



National Association  
of Attorneys General

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# MEDICAID FRAUD REPORT

January 2006

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### **Hidden Cameras Reveal Neglect At New York Nursing Homes**

Attorney General Eliot Spitzer announced on January 5 the arrest of 19 employees at two separate nursing homes where hidden cameras revealed distressing evidence of patient neglect. In addition to the prosecution of these individuals on criminal charges, the Attorney General's office has filed a civil lawsuit against the corporations that control one of the nursing homes. The investigation against the other continues.

In a related action, the Attorney General released a comprehensive report that will help New Yorkers better assess the relationship between patient care and staffing levels at nursing homes in communities across the state.

The first case involves the Jennifer Matthew Nursing Home in Rochester. Critical evidence in this case was developed through the use of secretly-recorded videotapes of a bedridden patient, referred to in the court filings as "Patient A." Patient A's family permitted the Medicaid Fraud Control Unit to install a hidden camera to monitor interaction with nursing home staff.

The complaint describes what the camera recorded – clear evidence that Jennifer Matthew's staff had neglected Patient A. The complaint also describes how Patient A and other residents were not turned and repositioned to avoid the risk of pressure sores and were often left for hours to lie in their own urine and feces, and that medications and treatment were not provided as prescribed.

The court papers also describe how a minimal level of attention from management would have detected these problems. The facility was sufficiently small that walking into every patient room in the home would have taken a few minutes, and a supervisor would readily be able to determine that residents were not receiving appropriate attention.

Instead, the court filing describes how the staff would move call bells away from patients and stop doing their rounds so that they could socialize, watch movies, sleep, or even leave the building.

Staff members are also accused of falsely claiming in required paperwork that proper care had been provided to the patients.

To date, eight former licensed or certified Jennifer Matthew professionals have pleaded guilty in connection with the neglect and record falsification. An additional former employee was arrested on December 6, 2005, and five more were arrested on criminal complaints. Among those charged civilly was the primary owner and operator of the facility, Anthony Salerno, and a consulting company he owns known as Healthcare Associates (HCA).

The second matter involves the Northwoods Nursing Home in Cortland. As with the Rochester nursing home, the family of a resident consented to the installation of a hidden video camera. According to criminal complaints filed in the cases, the secret camera revealed that licensed professionals at Northwoods repeatedly failed to provide care or treatment to that resident, and then falsified his care records to report that proper care had been administered.

Five employees have been charged with Falsifying Business Records in the First Degree, a class "E" felony, and misdemeanor neglect and endangerment in the Northwoods matter. These and other patient neglect cases were the catalyst for a report prepared by the Attorney General's office that details staffing levels at nursing homes throughout the state. This report is intended to assist New Yorkers in choosing nursing homes for themselves and their family members.

Academic studies and government research have shown a strong relationship between staffing levels and quality of care, and have identified a threshold, referred to as hours per resident day or "HPRD," below which the quality of care suffers. On the basis of these studies, some states have set mandatory minimum staffing levels for their nursing homes. In the report released, the Attorney General's Office listed each home in the state, its HPRD ratio, and whether that home would meet the standards set in other states or a threshold described in a 2001 federal study.

The civil action against Jennifer Matthew further information contact Assistant Attorney General Sherrie Brown. The Jennifer Matthew criminal charges are being prosecuted by MFCU Rochester Regional Office head Jerry Solomon, and the Northwoods criminal charges are being prosecuted by MFCU Syracuse Regional Office head Ralph Tortora, both under the supervision of George Quinlan, Assistant Deputy Attorney General. The primary drafter of the staffing report was MFCU Albany Regional Office Head Steven Krantz.

The defendants from Jennifer Matthew who have pleaded guilty in Rochester City Court are: Saramma Jacob, LPN; Natasha Gromms, LPN and Debra Gaelens, LPN; Felicia Thomas, LPN; Teresa Washington, CNA; Maria Rivera, CNA, Robin Hood-Henry, CNA and Dixie Whitman, CNA.

The defendants from Jennifer Matthew who have been arrested are: Nada Jarovska, RN and Tomiko Goodlet, CNA, Tammy Devos, CNA, Marguerite Carrington, CNA, Janell Thompson and Jesse Simmons, CNA.

The defendants from Northwoods who have been arrested are: Theresa Loy, LPN; Mary Kenyon, LPN and Steve Nadeau, CNA; Renee Fulmer, LPN and Judy Abreu, CNA.

For further information contact William Comiskey, Director (212) 417-5250.

## **CASES**

### **Dentists: Kentucky**

Attorney General Greg Stumbo announced on January 4 that oral surgeon Robert Michael Clear was sentenced to three years in prison on felony Medicaid fraud charges. The Jefferson Circuit Court sentence was probated for five years on the condition that Clear pay restitution to Medicaid in the amount of \$18,175.66. Additionally, Dr. Clear, was ordered to provide 150 hours of community service each year for the period of probation.

Clear's licenses to practice in Ohio and Kentucky have also been surrendered. Under the terms of the judgment, Clear is precluded from participation as a provider in any federally funded healthcare program.

Clear had been practicing in the Middletown area near Louisville and has recently worked in the Cincinnati area. Dr. Clear presented fraudulent claims for oral surgery and/or dental services to the Kentucky Medicaid Program.

For further information contact Assistant Attorneys General Lettricea Jefferson-Webb and Mary Cartwright (502) 696-5300.

### **Dentists: Tennessee**

The Tennessee Bureau of Investigation announced on October 13, 2005 that Perry Thomas, DDS (Ret), pleaded guilty to one count each of Fraudulently Obtaining Benefits or Payment for Medical Assistance, Identity Theft and Theft of Property over One Thousand Dollars in the Shelby County Criminal Court. The court sentenced Thomas to two years each for theft of property and fraudulently obtaining benefits and one year for identity theft. The court granted Thomas judicial diversion of 12 months supervised probation, 25 hours of community service, restitution to TennCare (Medicaid) of \$3,826.88 and was ordered to donate \$250 to the Make A Wish charity.

This case was opened on September 7, 2004, based on a referral from the Shelby County District Attorney General's Office. It was alleged that Thomas used a child's TennCare benefits to obtain prescription drugs from a local pharmacy. The investigation showed that the three

prescriptions were legitimate, however, the pharmacist noted the billing information was for a child yet the prescriptions were for an adult. The child's mother confirmed there was neither contact nor a relationship between Thomas and the child. Thomas was indicted on May 24, 2005 by the Shelby County Grand Jury. On October 13, 2005 he pleaded guilty to the three-count indictment.

For further information contact Special Agent Terry Reed (901) 379-3433.

**Denturists: Washington State**

Attorney General Rob McKenna announced on October 10, 2005 that following a three day jury trial Cheryl Kaye Edlin was found guilty of three counts of Medicaid False Statement. Edlin received 90 days incarceration, 12 months community supervision and was ordered to pay a fine and court costs equaling \$3,710. Co-defendant Claude Allen Edlin was acquitted for his part in the crime.

Investigator Patricia Allen conducted the investigation for the Washington State MFCU. During the course of her investigation she determined that the Edlins were not licensed as denturists or dentists. Cheryl Edlin, the owner of Inland Empire Denture Clinic (IEDC), provided unlicensed denturist services to patients at IEDC between 1999 and 2001. She then submitted the billing to Medicaid program claiming a licensed dentist had provided the services. She received over \$15,000 due to the fraudulent billing.

For further information contact Assistant Attorney General Tony Rugel (253) 593-2154.

**Drug Diversion: Texas**

Attorney General Gregg Abbott announced that on January 18, 2006, Kimberly Collins Waggoner was sentenced to five years deferred adjudication. On June 30, 2005, Waggoner, a Licensed Vocational Nurse at Floresville Nursing and Rehabilitation Center, was indicted on four counts of obtaining a controlled substance by fraud. During the investigation, it was determined that Waggoner had ordered controlled substances; namely, Lorazepam, Hydrocodone, Diphendzylat, and Ambien without a physician order.

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Attorney General Abbott announced that on December 22, 2005 that Licensed Vocational Nurse (LVN) Sarah Winder was sentenced on charges of Tampering with a Governmental Record and Obtaining a Controlled Substance by Fraud. She had pleaded guilty on November 30, 2005 to diverting Hydrocodone tablets on April 10, 2004, from a resident at the Willowbrook Nursing Center and to destroying the narcotic control count sheet to conceal her actions. She was sentenced to two years, probated to three years, for Tampering with a Governmental Record and sentenced to ten years, probated to seven years, for Obtaining a Controlled Substance by Fraud. Additionally,

she was ordered to pay a \$2,000 fine plus court costs and fees and to complete 300 hours of community service on each case. Winder was also restricted from working in a health care facility or medical facility as a condition of her probation.

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Attorney General Abbott announced that on January 26, 2006, Licensed Vocational Nurse Tessa Loper pleaded guilty to Obtaining a Controlled Substance by Fraud. Loper was given four years probation, a \$1000 fine, and 160 hours of community service. On February 14, 2005, a nurse at Bivins Memorial Nursing Home, located in Amarillo, Texas, noticed several suspicious entries on drug count sheets and alerted her supervisor. After interviewing residents, it was discovered that none had received Hydrocodone even though Loper indicated that she administered it to them. When confronted by the allegation, Loper confessed she had a drug problem and was taking the narcotics for her own use.

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

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

Attorney General Abbott announced on January 13 that Pamela (Robinson) Russell was sentenced in federal court to five years probation with six months home confinement. Russell was ordered to pay a special assessment of \$100, to make restitution of \$108,000 to Medicare, jointly and severally with the other defendants. On January 20, Lorine Hawthorne was sentenced to twelve months incarceration, three years supervised release, a \$200 Special Assessment, and was ordered to make restitution of \$301,500 to Medicare. Russell previously pleaded guilty pursuant to a plea agreement on February 22, 2005, to one count of conspiracy to commit health care fraud. Hawthorne previously pleaded guilty, pursuant to a plea agreement, on January 27, 2005, to one count of conspiracy to commit health care fraud, and one anti-kickback count.

Russell and Hawthorne were charged for their roles in a scheme with Anefiok Jimmy Eking. Eking was owner of Medical Equipment and Supplies and MESCORP, durable medical equipment (DME) companies, primarily billing for power wheelchairs and accessories. Hawthorne and Pamela Russell, were hired by Eking to recruit Medicare/Medicaid beneficiaries and were paid kickbacks of between \$200 and \$800 cash for each beneficiary approved for a power wheelchair. From January, 2000 through December, 2003, it is alleged that these companies falsely billed Medicare/Medicaid for DME services certified by Dr. Anant Mauskar as medically necessary. It is alleged that Dr. Mauskar received kickbacks from these DME companies in exchange for signed Certificates of Medical Necessity (CMNs). Eking allegedly falsely billed for power wheelchairs, when in fact less expensive scooters were provided or in some cases no equipment at all. Medical Equipment and Supplies is alleged to have improperly billed Medicare/Medicaid \$9,671,270, and was paid \$3,319,671 by Medicare, and \$256,095 by Medicaid. Eking was indicted on September 8, 2003 and is currently a fugitive. Dr. Mauskar was convicted by a jury on November 17, 2005 and is scheduled

to be sentenced on February 24, 2006. This case was worked jointly by the FBI office in Houston; the Office of Inspector General, Health and Human Services and the Texas MFCU. It was prosecuted by the U.S. Attorney's office for the Southern District of Texas, in Houston.

### **Home Health Care Agencies: Louisiana**

Attorney General Charles C. Foti, Jr., announced the arrest of four individuals each charged with two counts of Criminal Conspiracy to commit Medicaid Fraud and two counts of Medicaid Fraud.

According to Medicaid Fraud Control Unit (MFCU) investigators, Carol Morgan (aka Amelia P. Morgan, Amelia C. Morgan, Carol Purvis Morgan), Janette McKenney (aka Janette Keen McKenney, Janette Keen Hill, Jeanie Hill, Jeanie McKenney), Cheryl Foster (aka Cheryl Herndon, Cheryl Lynn Foster), Ernest Goldston (aka Ernie Goldston) allegedly conspired to intentionally defraud the Louisiana Medicaid Program by presenting false or fraudulent claims for services that were not provided.

Community Care, Inc. is a Medicaid service provider and participates in the New Opportunities Waiver (NOW) program. NOW is a waiver program designed to provide Home and Community Based services to disabled recipients which allows recipients to live as independently as possible at home and in the community. These NOW services are a supplement to the regular Medicaid State Plan services that eligible clients receive.

Janette McKenney, administrator of Community Care and her husband, Ernest Goldston a former employee of Community Care, along with Carol Morgan, owner and Cheryl Foster Comptroller of Community Care, conspired to bill the Medicaid program for fraudulent billing regarding services to McKenney's daughter, an eligible NOW services recipient. McKenney's daughter receives personal care attendant services from Community Care, specifically from Ernest Goldston, and McKenney. Also, McKenney allegedly signed and approved time sheets for work performed by Goldston for her daughter.

In May 2004, the Department of Health and Hospitals notified Community Care that Janette McKenney and husband Goldston were not allowed to provide services to McKenney's daughter according to state and federal policy. Despite this notification, investigators allege, based on interviews with former employees of Community Care, Carol Morgan and Cheryl Foster, continued to submit the fraudulent billing claims turned in by McKenney and Goldston to Medicaid for payment. The Medicaid Program paid these claims. Every Medicaid claim and payment is processed by UNISYS.

The Attorney General's Office was able to have the District Court in Bossier Parish issue an order freezing the bank accounts and assets of the arrestees to prevent the liquidation of assets the state alleged were acquired with Medicaid monies through the illegal activities of Morgan, Foster, McKenney and Goldston.

For further information contact Fred Duhy, Director (225) 326-6210.

**Home Health Care Aides: Colorado**

Attorney General John Suthers announced on December 5, 2005 that Linda Salmen, pleaded guilty in the Jefferson County District Court to Theft over \$500, a Class 4 felony. Salmen received a sentence of four years of prison, and restitution of \$37,908.64.

The investigation by the Colorado MFCU showed that Salmen was the spouse of a disabled Medicaid recipient who qualified for home services. Salmen convinced her daughter to sign up with a service provider, Seniors Resource Center, as an employee. Neither person informed Colorado Medicaid or its agents that the employee was the recipient's step-daughter. Salmen and her daughter turned time sheets in to Seniors Resource Center reflecting many hours of home care for the recipient. In fact, the daughter provided none of the listed care, and Salmen obtained and cashed her daughter's paychecks. The daughter's time was billed to Colorado Medicaid.

For further information contact Assistant Attorney General George A. Coddling or Investigator Lauri Lundie (303) 866-5431.

**Home Health Care Aides: Florida**

Attorney General Charlie Crist announced on January 6 that Valencia T. DeSheers and Latraia D. Savage were arrested for engaging in an organized scheme to defraud Florida's Medicaid program by billing for services not provided.

DeSheers and Savage were independent contractors for Care On Wheels, a company that provides services to people in need through different Medicaid programs, including one for services to the developmentally disabled and another for brain and spinal cord injury patients.

An investigation conducted by the Medicaid Fraud Control Unit revealed that both women had falsified time sheets to get paid for services they never actually provided to Medicaid recipients. Recipients told law enforcement officers that DeSheers and Savage never showed up at their home on days they were billing Medicaid. The investigation revealed that DeSheers and Savage defrauded Medicaid of \$34,000.

DeSheers and Savage were each charged with Organized Fraud, a second degree felony, and face up to 15 years in prison and a \$10,000 fine.

For further information contact Assistant Attorney General Steven Iglesias (813) 287-7940.

**Home Health Care Aides: Ohio**

Attorney General Jim Petro announced on January 20 that Rubi Opal Pearl Diamond was sentenced to five years of Community Control and \$8,400 in restitution plus court costs. On December 7, 2005, Diamond pleaded guilty to one count of Complicity to Commit Medicaid Fraud, a felony of the fifth degree. On September 20, 2005 Diamond was indicted on one count of Complicity to Commit Medicaid Fraud, a felony of the fourth degree and one count of Medicaid Fraud, a felony of the fourth degree.

Diamond, a Medicaid recipient, conspired with a home health worker to steal from the Medicaid program and split the money with her.

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Attorney General Petro announced on January 20, 2006 that Mary Shumaker was sentenced to five years of Community Control and ordered to pay \$3,160. in restitution plus court costs. On December 7, 2005, Shumaker pleaded guilty to one count of Medicaid Fraud, a felony of the fifth degree. On September 20, 2005, Shumaker was indicted on one count of Medicaid Fraud, a felony of the fourth degree and one count of Medicaid Fraud, a felony of the fifth degree.

Shumaker, a home health aide, billed Medicaid for home health services which were not provided, then split the money with a recipient.

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

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Attorney General Petro announced on January 9, 2006 that Molly Ghosthorse pleaded guilty to Medicaid Fraud, a misdemeanor of the first degree and was sentenced to 30 days incarceration, suspended, nine months reporting probation \$100 fine, suspended, and \$774 in restitution. On October 18, 2005, Molly Ghosthorse was indicted on one count of Medicaid Fraud, a felony of the fourth degree.

Ghosthorse, a home health aide, billed the Medicaid program for daily living services for a one week time period while she was out of the state on vacation.

For further information contact Assistant Attorney General Adrienne Blair (614) 466-0722.

**Home Health Care Aides: Texas**

Attorney General Abbott announced on January 19 that Licensed Vocational Nurse (LVN) Ellen Harrison, who worked for Save Home Healthcare, Inc., was charged with Theft more than \$1,500 but less than \$20,000. Save Home Healthcare, Inc., is a home health agency who employs

individuals such as Harrison to provide medical services to recipients. Allegedly, Harrison claimed on time sheets and client records that she had made visits when in fact she had not. The incident was reported to the single state agency by Save Home Healthcare. The Medicaid program paid Save Home Healthcare \$11,543.90 in false claims caused by Harrison.

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

### **Home Health Care Aides: Washington State**

Attorney General McKenna announced on January 24 that Marnie M. Day aka Marnie Marie Brown pleaded guilty to two counts of Medicaid False Statement and was sentenced to serve 30 days in jail converted to 240 hours of community service, make restitution in the amount of \$7,064.73 to the Medicaid program, and pay court costs of \$600.

Investigator Debbie Hensley conducted the investigation for the Washington State MFCU. She found that the defendant had contracted with the Medicaid program to provide in-home personal care services for a patient under the Medicaid COPES Individual Personal Care program. In order to receive payment under this program, Day 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, Day continued to bill Medicaid claiming she was providing services to an individual for approximately nine months after the patient's death. Day received \$7,064.73, to which she was not entitled.

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Attorney General McKenna announced on January 20 that June C. Okuda pleaded guilty to two counts of Medicaid False Statement and was sentenced to serve 30 days in jail converted to 240 hours of Community Service, 12 months Community Supervision, make restitution in the amount of \$11,638.19 to the Medicaid program, and pay court costs and victim assessment fees of \$700.

Investigator Gary McDonald conducted the investigation for the Washington State MFCU. He found that Okuda had contracted with the Medicaid program to provide in-home personal care services for two patients as an Individual Provider. In order to receive payment under this program, Okuda was obligated to administer to the patient's daily care needs.

According to David W. Waterbury, Director of the Washington State MFCU, Okuda continued to receive payment from Medicaid for six months claiming she was providing in-home care services to two individuals following a back injury that left her unable to do so.

For further information on these cases contact Assistant Attorney General Tony Rugel (253) 593-2154.

**Medical Transportation : Ohio**

Attorney General Petro announced on January 20 that Michael Poprish was sentenced to 11 months of Community Control with basic supervision and ordered to pay \$99,149 in restitution. On June 1, 2005, Poprish was indicted on one count of Medicaid Fraud, a felony of the third degree. On December 5, 2005, Poprish pleaded guilty to one count of Medicaid Fraud, a felony of the fourth degree.

Poprish, owner of MP Care, transported ambulatory recipients and billed for ambulette transports.

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Attorney General Petro announced on January 25, 2006 that Sabrina Arutyunov was sentenced to three months of house arrest, five years probation, ordered to pay \$60,000 in restitution to be paid joint and several with Vadim Arutyunov. On January 25, 2006, Vadim Arutyunov was sentenced to 10 months of house arrest, three years probation, \$60,000 in restitution to be paid joint and several with Sabrina Arutyunov. On August 23, 2005, Vadim and Sabrina Arutyunov, co-owners of Lift Medical Transportation, transported ambulatory recipients and billed the Medicaid program. Vadim and Sabrina Arutyunov pleaded guilty to one count of Health Care Fraud, each.

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Attorney General Petro announced on January 19, 2006 that Michael Reyzin was sentenced to 18 months incarceration with two years of supervised release and ordered to pay \$400,000 in restitution. On October 19, 2005, Reyzin pleaded guilty to ten counts of Health Care Fraud. Michael Reyzin, owner of Dialog Transportation, transported ambulatory recipients and billed for wheelchair transports.

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

**Nurses: Ohio**

Attorney General Petro announced on January 19 that Amy Evans, a licensed practical nurse pleaded guilty to one count of Medicaid Fraud, a felony of the fifth degree. Evans, billed the Medicaid program for home health services not rendered, she was sentenced to three years of Community Control and ordered to pay \$24,509 in restitution.

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

**Nurses: Texas**

Attorney General Abbott announced on January 9 that David Wayne Rhodes, an employee of Brentwood Healthcare, Ltd. pleaded guilty and was sentenced for Tampering with a Governmental Record with Intent to Defraud, Aggravated Perjury and to Practicing Nursing Without a License . Rhodes received ten years probation, was ordered to provide 80 hours of Community Service Restitution, and pay \$6,000 in fines.

Rhodes was charged with fraudulently presenting himself as an RN (Registered Nurse) who worked at Brentwood Healthcare, Ltd from 1994 until November 1997. Rhodes was subsequently rehired by Brentwood Healthcare, Ltd. in March of 1999, as an RN, Director of Nurses. In August of 2002, Rhodes was promoted to Director of Risk Management of the Brentwood Campus and on July 25, 2004, Rhodes assumed the position of Director of Clinical Services, which he maintained until he was terminated on December 2, 2004. All of these positions require, at a minimum, graduation from an accredited school of professional nursing and a current RN license to practice professional nursing in the State of Texas. During the course of his employment, Rhodes signed and submitted CARE (Client Assessment and Review Evaluation) Forms which ultimately set the Medicaid TILE (Texas Index Level of Effort) payment rate for residents.

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

**Patient Abuse: Alabama**

Attorney General Troy King announced the felony conviction on January 23 of a former nursing home employee who dropped a 91-year-old hospice patient and fractured her leg, while the defendant had a blood alcohol content of .248. Evelyn Little was working as a certified nursing assistant for Beverly Healthcare Meadowood in Bessemer when the incident occurred on November 10, 2004.

Little pleaded guilty to reckless abuse of a protected person, a class C felony. Circuit Judge Teresa Petelos sentenced her to one year and one day imprisonment, which was suspended for a period of two years supervised probation. The judge further ordered Little to complete an alcohol treatment program and banned her from working in any nursing home or other long-term care facility.

Little admitted to her guilt in causing the injury when she was moving the elderly woman from a chair to a bed and dropped her. After the injury, other nursing home staff smelled alcohol on her breath. A blood alcohol test administered at that time revealed that Little had a blood alcohol content of .248, which is more than three times the legal limit to operate a motor vehicle.

Immediately after the incident, Little was terminated from her job with the nursing home, which reported the matter to the Alabama Department of Public Health. The Health Department

referred the matter to Attorney General King's Office, where it was investigated by Special Agent Timothy Kornegay and prosecuted by Assistant Attorney General Bruce Lieberman, chief of the Medicaid Fraud Control Unit.

For further information contact Mr. Lieberman (334) 353-8793.

**Patient Abuse: Michigan**

Attorney General Mike Cox announced January 25, that a Detroit nursing home, its medical director/co-owner, and the director of nursing were bound over as charged and will go on trial regarding the death of a nursing home resident and the abuse of vulnerable adult residents.

Parkridge Associates, formerly d/b/a Northland Nursing Center; Patrick Charles, M.D., Parkridge Associates' Medical Director/co-owner; and Kathryn Gillis, R.N., Director of Nursing; each have been charged with one felony count of Involuntary Manslaughter, which carries a maximum penalty of 15 years in prison and/or a \$7,500 fine, and four felony counts of Vulnerable Adult Abuse-2nd degree, which carries four years in prison and/or a \$5,000 fine.

Charges of Involuntary Manslaughter against the Detroit nursing home, its medical director/co-owner, and director of nursing were originally filed on April 21, 2003, following an investigation into the heat-related death of a 78-year-old tube-fed female resident. On February 9, 2005, four additional charges of Vulnerable Adult Abuse-2nd Degree were filed against each defendant.

Attorney General Cox alleged in the complaints that in June 2001 the defendants failed to ensure the residents' safety in hazardous temperature levels, failed to adequately monitor and assess the condition of residents, failed to initiate evacuation procedures, and allowed internal body temperatures of some residents to reach as high as 107/.

Facilities statewide, including Parkridge Associates, formerly d/b/a Northland Nursing Center, received an alert entitled "Recommendations To Health Facilities For Handling Heat And Humidity In Summer Months," which cautioned about heat-related medical emergencies and necessary steps to prevent deaths, especially among the elderly.

Attorney General Cox further alleged that the facility's air conditioning system was not functioning, the facility's windows did not open, and there was a lack of fans for residents to use when temperatures in Detroit reached 87° F on June 13, 89° F on June 14, and 90° F on June 15, 2001. On June 14, 2001, several of the nursing home's seriously ill residents identified as being "at risk for dehydration" began experiencing life-threatening problems as a result of the high temperatures. As medical director and treating physician, Dr. Charles was responsible for the proper care and treatment of the patients. One resident was found to have a temperature of 107° F and Dr. Charles prescribed Tylenol® and ordered the resident to be transferred to the hospital. Before E.M.S. arrived, the victim was found unconscious and unresponsive with no vital signs. The medical examiner concluded that

the death was caused by prolonged exposure to excessive heat. As Director of Nursing, Kathryn Gillis was also responsible for the proper care and assessment of the patients. Three other vulnerable patients were transferred to the hospital for serious heat-related conditions.

For further information contact Assistant in Charge Scott L. Teter (517) 241-6500 or Special Agent Rebecca Treber (517) 241-6525.

**Patient Abuse: Ohio**

Attorney General Petro announced on January 18 that Priscilla Konadu, a nurse aide pleaded guilty to one count of Patient Neglect, a misdemeanor of the first degree. On January 18, Konadu was sentenced to three months incarceration, suspended and a \$300. fine. Konadu, roughly handled a patient while giving care and then hit the patient.

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

**Patient Abuse: Tennessee**

The Tennessee Bureau of Investigation announced on December 5, 2005 that Raymicha Jones, an instructor for Shelby Residential and Vocational Services, applied for and was granted court-ordered diversion on the charge of Adult Abuse in the Shelby County General Sessions Court. The court sentenced Jones to one year of probation. During her probation, she must have a full time job and complete 24 hours of community service.

This case was opened on August 18, 2005, based on a referral from the Tennessee Division of Mental Retardation Services. It was alleged that Jones, an instructor at the Shelby Residential and Vocational Services program in Memphis, struck and then dragged across the floor one of the residents she was responsible for. Several staff witnessed the event and gave their statements to the investigators. On December 5, 2005 Jones applied for and received diversion from the court.

For further information contact Special Agent Roger Turner (901) 379-3432.

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The Tennessee Bureau of Investigation's announced that on October 6, 2005 Rhonda Mayes, a Direct Care Staff member at Preferred Alternatives of Tennessee, Inc., pleaded guilty to one count of Abuse of an Impaired Adult and Parole Violation in Davidson County Criminal Court. The court sentenced Mayes to 11 months and 29 days to run concurrently with the parole violation. Also, her name was placed on the health care abuse registry.

This case was opened on May 31, 2005, based on a referral from the Regional Investigator for the Tennessee Division of Mental Retardation Services. It was alleged that Mayes, a direct

caregiver, struck one of the residents she was responsible for. The resident received abrasions on her back. Several staff provided information, which led the investigator to suspect Mayes. On June 14, 2005 Mayes was indicted by the Davidson County Grand Jury. She pleaded guilty to one count on October 6, 2005.

For further information contact Special Agent Ramona Smith (615) 744-4229.

**Patient Abuse: Texas**

Attorney General Abbott announced that on December 15, 2005, Certified Nurse Aide (CNA) Tiffany R. Cunningham pleaded guilty in Lubbock County District Court to one count of Injury to Disabled Individual, a third degree felony, and received 10 years probation and 600 hours of community service. On January 7, 2005, two CNAs reported that they saw Cunningham slap two residents at the Bender Terrace nursing facility in Lubbock, Texas. The facility examined the residents and found no visible injuries, however, the CNAs were able to provide adequate testimony to support an indictment. It was also noted that Cunningham's personnel file revealed a long history of temperament problems with staff and residents.

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Attorney General Abbott announced that on January 17, that Licensed Vocational Nurse (LVN) Maria Svoboda pleaded guilty, to Injury to an Elderly Individual, a state jail felony. Svoboda was sentenced to three years deferred adjudication probation, eighty hours of community service, and ordered to pay court costs. The MFCU investigation found that Svoboda, by reckless omission, caused serious bodily injury to a resident of the facility. After numerous requests for assessment from certified nurse aides, as well as the resident, Svoboda failed to provide timely medical treatment, eventually leading to the resident's death.

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

**Patient Neglect: Vermont**

Attorney General William H. Sorrell announced on January 5 that Jody Peaslee pleaded to two counts of neglect of a vulnerable adult. According to court documents Peaslee was hired to help with the daily needs of a person confined to a wheelchair. The services were paid for by Medicaid funds. On March 17, 2005 and March 20, 2005 Peaslee admitted that she left this person in a vehicle for over three hours without food, water or any care endangering her health and safety.

Pursuant to a plea agreement Peaslee was sentenced to one to 12 months, all suspended with all regular probationary conditions and additional conditions that she abide by the nursing board ruling suspending her Nursing Assistant license, not to provide any volunteer care to vulnerable adults, and not to have any contact with the victim. The conviction will place her on the State of

Vermont Adult Abuse Registry, which all care facilities must check before hiring a care giver and will result in a mandatory exclusion by the U.S. Department of Health and Human Services Office of the Inspector General from employment with federally funded programs for a minimum period of five years.

For further information contact Assistant Attorney General Jane Dimotsis (802) 241-4441.

**Patient Neglect: Wisconsin**

Attorney General Peg Lautenschlager announced that Gene Lafoe has been convicted in Crawford County Circuit Court for intentional neglect of a group home resident.

General Lautenschlager said Lafoe appeared in court on January 5, 2006 and entered a guilty plea to one misdemeanor count of negligent abuse of a resident of a group home and one misdemeanor count of intentional neglect of a resident. According to the Department of Justice's Medicaid Fraud Control Unit's criminal complaint, Lafoe was employed by Lori Knapp, Inc., a private social service agency headquartered in Prairie du Chien, as a personal care worker assigned to a group home in Prairie du Chien, Wisconsin.

Lafoe worked the overnight shift caring for a resident diagnosed with severe mental retardation. The resident had a limited vocabulary and understood approximately six words and communicated primarily with visual cues and guttural sounds.

On the morning of July 2, 2004, Lafoe told a fellow care worker that the resident had fallen during the night and sustained an abrasion on his face. Further investigation showed the resident had an abrasion on the end of his nose, an injury below his right eye and an abrasion over his left knee area. There were also blood stains on the carpet in the living room of the home.

Lafoe told the Prairie du Chien police that the resident had gotten out of bed during the night and come into the living room and taken Lafoe's glasses off a tray. Lafoe claimed that when the resident would not put down the glasses, Lafoe grabbed the glasses and in the process became entangled with the resident and caused the resident to fall to the floor. However, the court accepted the guilty plea based on the defendant's own admission that he confronted the resident and grabbed for the glasses and that these actions caused the injury to the resident.

For further information contact William E. Hanrahan, Director (608) 267-2799.

**Patient Trust Funds: Delaware**

Attorney General Carl C. Danberg announced on January 4 that Dora Davis, the house manager of Harmony Neighborhood Group Home, pleaded guilty in the Superior Court of Delaware to six counts of misdemeanor exploitation of resident resources and one count of misdemeanor theft. An internal audit revealed that Davis had misappropriated funds belonging to the residents by making

purchases for her own uses and not for the benefit of the residents. Davis also misappropriated funds from the petty cash account at the home. Davis was sentenced to three years in prison, suspended for probation, and ordered to pay \$6,258.61 in restitution.

In a related case, Valerie Tildon, the house manager of Millcreek Neighborhood Group Home, also pleaded guilty in the Superior Court of Delaware to six counts of misdemeanor exploitation of resident resources and one count of misdemeanor theft. Tildon had previously worked with Davis and received training from her. An audit revealed that Tildon had also misappropriated funds belonging to the residents and the petty cash account. Tildon was sentenced to three years in prison, suspended for probation, and ordered to pay \$4,656.78 in restitution.

For further information contact Special Investigator Dale Hall (302) 577-8505.

### **Patient Trust Funds: Ohio**

Attorney General Petro announced that on August 17, 2005, Cassandra Houston, Syreeta Russell and Shakeena Martin were indicted on Misuse of Credit Cards, Theft, and Receiving Stolen Property. On November 22, 2005, Houston pleaded guilty to Theft/Aggravated Theft with elderly specifications, a felony of the fourth degree, two counts of Misuse of Credit Card with elderly specifications, felonies of the fourth degree, and two counts of Misuse of Credit Card with elderly specifications, felonies of the fifth degree. On November 22, 2005, Russell pleaded guilty to Theft/Aggravated Theft with elderly specifications, a felony of the fifth degree, two counts of Theft/Aggravated Theft with elderly specifications, felonies of the fourth degree, and two counts of Misuse of Credit Cards with elderly specifications, felonies of the fifth degree.

On November 22, 2005, Martin pleaded guilty to Theft/Aggravated Theft with elderly specifications, a felony of the fourth degree, two counts of Misuse of Credit Card with elderly specifications, felonies of the fourth degree, and two counts of Misuse of Credit Card with elderly specifications, felonies of the fifth degree. On December 16, 2005, Cassandra Houston was sentenced to 18 months community control, drug testing, successful completion of out-patient treatment program, cannot work in health care or nursing home, and \$500. in restitution. On December 16, 2005, Martin was sentenced to 18 months community control, drug testing and successful completion of out-patient treatment program, cannot work in health care or nursing home, turn in certificate for nursing assistance , and \$500. in restitution. On December 16, 2005, Russell was sentenced to two years community control, drug testing, cannot work in nursing home or health care, \$1,000. in restitution and court costs.

Houston, a nurse aide, stole a credit card from an elderly nursing home resident and used the credit card to purchase merchandise. Russell, a nurse's aide, stole a credit card from an elderly person and used the credit card to purchase merchandise. Martin, a nurse aide, stole a credit card from an elderly resident of a nursing home and used the card to purchase merchandise.

For further information contact Assistant Attorney General Claude Nicholson (614)

466-0722.

**Patient Trust Funds: South Carolina**

Attorney General Henry McMaster announced that Melissa A. Porter was convicted on January 25, 2006, of three counts of Removing, Transferring or Encumbering Residents Funds and 15 counts of Breach of Trust with Fraudulent Intention in Spartanburg County, South Carolina. Between February 22, 2005 and October 6, 2005, Porter, Business Manager of Magnolia Manor Nursing Home in Spartanburg, South Carolina, removed, transferred or encumbered resident's funds for unauthorized purposes.

Porter was sentenced by the Honorable Mark Hayes to three years, suspended to five years probation on the Removing, Transferring or Encumbering Resident's Funds charges, and 30 days, suspended to five years probation on the Breach of Trust charges. All sentences to run concurrently. Total restitution ordered is \$16,020.73 plus court costs. Special conditions are that Ms. Porter make full restitution and complete a substance abuse program.

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

**Patient Trust Funds: Tennessee**

The Tennessee Bureau of Investigation announced that on October 10, 2005 Brad Snyder, Business Manager for High Pointe Health and Rehabilitation Center in Memphis, accepted a Memorandum of Understanding for Deferment of Prosecution for three counts of theft and one count of covering up for another person in Shelby County Criminal Court. The court order places Snyder under the supervision of Pretrial Services for one year. He is to pay restitution of \$90 and \$30 per month for expenses incurred by Pretrial Services. If there are no further violations during the pretrial diversion period, the charges will be dismissed.

This case was opened in January 2004 based on a referral from the Department of Health's West Tennessee office of Healthcare Facilities. It was alleged that Brad Snyder, as Business Manager and supervisor, approved of and helped to arrange the theft of money from patient funds and the business by an employee. With the assistance of auditors and other staff, the investigation showed that money was taken for personal use and that Snyder knew about the theft and attempted to cover it up. Snyder and the employee were indicted by the Shelby County Grand Jury in July 2004. He was charged with three counts of theft and one count of providing a means of avoiding arrest/prosecution for the employee.

For further information contact Special Agent Roger Turner (901) 379-3432.

**Patient Trust Funds: Texas**

Attorney General Abbott announced on December 22, 2005 that Stacy Lynn Sparks was indicted by a grand jury on four counts of felony forgery. Sparks was charged with negotiating four stolen and forged personal checks of residents of a group home at a local bank. The four checks resulted in a loss of \$4,810 to residents of the group home. The indictment notes that Sparks has a long criminal history including possession of controlled substance, multiple forgeries, burglary of a habitation, tampering with governmental documents, and aggravated assault with a deadly weapon.

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

\* \* \* \*

Attorney General Abbott announced on December 22, 2005 that Activity Director (AD) Sylvia Long, a former employee of Canterbury Villa of Hillsboro, pleaded guilty and was sentenced for Fraudulent Use of Identifying Information, a state jail felony. She was sentenced to three years probation with 200 hours of community service and ordered to make restitution in the amount of \$867.22. Long was indicted by a Hill County Grand Jury on August 26, 2005, on two counts of fraudulent use of identity information of two residents to obtain gas and electric services at Long's personal residence. Long also used the identity information to access the bank account of one resident and obtained funds used to pay Long's utility bills. Additionally, Long used the identity information to cash an insurance check belonging to one resident while employed at Canterbury Villa.

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

**Pharmacies: New York**

Attorney General Spitzer announced on January 3 that a pharmacy has agreed to pay in excess of \$2 million in a settlement that resolves a probe into billing irregularities. Parkview Health Services, Inc. of Tonawanda, has agreed to pay a total of \$2,050,000 to resolve allegations that it improperly over-supplied Medicaid recipients with more pharmaceuticals than they actually needed and that it also wrongly billed Medicaid for refilled prescriptions that lacked the supporting documentation required by law.

The civil settlement by the Medicaid Fraud Control Unit resolves allegations that from January 2000 through March 2004, Parkview routinely delivered 30 days worth of medications every 28 days – and billed Medicaid for each delivery – to more than 5,000 Medicaid recipients residing in hundreds of adult and group homes located in Chautauqua, Erie, Genesee, Monroe and Niagara counties.

The MFCU contended that this delivery system resulted in the waste of substantial quantities of drugs paid for by Medicaid. Further, the MFCU's investigation revealed that Parkview accepted returns from some adult and group homes of the accumulated excess drugs - without credit to Medicaid.

The settlement also resolves allegations of billing irregularities uncovered by a MFCU audit, including instances where, contrary to Medicaid regulations, Parkview billed for drugs in excess of the number of refills called for by prescription, when there was no prescription, no physician signature on the prescription, or no written prescription to support refills of telephone orders.

In the settlement agreement, Parkview agreed to repay Medicaid in full for the overpayments that the MFCU alleged Parkview had received, which totaled more than \$1.6 million. It further agreed to pay more than \$400,000 in interest.

For further information contact Special Assistant Attorney General Gary A. Baldauf, Deputy Director-in-Charge of the Buffalo Regional Office (716) 853-8507.

**Physicians: Texas**

Attorney General Abbott announced on January 20, 2006 that Dr. Paul Harris, formerly known as Dr. Harish P. Patel, was sentenced in Federal Court in Del Rio, Texas. Dr. Harris was sentenced to 13 months in federal prison, fined \$25,000, with three years supervised release. In addition, Dr. Harris paid \$304,798 in restitution at sentencing. Dr. Harris previously entered a guilty plea to charges of Health Care Fraud pursuant to an indictment on September 17, 2003, for defrauding the Medicaid program out of \$304,798. The indictment charges that Dr. Harris with submitting false, fraudulent and fictitious claims from his clinic in Eagle Pass, Texas. These false claims were related to the THSteps program, transvaginal sonograms and administration of non-FDA approved Depo-Provera brought in from Mexico. The case was worked jointly by MFCU, FBI, and FDA. The case was prosecuted by the U.S. Attorney's Office for the Western District of Texas, in Del Rio.

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

**CASE UPDATES****Durable Medical Equipment: Texas**

Attorney General Abbott announced on February 9, 2006 that Sunny Alfred Imeh, was sentenced in federal court to 63 months incarceration and upon release, he will be on three years supervised release. Imeh was also ordered to pay a \$200. special assessment and he was ordered to pay restitution of \$668,730.05 (\$534,984.04 to Medicare and \$133,746.01 to Medicaid). Imeh

previously pleaded guilty June 14, 2005, to one count of Health Care Fraud and one count of Conspiracy. (See: *Medicaid Fraud Report*, January/February 2005, p.9 and May/June 2005, p.30)

Imeh was the owner and operator of Transcon Medical Services, Inc., a durable medical equipment (DME) company located in Houston, Texas. Between May, 2000 through June, 2003, Imeh billed Medicare and Medicaid for more than \$5 million, and was paid more than \$1.6 million. The actual amount paid to Transcon by Medicaid was \$134,051.50. Transcon billed Medicare and Medicaid for DME products, motorized wheelchairs, hospital beds, alternating pressure mattresses. However, the beneficiaries never received or received only some of the equipment, or the beneficiaries received a less expensive product than that which was billed; i.e., a scooter was delivered, but the more expensive motorized wheelchair was billed. It is also alleged that Certificates of Medical Necessity for the DME products were falsified, and that recruiters illegally solicited patients from Arkansas and Louisiana, as well as Texas. It is alleged that Imeh paid recruiters between \$300 to \$500 for each patient recruited. This case was investigated jointly by the Houston FBI, HHS-OIG, and the MFCU.

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

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