

## APPENDIX D

Excerpt of Day 39 Trial Transcript (Jan. 28, 2020) Jury  
Instruction

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
Plaintiff, )  
vs. ) Case No.: 3:15-CR-27  
SYLVIA HOFSTETTER, )  
COURTNEY NEWMAN, )  
CYNTHIA CLEMONS, )  
HOLLI WOMACK, )  
Defendants. )

VOLUME XXXIX (pp. 1-237)

JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE THOMAS A. VARLAN

January 28, 2020  
9:10 a.m. to 4:47 p.m.

## APPEARANCES:

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(Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.)

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CYNTHIA CLEMONS, DEFENDANT  
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MICK NOCERA, FBI AGENT  
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## Jury Charge

1 prescribing of controlled substances is upon the prescribing  
2 practitioner.

3                  Fourth, no statutory definition of legitimate medical  
4 purpose and usual course of professional practice exists. It  
5 is up to you, as jurors, to decide whether a defendant  
6 prescribed controlled substances without a legitimate medical  
7 purpose and outside the usual course of professional practice.

8                  Fifth, "prescription" means an order for medication  
9 which is dispensed to or for an ultimate user.

10                 Sixth, "individual practitioner" includes a  
11 physician, dentist, veterinarian, nurse practitioner, physician  
12 assistant, or other individual licensed, registered, or  
13 otherwise permitted by the United States, or the jurisdiction  
14 in which she practices, to dispense a controlled substance in  
15 the usual course of professional practice, but does not include  
16 a pharmacist, a pharmacy, or an institutional practitioner.

17                 Finally, whether a practitioner -- finally, whether a  
18 prescription is made in the usual course of professional  
19 practice is to be determined from an objective and not a  
20 subjective viewpoint.

21                 You have also heard the 2001 Tennessee Intractable  
22 Pain Treatment Act discussed during this trial. You are  
23 instructed that the Intractable Pain Treatment Act in relevant  
24 part states:

25                 Section 5(f): Nothing in this section, the Pain

UNITED STATES DISTRICT COURT