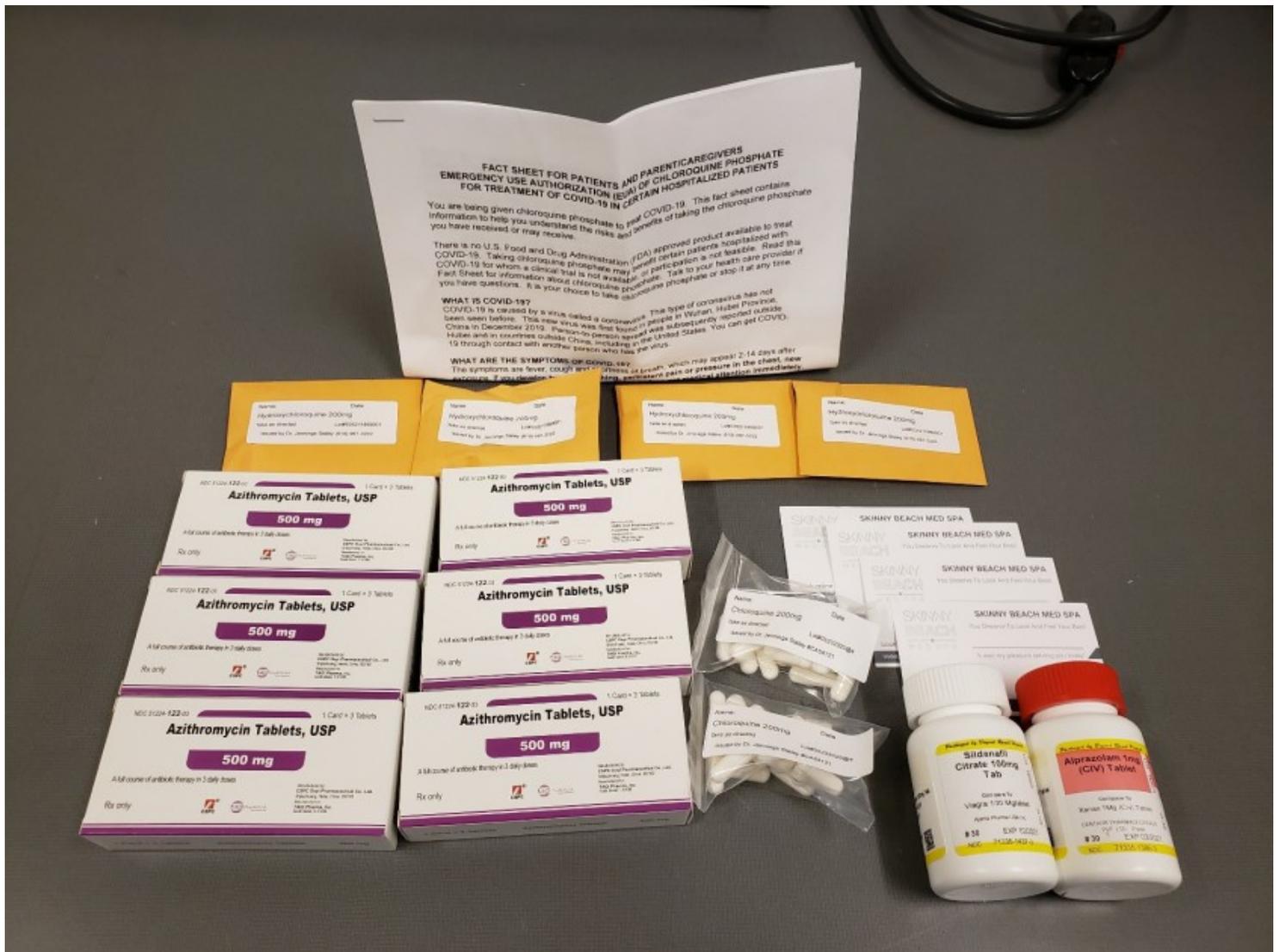


## COURTS

# Doctor cites Trump's promotion of COVID-19 drug in fighting fraud charge



According to the FBI, Dr. Jennings Staley sent this “COVID-19 management program” to an undercover FBI agent. It contained hydroxychloroquine; generic versions of Xanax and Viagra; and azithromycin, an antibiotic that's often called a Z-Pak. (Courtesy of U.S. Attorney's Office)

## A San Diego doctor is accused of hailing hydroxychloroquine as a ‘miracle cure’ to an undercover FBI agent posing as a prospective patient

By KRISTINA DAVIS

MAY 31, 2020 | 12 PM



Dr. Jennings Staley has been to war. He served on the front lines in Iraq as an Air Force physician, tending to the atrocities suffered by civilians and fighters alike.

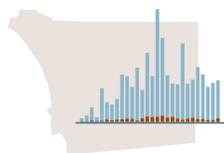
So when COVID-19 arrived on U.S. soil, the internal medicine specialist-turned-med spa doctor once again wanted to be on the front lines — and armed with what many touted to be the best weapon available: hydroxychloroquine.

“He treated this as a war situation,” explained his attorney, Patrick Griffin.

But in the eyes of federal investigators, Staley, 44, was less a war fighter than a swindler. Now, in what appears to be a first involving the controversial medication, he is being federally prosecuted on a charge of mail fraud, accused of hailing the malaria drug as a “miracle cure” and “magic bullet” to an undercover FBI agent posing as a prospective patient, according to federal court documents.

The San Diego prosecution comes as President Donald Trump publicly acknowledges that he’s been taking the medication as a preventative measure, and after the federal government has stockpiled the drug for reasons that include emergency treatment of COVID-19.

The incongruities add to the controversy surrounding hydroxychloroquine. It has been met with mixed results in numerous medical studies and has come to represent the nation’s deep political divide during the public health crisis.



HEALTH

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May 30, 2020

Griffin, a San Diego trial attorney, has launched a defense that claims government hypocrisy, directly citing Trump’s prime time promotion of the drug. He also questions why the Department

of Justice is handling the case as a felony rather than a civil matter or dispute for a state regulatory board.

“Numerous other pharmacies and doctors were advertising the exact same products,” Griffin said. “Dr. Staley did not need to push these medications; the President, his executive branch, and the most watched cable news channel in America were pushing them to tens of millions of people every day.”

Federal authorities have pushed back, saying the prosecution falls squarely into their responsibility to protect consumers from scammers who exploit people’s fear and anxiety during the pandemic. The case is just one amid a growing workload of coronavirus-related fraud investigations being handled by the FBI nationwide — from fake medical supplies to cyber schemes to fraudulent business loans to fake cures.

“This case alleges textbook fraud,” U.S. Attorney Robert Brewer said in a statement Friday. “The indictment says the defendant made false claims about a ‘magic bullet’ drug that could cure a potentially deadly disease. He made the claims to someone he believed to be a potential customer, all while trying to sell him an expensive package of medicines and ‘concierge’ treatments.

“That straightforward fraud was confirmed when the defendant told investigating agents, as set out in the complaint, that he would never make such a claim because it wasn’t supported by the science,” Brewer continued. “Making false claims in order to deceive someone to part with their money is fraud, and that is what this case charges.”

Griffin said he believes the facts will vindicate his client, who has pleaded not guilty. But the politics baked into the case — and into each of the jurors who would sit on a trial — also can’t be ignored, he said.

“It’s such a polarizing issue to get 12 people to come to a unanimous verdict,” Griffin said in an interview.

He added: “The politics of this have poisoned the well, so to speak.”

## War wounds to beauty treatments

Staley grew up in Decatur, Ill., and joined the Air Force around 2005 after finishing medical school, according to [an interview](#) he gave his hometown newspaper, the Herald & Review.

After his military career, he moved to San Diego and opened up Skinny Beach Med Spa in Carmel Valley, with satellite offices in Del Mar and San Juan Capistrano. The spa’s website offers “world-class beauty innovations” and treatments that “fight aging without surgery,” including Botox, body sculpting, fat transfers, hyperbaric oxygen therapy and hormone therapy.

When hydroxychloroquine emerged as a possible treatment for COVID-19 early in the pandemic — drawing particular attention during White House news briefings — Staley’s clinic began to receive offers of the drug for sale from pharmacies, according to Griffin.

“There was immense demand for this,” Griffin said, especially in the month-long period between mid-March and mid-April. “That was the craziest time during the whole pandemic.”

Staley wasn’t alone. In the week of March 15, prescriptions for small amounts of hydroxychloroquine/chloroquine jumped by nearly 2,000 percent — to 45,858 fills — when compared to the same period a year earlier, according to [an article published Thursday](#) in research journal JAMA. The surge was “likely due to off-label prescriptions for COVID-19,” concluded the researchers, physicians in Boston who worked with GoodRx on the data.

The research also found there was a subsequent reduction in longer-term prescription fills, indicating decreased availability for patients who regularly use the drug for its approved use of treating lupus or rheumatoid arthritis, besides its best-known treatment of malaria.

[Pharmacists have reported](#) doctors appearing to hoard the drugs to treat themselves or those close to them — reports that have prompted swift rebukes from regulatory agencies, including those that oversee California healthcare.

On March 28, the Food and Drug Administration noted that hydroxychloroquine and chloroquine “are not FDA-approved for treatment of COVID-19.” However, the agency said it was “reasonable to believe” that the drugs may be effective and approved emergency use of the drugs. There were restrictions, however: the drugs must be distributed from the Strategic National Stockpile to public health authorities and used during hospitalization when a clinical trial is not available or feasible.

In a few social media posts and in a newsletter to his 10,000-plus subscribers, Staley advertised his own “COVID treatment packs” to patients.

Among the offers was a family VIP package at just under \$4,000, including 90 days of 24/7 access to Staley for home visits or telehealth consultations, personalized prescriptions of hydroxychloroquine and azithromycin for the whole family, anti-anxiety medications “to help you avoid panic if needed and help you sleep,” and coronavirus testing, according to the federal complaint.



HEALTH

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May 18, 2020

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On a separate website, covid19medkits.com, Staley was also offering for \$495 to \$595 just the hydroxychloroquine/azithromycin kits, which were touted as “showing great success on the frontlines against COVID-19.”

San Diego’s 10News aired a story questioning Skinny Beach’s treatment offers on March 30.

Staley told the news station that the reaction from the public had been intense. “I knew it would be a little bit controversial because there was the controversy around the fact that hydroxychloroquine wasn’t approved until Sunday night, but I didn’t think people would be so angry.”

The FBI and FDA followed up with their own undercover investigation.

Because the special agent posed as a wealthy fund manager with a wife, three children and elderly father, Staley sold him the expensive family VIP package, Griffin said.

If someone in the household should get sick, Staley instructed that he would then “activate” the kit, providing dosage amounts and instructions. The sick person would take the medication, as well as the rest of the household to “prophylax” them, according to the complaint.

During the phone call with the undercover agent, Staley praised the drug for its efficacy against COVID-19.

“It’s preventative and curative. It’s hard to believe, it’s almost too good to be true. But it’s a remarkable clinical phenomenon,” the doctor said, according to the complaint. Staley also stated, according to the document, “I’ve never seen anything like this in medicine, just so you know. Really, I can’t think of anything. That, you’ve got a disease that literally disappears in hours.”

## **Last tank out of China**

Griffin said Staley’s comments were the product of an agent professionally trained to extract incriminating statements from the subject of an investigation. He said the agent finessed the conversation by pretending to be fully on board with the treatment and asked Staley for advice on how to convince his wife.

The attorney said the recorded conversation was not indicative of the interactions Staley had with about 30 other patients to whom he prescribed treatment kits.

“There were around 30 COVID patients, not a single real patient was ever told these medications provided a 100% cure or was made any promises,” Griffin said. “Every patient was given detailed instructions and information about the medications, including fact sheets taken directly from the FDA’s website.”

Only one other \$4,000 kit was sold — to a multimillionaire — while the rest of the patients received the standard, lower-priced kits, Griffin said.

But in the conversation with the agent, Staley was recorded boasting about a booming business, including claims that he “got the last tank of hydroxychloroquine smuggled out of China on Sunday night.” He said that the broker “tricked customs” by saying that it was “sweet potato extract,” according to the complaint.

Griffin said a Chinese broker, not Staley, was in control of the hydroxychloroquine procurement and it was the broker who insisted on labeling the product as yam extract due to a temporary ban in China on exports to the U.S. The importation allegation is not part of the indictment issued last week by a grand jury.

“Every medication that Dr. Staley delivered to a patient was procured from a licensed U.S. pharmacy,” Griffin said.

The agent got his treatment pack on April 9, including “azithromycin tablets in a box; generic Xanax and Viagra in bottles; hydroxychloroquine in small brown envelopes; and chloroquine in small, clear plastic bags.”

Staley was arrested one week later.



doctors from patients, caregivers and medical providers. So far there are 363 such complaints, although the exact nature of each was not immediately available, nor their outcomes.

“What the board expects out of physicians is that they are following the standard of care when treating their patients,” said board spokesman Carlos Villatoro. “If there are reports of misleading consumers, then the board would definitely want to look into that.”