Provided the Defendant truthfully admits the offense and relevant conduct to the Court and to the Probation Office, and does not engage in any additional criminal conduct from the time of his signing of the plea agreement in this case, the Government agrees:

To not oppose a recommendation from the Probation Office that the Defendant receive a reduction in sentence for acceptance of responsibility pursuant to § 3E1.1(a) of the Sentencing Guidelines;

To move the Court pursuant to § 3E1.1(b) of the Sentencing Guidelines for an additional one (1) level decrease in Defendant's offense level based upon the Defendant's timely notification to authorities of his intention to enter a plea of guilty, if applicable;

SUMMARY OF DEFENDANT'S PROMISES:

The Defendant agrees:

To plead guilty to Count 1 of the Indictment referenced herein, charging a violation of 21 U. S. C. § 841(a)(1) (Unlawful Distribution of Schedule II, III, and IV Controlled Substances) and to truthfully admit the illegal conduct and factual basis contained in the plea; and

To timely pay the mandatory special assessment of \$100.

#####

E. Greg Gilluly, Jr., Assistant United States Attorneys, and George Asinc, Esq., attorney for Defendant William Ellien, pursuant to the provisions of Rule 11, Federal Rules of Criminal Procedure, as amended, have, with the authorization of the undersigned Defendant, heretofore entered into discussions with a view towards reaching a pretrial conclusion of the charges within the Indictment referenced herein and a Plea Agreement has been reached by said parties in the following respects:

A. AGREEMENT BY GOVERNMENT

Upon the entry of a plea of guilty to the offense charged in Count One of the Indictment referenced herein, and provided Defendant truthfully admits the offense and relevant conduct to the Court and Probation Office and does not engage in any additional criminal conduct from the time of his signing of the plea agreement in this case, the Government agrees:

To not oppose a recommendation from the Probation Office that the Defendant receive a reduction in sentence for acceptance of responsibility pursuant to § 3E1.1(a) of the Sentencing Guidelines;

To move the Court pursuant to § 3E1.1(b) of the Sentencing Guidelines for an additional one (1) level decrease in Defendant's offense level based upon the Defendant's timely

notification to authorities of his intention to enter a plea of guilty, if the Defendant's offense level determined prior to the operation of § 3E1.1(a) is a level sixteen (16) or greater;

B. AGREEMENT BY THE DEFENDANT

The Defendant agrees to plead guilty to Count One of the Indictment, charging a violation of 21 U.S.C. § 841(a)(1) and to admit the relevant facts.

The Defendant agrees to timely pay the mandatory \$100 special assessment.

C. DEFENDANT'S REPRESENTATIONS TO THE COURT AND FURTHER OBLIGATIONS UNDER THIS AGREEMENT

1. Factual Basis: The Defendant further agrees to the truthfulness and accuracy of the following facts:

From an unknown date, but at least beginning in or about 2009, up to and including in or about December 2012, in Chatham County, in the Southern District of Georgia, the defendant, **WILLIAM ELLIEN**, did knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, quantities of Schedule II controlled substances, including Percocet, quantities of Schedule III controlled substances, including hydrocodone, and quantities of Schedule IV controlled substances, including alprazolam, not for a legitimate medical purpose and not in the usual course of professional practice, contrary to Title 21, United States Code, Section 841(a)(1). The Defendant further agrees that he was employed as a Psychiatrist and was granted the authority to distribute and dispense Schedule II, III, and IV Controlled Substances. In the case at hand, the Defendant knowingly and unlawfully issued prescriptions for Schedule II,

III, and IV controlled substances for no legitimate medical purpose and outside the course of his professional practice. He unlawfully distributed thousands of units of Schedule II, III, and IV controlled substances. These acts were done in violation of Title 21, United States Code, Section 841(a)(1). The Defendant admits that he is pleading guilty because he is in fact guilty of the offenses charged in the Indictment.

2. The Defendant understands and agrees that nothing in this Agreement shall abrogate the duty and right of the Government to bring all sentencing facts to the attention of the sentencing court, and the Defendant further agrees that the Government shall not be bound to make any recommendation under this Agreement if to do so would directly contradict facts relevant to the offense conduct or the Defendant's prior conduct or criminal history, which first come to the attention of the Government, or are confirmed as true, only after the signing of this Agreement.

3. The Defendant understands that the Court is not a party to this Agreement, that the Government can only make recommendations which are not binding on the Court, and that after the entry of the Defendant's guilty plea, the Defendant has no absolute right to withdraw the plea. Thus, the Court is free to impose any sentence authorized by law on each count upon which he pleads guilty.

4. The Defendant also understands that in accordance with *United States v. Booker*, the Court, while not bound to apply the federal sentencing guidelines, must consult those guidelines and take them into account to formulate a reasonable sentence.

5. The Defendant further advises the Court that the Defendant understands that the U. S. Probation Office will prepare a pre-sentence investigation report for the Court, and that the

U. S. Probation Office will consider all of Defendant's conduct related to the offense to which he is pleading, and that these facts will be considered by the Court in determining the Defendant's sentence. The Defendant understands that the offense level and criminal history category determined by the United States Probation Office and the Court may differ from that estimated or projected by Defendant's counsel or the United States Attorney.

6. The Defendant advises the Court that the Defendant understands that if the relevant conduct, guideline sentencing range, or sentence imposed by the Court is more or greater than the Defendant expected or, in the case of relevant conduct, is found to be more extensive than the Defendant has admitted to, the Defendant will still have no absolute right to withdraw his guilty plea.

7. Fines, Assessments, Restitution and Forfeitures: The Defendant understands that any assessments imposed pursuant to 18 U.S.C. § 3013 by the Court at sentencing must be paid on the date of sentencing. The Defendant understands that if a fine or restitution is imposed by the Court at sentencing, or if the United States is pursuing the forfeiture of any property in which the Defendant has an interest, whether by administrative, civil, or judicial proceeding, the Defendant may be required by the United States Attorney's Office to meet with a member of its Debt Collection Unit after his guilty plea and complete a written personal financial statement setting forth the Defendant's assets and liabilities as of the date of the offense. The Defendant further understands that by completing the financial statement, the Defendant is representing that it is true and accurate to the best of the Defendant's information, knowledge, and belief and agrees to make an honest, good faith effort to pay said fine as directed by the financial litigation unit of the United States Attorney's Office.

D. DEFENDANT'S FURTHER REPRESENTATIONS TO THE COURT

1. The Defendant represents to the Court that the Defendant has had the services of an attorney the Defendant believes to be competent; that the Defendant has met with said attorney on a sufficient number of occasions and for a sufficient period of time to discuss the Defendant's case and receive advice; that the Defendant has been truthful with her attorney and related all information of which the Defendant is aware pertaining to the case; that the Defendant and Defendant's attorney have discussed possible defenses, if any, to the charges in the above-referenced Indictment, including the existence of any exculpatory or favorable evidence or witnesses, discussed the Defendant's right to a public trial by jury or by the Court, the right to the assistance of counsel throughout the proceedings, the right to call witnesses on the Defendant's behalf and compel their attendance at trial by subpoena, the right to confront and cross-examine the Government's witnesses, the Defendant's right to testify on the Defendant's own behalf, or to remain silent and have no adverse inferences drawn from the Defendant's silence; and that the Defendant, with the advice of counsel, has weighed the relative benefits of a trial by jury or by the Court versus a plea of guilty pursuant to this Agreement, and has entered this Agreement as a matter of the Defendant's free and voluntary choice, and not as a result of pressure or intimidation by any person.

2. The Defendant further represents to the Court that the Plea Agreement as set forth herein and the plea to be entered by the Defendant is the result of prior discussions between the attorney for the Government and the attorney for the Defendant, conducted with the Defendant's authorization, knowledge and consent; that this Plea Agreement contains the entire agreement and understanding between the Government and the Defendant; and that the Defendant has no


other agreements, understandings, or deals with any person other than those set out in this Plea Agreement, that is, the Defendant advises the Court that the Defendant's entire understanding of this Plea Agreement is completely set forth in writing in this document.

3. The Defendant represents to the Court that the Defendant has been advised of the nature of the charge to which the plea of guilty is to be offered, of the maximum possible penalty provided by law, as set forth above, and that by entering a plea of guilty the Defendant gives up all of the rights set out in paragraph "D.1." above, gives up any defenses to the charges, and understands that there will not be a further trial of any kind. The Defendant further understands that in entering a plea of guilty, the Court will ask questions about the offense to which the plea is entered. The Defendant understands that the Defendant will be under oath and on the record in answering those questions, and that the Defendant's answers may later be used against the Defendant in a criminal prosecution for perjury or false statement if those answers are not truthful.

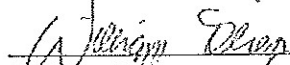
This 20th day of March, 2013.

EDWARD J. TARVER
UNITED STATES ATTORNEY

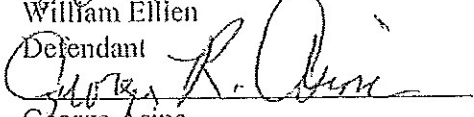
By:


E. Greg Gilluly, Jr.
Assistant United States Attorney
Tennessee 019397

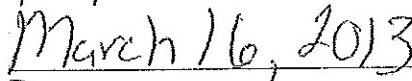
I have read the foregoing Plea Agreement, consisting of 9 pages, including this page, and I understand what it says and means, and by my signature hereunder I swear or affirm under penalty of perjury that the matters and facts set forth therein are true, and accurately and correctly state the representations that have been made to me by my attorney and Government agents and/or prosecutors, and accurately set forth the terms and conditions of the Plea Agreement that has been reached by my attorney on my behalf and with my permission.



William Ellien
Defendant



George Asinc
Attorney for the Defendant



Date

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA)	
)	INDICTMENT
v.)	CR. 4:13-00030
)	
WILLIAM ELLIEN)	
)	

ORDER

The aforesaid Plea Agreement, having been considered by the Court in conjunction with the interrogation by the Court of the Defendant and the Defendant's attorney at a hearing on the Defendant's motion to change plea and the Court finding that the plea of guilty is made freely, voluntarily and knowingly, it is thereupon,

ORDERED that the plea of guilty by Defendant is hereby accepted and the foregoing Plea Agreement is hereby ratified and confirmed.

This 23RD day of MAY, 2013.


UNITED STATES DISTRICT COURT JUDGE
SOUTHERN DISTRICT OF GEORGIA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA

v.

William G. Ellien

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:13CR00030-1USM Number: 17849-021George R. Asinc
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to Count 1☐ pleaded nolo contendere to Count(s) _____ which was accepted by the court.☐ was found guilty on Count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of this offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1)	Unlawful distribution of Schedule II, III, IV controlled substances	December 2012	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on Count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

May 23, 2013
Date of Imposition of Judgment

Signature of Judge

William T. Moore, Jr.
Judge, U.S. District Court

Name and Title of Judge

Date

ATTEST: A TRUE COPY

Certified to 6/20/13MAHILL
Deputy ClerkEXHIBIT
C

DEFENDANT: William G. Ellien
CASE NUMBER: 4:13CR00030-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 30 months.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
It is recommended that the defendant be evaluated by Bureau of Prisons officials to establish his participation in an appropriate program of substance abuse treatment and counseling during his term of incarceration. It is also recommended that the defendant be evaluated by Bureau of Prisons medical officials to make a determination as to the proper facility to which the defendant should be designated. Finally, it is recommended that the defendant receive credit toward his federal sentence for all time served since January 23, 2013.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: William G. Ellicott
CASE NUMBER: 4:13CR00030-I

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) any possession, use, or attempted use of any device to impede or evade drug testing shall be a violation of supervised release.

DEFENDANT: William G. Ellien
CASE NUMBER: 4:13CR00030-I

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in a program of testing for drug and alcohol abuse. Further, the defendant shall not tamper with any testing procedure.
2. The defendant shall participate in a program of mental health treatment. The costs of treatment shall be paid by the defendant in an amount to be determined by the probation officer, based on ability to pay or availability of third-party payment.
3. The defendant shall complete 40 hours of community service during the first 12 months of supervision.
4. The defendant shall submit his person, property, house, residence, office, papers, vehicle, computers (as defined in 18 U.S.C. § 1030(e)(1)), or other electronic communications or data storage devices or media, to a search conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition.
5. The defendant must surrender any medical license he may hold in any state and shall not be allowed to prescribe controlled substances.

ACKNOWLEDGMENT

Upon finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed)

Defendant

Date

U.S. Probation Officer/Designated Witness

Date

DEFENDANT: William G. Ellien
CASE NUMBER: 4:13CR00030-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100	\$	\$

☐ The determination of restitution is deferred until _____. *An Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _____	\$ _____
--------	----------	----------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: William G. Ellicott
CASE NUMBER: 4:13CR00030-I

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100 due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Pursuant to 18 U.S.C. § 3572(d)(3), the defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

VERIFICATION

I, Keith E. Bashore, do verify that the facts set forth in the foregoing Petition for Automatic Suspension are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Keith E. Bashore", is written over a horizontal line.

Keith E. Bashore
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State

DATED: 6/24/13