



National Association
of Attorneys General

MEDICAID FRAUD REPORT

February 2006

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Massachusetts Nursing Assistant Pleads Guilty to Patient Abuse

A former certified nursing assistant has pleaded guilty and been sentenced for abusing four elderly patients in five incidents at a nursing home, Attorney General Tom Reilly announced on February 21.

Bernadette Stackpole pleaded guilty to five counts each of assault and battery and patient abuse. Norfolk Superior Court Judge Charles Grabau sentenced her to a suspended sentence with probation and barred her from working with the physically or mentally disabled. The Commonwealth had requested a sentence of two years in the House of Corrections with six months to serve and the balance suspended for five years on each count.

Stackpole faced the charges after an investigation by the Medicaid Fraud Control Unit (MFCU) into abuse that occurred at Franklin Skilled Nursing and Rehabilitation Center, where Stackpole was employed as a certified nursing assistant from September 1989 until May 2004.

The investigation uncovered five incidents over several months between February 2003 and April 2004, where Stackpole physically and emotionally abused four elderly residents who had dementia. The investigation further found that in the five separate incidents, Stackpole struck, slapped, improperly touched or verbally abused four patients. Franklin Skilled staff members reported the abuse incidents to Franklin Skilled administrators, who referred the matter to the Department of Public Health (DPH) and the Attorney General's Office. On May 6, 2004, DPH conducted an independent investigation of numerous incidents of abuse involving Stackpole.

Stackpole's conduct took place prior to passage of Senate Bill 1083, sponsored by Attorney General Reilly. This legislation was passed in recognition of the vulnerability of the aged and disabled and the need for more effective deterrent of abusive conduct. In April 2005, Senate Bill

1083's amendments to the bill became effective, which established a new crime of assault and battery on an elder or person with a disability, and enhanced penalties for elder abuse by a caretaker. Under these amendments, Stackpole would have faced maximum sentences of three years in state prison and a \$5,000 fine and, under related amendments would have been liable for civil penalties of \$20,000. Stackpole was fired by Franklin Skilled officials on May 5, 2004.

For further information contact Assistant Attorney General Rick Grundy (617) 727-2200.

CASES

Bookkeepers: Alabama

Attorney General Troy King announced on February 22 the conviction of a former bookkeeper at the Atmore Nursing Care Center for stealing \$18,905 from the nursing home's patient trust fund. Peggy Joyce Dagen pleaded guilty in Escambia County Circuit Court to first-degree theft. Judge Joseph Brogden sentenced her to two years imprisonment, which was suspended, and placed her on eight years of probation with the condition that she must make full restitution.

Dagen stole the money during her employment at Atmore Nursing Care Center between August 2003 and March 2005. She resigned after nursing home staff began to uncover evidence of her theft and reported the matter to the Attorney General's Office.

For further information contact Assistant Attorney General Bruce Lieberman (334) 353-8793.

Bookkeepers: Ohio

Attorney General Jim Petro announced on January 24 that Tracey Barger was sentenced to six months in prison, suspended, and placed on two years of community control. She was also ordered to pay restitution in the amount of \$10,129.53 to Echoing Hills for monies stolen from the patient account funds. On November 28, 2005, Barger was convicted of one count of Theft by Deception, a felony of the fifth degree.

Barger wrote out checks for residents for cash to purchase items but wrote checks for more than necessary and kept the extra money.

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

Dentists: New York

Attorney General Eliot Spitzer announced on February 14 that David Douglas Gardner, a pediatric dentist formerly employed by Small Smiles Dentistry of Rochester, Inc., was arraigned in Irondequoit Town Court on charges that he defrauded the Medicaid program.

The felony complaint, filed with the court, alleges that Gardner caused the submission of Medicaid claims that falsely represented that he performed fillings on dozens of young patients that were, in fact, not provided. Small Smiles has already repaid the state approximately \$444,000 for services allegedly performed by Gardner. Gardner appeared in Irondequoit Town Court and pleaded not guilty to Grand Larceny in the Third Degree, a class "D" felony.

Gardner was employed by Small Smiles from November 2004, until his termination on August 31, 2005. Small Smiles cooperated in the investigation.

For further information contact Jerry Solomon, Rochester Regional Director, (585) 546-7430.

Drug Diversion: Texas

Attorney General Gregg Abbott announced that on February 9 Licensed Vocational Nurse (LVN) April Marie Mosbaugh pleaded guilty to Fraudulent Possession of a Controlled Substance. Mosbaugh received three years probation, a \$1,000 fine, 300 hours of community service, and was ordered to pay \$50 to Crime Stoppers, and \$100 to Crime Victim Services. Mosbaugh, while employed at Vivians Nursing Home replaced a resident's pain medication, Hydrocodone, with Tylenol and took the stolen drugs for her personal use.

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

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Attorney General Abbott announced that on February 16, Joyce Schultz was sentenced to five years probation (deferred adjudication), 240 hours of community service and put into a drug rehabilitation program. She was charged with Tampering with Government Records. Schultz worked at The Willows of Kilgore Nursing Home and pleaded guilty to stealing the narcotics Ativan and Nubain from the facility in at least two different incidents.

* * * *

Attorney General Abbott announced that on February 14 Licensed Vocational Nurse (LVN) Donna Jo Portinga pleaded guilty to the felony charge of Obtaining a Controlled Substance by Fraud. Portinga was sentenced to five years in the Texas Department of Criminal Justice, probated for five

years, and was ordered to pay a \$250 fine and \$283 in court costs. The investigation determined that Portinga took Hydrocodone from a resident and then tampered with government records in an attempt to hide the diversion.

For further information on these cases contact Chief Investigator, Jim Fossum (512) 371-4732.

Durable Medical Equipment: Ohio

Attorney General Petro announced on January 26 that Carla Davison, former owner of Phoenix AMS/DME, was sentenced in the U.S. District Court, Southern District, Eastern Division, to thirty months incarceration, full restitution to Medicaid/Medicare of \$308,085.79 (with Medicaid receiving \$264,507.90), and probation for five years after incarceration.

* * * *

Attorney General Petro announced on February 17 that Linda Floyd's probation was terminated for failure to make restitution of \$36,016.. On May 11, 2004, Floyd was indicted on one count of Medicaid Fraud, a felony of the fourth degree. On August 2, 2004, Floyd was convicted of one count of Medicaid Fraud, a felony of the fifth degree. On September 17, 2004, she was sentenced to three years community control and restitution of \$36,016.00.

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

Durable Medical Equipment: Texas

Attorney General Abbott announced on February 22 that a grand jury indicted Anthony Tschirhart and Sandra Tschirhart, each on one count of theft and Medicaid Fraud over \$100,000 but less than \$200,000 in the Med-Tech Medical Supply investigation. Med-Tech Medical Supply is a durable medical equipment (DME) supplier owned and operated by Anthony Tschirhart and Sandra Tschirhart.

Between January 2000 and October 2004, Med-Tech Medical Supply received \$4 million from the Medicaid Program. Med-Tech Medical Supply billed Medicaid for a custom power wheelchair that was never manufactured and for supplies that were never purchased from suppliers for delivery. The amount of alleged overpayment identified is \$465,925.50.

* * * *

Attorney General Abbott announced on February 24 that Ita John Obot was sentenced by Federal Judge Ewing Werlein, Jr., Southern District of Texas, to 63 months incarceration in federal prison to be followed by a period of three years supervised release. The fine and special assessment

were waived. Obot was ordered to make restitution of \$4,218,444 to Medicare and \$478,274 to Medicaid. Obot previously entered a guilty plea to one count of health care fraud pursuant to a plea agreement on February 17, 2005.

Obot was the owner and operator of Best Medical, a durable medical equipment (DME) company located in Houston, Texas. Between August 2001 through June 2003, Obot billed Medicare/Medicaid \$6,746,001, and was paid \$4,218,444 by Medicare and \$478,274 by Medicaid. Obot submitted claim forms indicating that motorized wheelchairs and accessories had been provided to beneficiaries, but the claims were false less expensive scooters were actually provided or in some instances, nothing at all.

In addition, Obot paid marketers between \$200 to \$300 in cash and checks for Certificates of Medical Necessity (CMNs) signed by various physicians, including Anant Mauskar, M.D., authorizing motorized wheelchairs. This case was worked jointly by the FBI office in Houston and the Office of Inspector General, U.S. Department of Health and Human Services (OIG-HHS). The case was prosecuted by the United States Attorneys Office in Houston.

For further information on these cases contact Chief Investigator Jim Fossum (512) 371-4732.

Home Health Care Aides: Colorado

Attorney General John Suthers announced on February 21, 2005 that Margaret Long, a Primary Care Provider (PCP), pleaded guilty to one count of Criminal Attempt - Theft, a class five felony. Ms. Long was married to Daniel Long, who was eligible to receive HCBS services including primary care. As his wife, Ms. Long was not eligible to be Daniel Long's PCP. Ms. Long conspired with her daughter, Janice Comes to have Comes sign time sheets as Daniel Long's PCP. Comes did not disclose the fact that she was Long's daughter and that she lived with the Longs. Comes did not do any PCP work for Daniel Long. In addition, Comes included time for travel.

Most of the money received from Medicaid was given to Long. At the time Comes and Long were submitting false timesheets, another PCP from a different company was actually providing services to Daniel Long. Comes and Long submitted false PCP timesheets for several months before the fraud was discovered. The loss to Medicaid was \$6,480.

The Arapahoe County District Court sentenced Margaret Long to three years of probation, 100 hours of community service and an alcohol and substance abuse evaluation. Ms. Long was also ordered to pay restitution.

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

Home Health Care Aides: New York

Attorney General Spitzer announced on February 2 that a registered nurse, who was paid to provide home health care to a severely disabled young girl, was sentenced to perform 840 hours of community service and five years probation for her role in stealing more than \$58,000 from New York taxpayers by billing Medicaid for services that she never provided or had previously been paid for.

Registered Nurse Trudy Vosper was sentenced on January 27 by Suffolk County Court Judge C. Randall Hinrichs following her guilty plea in November of 2005, to the felony crime of Grand Larceny in the Third Degree. In addition, Vosper was ordered to pay restitution to the state in the amount of \$58,337. Vosper will also be referred to the State Education Department's Office of the Professions for a review of her nursing license.

Vosper admitted that between October 1, 1998, and December 31, 2003, she was assigned to care for the disabled daughter of co-defendant Yolande Mezil-Thomas, who was approved to receive 19 hours of skilled home-care nursing services a day, seven days a week. Vosper, with Mezil-Thomas's assistance, submitted numerous claims to Medicaid in which she knowingly overstated the extent of home care services provided to Mezil-Thomas's child, including times when Vosper was out of town in Florida, Pennsylvania and elsewhere, as well as during times when she was occupied receiving massage therapy. After payment came from New York State, Vosper and Mezil-Thomas shared over \$35,000 in fraudulent Medicaid proceeds. In attempting to cover up the fraud, Vosper also made false entries in her daily nursing notes.

In addition, Vosper admitted to stealing an additional \$22,000 from Medicaid by submitting claims to Medicaid which represented that the child had no other insurance, when the girl was in fact insured by the private insurance carrier Health Insurance Plan of New York (HIP). By doing this, Vosper succeeded in being paid twice for the same services.

The patient at the center of this fraud has been a Medicaid recipient since her premature birth nine years ago and required extensive skilled nursing care.

For further information contact Special Assistant Attorney General Lara Merchan (631) 952-6967.

Home Health Care Aides: Ohio

Attorney General Petro announced on February 2 that Jeffrey Mayhugh was convicted of one count of Theft, a felony in the fifth degree and sentenced to two years community control, any violation to result in a prison term of up to two years. Mayhugh is to make restitution in the amount of \$3,725, incur no further convictions, and remain gainfully and verifiably employed.

On May 17, 2005, Mayhugh, a former Carestar facilitator, was indicted on two counts of Medicaid Fraud, a felony in the fourth degree; one count of Medicaid Fraud, a felony in the fifth

degree; and one count of Theft, a felony in the fifth degree. Costs of the prosecution are to be paid as directed by the probation officer.

Mayhugh, a registered nurse, supplied Medicaid recipient numbers, names and addresses, and other personal information on children for whom provider Margaret Forrest submitted claims for home health services. Mayhugh knew that Forrest was never going to appear at the recipients' homes but would be submitting claims.

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

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Attorney General Petro announced on February 23 Wanda Jones was sentenced to five years community control, ordered to pay restitution in the amount of \$66,436, ordered to perform 100 hours of community service, and pay a \$1,000 fine (suspended). On November 15, 2005, Jones was indicted on one count of Medicaid Fraud, a felony of the fourth degree. On January 12 Jones entered a plea of guilty to one count of Medicaid Fraud. Jones was a home health aide who billed for services she did not perform.

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

Home Health Care Aides: Oregon

Attorney General Hardy Myers announced that a home healthcare worker who defrauded the Medicaid program was convicted of felony Criminal Mistreatment in the First Degree and sentenced on February 7.

The health care worker, Sandi Neilsen, was hired to care for an 86-year-old Alzheimer's patient and was authorized to provide 83 hours of care a month. During a six month period, Neilsen would work less than the authorized hours, yet continued to bill the state for the maximum authorized hours.

Neilsen, who had no prior criminal record and admitted the crime, was sentenced to three years formal probation. Conditions of probation included; the immediate repayment of \$1,173 to the elderly victim and \$339 to the state, a \$300 fine, eighty (80) hours of community service, no employment in any capacity paid directly or indirectly with Medicaid or Medicare funds, and no employment working with elderly or dependent persons.

For further information contact Senior Assistant Attorney General Rodney Hopkinson, (971)-673-1880.

* * * *

Attorney General Myers announced that on February 13 Annis Evans pleaded guilty and was sentenced on a one count information alleging Making a False Claim for Health Care Payment for billing the Medicaid program for in-home care services that she did not provide.

Evans was paid by the Medicaid program to provide in home care to a disabled Medicaid client. Despite not providing care to her client after February 11, 2005 because she herself was hospitalized, she submitted a forged voucher to the Medicaid program claiming \$665.78 for services that she did not provide.

She was sentenced to three years of supervised probation with conditions that included, 40 hours of community service, paying full restitution, a \$107 fine, and special conditions that prohibit her from employment in any capacity paid with Medicaid or Medicare funds or with disabled and/or elderly individuals.

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

Home Health Care Aides: Washington State

Attorney General Rob McKenna announced on February 22 that Victor L. Friedman pleaded guilty to six counts of Theft in the First Degree and was sentenced to serve 16 months in jail, make restitution in the amount of \$44,525 to the Medicaid program, and pay court costs and victim assessment fees of \$1,453.

Investigator Gary McDonald conducted the investigation for the Washington State MFCU. He found that Friedman had allegedly with the help of a DSHS caseworker, contracted with the Medicaid program to provide in-home personal care services for three patients under the Medicaid MPC Individual Personal Care program. In order to receive payment under this program, Friedman was to complete and submit monthly service invoice forms certifying the hours worked the preceding month.

According to David W. Waterbury, Director of the Washington State MFCU, Friedman continued to bill Medicaid claiming he was providing services to three different Medicaid recipients for approximately 17 months when in fact he had not provided any services.

For further information contact Assistant Attorney General Greg Weber (253) 593-2154.

Medical Clinics: Ohio

Attorney General Petro announced on February 23 that Lori A. Brown was charged, entered a plea, and was convicted in Columbus Municipal Court of one count of Falsification, a misdemeanor of the first degree. Also on February 23 Brown was sentenced to pay a \$500 fine prior to August 1.

Brown, former office manager at West Broad Medical Center, knowingly made false statements with purpose to mislead the Director of Job & Family Services, a public official, in performing his official function.

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

Medical Transportation: New York

Attorney General Spitzer announced on February 1, that the owner of a transportation company has pleaded guilty to Grand Larceny in the third degree for submitting claims for livery services provided to Medicaid recipients that his company had never provided.

Under the terms of the plea agreement, Michael LaRocca, the owner of Magnificent 7s Enterprises, Inc., will pay New York State \$225,000 in restitution and is expected to be sentenced to serve a jail sentence of four months of weekends concurrent with five years' probation. LaRocca paid \$50,000 at the time of the plea, and will pay the remaining \$175,000 at his sentencing.

According to the complaint filed in the case, Magnificent 7s billed for transporting residents to and from Saint John's Episcopal Hospital, while hospital records revealed no evidence of the patients' presence at the hospital on the corresponding days. As an example, the complaint identified a recipient for whom Magnificent 7s billed for more than \$3,400 worth of transportation services after the patient had moved to the Bronx and was not being transported at all by the company.

For further information contact Special Assistant Attorney General Debra Glatt (212) 417-5383.

Medical Transportation: Texas

Attorney General Abbott announced on February 24 that a grand jury indicted Carlos L. Nelson on 12 counts of theft by Securing Execution of a Document by Deception. Nelson participated in Medicaid's Medical Transportation Program which provides mileage reimbursement for travel to and from a recipient's residence to receive medical care. In the one-year period from September 2001 through August 2002, Nelson submitted fraudulent reimbursement claims on 247

occasions in which transportation services were not rendered and resulted in \$9,833.38 of overpayment by Medicaid.

For further information contact Chief Investigator Jim Fossum (512) 371-4732.

Mental Health Counselors: Texas

Attorney General Abbott announced that on February 15 Charles O. Ihaza was indicted by the Harris County District Attorney's Office charging him with felony theft. He was arrested on February 17. Ihaza formerly operated Charleston Rehabilitation located in Wharton, Texas, and Chaleston RBCVE located in Houston. Ihaza purported to treat those in need of chemical dependency treatment and mental health/behavioral counseling, many of them Medicaid-eligible children. The indictment charges that he billed and was paid \$156,000 by Medicaid for services not rendered from October 2004 to January 2005.

For further information contact Chief Investigator Jim Fossum (512) 371-4732.

Patient Abuse: Texas

Attorney General Abbott announced that on February 9 Licensed Vocational Nurse (LVN) Alexy Lampe pleaded guilty to a state jail felony offense of Injury to the Elderly. Lampe received two years in a state jail facility, probated for five years and was fined \$2,000. This conviction resulted from an event on December 27, 2004, in which Lampe administered an enema to an elderly resident at Brazos Valley Care Home in Knox City, Texas.

It was alleged that Lampe used water from the kitchen sink which was possibly as hot as 115 degrees Fahrenheit. Two nurse aides informed Lampe that the water was too hot and cautioned her about using it. Lampe ignored their warning and proceeded with the enema. The resident sustained second degree burns as a result of Lampe's action.

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

Patient Trust Funds: Ohio

Attorney General Petro announced on February 16 Jacquelyn Willis was sentenced to ten days in the county jail, three years probation (optional), and ordered to pay restitution in the amount of \$794. On January 10 Willis entered a plea of guilty to one count of Theft, for misappropriation of a nursing home patient's funds. On July 11, 2005, Willis was indicted on one count of Theft, a felony of the fifth degree.

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

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Attorney General Petro announced on January 20 that Molly Wagner entered a plea of guilty to one count Grand Theft in the Coshocton County Court of Common Pleas. On November 21, 2005, Wagner was indicted on one count of Theft by Deception, a felony of the fifth degree, and one count of Grand Theft, a felony of the third degree. On January 20 Wagner was sentenced to one year in prison, to be served concurrently with one year in federal prison. Wagner was also ordered to pay a fine of \$500 placed on three years supervised release after she finishes the prison term, and ordered to pay restitution in the amount of \$6,417.55 to the group home.

Wagner stole patient funds from a group home. She had been previously placed on diversion, but was kicked out of the program when she stole monies from a bank where she was working. Wagner was also charged with federal bank fraud unrelated to health care.

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

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Attorney General Petro announced on February 3 that John Statler, of Senior Medical Services, was indicted on one count of Medicaid Fraud, a felony of the third degree. On February 3 Statler was convicted of one count of Medicaid Fraud, a felony of the third degree. Also on February 3 Statler was sentenced to five years community control, a \$10,000 fine and was ordered to pay restitution. He paid \$50,000 and was ordered to pay an additional \$336,745.

Statler operated Senior Medical Services, a medical supply company. He billed the Ohio, Illinois and Washington Medicaid programs for supplies that were not provided.

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

Patient Trust Funds: Texas

Attorney General Abbott announced on February 7 that Regina Bradley pleaded guilty and was sentenced for Misapplication of Fiduciary Property in Bell County. Bradley was sentenced to 90 days in jail on a two years probated sentence. In addition, she was ordered to make full restitution of \$16,063.68. It was alleged that while Bradley was the Residential Director of the Trenton House ICF/MR facility from February 2003 to November 2004, she purchased merchandise for the residents that they did not receive or give as gifts. The investigation uncovered five instances of forgery, \$1,545 of securing execution of documents by deception, and \$16,063.68 of theft/misapplication of fiduciary property.

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Attorney General Abbott announced on February 14 that a grand jury indicted Jose Maciel and Francisco Castillo. Marciel and Castillo were employees at the Retama Manor Nursing Home in Laredo, Texas. They were charged with forging 16 checks worth \$11,090 belonging to a resident.

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Attorney General Abbott announced on February 16 that a grand jury indicted Pam Lamontagne for Theft Over \$1,500 for the trust fund embezzlement in the Terrell Health Care Center. Former business manager Lamontagne admitted to stealing money from the trust fund while employed at the facility in 2001 and 2002 by writing checks to the patients at the facility for "personal needs." Checks totaling \$4,200 were cashed and kept by Lamontagne.

For further information on these cases contact Chief Investigator Jim Fossum (512) 371-4732.

Physicians: Texas

Attorney General Abbott announced on February 15 that Dr. Linda Morgan was found guilty of 12 counts of Health Care Fraud and one count of Conspiracy by a jury in federal court in Houston, Texas. The jury deliberated for about four hours before returning the guilty verdict. Morgan was charged with signing pre-printed prescriptions and CMNs for motorized wheelchairs, in exchange for approximately \$250 each, without ever seeing any patients. Four of the 12 recipients in the indictment had Medicaid crossover claims.

They testified at the trial that they received scooters, not wheelchairs, and that they had never been treated by Dr. Morgan. From 2002 through 2004, Dr. Morgan's prescriptions resulted in about \$10 million in false claims to Medicare and Medicaid. From January 2004 through September 2004, Houston-based Rovic Medical Supply, owned by Victor Davies, used the false CMN's and billed Medicare over \$670,000 and Medicaid almost \$50,000. This investigation was worked jointly with the FBI. This case was prosecuted by the U.S. Attorney's Office in Houston, Texas.

For further information contact Chief Investigator Jim Fossum (512) 371-4732.

Psychologists: Massachusetts

Two psychologists have agreed to pay a combined \$22,914 to settle allegations they improperly billed for medically unnecessary tests, Attorney General Tom Reilly announced on February 23.

Richard J. Greene, Ph. D., will pay \$15,048 and Jeffrey Jampel, Ph.D., will pay \$7,866 as part of an agreement to settle the allegations. In 1999, the Massachusetts Division of Medical

Assistance (DMA) and the Attorney General's Medicaid Fraud Control Unit (MFCU) began an investigation into allegations that the psychologists had submitted claims for psychological testing services which were not medically necessary. The investigation found that former psychiatrist Kennard Kobrin referred his patients to the two psychologists to whom he rented space and the patients were required to submit to periodic medically unnecessary psychological testing before Kobrin would issue them prescriptions for controlled substances.

In 2002, Kobrin was convicted of illegal prescribing and causing false statements on Medicaid claims for psychological testing. Those convictions are presently on appeal. Kobrin's medical license was revoked in 2004, and the revocation was upheld by the Supreme Judicial Court. Doctors Jampel and Greene voluntarily ceased their association with Kobrin in 1998 and cooperated with the MFCU and the DMA.

For further information contact Assistant Attorney General Peter Clark (617) 727-2200

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