

DOCTOR WANTS STEROID CHARGES DISMISSED

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A Boca Raton physician indicted in New York for allegedly prescribing steroids without physical examinations is seeking dismissal of the charges, arguing that New York state law doesn't apply to Florida doctors or require face-to-face exams.

Dr. Gary Brandwein was charged along with 13 other Florida pharmacy owners and employees, internet drug-sellers and physicians, in the first salvo of coordinated state and federal investigations into allegedly illicit sales of steroids and human growth hormones. The major target of the investigation has been Signature Pharmacy of Orlando, the company that supplied millions of dollars worth of the drugs to companies in Florida and elsewhere, that fielded the orders nationwide and orchestrated prescriptions, sight-unseen.

Brandwein, a business partner and prescribing physician for the Broward County-based MedX Life, faces six counts of illegal drug sales.

In a motion filed Friday in Albany County, N.Y., Brandwein argued that the entire indictment should be dropped.

A key point of contention is the definition of "examination."

New York prosecutors based the indictment on a state requirement that "no controlled substance prescription shall be issued prior to the examination of the patient by the practitioner."

The intent is to make sure that drugs being sold are for legitimate health reasons, based on sound medical evaluation.

Brandwein's motion contends that the law's wording does not require that the examination be conducted in person.

Brandwein and other physicians indicted are alleged to have written many prescriptions for the muscle-building drugs based on phone conversations and faxed results of blood tests, often without meeting patients

Brandwein's attorneys argue that there's nothing illegal about that.

"Our position is, he was allowed to do what he did," said Richard Tendler, a Palm Beach County attorney coordinating Brandwein's defense with attorney Terence Kindlon of New York.

Florida law does require physical exams, with limited exceptions such as emergencies.

Lawyers for some of those involved believed they stayed on the right side of the law by asking out-of-state customers to see physicians and have blood work done where they lived.

That issue aside, the first count should be dismissed because the drug it accuses Brandwein of selling in New York, Anastrozole, isn't a controlled substance there, Brandwein's motion said.

The motion describes Anastrozole as a drug used by body-builders to ease the effects of steroids, and for treatment of breast cancer.

The motion does not take issue with the inclusion of three other controlled drugs allegedly sold by Brandwein and partners Gregg Trotta and Brian Schafler: testosterone, a male steroid sex hormone; Nandrolone, an anabolic steroid; and chorionic gonadotropin, which stimulates testosterone production.

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N.Y. indictments

Gary Brandwein is one of three Florida physicians indicted by the Albany County district attorney. Among other penalties, if convicted, they could face the possible loss of their medical licenses. The others:

- Robert Carlson, who wrote prescriptions for customers of Palm Beach Rejuvenation, a Jupiter clinic and Internet operation.

- Claire Godfrey, of Infinity Rejuvenation in Deerfield Beach.

To date, all but one of the 14 Florida defendants have pleaded not guilty, though some are said to be considering plea agreements.