



National Association  
of Attorneys General

---

# MEDICAID FRAUD REPORT

July/August 2006

## INSIDE

<b>New York Files Charges in Drug Diversion Case</b> .....	<b>1</b>
<b>Cases</b> .....	<b>3</b>
<b>Case Updates</b> .....	<b>.22</b>

### **New York Files Charges in Drug Diversion Case**

Attorney General Eliot Spitzer announced on August 23 that eight individuals and six companies have been charged with trafficking in tens of millions of dollars worth of black-market prescription medications. A related civil suit filed by the Attorney General's office seeks the recovery of more than \$70 million from these defendants and from an additional 30 individuals and entities which received or laundered the proceeds of this criminal activity.

Six defendants and six companies have been charged in an indictment returned by a Nassau County Grand Jury. Two other defendants face charges in felony complaints filed in Nassau County District Court. All of the indicted defendants face conspiracy and drug diversion charges. Some also face money laundering counts.

The charges are part of the MFCU's ongoing investigation into the unlawful purchase, sale and distribution of diverted and compromised prescription medications. The investigation has included collaborative efforts with federal and state law enforcement agencies across the nation and has resulted in charges previously filed in federal court in Utah and in other cases in New York.

The indictment and filed complaints allege the existence of a criminal conspiracy that operated from approximately March 2002 to approximately April 2005, in which the conspirators illegally obtained prescription medications, including unused medications and medications stolen from manufacturers, sold the drugs to wholesalers in New York, Utah and Texas and then illegally resold the diverted drugs to pharmacies in New York and elsewhere for sale to retail customers. In addition, the indictment alleges that some of the defendants used numerous companies and entities to launder the millions of dollars in proceeds from the sale of diverted prescription medications. The

diverted pharmaceuticals in these cases primarily consisted of expensive HIV/AIDS medications and also included medications stolen from the pharmaceutical manufacturer, Pfizer, Inc.

Anand Kumar Jaiswal, a licensed pharmacist and the owner of Medwin Pharmacy in Maspeth, New York, was indicted and charged with conspiracy, scheme to defraud, and multiple counts of diversion and money laundering. It is alleged that Jaiswal illegally supplied large quantities of diverted medications to Mohamed Shafeek and others and that he received more than \$20 million from Shafeek in payment for these medications. It is further alleged that Jaiswal directed Shafeek to pay for these drugs by funneling money to various companies controlled by Jaiswal, including multiple companies engaged in the perfume industry.

Mohammed Saeed Kahn aka "Sahi", a principal of the Rockaway Levonia Pharmacy, Inc., in Brooklyn, New York, was indicted and charged with conspiracy, scheme to defraud and multiple counts of diversion and money laundering. It is alleged that Kahn supplied large quantities of diverted medications to Mohamed Shafeek and others, that he received more than \$3 million from Shafeek in payment for these medications and that he directed Shafeek to pay for these drugs by funneling money to a company affiliated with Kahn.

Lakhram Mangar, aka "Larry," a licensed pharmacist, was indicted and charged with conspiracy, scheme to defraud and multiple counts of diversion and money laundering. It is alleged that Mangar supplied large quantities of diverted medications to Mohamed Shafeek and others and that he received more than \$12 million in payment for these medications. To disguise the nature of these transactions and these payments, Mangar instructed Shafeek to make these payments to a variety of companies connected to Mangar.

Amer Hussain, the owner of pharmacies located in Manhattan and Queens, and his father, Chaudhry Hussain were both charged with conspiracy, scheme to defraud and multiple counts of diversion and money laundering. It is alleged that these two defendants unlawfully sold stolen and diverted medications to defendant Mangar.

Mohamed Shafeek was charged in a felony complaint with diversion and money laundering, and his former girlfriend, Patricia Rodriguez, was charged in a felony complaint with conspiracy and diversion. It is alleged that Shafeek, Rodriguez and others purchased tens of millions of dollars worth of diverted pharmaceutical products, including stolen and unused medications that had been previously prescribed to patients, and cleaned up those products to make them look new and unused. They then used a pharmaceutical wholesale company which they controlled, PRNY Enterprises, Inc., to illegally sell the diverted drugs to others, including pharmaceutical wholesalers in Utah (PDRX Marketing LLC) and Texas (TXRX, Inc.). In April of 2005, as part of this ongoing investigation, federal authorities in Utah charged PDRX and its owners with crimes relating to the illegal distribution of the drugs provided to PDRX by defendants Shafeek and Rodriguez.

Xxom Martino, who was the owner of defendant TXRX, Inc., a Texas-based pharmaceutical wholesaler was indicted for conspiracy, scheme to defraud and multiple acts of diversion. It is

alleged that he knowingly and unlawfully purchased diverted medications from Shafeek and others and that he paid Shafeek more than \$27 million for these drugs which he in turn sold to pharmaceutical retailers in New York and elsewhere. Martino is in custody in Florida on an unrelated case, and is awaiting extradition.

For further information contact Special Assistant Attorneys General Glenn M. Jones (212) 417-5379 and Lara A. Stingley (212) 417-2194.

## **CASES**

### **Adult Day Care Centers: New York**

Attorney General Spitzer announced on August 24 that the Maitri Center Inc., an AIDS day treatment program, has agreed to repay the New York State Medicaid Program more than \$1.4 million it improperly received from Medicaid.

The Maitri Center is an AIDS adult day health care program which provides social and health services to individuals living with HIV/AIDS. As an AIDS adult day health care program, Maitri provides its patients with case management services, medical and nursing care, dietary instruction, meals, exercise and fitness classes, and other social, therapeutic, and recreational therapies. To qualify for Medicaid reimbursement, Medicaid regulations require that patients attend the program for at least three hours per day and that they also receive at least three hours of health care services per week. Medicaid regulations further require that the program maintain records showing that the patients actually received the claimed services.

The investigation conducted by the Medicaid Fraud Control Unit (MFCU) revealed that the Maitri Center improperly billed Medicaid for services when the patients: (1) had not been present at the program at all; (2) had not been at the program for the required three hours per day; and/or (3) had not received three hours of required weekly health care services. The MFCU also determined that in other instances the Maitri Center failed to maintain records that demonstrated that the patients had attended the program as required.

The Maitri Center fully cooperated with the MFCU investigation and has undertaken reforms to ensure that Medicaid is billed only when services are provided in accordance with Medicaid regulations. The MFCU determined that the Center's billing errors were not the result of fraud and that the Center lacks the resources to make immediate repayment of this overbilling. The MFCU also determined that the center provides valuable services to a needy population. Therefore, the settlement agreement allows the Center to repay Medicaid over a period of nine years. The Center will be required, however, to pay Medicaid interest totaling approximately \$450,000 over this nine year period.

For further information contact Special Assistant Attorney General Thom O'Hanlon (845) 732-7523.

**Dentists: New York**

Attorney General Spitzer announced on May 11 that a former pediatric dentist pleaded guilty to one count of Grand Larceny in the Third Degree, in County Court, admitting that he defrauded the Medicaid program.

The Superior Court Information, filed with the Court, alleges that David Douglas Gardner caused the submission of Medicaid claims that falsely represented that he filled the teeth of dozens of young patients, when in fact he did not. Small Smiles Dentistry has cooperated with the investigation and already repaid the state approximately \$444,000.

Gardner, who pleaded guilty on May 10, is surrendering his dental license, is expected to be sentenced to six months in prison and five years of probation. Gardner was employed by Small Smiles from November 2004 until his termination on August 31, 2005.

For further information contact Special Assistant Attorney General Jerry Solomon, Rochester Regional Director (585) 262-3970.

**Drug Diversion: Mississippi**

Attorney General Jim Hood announced that Michelle Bond pleaded guilty on June 19 to one count felonious abuse of a vulnerable adult for removing prescribed pain medication patches from a resident. Bond was sentenced on July 25 to ten years, one year to serve, nine years suspended, five years post release supervision, ordered to complete an intensive seven month's of alcohol and drug treatment program while incarcerated, and ordered to pay a \$1,000 fine, \$1,000 to Lamar County public defenders fund, \$1,000 to the Mississippi Crime Victims Compensation Fund, and court costs.

For further information contact Special Assistant Attorney General Tim Howard (601) 359-4220.

**Drug Diversion: Texas**

Attorney General Greg Abbott announced on July 17 that Lois Chiotti Evans, a Licensed Vocational Nurse (LVN), pleaded guilty in Dallas County District Court to one charge of Obtaining a Controlled Substance by Fraud and two charges of Tampering with a Governmental Record. She was sentenced to eight years probation and fined \$1,000 on each charge. The charges were obtained as a result of a drug diversion investigation which found that she diverted Hydrocodone medications from three residents while employed at Mesquite Tree Nursing & Rehab. Evans ordered Hydrocodone without a physician's order for one resident and then took the medication and narcotic control count sheet to cover her actions. Over a three month period, she ordered PRN medications

for two other residents without medical necessity. Evans documented on narcotic control sheets that she was dispensing these medications when she was taking the medications for her personal use.

\* \* \* \*

Attorney General Abbott announced on July 26 that Patricia Dawn Lee, a licensed vocational nurse, pleaded Guilty to a Class-A Misdemeanor charge of Possession of a Dangerous Drug. Lee was sentenced to twelve months confinement in jail probated for twelve months. She was also assessed a \$2,000 fine, ordered to pay court costs of \$270 and to complete 80 hours of community service. Additionally, Lee was ordered to undergo a drug and alcohol evaluation, participate in a drug education program, and attend substance abuse counseling.

The charges in this case were the result of an MFCU investigation which revealed that on March 30, 2005, Lee, who was then employed at Canterbury Villa of Hillsboro, diverted twenty-eight Soma tablets prescribed to a facility resident, as well as 75mg of Phenergan from the facility emergency box. Lee used these medications in an unsuccessful suicide attempt which caused her to pass out while on duty at the facility.

\* \* \* \*

Attorney General Abbott announced that on August 21, an Information was filed by the McLennan County District Attorney's Office charging licensed vocational nurse (LVN) Cindy Charlotte Jensen with the Class-A Misdemeanor offense of Possession of a Controlled Substance. This action resulted from a MFCU investigation that revealed that on February 6 Jensen diverted six, 200mg tablets of Provigil (Modafinil), a Schedule IV, non-narcotic controlled substance, while employed as a charge nurse at Royal Manor Health Center.

For further information on these cases contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

### **Drug Diversion: Wisconsin**

Attorney General Peg Lautenschlager announced on August 11, that Christine Rosik has been convicted of possession of drug paraphernalia. The woman confessed to "cooking" crack cocaine at the group home for developmentally disabled people at which she was employed.

Rosik, appeared before Brown County Circuit Court Judge Richard Dietz and entered a guilty plea to one count of misdemeanor Possession of Drug Paraphernalia. Sentence was withheld and Rosik was placed on 12 months probation. As a condition of probation, Rosik is barred from working as a healthcare provider and may not possess any controlled substance without a prescription. She must also complete AODA and submit to random drug screenings.

According to the Department of Justice's criminal complaint, Rosik was employed by the Glen Ridge Family Care Facility, a community based residential facility that houses developmentally

disabled individuals. Rosik was the assistant program manager and was responsible for providing direct care to the residents of the facility.

On December 2, 2004, acting on a tip, two police officers were called to the home regarding possible presence of crack cocaine and drug paraphernalia. They were told that Rosik was manufacturing crack at the group home. Upon arrival, the officers searched and found a large plastic bag containing items often associated with the use of crack cocaine. They also found baggies containing white powder residue believed to be cocaine. After her initial denial, Rosik confessed the items found were hers and that she used them to “cook” crack cocaine.

For further information contact Tom Storm, Director MFCU (608) 266-9945.

### **Durable Medical Equipment: Texas**

Attorney General Abbott announced on July 27 that a grand jury indicted Samantha Brown and Pete Carrasquillo. Brown and Carrasquillo were employed at Gericare Providers Inc., which specialized in wound care supplies. It was alleged that Brown and Carrasquillo, sales representatives forged medical documents in order to increase their commissioned salaries. The case was opened based on the allegation of a physician that her signature was being forged by Gericare representatives. The investigation revealed that a total of six physicians were allegedly victims of the forgery scheme. It was alleged that payments of \$120,206 from Medicaid and another \$279,715 from Medicare were based on forgeries. In addition, administrative recoupments totaling \$345,318 for missing documentation or physician signatures have also been identified.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

### **Home Health Care Aides: Colorado**

Attorney General John Suthers announced on July 25 that Anna Belyakova pleaded guilty in the Denver District Court to the charge of Theft of less than \$100, a Class 3 misdemeanor. Belyakova received a conviction, with one year probation, 40 hours community service and restitution of \$835.24.

Belyakova provided non-medical unskilled care in a recipient’s home under the Medicaid Home and Community Based Services (HCBS) program (cleaning, cooking, etc.) She did not have any type of professional license. The agency she worked for is a company that provides HCBS services, mostly PCP services.

The investigation by the Colorado MFCU showed that Belyakova was employed by a home services agency. She billed her employer for services that she did not provide, either because she did not work as long as she stated on her time sheets, or because she did not work at all on a given day. This was discovered through the use of an undercover Medicaid recipient who kept track of the time spent by providers caring for her.

For further information contact First Assistant Attorney General Mark J. Zammuto or Investigator Theresa Bradbury (303) 866-5431.

**Home Health Care Aides: Minnesota**

Attorney General Mike Hatch announced on July 20 that Tamika Marie Hutchinson was sentenced to a stay of imposition and placed on probation for five years after pleading guilty to one count of theft. Hutchinson stole checks and jewelry from vulnerable adults for whom she was providing home health aide services. The conditions of probation are that she serve 60 days of electronic home monitoring, pay a \$50 fine, provide a DNA sample, write a letter of apology to the victims or family, and not work with vulnerable adults.

For further information contact Assistant Attorney General Paul Civello (651) 296-1089.

**Home Health Care Aides: Ohio**

Attorney General Jim Petro announced on July 7 that Rachel Akers entered a plea of guilty to one count of Medicaid Fraud, a misdemeanor of the first degree. Also on July 7 she was sentenced to 90 days in jail, suspended, and placed on two years community control. In addition, Akers was ordered to pay restitution in the amount of \$1,056 within two years. Akers was an independent provider and billed for services not rendered in November 2005.

For further information contact Assistant Attorney General Corinna Vaughn (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on July 25 that Viktor Bratslavskiy entered into a plea of guilty to one count of Medicaid Fraud, a misdemeanor of the first degree. On July 28 he was sentenced to 90 days in jail, suspended, ordered to pay \$100 in court costs, and ordered to pay restitution in the amount of \$13,251.

Bratslavsky agreed to provide daily living services to his parents under the Passport program and did not provide the amount of services he billed to the program.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on December 7, 2005, that Amber Brown entered a plea of guilty to one count of Complicity to Commit Medicaid Fraud, a felony of the fifth degree. On January 20 Brown was sentenced to five years community control, and ordered to pay restitution in the amount of \$8,400. Brown was an independent provider who operated a kickback scheme between May and December 2004.

For further information contact Deputy Attorney General Jordan Finegold (614) 466-0722

. \* \* \* \*

Attorney General Petro announced that on March 21 Debbie Burrier was indicted on one count of Medicaid Fraud, a felony of the fourth degree. On July 26, Burrier was sentenced to two years community control, 40 hours of community service, and ordered to pay \$18,000 in restitution. She was an independent home health aide who billed for services that she did not render.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on November 15, 2005, that Wendy Dyer was indicted on one count of Attempted Medicaid Fraud, a misdemeanor of the first degree, and one count of Medicaid Fraud, a felony of the fourth degree. On July 11 Wendy Dyer was sentenced to five years community control, and ordered to pay restitution in the amount of \$32,664. As a condition of her community control, Dyer is required to maintain employment. Dyer, an independent provider, billed for services which exceeded the amount of services she provided to a Medicaid recipient.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on July 19 that Gladys Milby was sentenced to 90 days incarceration, suspended, and ordered to pay \$2,523 restitution and a \$100 fine. While employed for a home health provider, Milby billed for services not provided. She also shared the stolen money with two of her recipients. She is one of five defendants involved.

For further information on all cases contact Deputy Assistant Attorney General Jordan Finegold (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on July 25 that Larry Pack was sentenced to five years of community control, and ordered to pay restitution in the amount of \$12,000. On July 25 Pack pleaded guilty to one count of Medicaid Fraud, a felony of the fifth degree. Pack was a home health aide, and while employed by a healthcare provider, billed for services he did not provide.

\* \* \* \*

Attorney General Petro announced that on July 10 Michael Plas was sentenced to 30 days incarceration, suspended, and ordered to pay a \$1,747.25 in restitution. On that same day Plas pleaded guilty to one count of Medicaid Fraud a misdemeanor of the first degree. While employed by a home healthcare provider, Plas billed for services that he did not provide.

For further information on both cases contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

### **Home Health Care Aides: Oregon**

Attorney General Hardy Myers announced on August 17 that Lula Bargelt was convicted of felony Making False Claim for Healthcare Payment.

Bargelt was part of an Oregon Medicaid program that provided 20 hours a month of service to medically needy recipients. Pursuant to that program, Bargelt was receiving such care, the care being provided for by her son. In April 2005, however, the son was required to report for out-of-state military duty.

While the son was out of the state his mother continued to submit vouchers to the state, forging his name, claiming that the son was providing the 20 hours per month care for Bargelt. Bargelt lived in a small town and her caseworkers had "heard" that Bargelt's son had been called up for activity. Based on this, the workers referred the case to the Medicaid Fraud Control Unit, which confirmed the fraud. The investigator discovered during his investigation that while Oregon

Medicaid was paying for services to Bargelt, Oregon was also paying Bargelt to provide respite care to disabled children.

As part of Bargelt's sentence, she was placed on five years probation, required to perform 120 hours community service, not be employed in any capacity paid, directly or indirectly, with Medicaid or Medicare, and required to pay a total fine, fees, and restitution of \$2,834.

\* \* \* \*

Attorney General Myers announced that on August 3 Edin Osmic, a homecare worker, pleaded guilty to felony Make False Claim for Healthcare Payment.

Osmic was paid by Medicaid to provide home healthcare for his ailing mother. In May 2005, his mother traveled to her native country, Bosnia. Unexpectedly, she died in October 2005 while in Bosnia. Osmic, however, never reported her travel to Bosnia and in fact, continued to submit vouchers claiming that he was providing care. In a subsequent administrative hearing, Osmic inadvertently disclosed that his mother had been in Bosnia for many months before her death (a fact not known to Medicaid officials), which then prompted the investigation by the Oregon Medicaid Fraud Control Unit.

Osmic was sentenced to 36 months supervised probation. Included as conditions of probation was that Osmic pay a fine, pay immediately at the time of sentencing \$2,768 restitution to Medicaid, and not work directly or indirectly with Medicaid or Medicare programs.

For further information on both cases contact Senior Assistant Attorney Rodney Hopkinson (971) 673-1880.

### **Medical Transportation: Colorado**

Attorney General Suthers announced on August 8 that Marina Bogdanov pleaded guilty in the Arapahoe County District Court to Computer Crime, a Class 4 felony, and Theft \$100 to \$500, a class 2 misdemeanor. Bogdanov received a two-year deferred judgment and sentence on the felony, and a conviction with probation on the misdemeanor. Conditions include payment of restitution of \$756.40, costs and fees, and 100 hours of useful public service.

The investigation by the Colorado MFCU showed that Bogdanov owned and operated a non-medical transportation company, First Choice Ride. She was assigned to provide services to a disabled Medicaid recipient who was reporting to the MFCU. The recipient maintained a log of the rides and other services she received. While the recipient was provided a total of three rides during a several-week period, Bogdanov billed Colorado Medicaid for 34 rides during that time and was overpaid \$756.40.

For further information contact Assistant Attorney General George A. Coddington or Investigator Theresa Bradbury (303) 866-5431.

**Medical Transportation: Wisconsin**

Attorney General Lautenschlager announced on July 3 that William Powell appeared before Milwaukee County Circuit Court Judge Michael B. Brennan and entered a guilty plea to two counts of misdemeanor Fraudulent Insurance and Employee Benefit Claim. Powell filed false claims and overcharged the state's Medicaid program.

Powell was immediately sentenced to one year probation. As a condition of probation, Powell must pay \$22,008.43 in restitution. Powell paid \$9,892.00 at sentencing. As further condition of probation, Powell will surrender his Medicaid provider number for himself and his company, Metro Care Transport, Inc., Powell must also complete 50 hours of community service.

According to the Department of Justice's criminal complaint, Powell was the owner of Metro Care Transport, a specialized medical vehicle transportation service which provides transportation to disabled Medicaid recipients to medical appointments. In some circumstances a "second attendant" is necessary to accompany the driver of the vehicle to assist in the movement and transport of the disabled individual. These trips are reimbursed by the Medicaid program at a higher rate than trips where a second attendant is not necessary. Between January 2000 and December 2004, Powell billed the state Medicaid program for trips claiming a second attendant was provided when, in fact, a second attendant was not provided.

For further information contact Assistant Attorney General Frank Remington (608) 266-3542.

**Nurses: New York**

Attorney General Spitzer announced on July 3 that Astra Brown has been charged with stealing more than \$40,000 by falsifying time sheets for nursing care she never provided. In a second case, she was charged with falsifying the license renewal application she filed with the state.

Brown was charged in two separate accusatory instruments. She was charged with one count each of Grand Larceny in the Third Degree, Forgery in the Second Degree, Criminal Possession of a Forged Instrument in the Second Degree and Falsifying Business Records in the First Degree, all felonies. These charges stem from her employment at White Glove Placement, Inc., a nursing agency that had assigned her to work at Medford Multicare Center, a nursing home. Medford terminated Brown in early October 2005, but Brown continued to submit time sheets to White Glove through January. In order to get paid, Brown forged the signature of a Medford supervisor on thirteen time sheets for numerous shifts that she did not work. As a result, White Glove paid Brown more than \$40,000 and billed Medford for hours that Brown never worked.

In the second case, Brown was charged with Offering a False Instrument for Filing in the First Degree, also a felony. Brown, who was licensed as a practical nurse in New York in June 2001, falsified her license renewal application in June 2004, by denying that she had any criminal charges pending against her when, in fact, she had been arrested earlier that month. The falsified application was filed with the New York State Education Department and her license was renewed, permitting her to continue to work without further scrutiny.

For further information contact Special Assistant Attorney General Veronica Bindrim-MacDevitt (631) 952-6977.

**Nurses: Texas**

Attorney General Abbott announced on August 14 that Teresa Sanchez Olvera appeared for sentencing for two felony charges and received six months state jail time for Fraudulent Use of Identifying Information and she received ten years, probated for eight years, for Tampering with a Governmental Record. She was also ordered to pay a \$2,500 fine and to perform 400 hours of community supervision as a condition of probation.

These charges stemmed from an investigation that revealed Olvera utilized a nursing license belonging to a registered nurse and obtained employment at an OB/Gyn physicians' office in Round Rock, Texas. Between January 17, 2004, until December 16, 2005, Olvera worked as a registered nurse although she was not educated, trained, licensed or that qualified. Based on additional information obtained during the investigation, it was discovered Olvera had been previously convicted in 1995 for Mail Fraud involving the same scheme. Additionally, the investigation revealed Olvera posed as a registered nurse and obtained employment at a Travis County physician's office shortly after terminating her employment.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

**Patient Abuse: District of Columbia**

The District of Columbia Medicaid Fraud Control Unit announced on July 25 that Reginald Nichols, a former care giver to a mentally retarded adult, was sentenced in D.C. Superior Court by the Honorable Rafael Diaz on July 18 to one count of criminal abuse of a vulnerable adult. The defendant pleaded guilty to the charge on May 18. Judge Diaz imposed a sentence of 120 days which was suspended except for 45 days of incarceration. Judge Diaz also ordered two years of probation, during which time the defendant was prohibited from working with or providing care for vulnerable persons or persons with disabilities. The judge's sentence also included a mental health evaluation, and drug treatment.

Nichols was formerly a one-on-one care giver for a 28 year-old mentally retarded man who resided at a group home in Washington, D.C. According to the government's evidence, Nichols

assaulted the man in his care while both were on a bus in Northwest Washington, D.C. while in transit to a day treatment program on January 30, 2006.

For further information contact Susan Kennedy, Director MFCU (202) 727-8008.

**Patient Abuse: Minnesota**

Attorney General Hatch announced on July 7 that Elija Uva Akper was sentenced to a stay of imposition and placed on probation for ten years after pleading guilty to theft by swindle. Akper was a registered nurse working at a nursing home through a temporary or pool agency. Akper was accused of committing sexual assault against a co-worker. During the assault investigation, it was determined that Akper had previously been disqualified from providing direct patient care as a result of criminal charges stemming from a sexual assault in 1999. Akper forged his background study clearance in order to obtain employment at the nursing home. The county attorney's office prosecuted Akper on the sexual assault matter; the Medicaid Fraud Control Unit prosecuted him on the theft portion for money he received for services he had been disqualified from providing.

The conditions of Akper's probation are that he serve 120 days in the county jail, pay restitution to the facility in the amount of \$12,000, and pay a fine in the amount of \$1,000. In addition, Akper was ordered to submit a DNA sample, is not to be employed or obtain further education in the medical or healthcare field, and is not to leave the state of Minnesota or North Carolina (his most recent residence) without the consent of his probation agent.

For further information contact Assistant Attorneys General David Loeffler (651) 296-8428 or Paul Civello (651) 297-1089.

**Patient Abuse: Mississippi**

Attorney General Hood announced that Latisha Cochran pleaded guilty in on July 17 to one count Felony Abuse of a Vulnerable Adult for taking a drug patch from a resident of Glen Oaks Nursing Center in Lucedale. She was sentenced to five years, with five years suspended, three years supervised probation, and ordered to undergo random drug testing during the supervised period. She was fined \$500 and court costs and ordered to pay \$250 to the Victim's Compensation Fund.

For further information contact Special Assistant Attorney General Stewart Smith (601) 359-4220.

\* \* \* \*

Attorney General Hood announced that Shaunta Matthews was convicted by trial on July 11 on one count of misdemeanor abuse of a vulnerable adult resident of East Mississippi State Hospital. Matthews was sentenced to 30 days in jail, suspended and ordered to pay a \$1000 fine, and court costs of \$166. She was given 90 days to pay it off.

For further information contact Special Assistant Attorney General Tim Howard (601) 359-4220.

**Patient Abuse: New York**

Attorney General Spitzer announced on August 4 that a grand jury has indicted a nurse aide, who was formerly employed at the Rome Memorial Hospital Residential Health Care Facility, for forcibly raping a 90-year-old female resident of the nursing home who suffers from dementia.

William Morrison, was charged with Rape in the First Degree, Sexual Abuse in the First Degree, Endangering the Welfare of a Vulnerable Elderly Person in the Second Degree, and Wilful Violation of Health Laws.

For further information contact Assistant Attorney General Ralph D. Tortora, III, Director, Syracuse Regional Office (315) 423-1121.

**Patient Abuse: Ohio**

Attorney General Petro announced that on July 20, Rachel Fletcher entered a plea of no contest. On the same day she was sentenced to 90 days incarceration, suspended, one year unsupervised probation, and ordered to pay a \$200 fine. Although no physical sign of injury was observed, the investigation found that Fletcher restrained a resident by tying her hands when the resident became combative.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

\* \* \* \*

Attorney General Petro announced on April 20 that Darleen Wilson was indicted on two counts of Patient Abuse, a felony of the fourth degree. On July 19 Wilson was sentenced to six months incarceration, 200 hours of community service, five years community control, and barred from future employment in a hospital or nursing home.

A resident at the facility where Wilson was employed was found to have a bleeding laceration of the lower lip with small black and blue area on the left side. The investigation found that Wilson

had struck the resident in the head.

For further information contact Deputy Attorney General Jordan Finegold (614) 466-0722.

**Patient Abuse: South Carolina**

Attorney General Henry McMaster announced that Connie Dellenport was convicted on July 11 of Simple Assault and Battery. While employed as a certified nursing assistant at Richard Campbell Veterans Nursing Home Dellenport hit a resident about the body. She was sentenced by Judge Ronald W. Whitman to a fine of \$1,027 suspended upon payment of \$225.

For further information contact Assistant Deputy Attorney General Charles W. Gambrell, Jr., William K. Moore, Senior Assistant Attorney General or Special Investigator James T. Bagnall (803) 734-3660.

\* \* \* \*

Attorney General McMaster announced that Yolanda Hayes was convicted on July 17 of Assault and Battery. On or about May 9, 2005, while employed as a healthcare specialist assistant at DDSN - Midlands Center, she hit, slapped or kicked a resident about the body. The resident is a vulnerable adult under South Carolina law. Hayes was sentenced by Judge William Womble to a fine of \$1,087 with \$500 of the fine suspended.

For further information contact Assistant Deputy Attorney General Charles W. Gambrell, Jr., Senior Assistant Attorney General William K. Moore, or Special Investigator David Addison (803) 734-3660.

**Patient Abuse: Texas**

Attorney General Abbott announced on July 28 that Rebecca George, a certified nurse aide was found guilty of Injury to a disabled individual, a state jail felony. George was fined \$1,500, received ten years probation, ordered to serve 350 hours of community service, and ordered to spend 14 days in jail. The MFCU investigation found that she had mixed a solution containing Dr. Pepper, antiseptic hand cleanser, dish washing detergent, and germicidal bleach into an empty Diet Coke bottle and caused a resident to drink the solution in retaliation for earlier behavior.

\* \* \* \*

Attorney General Abbott announced on July 13 that Nelson Encarnacion, a group home manager, was indicted on two counts of Injury to a Disabled Individual, a Third Degree Felony. Encarnacion was indicted for burning two group home residents with an electric iron. The incident occurred on November 1, 2005, while Encarnacion was the Home Resident Manager for Jubilee Group Home in Corpus Christi.

\* \* \* \*

Attorney General Abbott announced on July 31 that Cynthia L. Williams, a certified nursing assistant and an employee of Heart of Texas Healthcare in Fort Worth, pleaded guilty to Assault Causing Bodily Injury. Williams received one year deferred adjudicated probation, 80 hours of Community Service Restitution, and a \$100 fine with conditions of probation. Williams was indicted by a Tarrant County Grand Jury on August 26, 2004.

Williams attempted to transfer a 57-year-old resident alone, contrary to the requirements of the nursing care plan. Williams dropped the resident to the floor, causing the resident to suffer a bleeding laceration to her head and a bruised eye.

\* \* \* \*

Attorney General Abbott announced that on August 17, a grand jury indicted Rosie Blissett, a certified nurse aide, on one count of Injury to a Disabled Individual. The investigation found that on April 13, 2005, at an ICF-MR facility Blissett slapped a resident on the face. According to a witness, the resident was having "behaviors" and Blissett was trying to redirect him. The resident was heard yelling at Blissett for about ten to fifteen minutes. Another staff employee checked on them to see if Blissett needed any help. When she entered the resident's room, she saw Blissett strike the resident across his face with her hand. According to Blissett, she was only holding him by his cheeks and telling him that if he did not calm down she was going to wash his mouth out with soap.

For further information on these cases contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

### **Patient Neglect: Mississippi**

Attorney General Hood announced that Rosie Johnson pleaded guilty on May 11 to one count misdemeanor neglect of a vulnerable adult and one count falsification of medical records. She was sentenced to one year in jail and fined \$1,000 on each charge with sentences to run concurrent and suspended on the condition fines and court costs are paid and that she avoid any further legal problems during the year she is under sentence.

For further information contact Special Assistant Attorney General Stewart Smith (601) 359-4220.

### **Patient Trust Funds: Colorado**

Attorney General Suthers announced on July 21 that Deana Wilson pleaded guilty in the Montezuma County District Court to Forgery, a Class 5 felony, and Theft between \$100 to \$500, a Class 2 misdemeanor. Wilson received a two-year deferred judgment and sentence on the felony,

and a conviction with probation on the misdemeanor. Conditions include 60 days of jail suspended, 60 hours of useful public service, payment of court costs and victims assistance fees, and letters of apology to the victim and the nursing home in which she resides.

The investigation by the MFCU showed that Wilson worked in a nursing home, where she had access to the bedroom of an elderly resident with dementia. She attempted to cash a \$600 check drawn on the resident's bank account at the drive-through window at a local bank, sending both the check and the resident's identification card through the conveyor tube. When the teller became suspicious and asked her questions, she left the drive through without attempting to collect the check, ID, or money. She was later identified as the person at the drive-through. Although she maintained that the resident had written the check and asked her to cash it, the MFCU showed through its questioned document examiner that the check was written out by Wilson, and further demonstrated numerous ways in which defendant's explanation of events could not have been accurate.

For further information contact Assistant Attorney General George A. Coddington or Investigator Marlin Peterson (303) 866-5431.

### **Patient Trust Funds: Delaware**

Attorney General Carl Danberg announced on July 10 that Vanessa V. Brown, a caregiver employed by the Health Care Place of Delaware, pleaded guilty in New Castle County Superior Court to one count of Exploitation of an Infirm Adult and Conspiracy Second Degree. She was sentenced to four years of probation and ordered to make \$41,350 in restitution to the victim's estate. Brown's sister, Tina Brown, pleaded guilty to Forgery Second Degree and Conspiracy Second Degree and received a similar sentence of four years of probation and ordered to make restitution to the victim's estate.

Vanessa Brown had cared for the victim for approximately two and a half years while the victim resided in an assisted living facility. As part of her duties, Brown assisted the victim with her finances including writing checks to pay bills. Brown financially exploited the victim by taking her checks and enlisting her sister, Tina Brown, to forge the checks and deposit the money. The money was subsequently divided between the two of them. The stolen checks totaled \$41,500.

For further information contact Deputy Attorney General Jim Apostolico (302) 577-8830.

### **Patient Trust Funds: Kentucky**

Attorney General Greg Stumbo announced on August 30 that a grand jury returned an indictment against Doris Avisellan (a.k.a. Doris Winningham).

Avisellan, was the owner of the Lakeside Heights Nursing Center, LLC which was subject to a search warrant and lost its Medicaid funding. Avisellan was required to deposit all business

income into a particular account and obtain court approval before spending it. She is alleged to have obtained income and failed to make the proper deposit. Those funds were then converted for her personal use.

Avisellan has been charged with two counts of Theft by Failure to Make Required Disposition Over \$300, a Class D felony carrying a punishment of up to five years in prison. Avisellan will be arraigned on these charges as soon as she is returned to Kentucky from Florida. Meanwhile, the investigation of conditions at the Lakeside Heights facility continues.

For further information contact Pam Murphy, Director (502) 696-5405.

**Patient Trust Funds: Mississippi**

Attorney General Hood announced that Jennifer Tellis pleaded guilty to petit larceny on July 26 for stealing a cell phone from a resident of Grenada Living Center. Tellis was sentenced to 15 days in jail, suspended, six months probation, and ordered to pay a \$500 fine.

For further information contact Special Assistant Attorney General Stewart Smith (601) 359-4220.

**Patient Trust Funds: Oregon**

Attorney General Myers announced on August 18 that Diana Bielenberg was convicted and sentenced on two felony counts of Criminal Mistreatment in the First Degree. Bielenberg operated two different adult foster homes for individuals with mental health issues. In that capacity, she not only assisted her clients with daily living skills but also assumed responsibility of their finances, namely their monthly personal incidental funds (PIF). Bielenberg stole \$16,110.12 from ten different clients in her homes and admitted to gambling with her clients' money at a local casino. Bielenberg was ordered to serve 13 months in prison and three years of probation. She was also ordered to undergo a gambling addiction evaluation.

For further information contact Assistant Attorney General Sheen Y. Wu (971) 673-1880.

**Patient Trust Funds: Texas**

Attorney General Abbott announced on July 20 that Sherrill Hodnett pleaded guilty to Felony Theft of Fiduciary Property charges in the Benner Healthcare trust fund theft investigation. Because she made total restitution to Benner Healthcare prior to sentencing and because she no prior criminal record, the judge fined her \$1,000 with no probation assigned or time to be served. Hodnett took approximately \$15,200 from the trust fund account and utilized it for her personal use between October 2002 to March 2003.

\* \* \* \*

Attorney General Abbott announced on August 10 that Pamela Lamontagne pleaded guilty to Theft over \$1,500. Lamontagne was sentenced to three years probation and ordered to make restitution in the amount of \$4,200. Pamela Lamontagne was employed as the Business Manager for Terrell Health Care Center from 2001 to 2002. Lamontagne admitted to taking \$4,200 from the patient trust fund by writing and cashing checks made out to patients, and then keeping the money for herself.

\* \* \* \*

Attorney General Abbott announced on July 17 that Lolita Fayette Wilson, a former group home manager, pleaded guilty to Forgery of Financial Instrument. Wilson was sentenced to 180 days confinement in state jail. Wilson was the house manager of Salida Community Home and was responsible for the management of the home whose residents are mentally disabled. The case was referred to the MFCU Dallas Field Office by the Salida Home regional manager who suspected Wilson of stealing from the residents' trust funds. The investigation disclosed that Wilson stole from residents' trust funds by forging the residents' signatures on their personal checks and cashing the checks at Wilson's credit union for at least \$1,500. Crime lab analysis matched Wilson's fingerprints on the suspected forged checks.

For further information on these cases contact Rick Copeland, Director, or Chief Investigator Jim Fossum (512) 371-4700.

**Pharmacies: Arizona**

Attorney General Terry Goddard announced on July 12 a two count indictment of Tyrone L. Armstrong former pharmacy technician of Cigna.

The indictment charges Armstrong with one count of Fraudulent Schemes and one count of Theft. The charges allege that Armstrong, on May 26 attempted to sell a Cigna pharmacy customer medicines that he had allegedly taken from his employer.

For further information contact Assistant Attorney General Steven Duplissis (602) 542-3881.

**Pharmacies: New York**

Attorney General Spitzer announced on March 2 that the former owner of a pharmacy, pleaded guilty in separate state and federal proceedings to stealing nearly \$2 million from Medicaid, Medicare and private insurance companies.

Glenn Mathews appeared on March 2 before Schuyler County Court Judge J. C. Argetsinger, and pleaded guilty to Grand Larceny in the Second Degree, a class "C" felony. He admitted that for a three-year period beginning in January 2000 he billed for medicines he never dispensed. In federal court, Mathews pleaded guilty before United States District Court Judge Michael A. Telesca to one count of health care fraud, and one count of money laundering.

As part of his guilty pleas, Mathews agreed to waive and relinquish any rights or claims to approximately \$1.3 million assets already seized by authorities, repay an additional \$125,000 in cash and execute a judgment for \$500,000. Mathews is expected to receive a 55-month prison sentence, and a term of supervised release of up to three years on the federal charges.

The plea resulted from an investigation conducted jointly by the U.S. Attorney's Office, the Office of the Inspector General for the U.S. Department of Health and Human Services, the U. S. Food and Drug Administration, the Internal Revenue Service and the New York Medicaid Fraud Control Unit.

For further information contact Special Assistant Attorney General Jerry Solomon, Rochester Regional Director (585) 262-3970.

**Physicians: Texas**

Attorney General Abbott announced on July 13 that Pushpa R. Rana entered a plea of guilty to theft. She was sentenced to ten years deferred adjudication and ordered to make restitution in the amount of \$266,215.82. During the period of January 2002 through June 2005, Dr. Rana received \$266,215.82 from the Texas Medicaid program and the CHIP program to which she was not entitled by billing for services not rendered and by up-coding allergy tests.

For further information contact Rick Copeland, Director, or Chief Investigator Jim Fossum (512) 463-2011.

\* \* \* \*

Attorney General Abbott announced on August 17 that a jury convicted Christopher V. Tita, a registered pharmacist and owner of South Gessner Pharmacy in Houston, of 1st degree Theft. Following a punishment hearing the same jury sentenced the defendant to 23 years in prison and a \$10,000 fine. A restitution amount of \$621,000 will be requested to be made part of the judgment. Between April 1999 and August 2000, Tita billed the Medicaid Vendor Drug Program for

prescriptions that were not authorized by physicians, by receiving legitimate prescriptions from Medicaid recipients, filling the prescription as written, then re-writing another prescription for more expensive medications which were submitted to Medicaid for payment.

A number of physicians were interviewed, reviewed the suspect prescriptions, and many of them denied prescribing the more expensive medications. Evidence also showed that the inventory records of the defendant's business could not account for the amounts of the more expensive drugs being billed.

For further information contact Assistant Attorney General Rod Boyles or Chief Investigator Jim Fossum (512) 371-4700.

**Psychiatrists: Minnesota**

Attorney General Hatch announced on July 31 that Edwin Lee Johnson, M.D., was sentenced to a stay of imposition and placed on supervised probation for ten years after pleading guilty to one count of criminal sexual conduct in the fourth degree. Johnson, a psychiatrist, had sexual contact with an adult patient. The conditions of probation are that he serve one year in jail and pay a fine in the amount of \$1,000. Johnson is to provide a biological specimen and register as a sex offender. In addition, Johnson is to have no contact with the victim (directly or indirectly); he is restricted from practicing medicine or psychiatry during his probation supervision, and precluded from unsupervised contact with persons under age 18 or vulnerable adults.

For further information contact Assistant Attorney General Paul Civello (651) 296-1089.

**Speech Therapists: Texas**

Attorney General Abbott announced on July 6 that Rosa Ramos-Scott pleaded guilty to Health Care Fraud in federal court in El Paso. She was sentenced to five years probation and ordered to pay a \$100 special assessment. A restitution hearing determined a restitution amount of \$354,943.80. Ramos-Scott was a speech-language therapist practicing in El Paso, Texas. From January 10, 1998, through February 26, 2003, Ramos-Scott was paid \$333,938.38 by the Texas Medicaid program, of which \$250,038.48 was fraudulently obtained due to billing for individual therapy which had actually been conducted in a group.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

**CASE UPDATES****Drug Diversion: Texas**

Attorney General Abbott announced on August 10 that Susan Moran pleaded guilty to Obtaining a Controlled Substance by Fraud. District Judge Jimmie White sentenced her to five years deferred adjudication and fined her \$1,500. Moran, the former receptionist for Dr. Billy "Rex" Law, DDS, was allegedly calling-in and/or forging fraudulent hydrocodone prescriptions for herself, her husband and son. Moran's son is a Medicaid recipient. Based on the investigation, Moran was arrested on November 16, 2005, by the police while attempting to pick up a forged prescription. (See: *Medicaid Fraud Report*, June 2006, p. 4).

For further information contact Rick Copeland, Director, or Chief Investigator Jim Fossum (512) 371-4700.

**Physical Therapists: Texas**

Attorney General Abbott announced on August 29 that Rosiland Michelle Jones was sentenced to serve 33 months in federal prison, followed by three years of supervised release. Jones was ordered to repay the Medicare program \$1,278,056 and the Medicaid program \$47,143.99. She and co-defendant Brenda Harris are jointly and severally responsible for the repayments. Jones and Harris each previously entered a plea of guilty to one count of conspiracy on January 18. (See: *Medicaid Fraud Report*, November/December 2004, p.23).

On December 13, 2004 a federal grand jury indicated Harris and Jones, who jointly owned and/or operated Health Universal Medical Services. The indictment included multiple counts of Conspiracy, Fraud by Wire and Health Care Fraud. Health Universal was a physician-directed clinic, commonly referred to as a physical therapy clinic that operated from about January 1999 thru July 2001. It was alleged that Health Universal falsely billed for physical therapy evaluations; services not rendered; and services not performed by or under the direct supervision of a licensed physician. Both the Medicare and Medicaid programs were billed about \$4.2 million. This provider was falsely paid about \$1,376,000 in Medicare funds and \$47,143 in Medicaid funds.

For further information contact Rick Copeland, Director, or Chief Investigator Jim Fossum (512) 371-4700.

Medicaid Fraud Report is published 10 times per year by the National Association of Attorneys General. Subscriptions are available at an annual rate of \$150. Inquiries on editorial content or subscriptions should be addressed to:

Barbara L. Zelner  
Counsel  
National Association of Medicaid Fraud Control Units  
750 First Street N.E., Suite 1100  
Washington, D.C. 20002  
Phone: (202) 326-6020

Thurbert Baker  
President, NAAG  
Attorney General  
Georgia

Linda A. Purdy  
President  
National Association  
of Medicaid  
Fraud Control Units

Lynne M. Ross  
Executive Director  
National Association  
of Attorneys General

The views and opinions of authors expressed in this newsletter do not necessarily state or reflect those of the National Association of Attorneys General (NAAG). This newsletter does not provide any legal advice and is not a substitute for the procurement of such services from a legal professional. NAAG does not endorse or recommend any commercial products, processes, or services.

Any use and/or copies of the publication in whole or part must include the customary bibliographic citation. NAAG retains copyright and all other intellectual property rights in the material presented in the publications.

Copyright 2006, National Association of Attorneys General

**INDEX TO CASES**

**ADULT DAY CARE CENTERS** ..... 3

**DENTISTS** ..... 4

**DRUG DIVERSION**

Michelle Bond ..... 4

Lois Chiotti Evans ..... 4

Cindy Charlotte Jensen ..... 5

Patricia Dawn Lee ..... 5

Susan Moran ..... 22

Christine Rosik ..... 5

**DURABLE MEDICAL EQUIPMENT** ..... 6

**HOME HEALTH CARE AIDES**

Rachel Akers ..... 7

Lula Bargelt ..... 9

Anna Belyakova ..... 6

Viktor Bratslavskiy ..... 7

Amber Brown ..... 8

Debbie Burrier ..... 8

Wendy Dyer ..... 8

Tamika Marie Hutchinson ..... 7

Gladys Milby ..... 9

Edin Osmic ..... 10

Larry Pack ..... 9

Michael Plas ..... 9

**MEDICAL TRANSPORTATION**

Marina Bogdanov ..... 10

William Powell ..... 11

**NURSES**

Astra Brown ..... 11

Teresa Sanchez Olvera ..... 12

**PATIENT ABUSE**

Elija Uva Akper ..... 13

Rosie Blissett ..... 16

Latisha Cochran ..... 13

Connie Dellenport ..... 15

Nelson Encarnacion .....	15
Rachel Fletcher .....	14
Rebecca George .....	15
Yolanda Hayes .....	15
Shaunta Matthews .....	14
William Morrison .....	14
Reginald Nichols .....	12
Cynthia L. Williams .....	16
Darleen Wilson .....	14
<b>PATIENT NEGLECT .....</b>	<b>16</b>
<b>PATIENT TRUST FUNDS</b>	
Doris Avisellan (a.k.a Doris Winningham) .....	18
Diana Bielenberg .....	18
Vanessa V. Brown .....	17
Sherrill Hodnett .....	18
Pamela Lamontagne .....	19
Jennifer Tellis .....	18
Deana Wilson .....	17
Lolita Fayette Wilson .....	19
<b>PHARMACIES</b>	
Tyrone L. Armstrong .....	19
Glenn Mathews .....	20
<b>PHYSICAL THERAPISTS .....</b>	<b>22</b>
<b>PHYSICIANS .....</b>	<b>20</b>
<b>PSYCHIATRISTS .....</b>	<b>21</b>
<b>SPEECH THERAPISTS .....</b>	<b>21</b>