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PRESS RELEASE

**APALACHICOLA PHYSICIAN CONVICTED ON DRUG AND FRAUD CHARGES
ARISING OUT OF IMPROPER DISPENSING OF CONTROLLED SUBSTANCES**

TALLAHASSEE -- Gregory R. Miller, United States Attorney for the Northern District of Florida announced that a former Apalachicola osteopathic physician, was convicted today by a jury of wire fraud, health care fraud, and distribution of controlled substances offenses.

Following a three week trial in United States District Court in Pensacola, a jury found **Dr. Thomas G. Merrill**, age 69, of Panama City, Florida, guilty of:

1. eighteen counts of wire fraud,
2. Five counts of defrauding health care benefit programs, **including two counts that charged that death resulted from the violation.**
3. seventy-five counts of dispensing or distributing controlled substances including oxycodone, commonly known as OxyContin, Percocet, and Percodan; morphine, commonly known as Kadian or Avinza; hydrocodone, commonly known as Lorcet, Lortab, and Vicodin; fentanyl, commonly known as Duragesic; alprazolam, commonly known as Xanax, and diazepam, commonly known as valium; **including four counts that charged that death resulted from the use of the drugs distributed by the defendant - oxycodone, morphine, and fentanyl.**

The evidence at trial revealed that MERRILL, a licensed osteopathic physician

practicing at the Magnolia Medical Clinic in Apalachicola, prescribed excessive and inappropriate quantities of controlled substances to patients outside the usual course of professional practice, prescribed quantities and combinations of controlled substances to patients but failed to monitor the use and abuse of the prescribed controlled substances by the patients, and prescribed controlled substances in quantities and dosages that would cause patients to abuse and misuse the controlled substances.

The jury convicted the defendant on all but two charges in the Indictment, and specifically found that the defendant's unlawful prescribing of controlled substances resulted in the deaths of:

- Bridgette Persinger, age 53, in Panama City on July 10, 2002
- Leslie Dyer, age 39, in Gulf County on June 14, 2003
- Deanna Hayes, age 58, in Franklin County on July 29, 2003
- Kenneth Nofes, age 38, in Panama City on August 30, 2003
- Katherian Seay, age 47, in Franklin County on November 3, 2003

During the two and one half week trial, the jury heard from 70 witnesses and received 544 exhibits in evidence. The jury also heard from eight expert witnesses in the fields of pain management and addiction, pharmacology, forensic pathology, and forensic toxicology.

Following the verdict, MERRILL was taken into custody of the United States Marshal and ordered detained pending his sentencing by the Honorable M. Casey Rodgers. Sentencing was scheduled for **April 21, 2006** in Pensacola. The defendant faces four mandatory minimum terms of 20 years imprisonment, a maximum of life imprisonment, and a fine of \$1,000,000, on two counts relating to his prescribing of controlled substances that resulted in deaths. The defendant also faces a maximum term of life imprisonment, and a fine of \$250,000 on five health care fraud counts in which the violations resulted in deaths. On the remaining counts of conviction, the defendant faces varying maximum terms of imprisonment of five to twenty years per count.

United States Attorney Miller commended the tireless efforts of the investigators of the agencies involved in this complex investigation and prosecution, and praised the cooperation of citizens and pharmacists who alerted investigators to excessive prescribing of highly addictive controlled substances by MERRILL. United States Attorney Miller stated that "The Department of Justice and its state and local partners will vigorously investigate and identify those medical practitioners who use their licenses to peddle controlled substances to abusers and addicts outside the usual course of medical practice, conduct that threatens the safety of our citizens and often results in deaths. This conduct, along with the theft of public funds and fraud committed against the taxpayers and health care benefit programs, remains a priority with the Department of Justice."

Mr. Miller praised the federal/state task force that was assembled to investigate and prosecute this case. Agents of federal, state, and local agencies were assigned to this task force by: Mark R. Trouville, Special Agent In Charge, Drug Enforcement Administration - Miami Division; Nestor Duarte, Acting Special Agent In Charge, Federal Bureau of Investigation - Jacksonville Division; Robert E. Harris, Special Agent in Charge, Defense Criminal Investigative Service - Southeast Field Office; Charlie Crist, Florida Attorney General; Guy Tunnell, Commissioner, Florida Department of Law Enforcement; Dr. Ronny Francois, Florida Department of Health; Tom Gallagher, Chief Financial Officer, State of Florida; Spencer Levine, Director, Florida Attorney General's Office Medicaid Fraud Unit; and Mike Mock, Franklin County Sheriff.