

NEW YORK STATE DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

BPMC No. 18-267

IN THE MATTER  
OF  
NKANGA UTUK NKANGA, M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: NKANGA UTUK NKANGA, M.D.  


The undersigned, Sally Dreslin, M.S., R.N., Executive Deputy Commissioner of Health, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Indictment in the United States of America v. Nkanga Nkanga, 18 Crim. 713 (United States District Court, Southern District of New York), has determined that NKANGA UTUK NKANGA, M.D. (henceforth "Respondent") has been charged with committing an act constituting a felony under New York State law, federal law, or the law of another jurisdiction, where the Respondent's alleged conduct, which if committed within this state, would have constituted a felony under New York State law, and in the Executive Deputy Commissioner's opinion the Respondent's alleged conduct constitutes an imminent danger to the health of the people. Attached hereto as Appendix "A" and made a part hereof is the indictment in the United States of America v. Nkanga Nkanga.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall discontinue or refrain from practicing medicine in the State of New York, or discontinue or refrain from practicing in any setting under the authority of Respondent's New York license.

Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within ninety days of the service of this order and shall end within ninety days thereafter. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding to be provided to the Respondent at a later date and which will detail allegations of professional medical conduct in an attached Statement of Charges. If at any time the felony charge is dismissed, withdrawn or reduced to a non-felony charge, this Order shall terminate.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
November 30, 2018

  
Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner of Health  
New York State Department of Health

Inquiries should be directed to:

Daniel Guenzburger  
Associate Counsel  
N.Y.S. Department of Health  
Division of Legal Affairs  
212-417-4450

# Appendix A

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

SEALED  
INDICTMENT

- v. - :

18 Cr.

NKANGA NKANGA, :

18 CRIM 713

Defendant. :

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: OCT 03 2018

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COUNT ONE

(Conspiracy to Distribute Narcotics)

The Grand Jury charges:

Introduction

1. From at least in or about 2013, up to and including the present, in the Southern District of New York and elsewhere, NKANGA NKANGA, the defendant, a state licensed physician, conspired to unlawfully distribute more than 500,000 pills of the Schedule II controlled substance oxycodone to individuals NKANGA knew had no legitimate medical need for them, which pills were subsequently sold to drug addicted-individuals on the street.

2. At all times relevant to this Indictment, NKANGA NKANGA, the defendant, who saw purported patients at his office located in Staten Island, New York, wrote more than 10,000 medically unnecessary prescriptions for large quantities of controlled substances, including oxycodone, buprenorphine and alprazolam, to co-conspirators and other individuals whom NKANGA

JUDGE FURMAN

knew had no legitimate medical need for them, including drug dealers and drug-addicted individuals. NKANGA often wrote those prescriptions to his purported patients, some of whom displayed visible signs of drug addiction, without conducting any physical examination, or even seeing them in the office. NKANGA's co-conspirators and other purported patients filled those medically unnecessary prescriptions at pharmacies and sold the oxycodone pills to addicted individuals on the street.

3. In total, from 2013 through the present alone, NKANGA NKANGA, the defendant, wrote medically unnecessary prescriptions that resulted in the unlawful distribution of more than 500,000 oxycodone pills, as well as thousands of pills of other controlled substances such as buprenorphine and alprazolam. In exchange for writing those medically unnecessary oxycodone prescriptions, NKANGA received hundreds of thousands of dollars in cash payments.

Background on Controlled Substances and the Regulations  
Governing their Distribution

4. Oxycodone is a highly addictive, narcotic-strength opioid used to treat severe and chronic pain conditions, such as post-operative pain, serious back and orthopedic injuries, as well as pain associated with certain forms of cancer and other terminal illnesses. Buprenorphine, commonly known by the trade name

Suboxone, is an opioid used to treat pain conditions as well as opioid addiction, but which is often abused because it is itself an opiate. Alprazolam, commonly known by the brand name Xanax, is a potent and addictive sedative used to treat anxiety disorders. When combined with oxycodone or buprenorphine, alprazolam substantially increases the risk of overdose. Oxycodone, buprenorphine, and alprazolam can be legitimately obtained from most pharmacies with a prescription written by a treating physician. Oxycodone is typically dispensed in five- to thirty-milligram pills to patients.

5. Because of their addictive qualities and potential for abuse, the distribution of oxycodone, buprenorphine, and alprazolam is heavily regulated. Physicians and other healthcare professionals must register and be approved by the DEA and New York State licensing authorities in order lawfully to prescribe those controlled substances. Furthermore, federal and state regulations require that, before prescribing oxycodone, buprenorphine, and alprazolam, physicians must ensure that the prescription is issued for a legitimate medical purpose and in the usual course of generally accepted medical practice. See 21 C.F.R. § 1306.04. The Centers for Disease Control and Prevention and state regulations recommend that physicians do so by, among other things, testing patients' urine to ensure that they are

taking their prescriptions and not abusing other controlled substances, conducting medical histories and physical examinations, assessing addiction risk factors for every patient, and developing a treatment plan to reduce a patient's dependence on the controlled substances. See, e.g., Centers for Disease Control and Prevention, Guideline for Prescribing Opioids for Chronic Pain, 2016; N.Y. Comp. Codes R. & Regs. tit. 10 § 80.63. Pursuant to federal regulations, prescriptions for oxycodone cannot be refilled until a patient who has exhausted his or her initial prescription has visited his or her doctor again. See 21 C.F.R. § 1306.12.

6. Because oxycodone, buprenorphine, and alprazolam are highly addictive and available pursuant only to a prescription written by a licensed healthcare professional, those prescriptions have enormous cash value to drug dealers who sell pills on the street for thousands of dollars. At all times relevant to this Indictment, thirty-milligram oxycodone pills, which are popular amongst street-level drug dealers, had a street value of approximately \$30 per tablet in New York City, with prices ranging even higher in other parts of the country. Thus, a single prescription for 120 thirty-milligram pills of oxycodone, which is what NKANGA NKANGA, the defendant, most frequently prescribed, can net the dealer \$3,600 in cash or more.



The Scheme to Distribute Oxycodone and other Controlled Substances

7. From at least 2013 through the present, NKANGA NKANGA, the defendant, made hundreds of thousands of dollars by writing thousands of medically unnecessary prescriptions for oxycodone and other controlled substances for co-conspirators who obtained the pills and sold them at high prices to individuals addicted to opioids, among others.

8. NKANGA NKANGA, the defendant, wrote prescriptions for controlled substances, including oxycodone, buprenorphine, and alprazolam, to individuals he knew had no medical need for the drugs and instead were addicted to narcotics or intended to sell the pills to drug dealers and drug-addicted individuals. NKANGA often saw his patients for less than ten minutes, did not perform physical examinations, did not ask them whether they were in pain, and rarely spoke to them in the examination room. During one visit, NKANGA fell asleep in the examination room while writing out prescriptions.

9. On several occasions during the time period relevant to the Indictment, NKANGA NKANGA, the defendant, wrote prescriptions for controlled substances without even having the patient enter an examination room and, in some cases, wrote prescriptions in the names of patients who did not even visit his

medical office. For example, on one occasion, NKANGA asked a purported patient, "How many people are you representing today?" The patient named three individuals besides himself - none of whom were in the office. NKANGA asked who one of the individuals was, and then wrote prescriptions for controlled substances in all four names in exchange for cash. Indeed, NKANGA, together with the employees in his office, frequently permitted one patient to collect controlled substance prescriptions in the names of other individuals when those individuals were not present and had not been physically examined by NKANGA.

10. When NKANGA NKANGA, the defendant, saw purported patients and wrote them controlled substance prescriptions, NKANGA rarely took any steps to ensure that the prescriptions were medically necessary, including by conducting a full physical examination or reviewing an up-to-date MRI, and when he did refer a patient to obtain an MRI it was mere pretext for prescribing controlled substances. For example, in late 2017, when a patient of NKANGA spoke to NKANGA about going back to the doctor's practice to get "the usual," - i.e., oxycodone - NKANGA told the patient to get a new MRI and instructed the patient to tell the radiology office that the patient was experiencing back pain, even though the patient was not. NKANGA also failed to test his patients' urine to confirm that they were in fact taking the controlled

substances NKANGA had prescribed them, and not selling them, and that they were not abusing illegal narcotics. Some of NKANGA's patients displayed visible signs of addiction to narcotics, such as nodding off in the waiting room, and yet NKANGA failed to test patients' urine, adjust dosages, or terminate prescribing for problematic patients.

11. NKANGA NKANGA, the defendant, was aware that some of his patients were diverting the oxycodone pills he was prescribing, but he nonetheless kept writing prescriptions for large quantities of oxycodone and other controlled substances. Indeed, NKANGA did not adjust the amount of oxycodone he was prescribing for his patients until July 2018, when he told his patients that he was reducing the number of oxycodone pills he was prescribing to 90 tablets per thirty days because he was "very worried" that continuing to prescribe over 100 tablets per month would subject him to scrutiny by law enforcement.

12. In total, from 2013 to the present, NKANGA NKANGA, the defendant, caused the distribution of more than 500,000 oxycodone pills in exchange for thousands of dollars in cash payments. Once NKANGA's purported patients received those prescriptions, they filled them at pharmacies and sold the pills on the street in New York City and elsewhere.

Statutory Allegations

13. From in or about 2013, up to and including the present, in the Southern District of New York and elsewhere, NKANGA NKANGA, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate and agree, together and with each other, to violate the narcotics laws of the United States.

14. It was a part and an object of the conspiracy that NKANGA NKANGA, the defendant, and others known and unknown, would and did distribute, dispense, possess with intent to distribute and dispense, and cause to be distributed and dispensed, controlled substances outside the scope of professional practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

15. The controlled substances that NKANGA NKANGA, the defendant, conspired to distribute and dispense, possess with intent to distribute and dispense, and caused to be distributed and dispensed, outside the scope of professional practice and not for a legitimate medical purpose, was mixtures and substances containing detectable amounts of oxycodone, in violation of Title 21, United States Code, Section 841(b)(1)(C), mixtures and substances containing detectable amounts of buprenorphine, in violation of Title 21, United States Code, Section 841(b)(1)(E),

and mixtures and substances containing detectable amounts of alprazolam, in violation of Title 21, United States Code, Section 841(b)(2).

(Title 21, United States Code, Section 846.)

COUNTS TWO - FIVE  
(Distribution and Possession with Intent to Distribute a  
Controlled Substance)

The Grand Jury further charges:

16. On or about the dates set forth below, in the Southern District of New York and elsewhere, NKANGA NKANGA, the defendant, intentionally and knowingly distributed, dispensed, possessed with the intent to distribute and dispense, and caused to be distributed and dispensed controlled substances, outside the scope of professional practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

Count	Date
2	July 2, 2018
3	July 25, 2018
4	September 12, 2018
5	September 14, 2018

17. The controlled substances involved in the offense were mixtures and substances containing detectable amounts of oxycodone, in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C), mixtures and substances containing detectable amounts of buprenorphine, in violation of Title 21,

United States Code, Sections 841(a) and 841(b)(1)(E), and mixtures and substances containing detectable amounts of alprazolam, in violation of Title 21, United States Code, Sections 841(a) and 841(b)(2).

(Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 841(b)(1)(E), 841(b)(2), and Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATIONS

18. As a result of committing the offenses alleged in Counts One through Five of this Indictment, NKANGA NKANGA, the defendant, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offenses and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses that the defendant personally obtained.

Substitute Assets Provision

19. If any of the above-described forfeitable property, as a result of any act or omission of the defendant: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third person; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 21, United States Code, Section 853.)

  
FOREPERSON

  
GEOFFREY S. BERMAN  
United States Attorney

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

NKANGA NKANGA,

Defendant.

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SEALED INDICTMENT

18 Cr. .

(21 U.S.C. § 846, 841)

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Geoffrey S. Berman  
United States Attorney

A TRUE BILL

  
Foreperson.

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10/3/18  
Filed Sealed Indictment. U.S.M.S. Debra Freeman.