

Instruction No. 16

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2 The defendant is charged in Counts One through Five of the
3 indictment with the distribution of Hydrocodone, and in Counts Six
4 through Eight of the indictment with the distribution of Tramadol, in
5 violation of Section 841(a)(1) of Title 21 of the United States Code.
6 In order for the defendant to be found guilty of those charges, the
7 government must prove each of the following elements beyond a
8 reasonable doubt:

9 First, the defendant knowingly distributed Hydrocodone (as to
10 Counts One through Five) or Tramadol (as to Counts Six through
11 Eight);

12 Second, the distribution of Hydrocodone (as to Counts One
13 through Five) or Tramadol (as to Counts Six through Eight) was
14 outside the usual course of professional practice and without a
15 legitimate medical purpose; and

16 Third, that the defendant intentionally acted in an unauthorized
17 manner. That is, when she prescribed each controlled substance, she
18 intended to do so without a legitimate medical purpose and she
19 intended to act outside the usual course of professional practice.

20 A practitioner "distributes" a controlled substance by the act
21 of writing a prescription for a controlled substance for another
22 person.

23 There are no specific guidelines in the law defining what is the
24 usual course of professional practice or defining a legitimate
25 medical purpose. Therefore, in determining whether the defendant
26 acted outside the usual course of professional practice, you may
27 consider the standards to which medical professionals generally hold
28 themselves, including accepted standards of care among medical

1 professionals. However, any finding of criminal liability must
2 ultimately depend on the mental state of the defendant herself, not
3 what a hypothetical "reasonable" medical practitioner would do or
4 intend. Because of the need for the government to prove the
5 defendant's criminal intent, this case is different from a medical
6 malpractice case.

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