

UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION

In the Matter of

PRONTO PHARMACY, LLC

Docket No. 19-42

ADMINISTRATIVE LAW JUDGE

MARK M. DOWD

**GOVERNMENT'S SUPPLEMENTAL
PREHEARING STATEMENT**

Pursuant to the Administrative Law Judge's Order Granting Government's Motion for Adjustment of Supplemental Prehearing Statement Deadlines, dated November 26, 2019, the Government submits its Supplemental Prehearing Statement in this matter.

The Government expressly adopts and incorporates its Prehearing Statement, dated October 11, 2019.

SUMMARY OF TESTIMONY

1. **Richard Albert**

The Government incorporates by reference the testimony disclosed in the Government's Prehearing Statement, dated October 11, 2019.

In addition: DI Albert will testify that, in connection with the execution of the administrative inspection warrant in September 2018, DEA served an administrative subpoena, dated September 5, 2018, on Respondent,. DI Albert will authenticate a copy of the subpoena. DI Albert will authenticate copies of documents that were obtained in response to that subpoena.

Atty: Dale Sisco present date was 8/29/2019,

authenticate a copy of the subpoena. DI Albert will authenticate copies of

documents that were obtained in response to that subpoena.

***false..
8/29/19***

***appears to be both stupidity on part of DEA
and harrassment??***

DI Albert will testify that DEA subsequently served an administrative subpoena dated May 10, 2019, on Respondent. DI Albert will authenticate a copy of the subpoena. DI Albert will authenticate copies of documents that were obtained in response to that subpoena.

DI Albert will testify that he queried the Google Maps database to determine the approximate distances travelled by Respondent's customers to fill their prescriptions for controlled substances at Respondent's registered address between January 9, 2018 and May 7, 2019. DI Albert will authenticate printouts from the Google Maps database showing the approximate one-way distance between Respondent's registered location and certain Florida cities.

DI Albert will further testify that he queried the Google Maps database to determine the approximate distances travelled by Patients A.G., A.H., B.S., C.R., J.D., J.M., M.M., N.B., R.B., R.G. and R.L. from their residences to Respondent's registered address. He will also testify that he queried the Google Maps database to determine the approximate distance travelled by Patient M.M. from her residence to the prescriber issuing her prescriptions for controlled substances. DI Albert will authenticate printouts from the Google Maps database showing the approximate one-way distances between these locations.

2. Donald L. Sullivan

The Government incorporates by reference the testimony disclosed in the Government's Prehearing Statement, dated October 11, 2019.

In addition: Dr. Sullivan will testify that on August 31, 2016, the FDA issued a "Safety Announcement" adding "boxed warnings" to the drug labeling of

prescription opioid pain medicines and benzodiazepines, cautioning against the “combined use of opioid medicines with benzodiazepine.” He will testify regarding the effect of such warnings on a pharmacist’s responsibilities under federal and state law. He will testify regarding the effect of the August 31, 2016 FDA warning specifically on a pharmacist’s responsibilities under federal and state law.

Dr. Sullivan will testify further regarding the distances travelled by Respondent’s patients. Dr. Sullivan will testify that, according to PDMP data, between January 9, 2018 and May 7, 2019, over 90% of the prescriptions filled by Respondent were for patients who resided at least 100 miles from Respondent’s registered location. Dr. Sullivan will additionally testify that the distances travelled by Patients A.G., A.H., B.S., C.R., J.D., J.M., M.M., N.B., R.B., R.G. and R.L. from their residences to Respondent’s registered address and/or to their prescriber’s registered locations constitute “red flags” that need to be resolved prior to filling a prescription for controlled substances. Dr. Sullivan will testify that, based on his review of materials provided by or obtained from Respondent, there was no justification for Respondent to fill prescriptions for patients who has traveled such long distances and that Respondent filled these prescriptions without resolving this “red flag.”

EXHIBITS

Government Exhibit No. 54 Google Maps Printout showing approximate distances between cities (38 pages)

Government Exhibit No. 55 Google Maps Printout showing distance between A.G.’s residence and Respondent’s registered location (2 pages)

- Government Exhibit No. 56 Google Maps Printout showing distance between A.H.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 57 Google Maps Printout showing distance between B.S.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 58 Google Maps Printout showing distance between C.R.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 59 Google Maps Printout showing distance between J.D.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 60 Google Maps Printout showing distance between J.M.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 61 Google Maps Printout showing distance between M.M.'s residence, M.M.'s prescriber's address, and Respondent's registered location (6 pages)
- Government Exhibit No. 62 Google Maps Printout showing distance between N.B.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 63 Google Maps Printout showing distance between R.B.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 64 Google Maps Printout showing distance between R.G.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 65 Google Maps Printout showing distance between R.L.'s residence and Respondent's registered location (2 pages)
- Government Exhibit No. 66 FDA Safety Announcement regarding combining opioids and benzodiazepines, dated August 31, 2016 (9 pages)
- Government Exhibit No. 67 Administrative Subpoena, dated September 5, 2018 (2 pages)
- Government Exhibit No. 68 Administrative Subpoena, dated May 10, 2019 (2 pages)

Dated: December 19, 2019

Respectfully submitted,

/s/ John E. Beerbower
John E. Beerbower
Attorney
Diversion and Regulatory Litigation

Office of Chief Counsel
8701 Morrissette Drive
Springfield, Virginia 22152
Office: 571-362-7905

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2019, I caused the foregoing to be filed with the DEA Office of Administrative Law Judges by electronic mail at ECF-DEA@usdoj.gov, and I caused a copy of the same to be sent by electronic mail to Respondent's counsel Dale R. Sisco, Esq. at dsisco@sisco-law.com.

/s/ John E. Beerbower
John E. Beerbower