

# Jewish Whistleblower

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TUESDAY, MAY 03, 2005

## Rabbi Morris I. Esformes, more unregistered sex-offenders and violations in his nursing homes. UPDATE: numerous heat related deaths at his homes +

posted by [jewishwhistleblower](#) @ [3:05 PM](#)

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[http://failedmessiah.typepad.com/failed\\_messiahcom/2005/05/nursing\\_h](http://failedmessiah.typepad.com/failed_messiahcom/2005/05/nursing_h)

1)

<http://www.dailysouthtown.com/southtown/dsnews/291nd4.htm>

Nursing home's owner rages at village officials

'This is about politics,' he says of EP campaign to shut the facility down

Friday, April 29, 2005

By Stephanie Gehring

Staff writerAn owner of an embattled Evergreen Park nursing home said the state's crusade against his facility is being fueled by politics.

Morris I. Esformes, who has 51 percent ownership at Emerald Park Health Care Center in Evergreen Park, said village officials don't like the kind of residents Emerald Park treats.

"This is about politics," Esformes said. "This is not about the safety of Evergreen Park."

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The 249-bed facility serves both mentally ill and geriatric patients.

Esformes said Mayor James Sexton, state Rep. James Brosnahan and state Sen. Ed Maloney have never been to Emerald Park to see the center first hand.

"Beside the fact that they're anti-mental health and anti-black, they're probably anti-Jew because I'm an ordained rabbi," Esformes said Thursday. "If it was up to the mayor, he would have lily-white geri-atrics knitting all day. The world isn't like that."

Esformes' remarks come on the same day his lawyers appeared in court to try to keep state officials from placing Emerald Park in receivership and eventually closing it down.

Sexton, Brosnahan and Maloney said Esformes' remarks were unfounded and their concerns are based on activities inside and outside the center.

"That's a beautiful thing for a rabbi to be saying," said Sexton, who planned to contact his attorney.

He added that it was easy for Esformes to blame everything on politics.

Brosnahan said Esformes is chiefly responsible for the center's operations.

"He has shown to be a person who doesn't care about the residents or the facility," Brosnahan said. "He has shown no regard for the safety of community residents, especially young children. He can point all the fingers he wants to ... but he just has to look in the mirror."

Maloney added that he was called to action because of documentation that outlines problems at the center.

"All I know is what I (have) seen in police reports over the last seven or eight years," he said. "It is well-documented by Evergreen Park police, Illinois State Police and the state department of public health that it is simply not a safe home for residents there."

This latest incident regarding sex offenders puts the community in jeopardy, as well."

Esformes said he is working within state laws.

"A client can't be placed into a long-term care facility without the approval of the state of Illinois," he said.

He said patients are screened by agents and placed in his facility with the state's blessing.

He argues that a sex offender arrested at a park by Evergreen Park police posed no danger to residents.

"They were on a planned activity," Esformes said. "They were supervised. There was no chance of any client coming too close to a child."

The arrested sex offender was one of 10 found living at the facility, 9125 S. Pulaski Road, earlier this month. Two of those men were unregistered.

Despite the numerous violations from the state's health department Emerald Park has received since 1997, Esformes said all facilities have deficiencies.

"Sexton and Brosnahan have put so much heat on the state health department that any little thing we do is under scrutiny," Esformes said. "They don't want to hear our side of the story. There are deficiencies in every facility."

Sexton said the state's actions are related to the "shenanigans" at Emerald Park.

"I don't have two unregistered sex offenders at my house. I don't have eight registered sex offenders at my house," he said. "He (did). He would still have them if we hadn't brought it to the attention of the public. This is just laughable.

"All I'm doing, all Brosnahan and Maloney are doing, is representing their constituents. And I don't think any of those sex offenders, registered or unregistered, are our constituents."

Tammy Leonard, spokeswoman for the state health department, said while many facilities have deficiencies, Emerald Park's history is unique.

"We do have many facilities that don't have deficiencies," Leonard said. "Even those who do, don't have as many and at the severity that this facility has had. The history of this facility is unique, and that is the reason why we are taking these extraordinary measures. They have an egregious compliance history."

The state stepped up actions against Emerald Park because of its April 22 survey and past history.

"It had nothing to do with any outside pressure," Leonard said.

She said the state's main objective is residents' safety.

"If we see a situation where residents are imperiled, it is our job to fix it," Leonard said.

Lawyers for Emerald Park Health Care Center have until this afternoon to respond to the state health official's request that the Evergreen Park nursing home be placed in receivership and eventually closed.

Circuit Court Judge Patrick McGann gave lawyers until 4:30 p.m. today to respond to the state's request. Judge Julia Nowicki will hold the hearing at 11 a.m. Monday.

Melissa Merz, a spokeswoman for the attorney general's office, which filed the complaint Wednesday, said no one was surprised by the judge's decision.

"We are looking very forward to Monday and looking forward to presenting evidence that we believe will establish the gross mismanagement that put residents and the community at risk," Merz said. "We want to get into receivership and get it closed down."

Esformes' attorney Arnold Pagnucci, who said he had not seen the complaint until it was hand-delivered late Wednesday, told the judge the court had an obligation to hold the hearing within five days. But he asked for some time to prepare his client's defense.

"It's the only way the defendant is going to get any opportunity to be heard fairly," Pagnucci said.

Esformes was not in court for the hearing.

The judge asked Deborah Simpson and Yolanda Ricks from the attorney general's office if they objected to giving Pagnucci some time.

"We would like to have the hearing as soon as possible," Simpson said. "We have a room full of witnesses. The health department has taken drastic measures and put monitors in place 24 hours because of the way the place is being run."

Health department officials said placement of monitors in facilities is not typical.

Evergreen Park officials were outraged earlier this month when they learned about the 10 sex offenders living at Emerald Park.

The village board subsequently enacted an ordinance that prohibits sex offenders from living at any long-term care facilities in the village. On the same day the ordinance was approved, the nursing home administrator said Emerald Park had changed its policy and would no longer accept sex offenders.

McGann told Simpson and Ricks during Thursday's hearing that he had read the complaint and the sex offenders had been removed.

"It's not just the sex offenders," Simpson said. "It's the entire administration.

"This owner appears to view fines and violations as an ordinary course of business," Simpson said.

Emerald Park has been in trouble with state regulators in the past. A license revocation hearing was scheduled for July 18.

In October 2003, Emerald Park was fined \$20,000 for not providing nursing services that matched residents' needs.

The state also disciplined the nursing home for not properly

monitoring a resident who passed out and died after becoming intoxicated. In another case, a patient exchanged sex for cigarettes, became pregnant, and the pregnancy was undetected for eight months.

Esformes said he had planned to meet with state health department officials today, but the meeting was canceled Thursday afternoon.

He said he also wants to work with the village and state legislators.

Esformes, who has spent 35 years in the field of long-term care, said the bottom line is about patients' rights.

"I'm not going to lay down for these people. If I did something wrong, I'm going to admit it like a man. Don't be judge and jury. Don't play God. These people are entitled to a quality of life," he said.

Sexton also said he was willing to give the situation his all.

"We are committed to being there as many days as it takes and doing whatever we need to do to get our neighborhood back," he said. "We have been held hostage for 10 years."

2)

[http://www.swnewsherald.com/newsarchives/city\\_news\\_front\\_page\\_news\\_2003-11-06.html](http://www.swnewsherald.com/newsarchives/city_news_front_page_news_2003-11-06.html)

Presidential Pavilion Raid Nets 12 Arrests

By YVETTE PRESBERRY

Published November 06, 2003 Southwest News-Herald - City Edition

Twelve arrests were made on Oct. 28 when local and state police raided Presidential Pavilion, 8001 S. Western Ave.

Officials from the Chicago Lawn (8th) District Police Department stated that 10 of the arrestees were listed as living in the Wrightwood nursing home.

Included in the arrests were Willie Johnson, 50, who was charged with theft; Helen Long, 65, who was charged with invasion of privacy; Leroy Stewart, 52, who failed to register as a sex offender; Regina Johnson, 45, who was charged with drug possession; and Earl Smith, 70, who was charged with drinking on the premises.

Included in the raid were Anegla Martinez, 34, who allegedly violated her probation; Alvin Lewis, 38, who was charged with theft; Pamela Lacy, 43, who was charged with prostitution; Albert Douglas, 64, who was charged with drug possession; and Cecelia Miller, 17, who was charged with child neglect.

Others who were detained by police were Dawn Rambo, 22, of the 2700 block of West 61st Street, who allegedly failed to register as a sex offender; and Kathryn Smith, 44, who was arrested after failing to appear in court on another charge, according to authorities.

All of the offenders except for Stewart had warrants out for their arrest.

The owner of Presidential, Rabbi Morris I. Esformes, could not be reached for comment.

State Sen. Jacqueline Collins (D-16th) said that she is aware of the police raid and has asked for an immediate investigation of the healthcare facility by the Illinois Department of Public Health.

Presidential became the center of controversy when allegations of illegal drug use and other actions reportedly occurred at the nursing home.

Questions on the facility's screening process were also brought up, especially when Presidential used to just house senior citizens but later admitted people as young as 20 years old.

Both local organizations and state legislators such as Collins and state Rep. Mary Flowers (D-31st) have tried to pursue legal actions to regulate reforms at Presidential.

Collins said that she has also spoken to Gov. Blagojevich about

Presidential, and is looking for a long-term solution in the screening process of the residents and staff of Presidential Pavilion.

This may be a model for other nursing homes in similar situations, said Flowers.

3)

<http://www.shamash.org/tanach/tanach/commentary/likpeshat/likpeshat.09.03>

...

Alderman Edward M. Burke will be honored by The Associated Talmud Torahs of Chicago at its Annual Keter Award Banquet on Sunday evening, November 23, at the Chicago Hilton and Towers. Dinner Chairman: Rabbi Morris I. Esformes.

Save the date. For more information or to RSVP please call Scott Harrington at 773-473-8493.

4)

[http://www.swnewsherald.com/newsarchives/city\\_news\\_front\\_page\\_news\\_2003-08-28.html](http://www.swnewsherald.com/newsarchives/city_news_front_page_news_2003-08-28.html)

Nursing Home Complaints Continue

By YVETTE PRESBERRY

Published August 28, 2003 Southwest News-Herald - City Edition

On behalf of Wrightwood residents, one man is fighting in court some alleged criminal activities that occur in a nursery home on the Southwest Side.

Wrightwood resident Anthony Philbin, president of the Wrightwood Improvement Association, filed a complaint against the Illinois Department of Public Health, alleging that patient care is in jeopardy at Presidential Pavilion, 8001 S. Western Ave.

According to Philbin's complaint, some of Presidential's patients have illegal narcotics inside the facility, and sell drugs on the street and in front of stores.

Philbin also noted in his complaint that police have raided Presidential and arrested several people, and one resident stabbed another resident.

During a pre-hearing on Aug. 21, Naomi Dunn, Deputy Chief

Counsel for the Illinois Department of Public Health, said that IDPH representatives talked to police in April who could not confirm of a raid.

There was evidence of a deficiency in operations of facility

Dunn said that there was a physical assault between two residents, though but a surveyor stood outside of Presidential for a number of hours and didn't see Philbin's claims.

Overall, there was only evidence of a deficiency in operations of the facility, said Dunn.

The pre-hearing was set for Philbin to discuss his complaint and present any other evidence that he had against Presidential.

After Administration Law Judge Linda Maschek set the actual hearing for Sept. 23, Philbin warned that he would present Presidential's allegations to the media if a sooner date was not set.

"This is too serious a problem," he said.

Tammy Leonard, spokesperson for the state's Department of Public Health, said that 66 complaints have been filed against Presidential since July 2002. Of that total, five were found to be valid.

Leonard also said that Presidential was fined \$5,000 on April 29 because of a violation in food service sanitation.

While Presidential's sewage water was backed up and flooding the kitchen, the facility's staff continued cooking meals while standing on milk crates.

The Wrightwood facility is co-owned by Rabbi Morris I. Esformes, a successful magnate in the nursing home industry who owns several facilities in Illinois and Missouri.

Throughout the last few years, Esformes has been involved in litigations dealing with residential care in his nursing homes.

When Presidential's staff members, residents and nearby

businesses alleged of narcotic purchases and use by the residents in 2002, Esformes and Presidential administrator Michael Rosen refused comment after several calls were made to their offices by the News-Herald.

Both Esformes and Rosen were unable to be reached for this story.

Dunn said that the state's Department of Public Health can only investigate allegations that occur within a nursing home.

"If, by chance, we overstep, we step into someone else's jurisdiction," said Dunn.

The situation seems problematic because representatives from Ald. Thomas Murphy's (18th) office said that local enforcement can only patrol the neighborhood outside and around Presidential.

Incidents that occur inside the facility fall under state jurisdiction.

In order for a nursing home to close, a repeat occurrence of a federal violation has to happen in the facility, said Leonard.

Annual surprise surveys are made by health inspectors who look at staff functions, residential care plans and other factors.

If violations are found, the facility can be forced to make a correction plan or take one from the state's health department.

If the same problem happens again, then steps will be taken to revoke the facility's license.

"Closing a facility is a process," said Leonard.

Philbin was hoping to put an end to the allegations surrounding Presidential with a hearing with the state's Public Health Department, but felt shut down in the pre-hearing.

He was advised by John Smock, project coordinator for the Wrightwood Community Development Corporation, to get a lawyer. However, Philbin said that he is not sure the WIA can afford one.

"I'm completely disgusted," he said. "We're over before it's

supposed to be started.”

5)

<http://www.ilga.gov/legislation/BillStatus.asp?DocTypeID=HR&DocNum=85&GAID=8&SessionID=50&LegID=15584>

Bill Status of HR0085 94th General Assembly

Short Description: CONGRATS MORRIS I ESFORMES

House Sponsors

Rep. Lou Lang

Last Action

Date Chamber Action

2/8/2005 House Resolution Adopted

Synopsis As Introduced

Congratulates Rabbi Morris I. Esformes on the establishment of the "Rabbi Morris I. Esformes Professorship" at the University of Chicago.

Actions

Date Chamber Action

2/2/2005 House Filed with the Clerk by Rep. Lou Lang

2/8/2005 House Placed on Calendar Agreed Resolutions

2/8/2005 House Resolution Adopted

HR0085 LRB094 08111 HSS 39647 r

## 1 HOUSE RESOLUTION

2 WHEREAS, Rabbi Morris I. Esformes received a Bachelor of  
3 Arts in social sciences in 1970 from Roosevelt University; he  
4 attended Hebrew Theological College in Skokie and received his  
5 Rabbinic Ordination in 1970; he has continued his education at  
6 Roosevelt University by taking courses in social work; and

7 WHEREAS, Rabbi Esformes is a Managing General Partner at 20  
8 nursing homes in two states, Florida and Illinois, and at  
9 Larkin Community Hospital in South Miami, Florida, at Woodland

10 Towers in Deland, Florida, and at Park Plaza in Chicago; and

11 WHEREAS, Rabbi Esformes served as the Executive Director of  
12 Arie Crown Hebrew Day School from 1973 to 1976 and as  
13 Administrator at Birchwood Pavilion Nursing Home in Chicago  
14 from 1970 to 1973; and

15 WHEREAS, He served on the State of Illinois Commission on  
16 Mental Health in 1978 and on the Illinois Council for Long Term  
17 Care as Vice-President from 1977 to 1979; and

18 WHEREAS, Rabbi Esformes has been actively involved in his  
19 community; he is a Past President of Arie Crown Hebrew Day  
20 School, and a board member for Hebrew Theological College,  
21 Telshe Yeshiva, the Wisconsin Institute of Torah Study,  
22 Associated Talmud Torahs, and Hannah Sachs Girls School; he is  
23 President Emeritus of Morris Namias Hebrew Academy in New  
24 Jersey and the founder of the Chicago Community Kollel; he is  
25 on the National Board of Ben Gurion University in Israel and  
26 Torah Umsorah and the board of the Simon Wiesenthal Center  
for  
27 Holocaust Studies; he is a member of the Social Welfare  
28 Committee of the Jewish Federation Committee of  
Metropolitan  
29 Chicago, Past Vice President of Congregation Adas Yeschurum,  
30 and Past President of Cong. Adas Bnai Israel; and

HR0085 - 2 - LRB094 08111 HSS 39647 r

1 WHEREAS, Rabbi Esformes has been the recipient of numerous  
2 honors, including the Yissacher Zevulun Award from Lakewood  
3 Yeshiva in 1980, the Founder Award of Telshe Yeshiva in 1981,  
4 and the Associated Talmud Torahs of Chicago Morris Esformes  
5 Scholarship Foundation; he was honored by Chicago Community  
6 Kollel, Post-Graduate School for Rabbis in 1982 and by Arie  
7 Crown Hebrew Day School in 1983; he was honored by American  
8 Friends of Ohr Somavach in 1985, by American Friends of Kerem

9 B'Yavneh in 1985, by Lakewood Yeshiva in 1990, by Yeshiva  
10 Gedola Ateres Mordechai in 1989, by Central Yeshiva Beth  
Joseph  
11 in 1988, by Neve Yerushalayim in 1994, and by Yeshivas Brisk in  
12 1998; and

13 WHEREAS, On Wednesday, February 9, 2005, a reception is  
14 being held to celebrate the establishment of The Rabbi Morris  
15 I. Esformes Professorship; therefore, be it

16 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
17 NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS,  
that

18 we congratulate Rabbi Morris I. Esformes on the establishment  
19 of a professorship in his honor at the University of Chicago;  
20 and be it further

21 RESOLVED, That a suitable copy of this resolution be  
22 presented to Rabbi Esformes as an expression of our respect  
and  
23 esteem.

6)

3 Lincolnwood hostages freed, suspect charged  
by Phillip J. O'Connor; Gary Wisby  
June 1, 1991  
Chicago Sun-Times

A gunman "seeking financial help" took three people hostage  
Friday morning in a Lincolnwood office but surrendered peacefully  
three hours later after releasing his remaining hostage.

Later, after the suspected gunman had been taken into custody,  
Lincolnwood police headquarters was evacuated after officials  
found what appeared to be a bomb and a silencer in the man's  
briefcase.

None of the hostages was harmed, and the suspect, identified by  
police as Lipman Rubin, 56, surrendered without firing a shot from  
a loaded .22-caliber pistol he allegedly carried.

Rubin was charged with aggravated kidnapping, forcible detention  
and unlawful use of weapons. He also was charged with

possession of an incendiary device and possession of a silencer.

A preliminary hearing will be held at the Skokie Branch Courthouse on Monday.

Officials said Rubin entered the building about 10:05 a.m., saying he was "seeking financial help for personal problems." The building, at 6670 N. Lincoln, houses Brickyard Bank of Lincolnwood on the ground floor. The three hostages were seized in the second-floor offices of EMI Enterprises.

One of the hostages was the owner of EMI, Morris Esformes. He identified another of the hostages as his sister Flora Steinberg. Police would not identify the third hostage, a woman.

The gunman initially demanded a \$150,000 certified check from EMI, police said.

Police, called about 11:15 a.m., at first believed they were being called to a bank robbery because the bank is in the same building.

Negotiators were stationed in a hallway around the corner and about 20 feet from EMI's offices.

Around noon the gunman freed Esformes. About 30 minutes later, he freed the unidentified woman but continued to hold Steinberg, the office manager.

Police Cmdr. Dennis Brooks said Steinberg spoke on a phone with police negotiators and relayed messages to the gunman.

Later, she was taken out the rear of the building, and seconds later police emerged with the suspect, who was taken to the suburb's police station.

About 7 p.m. Friday, police reportedly were examining a briefcase Rubin allegedly had carried into the Lincolnwood building when they found what appeared to be an explosive device and a weapon silencer. A police official said the headquarters was emptied for about 30 minutes, while officials determined whether the device was live. The briefcase's contents still are under investigation, police said.

Contributing: Neil Steinberg

Seymour Abrams (left) explains to police the layout of the Lincolnwood building where a gunman took three people hostage Friday. The hostages were released and the accused gunman arrested.

7)

Lincolnwood gunman held on \$1 million bond  
by Gary Wisby  
June 4, 1991  
Chicago Sun-Times

A \$1 million bond was set Monday in Circuit Court for the gunman who took three people hostage Friday in a Lincolnwood office.

Lipman Rubin, 56, of Chicago, held police at bay for four hours, releasing the unharmed hostages one at a time before surrendering without firing a shot.

His attorney, Francis Nolan, said it was "the desperate act of a man whose business ventures were falling through because of mistakes on other people's part."

Nolan said outside of the Skokie branch courtroom that Rubin was troubled by "an old business transaction involving a nursing home."

Police said Rubin went to EMI Enterprises, 6670 N. Lincoln, to ask for "financial help," but was refused by EMI owner Morris Esformes. Armed with a .22-caliber pistol, Rubin took the hostages, including Esformes, and demanded a certified check for \$150,000, police said.

A man at the bond hearing, who identified himself only as a friend of Rubin's, later said Rubin once owned a financially ailing nursing home in Rockford.

Esformes agreed to buy Rubin out, the man said, but when Esformes saw how bad the facility's financial condition was, he backed out.

Esformes would not talk to reporters Monday.

An administrator of the Holt Health Care Center in Rockford said Rubin owned the nursing home from 1985 to 1987.

He said the ownership has changed at least twice since Rubin had an interest in the facility, then known as the Riverside Convalescent Center.

Rubin's friend said he leased a nursing home in Cincinnati before coming to Chicago about seven years ago.

Assistant State's Attorney Inez Bargioni said Rubin was born in Israel and came to the United States in 1953. He has dual citizenship and passports in two different names, she said.

After setting bond, the judge ordered a psychiatric examination to determine whether Rubin is legally sane and fit for trial.

Rubin is charged with aggravated kidnapping, forcible detention and unlawful use of weapons. He also is charged with possession of an incendiary device and possession of a silencer, items found in his briefcase after he surrendered.

8)

"Bed Brokers" troll homeless shelters to fill nursing homes, report says

September 29, 1998

Associated Press Newswires

CHICAGO (AP) - A high vacancy rate in Illinois nursing homes has led salesmen called "bed brokers" to comb homeless shelters and psychiatric wards for potential nursing home residents, according to a published report.

The Chicago Tribune, as part of a series on the growing trend in Illinois toward moving the mentally ill to nursing homes, reported in Tuesday's editions that salesmen often offer shelter officials gifts in exchange for the referral of residents.

The Rev. Leo Barbee of the Pacific Garden Mission, Chicago's oldest and largest homeless shelter, told the newspaper that he has accepted "appreciation gifts," including tickets to sports events, from "bed brokers." But Barbee, director of men's services at the shelter, said he has never accepted cash and has always acted in

the best interests of mission residents.

Barbee said he has dealt with more than 10 bed brokers in recent months.

The Pacific Garden Mission, located just south of downtown Chicago, houses as many as 600 men and women - many of them mentally ill or substance abusers - per night.

In the past year, as many as 15 mission residents a month have been moved to privately owned, for-profit nursing homes, which can receive as much as \$110 per day in public funds for each bed filled with a homeless person.

Morris Esformes, owner of the Sovereign Home, one of the state's largest nursing homes, told the Tribune that his company actively recruits residents from shelters such as Pacific Garden Mission, but he denied paying or giving gifts to shelter officials.

"There is a vacancy issue out there," Esformes said. "And people are fighting for patients."

9)

Poshard faults nursing home oversight Governor candidate says mental patients shouldn't be housed with elderly residents

by ELAINE HOPKINS

September 30, 1998

Peoria Journal Star

PEORIA -- U.S. Rep. Glenn Poshard, the Democratic candidate for governor, on Monday called for reform of state oversight of nursing homes and mental health facilities in Illinois.

Poshard spoke at a news conference at the Gateway Building and also was scheduled to speak in Galesburg, Quincy and Springfield.

Pointing to an investigative series published this week in the Chicago Tribune, Poshard said placing mentally ill patients in nursing homes with elderly residents must stop.

"This has created a dangerous situation in our nursing homes. It endangers the lives of elderly patients," he said.

"Our hearts go out to elderly victims" who have been abused by mental patients, he said. "As governor, I will not tolerate this situation."

Poshard said he would re-examine the policies that have caused the shift of mental patients to nursing homes. Those patients should be placed in settings where they will receive appropriate treatment, from people with the training to help them, he said.

At the same time, "we need to expand oversight of the state's nursing homes," he said. He promised to appoint a director of the Department of Public Health "with no tolerance for failure to meet basic standards, and with no mandate except to protect people."

Penalties should be increased for violations, and criminal penalties can be "looked at," he said.

"If doctors can be held liable for maltreatment of patients, we also have a responsibility in the nursing home and mental health industry to make sure laws are not violated," he said.

"It's a question of leadership and policy," he said.

Poshard promised not to be swayed by the nursing home industry, which he described as "so politically powerful they're responsible for the kinds of policies that protect them and allow these situations to go on."

Poshard said he did not know personally the two Chicago nursing home magnates profiled in the Tribune series, Leon Shofrock and Morris Esformes. They've become multimillionaires as nursing home operators and also organized their own trade and lobbying group, which provides substantial political contributions to Illinois politicians.

Poshard said to his knowledge he has never received campaign contributions from them.

The two have ownership interests in the four nursing homes in the Sharon complex in Peoria on Rochelle Lane. One, Sharon Willows, last spring was fined \$10,000 after a patient died when her head became trapped in a bed rail. The nursing home was found to be short-staffed.

Police often report problems with mentally ill patients housed at Sharon Woods. On Sept. 18, a 42-year-old mentally ill man was booked on charges of attempted murder and aggravated battery after attacking his 62-year-old roommate.

Before the attack, he told a social worker he felt like killing someone and that he planned to choke his roommate to death.

Violette King of Nursing Home Monitors, a patient advocacy group, said later that Poshard's close friend and supporter David R. Stover, a long-term care industry lobbyist, is part of the oversight process that Poshard says he would reform. Stover holds public seats on two key state boards that set nursing home policies.

Stover should not hold "public" seats, since he's involved with the industry, she said.

One board oversees criminal background checks for nursing home workers, and its policies allow waivers for criminals to work in nursing homes, she said.

More nursing home residents are injured by their caretakers than by the mentally ill, King said.

The other board, the Long Term Care Facility Advisory Board, "has been taken over by the nursing home industry," King said. The board is appointed by the governor. "Is (Poshard) willing to clean up this board?" she asked.

On another topic, Poshard said that even though some polls show him trailing his opponent, he will not change his opposition to abortion rights, a stand that has alienated some potential supporters.

His opponent, Republican Secretary of State George Ryan, essentially holds the same position on this issue, he said.

Poshard said he didn't believe the polls are accurate.

"Ninety percent of what we do is below the radar screen," he said.

CAPTION: Glenn Poshard; PHOTO

10)

CITRUS TIMES

Nursing home developer prepares to open in spring Series: MEDICAL NOTES

by JIM ROSS

November 19, 2000

St. Petersburg Times

The 120-bed facility is being built by a group of companies opening centers in Gainesville and Jacksonville.

The developer of a new nursing home hopes construction will be finished in January and that the facility will begin receiving patients in spring 2001.

The home is being built on County Road 486 just east of Forest Ridge Boulevard. The developer is Woodlands Care Center of Citrus County Inc., whose president is Morris Esformes. Several Esformes-led corporations own nursing homes in Florida, Illinois and Missouri.

This unnamed home will have a 24-bed unit for intensive rehabilitation, a 15-bed unit for Alzheimer's disease patients and 81 beds for general patients.

Sid Roberts, vice president of the new Citrus facility, said the company's management arm, EMI Enterprises, will operate the home. Esformes obtained the necessary state certificate of need from another company, and there was little time to scout a site other than the one the original company had selected for the home.

But "the more that I see the area, the more that I meet the people over there, there's no doubt in my mind that's the perfect place to build a nursing home," said Roberts, who also serves as executive director at the Woodlands Terrace Extended Care nursing home in DeLand.

"All my senses tell me this is going to work out well for us and the community," he said.

Esformes-led companies also are building new nursing homes in

Gainesville and Jacksonville.

COUNTRYSIDE MANOR UPDATE: As the new Citrus Hills facility prepares to open, the operators of the Countryside Manor assisted living facility are anticipating a grand re-opening.

State regulators in September closed Countryside because the home did not have a fire sprinkler system and owners had not met timelines to install one. Residents were relocated with relatives or into other facilities.

Laurene Holder, the administrator at Countryside, said she hoped the sprinkler system will be installed in December and that the home can welcome back its residents shortly afterward.

Meantime, the home's owners are completing some renovations and sprucing up the exterior.

"We plan to open up and come back strong," Holder said.

There will be one more major change: a new name.

"It's just too much, too many negative things in the media" associated with the Countryside Manor name, she said.

Pat Glynn, a spokesman for the Agency for Health Care Administration, said his agency has completed follow-up visits with the Countryside residents to make certain they are comfortable in their new placements. So far, Glynn said, the residents seem to be doing well.

11)

CITRUS TIMES

Nursing home insurance rates soar as county closely watches

Series: CITRUS BUSINESS: HEALTH CARE

by JIM ROSS

February 14, 12001

St. Petersburg Times

The county has numerous nursing homes and ALFs, so skyrocketing insurance rates are a hot issue here.

Providing long-term residential care for the elderly is big business

in Citrus. The county has eight nursing homes that offer a combined 961 beds. A ninth home, with 120 beds, is scheduled to open this spring near Citrus Hills. Citrus also is home to at least 15 assisted living facilities, which provide a different level of care than nursing homes.

So when lawmakers and lobbyists talk about tackling the industry's problem with liability insurance, plenty of local people are paying attention. And when the Legislature addresses the issue this spring, as it has promised to do, the people who live and work in nursing homes and ALFs will have ample reason to tune in.

The problem: Insurance premiums have skyrocketed statewide, causing some homes to close their doors and others to worry they might face the same fate.

Why is insurance so difficult to obtain and afford? It depends on whom you ask.

Trial lawyers, who represent residents, say staff negligence and incompetence are prevalent and thus inspire high premiums and rates. Nursing homes say Florida law encourages lawsuits and has allowed lawyers to score huge court victories; in the process, insurers have become frightened and have withdrawn from the market or jacked up their rates.

One such court victory occurred in Citrus almost two years ago, when Winifred Martin won a \$20-million verdict. Half of that judgment was lodged against Citrus Health and Rehabilitation Center, the Inverness nursing home where she was living when a toe infection spread and led to a partial leg amputation.

No matter what the reason, nursing home managers and operators say the problem is real and needs quick resolution.

Surrey Place, a 120-bed nursing home in Lecanto, is a good example of how the problem has manifested itself. The home had a clean claims record in summer 1999, when it sought to renew the insurance coverage it had held since 1993. But the carrier, the St. Paul Companies, was withdrawing from Florida.

Diane Wesch, the administrator at Surrey, said her business

managed to secure a new policy at reasonable rates. But that carrier left Florida in July, leaving Surrey little choice but to sign with a company whose premiums were 250 percent more than what Surrey had been paying.

"You can be the best facility in the world, and you (a disgruntled resident) get the best attorney and they can take you for anything. It's downright scary," Wesch said.

"It's a real challenge to try and find money to pay all the other bills that come through, because resident care is the most important thing," Wesch said.

Trial lawyers and people who advocate on behalf of nursing home clients present a different view.

"The problem is we have a crisis of care in Florida, and the industry is in denial about it," said Ken Connor, a trial lawyer, during a recent meeting of a state task force designed to address long-term care.

The state studied the legal landscape last year and determined that fewer and fewer companies were issuing liability coverage for Florida nursing homes and ALFs. It presented its findings to the state task force.

Tom Gallagher, the state's newly elected insurance commissioner and treasurer, said through a spokeswoman that the federal government could help nursing homes by increasing the Medicare reimbursement rate that those homes receive.

Closer to home, he said, state government should teach young people the importance of long-term care insurance and perhaps explore a move to require large employers to provide, or at least help provide, such coverage to their employees.

If people who live and work in nursing homes and ALFs have an obvious reason to monitor the Legislature's efforts this spring, other Citrus residents might want to pay attention, as well, since a local lawmaker, state Rep. Nancy Argenziano, will be in the thick of the battle.

Argenziano, R-Crystal River, chairs the House Healthy Communities

Council, which puts her in position to guide legislation related to long-term care. She also served on the state task force and, in the process, managed to alienate some people in the nursing home industry by accusing them of lying and saying they had failed to demonstrate any insurance crisis.

Argenziano has locked horns in particular with the Florida Health Care Association, an industry trade group. The group has said she failed to exhibit proper leadership when she declined to vote on a series of recommendations that would have marked the first step in providing lawsuit relief.

Argenziano said the recommendations came from the task force's active staff and should be presented as such. Other task force members shared that view.

"What they're trying to do now, especially the Florida Health Care Association, if you don't agree with them, they try to paint you as the trial lawyers' girl. Well, I'm not anybody's girl," Argenziano said. "The person I most want to protect are the people in those nursing homes."

Argenziano pointed to the new Citrus Hills home, being built by Woodlands Care Center of Citrus County Inc., and its president, Morris Esformes, as evidence that the "crisis" might be exaggerated.

"Why the hell are you doing that if this is such a bad place to be?" Argenziano asked.

12)

OFFICIALS INVESTIGATE DEATHS OF THREE AT NURSING HOME ;  
WOMEN DIED BECAUSE OF HEAT AT FACILITY, POLICE SAY

By Phillip O'Connor Of The Post-Dispatch Deborah Shelton And Greg Jonsson Of The Post-Dispatch Also Contributed Information For This Story.

May 8, 2001

St. Louis Post-Dispatch

Police and Missouri aging officials are investigating the heat-related deaths last month of three women at a nursing home in University City.

The women, who ranged in age from 66 to 87, died within 36 hours of each other on April 8 and 9 at Leland Health Care Center, 894 Leland Avenue, according to University City police.

Police identified the three as: Theodora Hudson, 85; Mary Moore, 87, and Kay Jones, 66. Their hometowns were not immediately available.

Officials with the Missouri Division of Aging said they are recommending a \$50,000 fine and citations for placing patients in imminent danger.

Police and firefighters were called to the facility five times during that two-day period to treat unresponsive patients.

"After they got there, they started noticing it was pretty warm on the third floor," said University City police Capt. Charles Adams. "When something doesn't look quite right, especially this many people expiring in that short of time, you need to look at it."

Workers at the center told police at the time that the air conditioner was broken, but that they were trying to get it fixed, Adams said. Temperatures during the period were in the high 80s and low 90s.

Eventually, firefighters requested that all residents be removed from the third floor until the air conditioning could be repaired. Staff moved residents to other floors.

Teresa Johnson, the nursing home administrator, declined comment Monday. An attorney for the nursing home owner could not be reached.

All the deceased were found in their third-floor bedrooms.

St. Louis Medical Examiner Mary Case said all died as a result of hyperthermia, or overheating. Moore's body temperature was nearly 10 degrees higher than normal, she said. A fourth patient transported from the home in that period died of other causes, Case said. The fifth person taken from the home then was treated at a hospital and released.

Case said she would forward her report to the county prosecutor, who will determine whether criminal charges are filed.

Officials with the state Division of Aging didn't learn of the deaths until April 10, when contacted by the University City Fire Department.

By the time division officials arrived later that day, the air conditioner was on and the building was cooling.

"We don't know if it was broken or if they just hadn't turned it on," said Shelly Williamson, a program manager with the Division of Aging.

The agency is still investigating.

At one point during that period, temperatures on the third floor reportedly reached 95 degrees, according to state officials.

Nursing homes are required to report deaths in cases where abuse or neglect is suspected.

Whether Leland should have reported the deaths falls in a gray area, Williamson said.

The nursing home is a three-story, horseshoe-shaped, orange brick building. Leland has a capacity for 130 patients, but only 90 were reported living in the facility as of the end of March, according to state records.

The home is expected to receive a statement of deficiency as early as today that must be posted in the home. The operators then must provide the division a plan for correcting the problems.

Failure to do so or to remedy deficiencies could lead to other citations and the possible loss of federal certification to accept new Medicaid and Medicare patients.

On Monday, the home's air conditioning was on full blast. In addition, a portable fan sitting on the floor of a large first floor day room was circulating cool air. A half-dozen residents sat in the day room playing bingo. Several others, in wheelchairs, sat on an adjoining outdoor deck.

## Past problems

Leland has had problems in the past.

In November, the division cited the home for having fire alarms that could not be heard in all parts of the building and for an emergency generator that failed to operate properly. The home was also cited for failing to conduct required criminal background checks on new employees, failing to keep residents' rooms clean and in good repair, failing to follow physicians' orders and other problems with patient treatment.

In January, the division again cited the home for problems with the emergency generator.

In both instances, home officials filed plans for correcting the problems.

"They've got a history like probably most of the facilities in the area," said Pamela Clark of the local Division of Aging office. She said Leland is "not in any immediate jeopardy" of being closed.

The home is owned by Morris Esformes, who in a 1998 published report was ranked among Illinois' largest and wealthiest nursing home owners. He had ownership in at least 20 homes in three states.

Esformes and his attorney attended a meeting last week to discuss the problems at Leland.

"This whole thing is just inexcusable," said Violet King, of the nonprofit patient advocacy group Nursing Home Monitors, based in Godfrey. "You should have been able to do something about it. It's like they're looking at their residents as commodities rather than as human beings."

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13)

BOND SEEKS U.S. INVESTIGATION INTO DEATHS AT NURSING HOME ;

## SENATOR CRITICIZES STATE OVERSIGHT

By Phillip O'Connor Of The Post-Dispatch

May 10, 2001

St. Louis Post-Dispatch

Missouri Sen. Christopher "Kit" Bond asked federal health officials Wednesday to begin an investigation into the heat-related deaths of some elderly patients at a University City nursing home last month.

"Not only do these tragic deaths appear to result from egregious safety violations by the nursing home, but the state oversight of this entire situation appears to be deficient," Bond wrote in a letter to Health and Human Services Secretary Tommy Thompson.

Four women living at the Leland Health Care Center, 894 Leland Avenue, died over a two-day span in April.

The St. Louis County medical examiner later determined that three of the women died of hyperthermia, or overheating. The daughter of the fourth woman said she was certain that her mother also died from the heat, although the medical examiner said she did not.

The air conditioning was not operating in the home at the time of the deaths and the temperature on two floors exceeded 90 degrees, according to police reports.

Officials with the Missouri Division of Aging said they did not learn of the deaths until April 10, when the University City Fire Department contacted the agency.

News of the deaths wasn't made public until last week, when the University City Police Department issued a press release after receiving inquiries from reporters.

Bond asked Thompson and the department's acting inspector general to look into why the Division of Aging had no information about the deaths until they were notified by the local Fire Department and why the "disturbing events were not made public until four weeks after the fact."

"Above all, your investigation must look at what we can do to

ensure that this type of tragedy never happens again," Bond wrote. "We now have in St. Louis the worst quality violation one can imagine and we must act."

A lawyer for the nursing home declined to comment on Bond's letters.

"That's his business," said attorney Harvey Tettlebaum.

Tettlebaum disputed claims that the Division of Aging first learned of the deaths from Fire Department officials.

He said the nursing home contacted state officials on April 10 regarding the deaths.

"The facility self-reported the deaths because it is required under the regulations," Tettlebaum said.

The nursing home is owned by Leland Health Care, a limited liability company. One of the principals is Morris Esformes, who in a 1998 published report was ranked among Illinois' largest and wealthiest nursing home owners. He had ownership in at least 20 nursing homes in three states.

In monitoring and regulating nursing homes, Missouri acts as an agent for the federal Health Care Financing Administration, which administers Medicare and Medicaid. Medicare and Medicaid pay for nursing home care.

Bond also wrote to the Health and Human Services Department's acting inspector general, asking him to conduct a preliminary review to determine whether a full investigation was warranted.

The Division of Aging has issued several citations against the nursing home and is recommending a \$50,000 federal fine against the facility in response to the health-related deaths.

In the past few years, Bond has been critical about the quality of care and the inadequacy of state oversight of Missouri nursing homes.

"Missouri's elderly nursing home residents and their families have suffered and been victimized by problem nursing homes for far too

long," Bond wrote.

Meanwhile, St. Louis County Prosecutor Robert McCulloch will review police and the medical examiner's reports to determine whether criminal charges should be filed in the case.

University City police reports obtained Wednesday provide additional details about the events of April 8 and 9.

Police first went to the home about 1:30 a.m. April 8 after receiving a call about a person not breathing. A nurse at the home told police she'd last checked on Theodora Hudson, 85, at 1:10 a.m. The woman asked for a glass of water. The nurse said she returned about 15 minutes later to find Hudson unresponsive. She called 911 and began efforts to revive her.

Paramedics arrived minutes later and pronounced Hudson dead.

The next day, police were called to the nursing home again. They found Freddie Burns, 70, dead in her bed. The medical examiner later ruled that Burns did not die from hyperthermia. But Burns' daughter, Valerie Jackson, said she had repeatedly complained over several days to the nursing home staff about the heat in her mother's room. She bought a large fan for her mother's room and frequently patted her with water to keep her cool.

In their report, police noted the conditions inside the nursing home.

"The temperature was extremely hot," one officer wrote. "The temperature caused both of us to perspire."

About 10 hours later, police answered a third call to the home.

The officers reported that Mary Moore, 87, was suffering "from some type of heat-related illness."

Paramedics began treating Moore for heat exhaustion before taking her to a hospital, where she later died.

Police received their fourth call from the home about 10:15 p.m. on April 9 about a patient not breathing.

On arrival, they met with a nurse who told them she was making her rounds when she found Kay Jones, 66, not breathing.

Paramedics could not resuscitate Jones. They recorded her temperature at 109.7, more than 10 degrees above normal.

Firefighters recorded a temperature of 95 degrees on the third floor of the nursing home and 90 degrees on the second floor.

At that point, staff moved the patients to the first-floor cafeteria, where their vital signs were checked and fluids administered.

Police reported speaking with the maintenance supervisor, who told them the cooling unit was not broken but that it was an old unit.

An air-conditioning repair crew was at the scene when police arrived for the fourth call, the report noted.

PHOTO | Photo Headshots (1) (Sen. Christopher "Kit" Bond, "We must act" (2) (Kay) Jones, Fourth patient to die

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Nursing home deaths detailed in state report

May 11, 2001

Associated Press Newswires

ST. LOUIS (AP) - Paramedics initially met some resistance when they ordered that nursing home residents be moved from "unbearably hot" conditions at a University City nursing home, where four people died during a 48-hour period last month.

The Missouri Division of Aging, which released that finding yesterday and continues to investigate the deaths, has asked a federal agency to consider decertifying the Leland Health Care Center.

That move would prohibit the home from receiving Medicare or Medicaid funds, an important source of nursing home revenue.

Four nursing home residents - Theodora Hudson, 85; Freddie Burns, 70; Mary Moore, 87; and Kay Jones, 66 - died during a two-day period at the home.

Examiners determined that Hudson, Moore and Jones died of hyperthermia. They simply got too hot. Examiners did not list hyperthermia as the cause of death in Burns' case, although her daughter is convinced the heat played a role.

Paramedics called to the nursing home last month described the building as "an oven."

Staff members blamed a broken air conditioning system, but when paramedics ordered some of the 85 patients moved, a certified nurse's aide initially said no.

The paramedics then called their captain and battalion chief "because they could not let the residents lay and suffer."

The state report found that the facility failed to maintain safe temperatures from April 5 through April 9 and failed to provide residents with the necessary care. The agency is recommending a \$50,000 fine.

A lawyer for Morris Esformes, the nursing home's owner, said Thursday that he was still reviewing report. "I don't know if there's anything we disagree on or not," said the lawyer, Harvey Tettlebaum. "It's just a little confusing, and it takes time to go through it."

Tettlebaum also noted that one of the patients had an infection that may have resulted in a fever.

"I'm not saying it did or it didn't," Tettlebaum said. "Hyperthermia is just high temperature. It doesn't indicate what the cause of the high temperature was. These cases are complicated."

The events covered in the report took place over several days last month when temperatures were unseasonably warm.

Some staff members reported tube feeding solutions curdling because of the heat.

Some nurses said they passed out popsicles and water. Others said they tried to keep residents cool by opening windows, giving bed baths, keeping lights off and closing blinds. Mobile patients were

asked by staff to move to cooler floors.

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NURSING HOME WHERE 4 DIED COULD LOSE FEDERAL FUNDS; STATE RELEASES REPORT THAT PROVIDES DETAILS OF DEATHS

By Phillip O'Connor Of The Post-Dispatch

May 11, 2001

St. Louis Post-Dispatch

A University City nursing home where several elderly patients died last month could lose its federal funding.

Missouri Division of Aging director Richard Dunn said he sent a letter Thursday to the federal Health Care Financing Administration asking them to consider decertifying Leland Health Care Center as a Medicare-Medicaid facility because of the deaths.

If decertified, the facility would no longer be reimbursed for residents who pay with Medicare or Medicaid, a valuable source of revenue for many nursing homes.

The division also released a report Thursday providing more details about the deaths of the women. Paramedics called to the nursing home at 894 Leland Avenue last month described the building as "an oven," "unbearably hot," and the temperature in one resident's room as "boiling."

Staff members blamed a broken air conditioning system, but when paramedics ordered some of the 85 patients moved, a certified nurse's aide initially said no.

The women died within 48 hours of each other after temperatures in parts of the three-story brick nursing home reached 95 degrees or more. The St. Louis Medical Examiner ruled that three of the women died of hyperthermia, heat exhaustion, caused by exposure to a hot environment.

The daughter of the fourth woman is convinced that heat played a role in her mother's death.

The deaths came days after the nursing home's medical director and staff as well as patients and their family members complained to the administrator that the building was hot.

The report found that the facility failed to maintain safe and comfortable temperatures inside the building from April 5 through April 9. The report also found that the facility failed to provide residents with the necessary care and failed to monitor their condition.

The report included the most severe federal and state citations possible against the facility for placing patients in immediate jeopardy and presenting either imminent danger to the health, safety or welfare of a resident or a substantial probability that death or serious physical harm might occur.

The agency is also recommending a \$50,000 federal fine.

"You could say they took a rather casual, cavalier approach to this issue," Dunn said of the nursing home's staff.

Nursing home's plan to fix problems is due Wednesday

A lawyer for Morris Esformes, the nursing home's owner, said Thursday that he was still reviewing the agency's 30-page report. The nursing home has until Wednesday to prepare a plan for correcting the deficiencies.

"I don't know if there's anything we disagree on or not," said the lawyer, Harvey Tettlebaum. "It's just a little confusing, and it takes time to go through it."

Tettlebaum said he was especially interested in establishing a proper sequence of events.

"The time frames are really pretty crucial here," he said.

Tettlebaum also noted that one of the patients had an infection that may have resulted in a fever.

"I'm not saying it did or it didn't," Tettlebaum said. "Hyperthermia is just high temperature. It doesn't indicate what the cause of the high temperature was. These cases are complicated."

Much of the agency's report is based on interviews with paramedics, fire department officials, nursing home staff and

residents and their family members. None was named.

The report portrays a nursing home in seeming disarray, including a breakdown in staff communication, a lack of emergency planning, poor training and employees who seemed reluctant to cooperate with authorities.

The events covered in the report took place over several days last month, when the temperatures were unseasonably warm.

One employee said that April 9 was the hottest day she had experienced in her 10 years working in the building. Some residents reported sleeping on the first floor, one in his wheelchair, to try to stay cool. Some said they didn't sleep at all. Some staff members reported tube feeding solutions curdling because of the heat.

Some nurses said they passed out popsicles and water. Others said they tried to keep residents cool by opening windows, giving bed baths, keeping lights off and closing blinds. Mobile patients were asked by staff to move to cooler floors.

According to the written statement of the home's administrator, Teresa Johnson, to the Division of Aging, she asked a maintenance worker to turn on the air conditioning on April 5 because the facility was starting to get warmer than usual. The air conditioning had not been turned on by the end of the day. The high temperature that day was 80 degrees.

On April 6, when the temperature outside reached 82, the medical director, staff and family members complained to Johnson that the building was hot. She again asked the maintenance worker to start the system, and was told he would get his supervisor to help him, the report said. By the end of the day, the air conditioning still had not been turned on.

Johnson left for the weekend without leaving specific instructions for the nursing supervisor or staff, according to the report.

Theodora Hudson, 85, died in the early morning hours of April 8. The medical examiner would later cite hyperthermia as the cause of her death. Johnson said she returned to work on April 9, called the maintenance supervisor and was told a contractor could not

get the air turned on that day.

When 70-year-old Freddie Burns died about 10 a.m. Monday, a police officer who responded noted in his report that the temperature in the building was "extremely hot." The medical examiner ruled that Burns died of causes other than hyperthermia, but her daughter, who tended her mother in at the nursing home the four days before her death, said she believes the heat killed her mother.

A paramedic told the Division of Aging that he went to the home about 7:30 that night, after receiving a call about a patient with a high fever. The third floor felt like an oven, the paramedic reported. The high that day had been 91 degrees.

"When they entered 87-year-old Mary Moore's room, they found it 'boiling hot,' " the report said.

Attendants recorded Moore's temperature at more than 108 degrees. She was taken to a hospital where she died an hour later.

Paramedics' suggestion to move patients is rejected

The paramedic said three staff members told him the air conditioning was broken. The paramedic told the staff that the air conditioning needed to be fixed. Staff told the paramedics there was a plumbing problem that prevented the air conditioning from being turned on. When the paramedics requested the 40 patients be moved off the third floor, one certified nurse's aide said no.

The paramedics called their captain and battalion chief "because they could not let the residents lay and suffer."

Johnson, the administrator, said she received a call that night from the nursing director regarding Moore's condition. She said the nursing director, on the job less than a week, told her that firefighters were in the building and would not leave until the air conditioning was turned on.

About 10 p.m. that night, paramedics were called to the home again, this time regarding a dead body. The air conditioning still was not working. Once on the third floor, the paramedics' shirts

dripped with sweat. One paramedic reported the temperature at 98 degrees. The temperature of the 66-year-old victim, Kay Jones, was measured at 109.7 degrees.

At that point, a battalion chief ordered all residents moved to another floor where paramedics made sure the residents were cooler and received fluids.

Paramedics remained at the home until 1 a.m., when the air conditioning was turned on. Even then, a paramedic reported, that the air conditioning only blew warm air.

"Facility staff told them it would take a while to cool because warm water remained in the system," the report said.

On Wednesday, Sen. Christopher "Kit" Bond, R-Mo., asked the Department of Health and Human Services to investigate the deaths at Leland and the events that followed.

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ILLINOIS IN '99 FINED NURSING HOME FOR EXCESSIVE HEAT; OWNER ALSO OPERATES FACILITY IN U. CITY WHERE FOUR PATIENTS DIED  
By Phillip O'Connor Of The Post-Dispatch

May 13, 2001

St. Louis Post-Dispatch

In 1999, Illinois public health regulators fined a suburban Chicago nursing home after firefighters responding to a complaint recorded a temperature of 94 degrees on the building's third floor.

A state investigation found that the staff failed to move 35 residents off the floor after the building's air conditioning broke. They moved the patients only after a fire department official ordered them to do so.

The Illinois nursing home is owned by the same man who owns a University City nursing home where several women died last month of heat exposure.

The Illinois case is just one of several encounters state regulators have had in recent years with Morris Esformes, who over the past three decades acquired interests in more than two dozen nursing homes in several states.

"I think he feels he's been in the business 30 years and, by and large, he's done a good job," said Harvey Tettlebaum, Esformes' lawyer. "He has probably 4,000 people he takes care of in his nursing homes. The number of problems he's had is relatively few."

The Illinois case is just one of several encounters state regulators have had in recent years with Morris Esformes, who over the past three decades acquired interests in more than two dozen nursing homes in several states.

"I think he feels he's been in the business 30 years and, by and large, he's done a good job," said Harvey Tettlebaum, Esformes' lawyer. "He has probably 4,000 people he takes care of in his nursing homes. The number of problems he's had is relatively few."

The Missouri Division of Aging last week cited Leland Health Care Center in University City in connection with the deaths of four elderly women last month.

The women died within 48 hours of each other after temperatures in parts of the three-story brick building at 894 Leland Avenue reached 95 degrees or more after the air conditioning could not be turned on. Fire Department officials eventually ordered patients moved from the third floor to cooler parts of the building.

The St. Louis medical examiner ruled that three of the women died of hyperthermia, heat exhaustion caused by exposure to a hot environment. The death of the fourth woman is still under investigation, although her daughter is convinced that heat played a role in her mother's death.

The Division of Aging has recommended a \$50,000 federal fine and that the nursing home be decertified as a Medicare-Medicaid facility. If decertified, the facility would no longer be reimbursed for residents who pay with Medicare or Medicaid, a valuable source of revenue for many nursing homes.

On Friday, Leland officials issued a statement saying they were saddened by the deaths. They said they were cooperating with authorities and continuing their own investigation. The facility also hired a former Division of Aging official to help ensure that the home remains in compliance.

Esformes, 54, owns nursing homes in Missouri, Illinois and Florida. At one time he owned a facility in Kansas.

In Illinois, Esformes owns interests ranging from 12 percent to 51 percent in 17 facilities, according to state records. He owns four homes in Florida, Tettlebaum said.

In Missouri, Esformes' name appears in the ownership records of six homes, including four in the St. Louis area. In addition to Leland in University City, Esformes also is listed as an owner at Creve Coeur Terrace, Normandy Nursing Center and Cedar Hills Terrace in Jefferson County.

A 1998 report by the Chicago Tribune described Esformes as a multimillionaire who ranked among Illinois' largest and wealthiest nursing home owners.

Esformes told the Tribune he entered the business in 1969, when he was a 23-year-old rabbi. Along with a business partner, Esformes owned homes that held more mentally ill patients than any other owner in Illinois. The Tribune stories detailed poor conditions, inadequate treatment and other problems at facilities owned by Esformes, including Emerald Park, the same facility later cited by state regulators for excessive temperatures.

During a 1998 inspection at Emerald Park, regulators said bathrooms smelled of foul odors with mold and mildewed walls. One room was covered with a brown smear and littered with cigarette butts. Another bathroom was locked because, an employee admitted to inspectors, no one wanted to clean up after the residents.

Esformes said at the time that the majority of public health inspectors lacked the necessary training.

Tettlebaum said Esformes has operated Emerald Park for about seven years, most of that time without any problems.

Tettlebaum played down the temperature problems at Emerald Park, for which the facility was fined \$3,750, saying, "No one was injured, no one died, no one suffered. How Illinois Public Health wanted to describe it is their business. As a practical matter,

there were no adverse responses from any clients.

"He (Esformes) paid his fine, and he went on."

Last year, Illinois regulators cited a home Esformes owned in Joliet after an 81-year-old patient wandered off undetected. The woman was found 18 hours later in a vacant building about a half-mile away. The woman was dressed in hospital gowns and was not wearing shoes. She was treated for dehydration, cuts and abrasions. The state fined the nursing home \$10,000.

Tettlebaum said Esformes had operated the Joliet facility for 26 years. He said the person who wandered off was found unharmed. Since then, workers erected a fence around the facility.

Both of the Illinois citations are considered the most severe the state can impose.

In July 1995, Esformes closed a 200-bed nursing home in Olathe, Kan., after learning that the facility would fail a third state inspection. The facility already had lost its Medicare funding and stood to lose its Medicaid funding.

State inspectors said the center failed to move bedridden patients often enough to prevent sores and did not treat the sores properly. The home also failed to provide proper care for incontinent patients, the state said, and did not supervise patients well enough to prevent falls.

"For whatever reason, they just absolutely ran him out of Kansas," Tettlebaum said. "He put \$3.5 million in that building, and they would not leave him alone. He finally said the heck with it."

GRAPHIC | Graphic / Chart - How to find good nursing home care \*

- \* Nursing home should pass the sniff test; that is, you should not be assaulted by unpleasant odors.
- \* You should be able to find staff in the facility working with residents. Staff should be pleasant, friendly and clean.
- \* Residents should look clean, groomed and cared for.
- \* You should see residents and staff smiling and talking to each other. They should seem comfortable with each other.
- \* A registered nurse should be on hand to ensure quality of care.
- \* Residents' rooms should be personalized with furniture, family pictures and other things from their past.
- \* Residents' rooms, halls

and public areas should be clean and relatively uncluttered. \* The food should look and smell good. Staff should be helping residents to eat. \* The building, grounds and furniture should be clean and in good condition. \* Residents' rooms and public areas should be well-lighted. Residents should have as much natural light as possible. Source: Marilyn Rantz, professor of nursing the University of Missouri at Columbia

17)

Daughter sues nursing home in mother's overheating death

By BETSY TAYLOR

Associated Press Writer

May 16, 2001

ST. LOUIS (AP) - The daughter of a woman who died last month from hyperthermia sued a University City nursing home Wednesday, claiming the facility caused the heat-related death.

Valerie Jackson, the daughter of 70-year-old Freddie May Burns, filed the lawsuit in St. Louis Circuit Court. Her mother was one of four patients who died during a 48-hour period at the Leland Health Care Center in University City.

"The nursing home basically made a decision not to turn on the air conditioner," said Bradley Lakin, Jackson's attorney.

"Unfortunately, four people died as a result."

Harvey Tettlebaum, the lawyer for nursing home owner Morris Esformes, said he had not had a chance to review the lawsuit. However, he said the nursing home underwent a full inspection in January and was found to be in compliance.

"The air conditioner was fine," Tettlebaum said. "It is an unfortunate situation, but the cause and effect have not been determined."

St. Louis County Medical Examiner Mary Case had said earlier that 70-year-old Freddie Burns died of other causes.

Case made her final ruling Monday after interviews with relatives of Burns, who died April 9 at the Leland Health Care Center in University City.

Jackson previously said she bought a fan for her mother and complained of the heat to nursing home officials for several days before her mother's death.

"I wish they'd close it down," Jackson said this week. "So many people have suffered or died in that place. I wouldn't want someone else's mother or parent or child to go through what I've been through."

Case said she contacted the family after reading Jackson's account in the newspaper. Case sent her findings in all four deaths to the St. Louis County prosecutor's office.

The four residents - Burns, 85-year-old Theodora Hudson, 87-year-old Mary Moore, and 66-year-old Kay Jones - died during a two-day period at the home.

The air conditioning was not operating at the time and the temperature inside the three-story brick building reached 95 degrees or more, firefighters said.

Jackson's lawsuit maintains that Burns received pressure sores while residing at the nursing home, which would not have occurred if she had been adequately cared for. Tettlebaum said nursing home clients received proper care.

The Missouri Division of Aging has recommended a \$50,000 fine against the nursing home. The agency has also recommended the federal Health Care Financing Administration decertify the home as a Medicare-Medicaid facility. Such a measure would take away a significant source of revenue for the facility.

Sen. Kit Bond, R-Mo., wants the federal Department of Health and Human Services to investigate. In Bond's letter to department Secretary Tommy Thompson, he wrote that both the nursing home and state health officials appear to be at fault.

"Among other things, I ask you to look into why the Missouri Division of Aging had no information about these deaths until they were notified by the local fire department, and why these disturbing events were not made public until four weeks after the fact," Bond said.

18)

Division of Aging may close nursing home where deaths occurred

By BETSY TAYLOR

Associated Press Writer

May 17, 2001

Associated Press Newswires

ST. LOUIS (AP) - A state agency is pursuing about \$180,000 in fines and planning to revoke the license of a University City nursing home where four people died from the heat during a 48-hour period last month.

Missouri Division of Aging Director Richard Dunn said the revocation would mean that Leland Health Care Center would no longer be able to operate the nursing home. That does not necessarily mean the facility would close.

"If they do lose their license, we would hope there would be someone else to operate the facility without a disruption," Dunn said.

The nursing home is owned by Morris Esformes, 54. He owns other nursing homes in Missouri, Illinois and Florida. Esformes' lawyer Harvey Tettlebaum said his client plans to appeal. The license would be revoked in mid-June, if no action were taken.

The Division of Aging is suing in St. Louis County Circuit Court to impose \$133,000 in civil penalties on the home. That's in addition to more than \$50,000 the state agency has recommended in federal fines.

Thursday, nursing home workers appealed to state officials and the community to keep the home open.

Lilly Neal, a 34-year employee of the nursing home, said 75 union workers are worried about losing their jobs. Neal said the nursing home's location is a benefit to the community.

"I don't think it should be shut down," she said. "The quality of care is good."

Four residents - 70-year-old Freddie Burns, 85-year-old Theodora

Hudson, 87-year-old Mary Moore, and 66-year-old Kay Jones - died during a two-day period at the home April 8 and 9. The medical examiner ruled the deaths were heat-related.

The air conditioning was not operating at the time and the temperature inside the three-story brick building reached 95 degrees or more, firefighters said.

The nursing home filed documents with the state Wednesday that outlined changes made to address concerns at the nursing home. The home's operators maintain no standards were violated.

The documents said "many staff stated they received few, if any, complaints from the residents or their families and that the residents generally prefer the temperatures to be very warm on the floor and in their rooms."

The home also said a new temperature monitoring program is in place, where workers will check the temperatures on all floors twice a day when the temperature outside rises above 80 degrees or drops below 50 degrees.

According to the documents, nursing home workers said they turned off the heat on April 5, when the outside temperature became unseasonably warm. On April 9, the facility called its air conditioning service provider to have the air conditioning turned on.

They said the service company was inundated with calls and arranged to come to the nursing home on April 10.

Paramedics were called to the nursing home at about 7:30 p.m. on April 9 and said the facility felt like an oven. They said they initially met with resistance when they wanted to move residents from the hottest areas and called their chief officers to "inform them because they could not let the residents lay and suffer."

The nursing home documents, however, said their administrator, not paramedics, ordered staff to move residents off the third floor and check vital signs. The home said staff had already passed out fans, beverages, lighter clothes and towels to cool residents.

While state investigators found that a nurse worried that tube

feeding solution was curdling because of the heat, the nursing home denies that, saying that simply couldn't occur.

Valerie Jackson, a resident of the north St. Louis County community of Pagedale, is suing the nursing home after her mother Freddie Mae Burns died on April 9.

Jackson gave a starkly different account than that given by the nursing home. She said an employee gave her mother a fan, but it wasn't adequate, and a family member had to go out and buy a larger one.

She said family members complained about the heat to staff, who repeatedly said they were working on it. But Jackson said she has no doubt the hot conditions caused her mother's death.

"She was very uncomfortable, but there was nothing I could do but towel her down." Jackson said she couldn't believe employees did not move residents out of the heat sooner. "It was common sense," she said.

19)

SUIT IS FILED IN DEATH AT U. CITY CARE HOME; VICTIM'S DAUGHTER ALLEGES NEGLIGENCE, MALPRACTICE IN HEAT-RELATED DEATH  
By Denise Hollinshed And Phillip O'Connor Of The Post-Dispatch  
May 17, 2001  
St. Louis Post-Dispatch

The daughter of a woman who died April 9 of heat exhaustion in a University City nursing home filed a wrongful death lawsuit Wednesday accusing the home of causing her mother's death.

The suit, filed in St. Louis Circuit Court, accuses the Leland Health Care Center, 894 Leland Avenue, of failing to install, maintain, repair and turn on an air conditioning system to provide residents reasonably safe temperatures.

The suit also accuses the home of negligence and medical malpractice, charging that it failed to provide Freddie May Burns, 70, with adequate medical treatment.

Burns was one of four women at the nursing home who died over two days last month. The St. Louis County medical examiner ruled

that the women died of hyperthermia, or overheating.

Late Wednesday, Leland Health Care Center submitted its plan to correct problems at the facility that were identified by the Missouri Division of Aging in an investigation of the deaths. The Division of Aging declined to make the plan public.

Meanwhile, the federal Health Care Financing Administration said Thursday that it would not decertify the nursing home from participating in the Medicare-Medicaid program because the center had complied and furnished completed statements of deficiencies.

The state Division of Aging had requested that the federal agency pull federal funding from the facility after some staff members refused to cooperate with the state investigation. If decertified, the facility would have lost reimbursement for residents eligible for Medicare and Medicaid, programs for the elderly and poor that are a valuable source of revenue for many nursing homes.

In her lawsuit, Valerie Jackson, Burns' daughter, seeks unspecified damages for pain and suffering.

Also named as defendants are the nursing home's operator, EMI Enterprises Inc., and the property owner, Colonial Healthcare Center.

The suit also alleges medical malpractice against Dr. Alphonso Beauboeuf, Burns' attending physician.

Jackson said she had complained to nursing home staff about high temperatures in the home in the days before her mother died. She said she had bought her mother a large fan and patted her down with wet towels to keep her cool.

At the time of the deaths, the air conditioning in the facility was not operating, and firefighters recorded temperatures on some floors of the three-story brick building at 95 degrees or more.

An attorney for Burns' family also is asking Missouri Attorney General Jay Nixon to prosecute the nursing home for violating state nursing home laws. The attorney, Bradley Lakin, said state law requires temperatures within the home be maintained from 71 to 81 degrees.

The owner of the nursing home, Morris Esformes, has interests in more than two dozen nursing homes in several states. In 1999, Illinois public health regulators fined one of his suburban Chicago nursing homes after firefighters responding to a complaint recorded a temperature of 94 degrees.

An Illinois investigation found that the staff had not moved 35 residents off the floor after the building's air conditioning system stopped working.

St. Louis County prosecutor Robert McCulloch is reviewing information on the case to determine whether to file criminal charges.

20)

INSPECTORS FIND NEW PROBLEMS WITH PATIENT CARE AT NURSING HOME ; OWNERS AGREE TO SELL LELAND HEALTH CARE CENTER

By Phillip O'Connor Of The Post-Dispatch

May 24, 2001

St. Louis Post-Dispatch

State inspectors this week found new patient care problems at a University City nursing home where four women died last month of heat exhaustion.

Meanwhile, the owners agreed Wednesday to sell the troubled facility to another operator, possibly preventing the home from being closed.

The proposed operator "has a history with us," said Dick Dunn, director of the Missouri Division of Aging. "We're hopeful we're going to keep it open."

But problems for the current owner continue to mount. Division of Aging officials entered the Leland Health Care Center about 4 a.m. Monday and spent part of two days monitoring operations.

They made their findings public Wednesday.

They reported that attendants left residents for extended periods in urine or feces and failed to properly treat pressure sores or supervise residents to avoid accidents, said Kim Cleeton, a nurse

who oversaw the inspection.

Inspectors also found problems with odors, cleanliness and hallways that were blocked in violation of fire safety codes. The home also served food cold and failed to provide residents with nutritional supplements ordered for them by their doctors.

The state will issue a statement of deficiency within the next 10 working days that includes seven citations. It could also seek fines for the latest violations at the home, at 894 Leland Avenue.

Once they receive the statement, the nursing home's operators would have 10 working days to file a plan for correcting the problems.

An attorney for the nursing home played down the state's most recent findings.

"You can write them as dramatically as you want, but as a practical matter, there were some isolated practices we weren't happy about," said lawyer Harvey Tettlebaum, "but it's being taken care of very quickly. None of it was life-threatening."

The state already is seeking a \$50,000 federal fine and a \$133,000 civil penalty against the nursing home in connection with the deaths last month. The four women died within 48 hours of each other. The air conditioning was not operating in the three-story brick building at the time of the deaths. Firefighters recorded temperatures as high as 98 degrees on the building's third floor.

In addition, the home continues to be fined \$150 a day until it complies with all state regulations. The agency last week revoked the nursing home's license, effective June 14.

Dunn said at the time that he hoped to find another operator for the facility, which houses about 80 residents. Many of the residents lived in the surrounding neighborhoods and still have relatives there, Dunn said.

"I hope to keep it open and keep these people close to home," he said. "I'm hoping we're able to resolve it so we don't cause panic with the residents or anyone else."

The new operator, U City Manor, a limited liability corporation, filed an application Wednesday to take over the nursing home. The transaction still must be approved by the state agency. Dunn said the agency would move quickly to conduct a background check on the proposed operator's corporate standing and finances.

Under the proposal, the new owner, Steve Holden, a lawyer from Dexter, Mo., would purchase the property and then lease the building to an operator, Sharo Shirshekan. The terms are agreed on, but paperwork remains, Tettlebaum said. The sale is scheduled to close June 1.

"I think this is a good resolution," Tettlebaum said. "The mutual concern of the division and my client has been the residents and the staff. Both the division and my client wanted to work toward a resolution of their differences that would allow the facility to continue to operate without any break in continuity, and this permits that. It's a win-win."

Shirshekan already operates a nursing home that Holden owns in Troy, Mo. Shirshekan owns nursing homes of his own in Farmington, Mo., and Bonne Terre, Mo., and is building a facility in Park Hills, Mo.

"We're a clean operator, and that's what Dick Dunn wants," Shirshekan said.

Dunn was adamant that the new ownership not have business or family ties to the existing ownership.

The state agency rebuffed one proposed operator because of concerns about a business relationship the operator had with Morris Esformes, a principal in the limited liability corporation that currently owns Leland.

"This is not a bluff on our part," Dunn said. "Our goal is to bring change. One of the things that is very important in this one is that the current operator is no longer running the facility. We want a clean break. Otherwise, for us to suggest revocation would have been folly."

Dunn has been critical of what he called the "casual, cavalier

approach" of the nursing home operators after the deaths last month. He said some nursing home employees hired lawyers and initially refused to cooperate with investigators. Eventually, most cooperated.

The home defended its response to the high temperatures and deaths and disputed several of the state's findings. They also noted that two of the women were critically ill and may have died of causes unrelated to the heat.

On Tuesday, the nursing home's administrator, Teresa Johnson, resigned to take another job in health care.

"Did it have something to do with the problems? Obviously," said Scott Rosenblum, Johnson's attorney. "It's been a stressful situation for everyone involved. It was making for a difficult work environment, and she thought it was in her best interests to seek employment elsewhere."

The nursing supervisor at the time of the deaths is also no longer employed at the home.

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21)

PROTECTING THE VULNERABLE

May 25, 2001

St. Louis Post-Dispatch

NURSING HOME DEATHS

STATE regulators have recommended substantial fines for the University City nursing home where four elderly women died of hyperthermia last month. They conducted a surprise inspection at the Leland Health Care Center this week that uncovered new violations and raised the possibility of more fines. After threatening to close the facility, they've helped arrange its sale.

But the building didn't kill those four elderly women. It was the actions -- or inaction -- of individuals in authority that caused their unnecessary deaths. While the investigation continues and administrative hearings play out, those who were in charge are

free to continue working in nursing homes, where they would once again be entrusted with the care of vulnerable elderly patients.

That's a very bad idea.

Even after the sale of Leland Health Care is completed, owner Morris Esformes will remain in the business. He owns stakes in nursing homes in Missouri, Florida and Illinois -- including one in suburban Chicago that was fined in 1999 after the temperature on a patient floor reached 94 degrees. A 1998 report by the Chicago Tribune detailed poor conditions, inadequate treatment and other problems at facilities owned by Mr. Esformes, including housing patients with mental illness. That pattern of violations should long ago have triggered special scrutiny of other facilities owned by Mr. Esformes.

Investigations into the four heat-related deaths in University City are continuing. To date, no finding of wrongdoing by either Mr. Esformes or the facility's administrator and director of nursing, both of whom have since resigned, has been made.

Still, state officials were so concerned by the results of their inspections and interviews at Leland that they sent copies of their reports to licensing boards for nurses and nursing home administrators. Those boards can impose discipline ranging from reprimands to license suspensions or revocations. That, in turn, could trigger a permanent ban on working in Missouri nursing homes. But that process takes time. While it continues, an attorney for administrator Teresa Johnson said his client had resigned to take another health care job.

It's important to protect the rights of accused individuals. But it is equally important to protect the lives of vulnerable elderly nursing home patients. That protection broke down last month at Leland. Now, nursing home regulators have a special responsibility to ensure it doesn't happen again to other vulnerable people somewhere else.

22)

TROUBLED NURSING HOME IS SET TO GET NEW OWNER ; BUYER  
PLEDGES TO IMPROVE UNIVERSITY CITY FACILITY

By Phillip O'Connor Of The Post-Dispatch

June 1, 2001

St. Louis Post-Dispatch

Ownership of a University City nursing home where four women died from heat exhaustion is expected to change hands today.

Morris Esformes is selling the Leland Health Care Center to a company owned by Stephen W. Holden, a lawyer and cousin to Missouri Gov. Bob Holden.

Holden declined to disclose the purchase price but said he had committed to spending up to \$1 million to make improvements and repairs to the three-story building at 894 Leland Avenue.

An attorney for Esformes said his client was satisfied with the terms of the sale.

"I don't think he feels the arrangement is unfair to him," attorney Harvey Tettlebaum said.

Esformes sought a buyer for the building after state officials revoked the facility's operating license last month. The state action followed the deaths of the women over a two-day period in April when temperatures inside the nursing home exceeded 95 degrees. The air conditioning was not operating.

Holden said the facility would be operated by Sharo Shirshekan, who owns and operates several nursing homes in Missouri, including another home that Holden owns in Troy, Mo.

The state will grant Shirshekan a temporary license to operate the Leland facility. To receive a permanent license, Shirshekan will have to bring the home into substantial compliance with state regulations for at least three months. About 80 residents live in the 130-bed facility.

"Sharo is a very reputable operator, and he knows he's going to be under the microscope," Holden said. "He likes tough projects."

Shirshekan plans to change the name of the facility to U-City Manor.

Esformes is also in negotiations with Shirshekan to turn over management of two other St. Louis-area nursing homes that

Esformes owns, Creve Coeur Terrace and Cedar Hills Terrace in Jefferson County.

Dick Dunn, director of the Missouri Division of Aging, said the agency would continue to press for a \$50,000 federal fine and a \$133,000 civil penalty against Esformes in connection with the deaths.

"There are no negotiations on that," Dunn said.

In addition, the daughter of one of the victims filed a wrongful death lawsuit against the home in St. Louis County Circuit Court.

Meanwhile, St. Louis County Prosecuting Attorney Robert McCulloch is awaiting reports from the medical examiner's office to determine whether criminal charges are warranted.

23)

Federal officials investigate nursing home deaths

June 21, 2001

Associated Press Newswires

ST. LOUIS (AP) - Federal officials are conducting their own investigation into the deaths of four women at a suburban St. Louis nursing home.

Investigators from the U.S. Department of Health and Human Services were cooperating with the U.S. attorney's office, the St. Louis Post-Dispatch reported Thursday.

The four women died within a two-day period after temperatures exceeded 95 degrees inside Leland Health Care Center in University City. The St. Louis County medical examiner ruled that all four deaths were caused by overheating.

In recent weeks, the U.S. attorney's office has subpoenaed thousands of pages of records from the nursing home, the Post-Dispatch reported. The office also subpoenaed the Missouri Division of Aging for inspection and investigation reports, corrective plans and work papers related to Leland.

Shortly after the deaths, Sen. Kit Bond, R-Mo., called for a federal investigation. He also asked federal investigators to look into

Missouri's oversight of nursing home, which he said appeared deficient.

"Clearly something went terribly wrong at Leland," Bond said Thursday. "We need to know how this could have happened. Was it an isolated case or do we have a statewide problem? I welcome any investigation that finds the answers we need to improve our nursing homes."

It wasn't clear whether state oversight of nursing homes was under investigation.

"They haven't talked to me and I haven't heard of anybody else they've talked to," said Dick Dunn, director of the Division of Aging.

A spokeswoman for the U.S. attorney's office said she could neither confirm nor deny an investigation into the home.

Also, two more families have filed wrongful death suits in St. Louis County Court against the nursing home. The suits allege negligence in the deaths of Theodora Hudson, 85, and Kay Jones, 66. The family of Freddie May Burns, 70, filed a wrongful death suit against the home last month.

The defendants named in the two most recent suits include Morris Esformes, the home's former majority owner; Teresa Johnson, the former administrator; and more than two dozen other owners and employees.

The lawsuits allege that nursing home officials were aware of the dangerously hot conditions at the home, but "deliberately ignored the imminent harm and unreasonable danger such temperatures posed."

Esformes sold the home earlier this month after state officials sought to close the facility.

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TWO MORE FAMILIES SUE NURSING HOME WHERE HEAT KILLED FOUR; FEDERAL OFFICIALS ALSO ARE INVESTIGATING DEATHS AT U. CITY FACILITY

By Phillip O'Connor Of the Post-Dispatch

June 21, 2001

St. Louis Post-Dispatch

Two more families are suing a University City nursing home where four elderly women died in April from heat exhaustion.

Meanwhile federal officials are conducting their own inquiry into the circumstances surrounding the deaths. Investigators from the Department of Health and Human Services are working in conjunction with the U.S. attorney's office.

The wrongful death lawsuits filed in St. Louis County Circuit Court, allege negligence in the deaths of Theodora Hudson, 85, and Kay Jones, 66 .

They were among the four women who died within 48 hours of each other after temperatures exceeded 95 degrees inside the Leland Health Care Center, 894 Leland Avenue. The St. Louis County medical examiner ruled that all four died of hyperthermia, or overheating.

The family of another victim, Freddie May Burns, 70, filed a wrongful death lawsuit against the home last month.

Among those named as defendants in the most recent suits are the nursing home's former majority owner, Morris Esformes; the former administrator, Teresa Johnson; and more than two dozen other owners and employees.

Lawyers for Esformes and Johnson could not be reached for comment. Esformes sold the home earlier this month after state officials sought to close the facility.

The lawsuits allege that nursing home officials were aware of the dangerously hot conditions at Leland, but "deliberately ignored the imminent harm and unreasonable danger such temperatures posed."

They also contend nursing home operators failed to replace what they knew was an inadequate air conditioning system, even after employees complained.

Shortly after the deaths, Sen. Christopher "Kit" Bond of Missouri

called for a federal investigation. He also asked federal investigators to look into the state's oversight of nursing homes, which he said appeared deficient.

"Missouri families must have confidence in our state's nursing homes," Bond said Wednesday. "I welcome any investigation that leads to higher standards of safety, care and accountability. The tragic events at Leland should be a wake-up call that leads to better care of our loved ones."

In recent weeks, the U.S. attorney's office subpoenaed thousands of pages of records from the nursing home. The office also subpoenaed the Missouri Division of Aging for inspection and investigation reports, corrective plans and work papers related to Leland dating back to 1995.

"They haven't talked to me and I haven't heard of anybody else they've talked to," said Dick Dunn, director of the Division of Aging.

A spokesman for the U.S. attorney's office said she could neither confirm nor deny an ongoing investigation.

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25)

MAGAZINE RATES 28 NURSING HOMES IN AREA AS SUBSTANDARD;  
CONSUMER REPORTS USED STATE INSPECTION RECORDS FOR ITS  
"WATCH LIST"

By Virginia Young Post-Dispatch Jefferson City Bureau  
March 24, 2002

St. Louis Post-Dispatch

It's one of the most wrenching decisions a person makes: choosing a nursing home for a loved one. And now, the nation's best-known consumer watchdog is weighing in with advice on which homes are substandard.

Twenty-eight nursing homes in the St. Louis area are included on a "watch list" compiled by Consumer Reports, the nonprofit publication that tests and rates everything from new cars to life insurance.

The area homes -- 18 in Missouri and 10 in Illinois -- are licensed for a total of 4,308 beds. They are situated in St. Louis and five nearby counties: St. Louis, St. Charles and Jefferson in Missouri; Madison and St. Clair in Illinois.

Many of the facilities are heavy Medicaid providers, which means the residents are poor and their bills are paid by state and federal governments. Ten of the area homes are on the list for the second year in a row.

Consumer Reports testers couldn't move in to check out the care first-hand, as they do appliances and computer equipment. So they combed through thousands of state inspection reports covering more than five years.

The homes that made the list - a total of 55 in Missouri and 87 in Illinois - were singled out because inspectors found persistent, often life-threatening deficiencies. Problems such as untreated pressure sores. Inadequate nutrition. Preventable falls.

At one of the homes, for example, an inspector reported last fall that a resident's leg got caught in his wheelchair when he was being transferred to his bed. No X-ray was ordered until a month later, when a surgeon found that the man's left femur had been fractured. By then it was too splintered to fix, so it was amputated.

"It points to the fact that families shopping for a nursing home have to be really diligent before they make their decision," said Joan Tripi, a spokeswoman for Consumers Union, which publishes Consumer Reports.

Realizing that many nursing home residents can't just pack up and move, Consumer Reports advises people with relatives living in the targeted homes to be "extra vigilant" in making sure their loved ones are receiving good care.

The nursing home industry says the list is misleading because it relies solely on state inspections. The operators say inspection reports, called surveys, are often incorrect, inconsistent and driven by picky technical requirements instead of "outcomes" - how an action affected residents.

"If the consumer guide is using the surveys, they're missing at least half if not 75 percent of the story," said nursing home owner Ewing B. Gourley. "They're not looking at the plans of correction," which give the homes' view.

Gourley's holdings include the home where the man's leg was amputated last year - St. Louis Avenue Nursing Center at 2900 North Prairie in St. Louis. But he said the inspector was wrong to blame the home.

The resident had a medical condition that resulted in "bone thickness like that of a potato chip," Gourley said. A "pathological fracture" could have occurred while the man was being transported to the hospital in an ambulance or placed on the emergency room table, Gourley said.

Bill Kempiners runs the nursing home trade association in Illinois. He said the watch list can be useful as long as consumers consider it only as a starting point. He recommends they visit homes and ask questions raised by the watch list.

"It focuses consumers on, 'Why did you get that citation?' Then the facility should be able to explain it," says Kempiners, executive director of the Illinois Health Care Association.

Staffing shortages are cited

Consumer Reports chose homes for the list based on five criteria: high-severity deficiencies, substandard quality-of-care deficiencies, high numbers of repeat deficiencies, high numbers of total deficiencies and citations for failing to provide access to the inspection reports.

The full list is available for free on the Internet at [www.consumerreports.org](http://www.consumerreports.org). The list uses the old name for four of the St. Louis-area homes, which changed hands - and names - last year.

The cutoff for inspections reviewed was April 2001. That helps explain why Leland Health Care Center, now known as U-City Manor, did not make the list. Four residents died there of hyperthermia, or overheating, in April; the air conditioning was

not operating.

Consumer Reports says the most common deficiencies it found were: unsanitary food, hazardous facilities, lack of care plans for patients, conditions that cause pressure sores and "quality of care" problems such as failure to give adequate fluids.

Tripi said Consumer Reports believes many of the problems are related to staffing shortages.

Half of the 28 St. Louis-area homes on the list provide 2.75 hours or less of nursing services for each patient daily, according to a Post-Dispatch review of state and federal records. The recommended minimum for most homes is 4.1 hours of care from nurses and aides, according to a recent federal study.

Everything suffers when too few aides are working. For example, residents at Normandy Nursing Center at 7301 St. Charles Rock Road reported about a year ago that they sometimes were left in bed until afternoon - or even for days - because of inadequate staff, state inspection reports say. Residents also said aides put diapers on residents and did not change the diapers, so their clothes got wet with urine.

The facility denied that its staffing was inadequate but said it had trouble keeping up with turnover despite "continuous ads for staff." Morris Esformes is the home's largest stockholder. He also had ownership interests in the home where four people died of heat exhaustion last year.

Marilyn Rantz, a nursing professor at the University of Missouri at Columbia, said there are plenty of wonderful nursing homes, so families should avoid those where the data indicate they cut corners on staff.

"The message to the consumer is, 'Don't choose these homes. Choose another one, because they're out there.'"

Nursing homes say they can't keep staff because they are underpaid by the government. They say they lose an average of \$15 a day in Illinois and \$13 a day in Missouri on each Medicaid resident.

But the watch list indicates that more money doesn't necessarily translate into better care. Some of the Missouri homes on the list draw the highest Medicaid rates in the state.

Each home is paid a different rate, based on its costs in 1992 plus annual inflationary and other adjustments. On average, the 18 Missouri homes draw \$102.33 a day for each patient - besting the statewide average of \$97.39.

In Illinois, where base rates have been frozen since 1993, most area homes on the list fall below the state average. They average \$85.97 a day, compared to \$94.86 statewide.

One recent study argues that higher Medicaid rates do improve quality, but there is a time lag before an effect is visible. The authors, economists at the University of Missouri at Columbia, said inspection reports improved two to three years after steep rate increases took effect in Missouri in the late 1990s. The Legislature passed the increases to reflect increases in the minimum wage.

Many are run by chains

Linda Hart says her home is an example of how the watch list can be wrong. She owns the Bethalto Care Center Inc., a 98-bed home she founded in a farm field in Bethalto, Ill.

"I birthed this and my son in 1975," she said proudly.

In recent inspections, her record is spotless. But three years ago, she was cited for placing a resident in "immediate jeopardy." She said inspectors believed she should have done a "swallowing evaluation" on an incapacitated resident. The family had refused.

"Once they reached a certain point in life, they didn't want a bunch of testing," Hart said. While the facility got a black mark, she said nearby families know her true record and keep sending loved ones her way.

"We are an excellent home," Hart said. "The average occupancy (in the state) has been going down. Mine remains in the mid-90s."

She is the exception in that regard. Fourteen of the 18 area

homes on the list are less than three-fourths full. Low occupancy makes it hard for a home to provide quality care - or even make ends meet.

Many of the homes on the list are run by chains. The largest concentration - six - belongs to Cathedral Rock Corp., a Texas-based company. Cathedral Rock inherited many of the problems last year when it bought four of the Missouri homes from American Healthcare Management Inc.

Joseph A. Shepard, who is marrying State Auditor Claire McCaskill next month, has two homes on the list for the second year: Bernard Care Center in St. Louis and a facility in Sedalia. He is chief executive officer of Reliant Care Group LLC, which operates six homes in Missouri.

Shepard's partner, Rick DeStefane, said he was "flabbergasted" at the two homes' inclusion on the list. He said they have had "very good surveys" lately with only minor deficiencies.

But in the past, there have been serious violations, such as fire alarms malfunctioning at Bernard Care Center and the rape of a resident by another resident in the traumatic brain injury unit in Sedalia, Mo. DeStefane said the unit primarily houses men between ages 19 and 25 who have been injured in motorcycle accidents or had gunshot wounds.

"We put cameras in the hallways, but nothing's foolproof here," he said. "It was a horrible situation."

His advice to those shopping for a home? "The best thing for the consumer to do is look at the most recent survey," he said. "Because in this industry, things change so quickly. It can change overnight."

Edmond Knox, 75, president of the residents' council at Bernard Care Center, has lived there 10 years. He gives the current administration credit for trying to fix the problems.

"If it ain't fixed, they'll be working on it," he said in a recent interview in his room, which houses four men and features pink flowered bedspreads and curtains. "Everything can't be sweet as sugar. As far as I know, they're trying to do right."

The federal government compiles nursing home data in a reader-friendly format on the Internet known as Nursing Home Compare. It is accessible through the site, [www.medicare.gov](http://www.medicare.gov). But it lacks information for some of the homes.

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#### Advice for consumers

Consumer Reports advises families shopping for a nursing home to read state survey reports, consult the local ombudsman and visit the homes - including at least once during mealtime.

Look for these benchmarks:

- \* Safety and good medical care: For example, toileting needs should be met promptly, and exercise should be scheduled regularly.
- \* Interactions with staff: Relationships should be pleasant and helpful.
- \* Stimulation: Residents should be encouraged to attend activities.
- \* Pleasant environment: The nursing home should be clean and odor-free.

The Illinois Health Care Association publishes a free guide on choosing a nursing home. It is available on the group's Internet site, [www.ihca.com](http://www.ihca.com), or by calling 1-800-252-8988 in Illinois or 1-217-528-6455 outside Illinois.

A book co-authored by nursing professors at the University of Missouri at Columbia contains a questionnaire that families can take with them to fill out on their visits. The book, "The New Nursing Homes: A 20-minute Way to Find Great Long-Term Care," can be ordered for \$14.95 from Fairview Press, 2450 River side Ave., Minneapolis, Minn. 55454. Toll free: 1-800-544-8207.

Reporter Virginia Young: E-mail: [vyoung@post-dispatch.com](mailto:vyoung@post-dispatch.com) Phone: 573-635-6178

PHOTO, GRAPHIC | (1) Color Photo by ROBERT COHEN /  
POST-DISPATCH - Anna Thompson visits last September with her sister, Willa Tyler, at a barbecue held to welcome Cathedral Rock Corp. as the new operators of Cathedral Gardens Care Center, 2600 Redman Road. Consumer Reports has put the nursing home on its "watch list." Tyler died last month from complications of diabetes.

(2) Graphic/chart by the Post Dispatch - Area nursing homes on the Consumer Reports watch list MISSOURI HOME ON WATCH LIST\*

ADDRESS	LOCATION	BEDS	OCCUPANCY	MEDICAID RATE	2ND YEAR ON LIST
Arbor Place of Festus	12827 Highway TT Festus	81	62%	\$88.43	No
Bernard Care Center	4335 West Pine Blvd. St. Louis (formerly Claywest)	141	94%	\$113.17	Yes
Blanchette Place Care Center	2840 West Clay St. Charles	80	72%	\$103.55	No
Cathedral Gardens Care	2600 Redman Rd. St. Louis County Center(formerly Oak Forest N.)	120	65%	\$101.54	No
Delhaven Manor	5460 Delmar Blvd. St. Louis	156	45%	\$106.06	No
Fairfield Manor	5303 Bermuda Rd. Normandy	126	78%	\$103.21	Yes
Grand Manor Nursing & Rehab Center	3645 Cook Ave. St. Louis	120	78%	\$107.95	No
McLaran Skilled Care	1265 McLaran Ave. St. Louis (formerly Lutheran Skilled Care)	208	82%	\$102.76	Yes
Normandy Nursing Center	7301 St. Charles Rock Rd. Normandy	116	82%	\$106.07	No
Northview Village	2415 N. Kingshighway St. Louis	310	74%	\$110.79	No
Rosewood Care Center	11278 Schuetz Rd. St. Louis County	120	71%	\$107.77	No
St. Louis Avenue Nursing Center	2900 N. Prairie Ave. St. Louis	90	60%	\$93.60	No
Peters Manor Care Center	230 Spencer Rd. St. Peters	102	82%	\$105.12	Yes
Sophia Health & Rehab Center	936 Charbonier Rd. Florissant	240	63%	\$102.45	No
Spanish Lake Nursing Center	13700 Old Halls Ferry Rd. Florissant	120	68%	\$113.48	No
Springplace	3450 Russell Blvd. St. Louis (formerly AHM Skilled & Assisted Living)	254	72%	\$92.82	Yes
Wentzville Park Care Center	401 Mar-Le Wentzville	240	48%	\$91.31	No
Woodlands of Maryland Heights	3201 Parkwood Lane Maryland Heights	120	59%	\$91.89	Yes

ADDRESS	LOCATION	BEDS	OCCUPANCY	MEDICAID RATE	2ND YEAR ON LIST
Bethalto Care Center Inc	815 S. Prairie St. Bethalto	98	89%	\$89.03	No
Cahokia Nursing & Rehab Center	2 Annable Ct. Cahokia	150	79%	\$93.21	Yes
Colonial Care Center	3900 Stearns Ave. Granite City	122	88%	\$83.18	Yes
The Colonnades	3500 Century Drive Granite City	86	93%	\$86.47	No
Freeburg Care Center	746 Urbanna Dr. Freeburg	118	95%	\$84.42	No
Greenwood Terrace Nursing & Rehab	225 Castellano Dr. Swansea	237	57%	\$71.41	No
Highland Health Care Center	1450 26th St. Highland	128	85%	\$84.04	No

O'Fallon Health Care Inc. 700 Weber Dr. O'Fallon, Ill. 149 70%  
\$77.67 Yes VIP Manor 393 Edwardsville Rd. Wood River 106 95%  
\$96.06 No Willow Creek Rehabilitation 40 North 64th St.  
Belleville 122 88% \$94.24 Yes \*Watch list uses former name for  
four homes. Source: Consumer Reports, Missouri Division of Medical  
Services, Missouri Certificate of Need, Illinois Department of Public  
Aid

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NO INDICTMENT IS ISSUED IN FOUR DEATHS AT NURSING HOME;  
VICTIMS DIED OF OVERHEATING

By William C. Lhotka And Virginia Young Of The Post-Dispatch

July 11, 2002

St. Louis Post-Dispatch

A St. Louis County grand jury has decided not to indict any of the owners, operators or employees of the Leland Health Care Center, a nursing home in University City where four elderly women died of overheating last year.

The grand jurors returned a "no-true bill" last week after more than four hours of deliberation, said Robert P. McCulloch, the St. Louis County prosecuting attorney.

"Frankly, I was surprised" by the vote, McCulloch said in releasing the results Wednesday. "But it is their decision."

The victims lived and died at the nursing home at 894 Leland Avenue. They were Freddie May Burns, 70, Mary Moore, 87, Theodora Hudson, 85, and Kay Jones, 66.

They were residents of the third floor, where rescuers said the temperature reached 95 degrees because the air conditioning wasn't running. St. Louis County Medical Examiner Mary Case attributed the deaths April 8 and 9 last year to the heat.

Last month, St. Louis County Circuit Judge Mark D. Seigel dismissed a request by state regulators for a \$133,000 civil penalty against the nursing home.

Leland had argued that no fines should apply because the home had fixed the air conditioning and developed a plan for handling excess heat by the time the home was reinspected, on July 10 last

year.

The home's attorney cited an opinion by the Missouri Court of Appeals in Kansas City, which held that no state fines could be imposed if violations were corrected.

Leland did pay a \$43,517 federal fine in connection with the deaths.

The grand jury's vote last week ends the criminal investigation.

Still pending are wrongful-death civil suits by relatives of the women.

McCulloch said Wednesday that the grand jury heard 10 hours of testimony from 20 witnesses and reviewed "all sorts of documents: nursing home records, patients' records, even the weather report."

Two months after the deaths, the owners of Leland sold the nursing home. It is now called U City Manor.

The majority owner at the time of the deaths was Morris Esformes of Chicago. His attorney, Harvey Tettlebaum, said Wednesday that Esformes will be pleased by the decision.

He praised the independent review of the grand jury and said, "Hopefully, this puts the matter to rest."

Marilyn Rantz had the opposite reaction Wednesday. Rantz is a professor of nursing at the University of Missouri at Columbia.

"This is stunning, just stunning," Rantz said. "These people should not have died. That situation should not have happened."

Rantz reviewed some of the public records of the deaths for Missouri Attorney General Jay Nixon.

"I can't believe people wouldn't be held accountable," she said.

Rantz supported a measure that would have toughened Missouri's law protecting the elderly. It would have required all suspected cases of elderly abuse or neglect to be reported promptly to law enforcement, and would have protected whistle-blowers.

The measure died in the waning days of the past legislative session, the third time it has failed.

McCulloch has said he testified in favor of the measure except for a part that would have given the attorney general's office more independent prosecutorial power in neglect cases.

Under Missouri law, a grand jury decides whether there is probable cause for criminal charges to be filed. It consists of 12 members, nine of whom must vote yes for an indictment. Their ballot is secret, even from prosecutors presenting the cases.

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By William C. Lhotka And Virginia Young Post-Dispatch Jefferson

City Bureau

July 11, 2002

St. Louis Post-Dispatch

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NURSING HOME DECISION STUNS RELATIVES OF DEAD

By Phillip O'Connor Of The Post-Dispatch Staff

July 12, 2002

St. Louis Post-Dispatch

Grieving family members expressed astonishment Thursday at a St. Louis County grand jury decision to not indict anyone in connection with the overheating deaths of four residents of a University City nursing home last year.

"I don't understand how they can do this," the daughter of one victim said, of the grand jury's decision not to indict the owners, operators or employees.

"They killed people and they knew what was going on," said Valerie Jackson, whose mother, Freddie May Burns, 70, lived and died along with Mary Moore, 87, Theodora Hudson, 85, and Kay Jones, 66, at the nursing home at 894 Leland Avenue. The women lived on the third floor, where, rescuers said, the temperature reached 95 degrees because the air conditioning wasn't running.

St. Louis Medical Examiner Mary Case attributed the deaths April 8 and 9 last year to the heat. The nursing home has since been sold.

"I don't think it's right," Jackson said Thursday, holding back sobs. "Somebody needs to pay. My mother might not have been important to them, but she's very important to us."

A lawyer for Morris Esformes, the majority owner at the time of the deaths, said Thursday his client was relieved by the grand jury's decision. "He hopes that this puts this aspect of these events behind us," said the attorney, Harvey Tettlebaum.

Jackson's attorney, Brad Lakin, commended St. Louis County Prosecutor Robert P. McCulloch for presenting evidence to a grand jury. He said most prosecutors shy away from nursing home death cases where obtaining a criminal conviction is seen as difficult.

Still, Lakin said a criminal charge seemed warranted in this case. "This situation is analogous to you taking your child to a day care, dropping them off for the day and coming back to learn that there's no air conditioning and they've succumbed to the heat and passed away," Lakin said.

"Until society recognizes that the only thing that's going to make

these nursing home owners put residents over profits is to be held criminally liable in these instances and suffer extreme penalties, nothing will change," Lakin said.

Brian Fellows, an attorney who represents relatives of Jones and Hudson, said the public should be outraged at the decision.

"The evidence we have uncovered and made available to the prosecutor proves (the) administrator was aware of the extreme third-floor temperatures well in advance of anyone being injured, and yet she directed the chief maintenance supervisor not to turn on the air conditioning," Fellows said. "Furthermore, she did not authorize the third floor residents' transfer to cooler floors until after four residents died from the heat. . . . No excuse exists for such a conscious disregard for the health of the elderly."

Scott Rosenblum, an attorney representing the former administrator, Teresa Johnson, called the grand jury's decision appropriate.

Civil suits by the families of the women are pending.

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DECISION IN NURSING HOME DEATHS SHOCKS RELATIVES; DAUGHTER OF VICTIM SAYS INDICTMENTS ARE WARRANTED

By Phillip O'Connor Of The Post-Dispatch  
July 12, 2002  
St. Louis Post-Dispatch

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and yet she directed the chief maintenance supervisor not to turn on the air conditioning," Fellows said. "Furthermore, she did not authorize the third floor residents' transfer to cooler floors until after four residents died from the heat. . . . No excuse exists for such a conscious disregard for the health of the elderly."

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NO INDICTMENTS IN HEAT DEATHS SPURS PROTEST AT COURTHOUSE;  
PROSECUTING ATTORNEY SAYS HE WON'T OBJECT TO RELEASE OF  
GRAND JURY RECORDS; NURSING HOME ACTIVISTS MARCH

By William C. Lhotka Of The Post-Dispatch

July 25, 2002

St. Louis Post-Dispatch

St. Louis County Prosecuting Attorney Robert P. McCulloch said Wednesday he has no objections to a protest group petitioning a judge for the grand jury records involving a University City nursing home where four elderly women died last year.

The grand jury failed to indict anyone earlier this month in the case of Leland Health Care Center, where the four women died in April of last year.

Targets of the grand jury were the corporation that owned the nursing home, its top official, Morris Esformes of Chicago, and the home's administrator. McCulloch said he had expected the grand jury to return criminal charges.

The prosecutor conceded that his office should have pressed harder to get nursing home records and to take the case to the grand jury. Instead, 15 months lapsed between the deaths and the grand jury inquiry, which McCulloch said was too long.

About 20 people affiliated with grass-roots advocacy group Nursing

Home Monitors marched Wednesday in front of the jail and courthouse in Clayton with banners criticizing McCulloch and suggesting a cover-up in the deaths.

Joining the protesters was Sen. Betty Sims, R-Ladue. She said McCulloch had opposed a bill she sponsored earlier this year that would have toughened the state's nursing home statutes. Although her term is expiring, she said she would work as a volunteer next year to get the measure passed.

McCulloch denied he was against the bill. He also denied claims by Violette King, president of Nursing Home Monitors, that he refused to meet with them.

Creating problems for investigators, McCulloch said, was the fact that no autopsies had been performed after the deaths of the four women. However, Dr. Mary Case, the county's medical examiner, testified before the grand jury that the deaths had been heat-related.

The victims were Freddie May Burns, 70; Mary Moore, 87; Theodora Hudson, 85; and Kay Jones, 66.

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MCCULLOCH SAYS GROUP CAN SEEK GRAND JURY RECORDS IN HEAT DEATHS; NURSING HOME MONITORS PROTESTS LACK OF INDICTMENTS IN DEATHS OF FOUR WOMEN

By William C. Lhotka Of The Post-Dispatch

July 25, 2002

St. Louis Post-Dispatch

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McCulloch denied he was against the bill. He also denied claims by Violette King, president of Nursing Home Monitors, that he had refused to meet with them. He said they never called him and that he is willing to answer their questions.

Creating problems for investigators, McCulloch said, was the fact that no autopsies had been performed after the deaths of the four women. However, Dr. Mary Case, the county's medical examiner, testified before the grand jury that the deaths had been heat-related.

The victims were Freddie May Burns, 70; Mary Moore, 87; Theodora Hudson, 85; and Kay Jones, 66.

Among the marchers Wednesday was Burns' daughter, Valerie Jackson, who has sued the nursing home. Jackson said she could not believe no one had been charged in the deaths.

The advocacy group also criticized Judge Mark D. Seigel for dismissing a request by state regulators to assess a civil penalty of \$133,000 against Leland. Seigel said Missouri's judicial code prevented him from discussing his ruling with the protesters

because the case is pending on appeal.

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PHOTO | Color photo by ROBERT COHEN/POST-DISPATCH - About 20 people on Wednesday protested the lack of grand jury indictments in four heat deaths last year at a University City nursing home. The grass-roots advocacy group Nursing Home Monitors carried banners criticizing St. Louis County Prosecuting Attorney Robert P. McCulloch.

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CRIMINAL NEGLECT

August 11, 2002

St. Louis Post-Dispatch

NURSING HOMES

FIRST OF TWO EDITORIALS

NOT LONG AGO, Rocky Lemon was a successful businessman with dozens of nursing homes in Missouri, Texas, Illinois and six other states. That changed in October, when he was convicted of a crime.

Nursing home residents are abused or neglected every day in this country. But criminal charges are almost never brought against a nursing home owner. Even more rare is a successful prosecution.

Charges in this case resulted from the inhumane treatment of 79-year-old Chloea Bryant. Mr. Lemon had cut staff at his Crane County, Texas, nursing home to the point where residents like Mrs. Bryant were no longer fed, cleaned or turned in their beds. Mrs. Bryant suffered from malnutrition and dehydration. Frail, neglected and immobile, she had a dozen bedsores so deep they required surgery.

"This case goes to show that top corporate officers in this industry can't shun responsibility," said Texas Attorney General John Cronyn, whose office assisted the prosecution. It might have, if the punishment fit the crime. But it didn't.

Originally charged with a felony, Mr. Lemon pleaded guilty to a misdemeanor. His sentence: two years probation, a \$4,000 fine and an order to repay the \$5,000 cost of the investigation.

He also agreed not to reapply for a nursing home license in Texas while on probation. But there was little chance of that. Months earlier, he'd abandoned the 14 other Texas nursing homes he owned, forcing the state to step in and move people out. Missouri and Oklahoma had also been forced to take over homes he owned; California was seeking \$2 million in fines for allegations of patient neglect.

But by local standards, even a criminal prosecution would be an accomplishment. St. Louis County Prosecuting Attorney Robert McCulloch spent 15 months looking into the heat-related deaths last year of four elderly women. They died within 36 hours of each other at Leland Health Care, a University City nursing home where the air conditioning was not operating and the inside temperature reached 98 degrees. Despite voluminous official records, including a medical examiner's finding that all four deaths were caused by overheating, Mr. McCulloch couldn't get a grand jury to indict Leland's owner, Morris Esformes, or its operators.

Another example was the death of Marshall Rhodes in a St. Charles County nursing home, Claymore House. Mr. Rhodes, 78, had Alzheimer's disease. He died after two beatings at the hands of an aide named Karl Willard, who was angry that the elderly man spit medicine on Willard's shirt. Willard was sentenced to 15 years in prison. He's serving it concurrently with another 15-year sentence for slamming his girlfriend's 11-month-old child into a wall.

What happened to the people in charge at Claymore House? Nothing. Months before Mr. Rhodes was beaten to death, other staff members had complained about Willard to the director of nursing, Cheryl Davis. When Mr. Rhodes died, they again approached her with their concerns. Ms. Davis notified the home's management. She even began collecting written statements from employees. But she never told state officials or the police -- the only ones capable of investigating -- even though state law required it.

If it weren't for a funeral home employee who called the county medical examiner, the case might never have come to light. When

Mr. Rhodes' death was ruled a homicide, police stepped in. Even then, Ms. Davis never told investigators about staff members' suspicions or about the statements she had collected.

In November 2000, Ms. Davis was tried for failing to report elder abuse. A prosecutor asked the jury to make her case an example for other nursing homes and workers. They did, just not the one he was looking for. After she was acquitted, Ms. Davis expressed relief. Working in nursing homes was the only job she'd had for 15 years, she told a Post-Dispatch reporter. "Now I can keep doing it."

People who abuse or neglect vulnerable elderly patients, or who stand by while others abuse them, should go to jail, not be allowed to "keep doing it."

The true test of a state's nursing home laws -- and of its prosecutors -- is how effectively they protect the old, sick patients who depend upon them. If those laws can't be used to punish nursing homes that starve, beat and broil their residents, they must be changed.

Monday: Lobbied to death

1st of two editorials

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INADEQUATE LAWS ARE BLAMED FOR LACK OF PROSECUTION IN HEAT-RELATED DEATHS; FINES IN 18-MONTH-OLD UNIVERSITY CITY CASE ALSO HAVE BEEN KNOCKED DOWN

By Andrew Schneider, And Phillip O'Connor Of The Post-Dispatch  
C2002, St. Louis Post-Dispatch

October 17, 2002

St. Louis Post-Dispatch

When four elderly women baked to death from soaring temperatures in a University City nursing home in April last year, public officials expressed outrage and vowed to take swift action against those responsible.

They quickly levied fines against Leland Health Care Center, ordered investigations and called for criminal charges.

But more than 18 months later, the fines against the former owners and the operator of the nursing home have been slashed by four-fifths. No one stands charged in the deaths.

The case illustrates how neglect investigations can be undercut by weak laws and a lack of coordination among investigators, medical examiners and prosecutors. In the Leland case, this lack of laws and coordination has devolved into finger-pointing all around over who should have done what.

St. Louis County Prosecuting Attorney Robert McCulloch and U.S. Attorney Ray Gruender sought criminal indictments. But the county and federal grand juries refused to indict.

Missouri Attorney General Jay Nixon gathered hundreds of pages of documents detailing a history of complaints against the nursing home. His office obtained affidavits from several involved during the two days when the four women died in 98-degree heat on the top floor of the three-story brick building.

But Nixon said he could do nothing.

The three senior lawmen all said the lack of laws addressing neglect prevented them from pursuing convictions in the Leland deaths.

"If there were minimum requirements for staffing, if there were broader neglect laws, it would make it a much clearer case in a situation where you can say, 'You're not providing adequate care,'" McCulloch said.

"There is a built-in defense that nursing homes have. All these operators have to say is, 'We did what we could.' If there are no mandated standards that define precisely what they should do and precisely how many people they must have to do it, then there is really little we can do."

Gruender said: "The federal laws that are available to us are very narrow. They really go more towards fraud than abuse or neglect."

One of the laws available to Gruender is the False Claims Act, which other federal prosecutors have used to win convictions in nursing home neglect cases.

Under the act, Gruender would have had to prove that the corporation submitted a reimbursement request to Medicaid or Medicare for a service it knew it hadn't provided, such as air conditioning.

"If, hypothetically speaking, they didn't receive payment or paid it back, then it would be hard to show a federal crime," Gruender said.

The nursing home's attorney, Harvey Tettlebaum, also was familiar with the act.

Immediately after the deaths, he advised his client to reimburse the government any money the home had received for the women's care during the period when the air conditioning wasn't working. And that's what the home did.

"I advise all my clients to do that," Tettlebaum said.

A jurisdictional issue

Nixon said Missouri needs meaningful laws to allow prosecution for neglect. But he has other limitations when it comes to pursuing criminal charges.

"We are forbidden to prosecute any case without the permission of the county attorney," Nixon said. "We felt that what happened at Leland was tragic and too important not to be pursued. We told McCulloch's office that we were willing and eager to take the case, and we heard nothing back."

Nixon wrote in a letter to McCulloch on May 2: "Our Medicaid Fraud Control Unit has developed a high level of skill, expertise and resolve in the investigation and prosecution of abuse and neglect cases arising out of nursing homes."

The attorney general said, "We sent them a great deal of information, and again we heard nothing."

McCulloch said the law that limits jurisdiction to his county office is "just fine and should not be changed."

"The attorney general can and should investigate Leland and any other case they want as thoroughly as they can," McCulloch said. "And once that investigation is done, their responsibility is to turn it over to the local prosecutors. Let them bring me the case."

The agency which licenses nursing homes launched an investigation but had its own obstacles.

State inspectors reported that, after the deaths, the nursing home employees had hired lawyers and initially had refused to cooperate.

Missouri statutes don't require nursing home workers to talk to state employees in such cases.

Earl Carlson, executive director of the Missouri Health Care Association, the lobbying group for many of the state's nursing homes, allows that the state has a responsibility to provide oversight and correct wrongdoing. But he said stronger laws are not needed.

"They have a wide variety of penalties available, including removal of licensure and closing a building," Carlson said. "To condemn an industry for those few bad people is wrong."

Carlson said expensive fines would only divert more money from resident care.

"Two difficult areas"

The editorial page of this newspaper, radio talk shows and nursing home advocates who picketed McCulloch's office all strongly criticized the prosecutor for failing to get an indictment in the Leland deaths.

"The grand jury had everything available, not only statements from police, paramedics and people from the state Division of Aging, but the actual live people involved as to what was said and who was where," McCulloch said.

The Post-Dispatch sought, but failed, to get a judge to release tapes of the grand jury proceedings, and McCulloch said there was "very little" that he could discuss. But he did offer comments on

what he called "two difficult areas."

"There were no post-mortem examinations, and there was very little detailed evidence from the medical examiner," he said.

"In cases like this, the medical examiner would determine it was a homicide and we would then determine if it was criminal," McCulloch said. "But these deaths were never determined to be homicides because neither the medical examiner nor her staff ever examined the bodies."

St. Louis County Medical Examiner Mary Case, who ruled all four deaths were caused by hyperthermia, answered: "We don't do autopsies on heat-related deaths. If someone wanted to prosecute someone in this case, it would have nothing to do with whether autopsies were done."

The other difficult area, McCulloch said, involved conflicting testimony from emergency workers who repeatedly responded to Leland during those deadly 48 hours.

"Some of the firefighters and paramedics testified to something very different from the statements they made before they went before the grand jury. That just put this matter in a whole different light," he said.

McCulloch didn't have to take the case before a grand jury to get an indictment.

"I could have just done it, but we usually take complex cases involving deaths before a grand jury, so that's the way I chose to go," the county prosecutor said.

Affidavits from the first responders, obtained by the Post-Dispatch, present a vivid account of their actions and concerns at the horseshoe-shaped, orange-brick building as each person died or was rushed to a hospital.

The affidavits documented that two firefighters and a paramedic measured the room temperatures at 95 degrees and 98 degrees and warned the nursing home staff that the air conditioning had to be turned on.

Told that the air conditioning was broken, firefighters and paramedics spelled out in their affidavits why, when and to whom they passed the word that the 50 residents on the broiling third floor had to be moved to the cooler ground level. Twice, the nursing home's staff refused, according to the affidavits.

The dry, formal language used in such reports does not conceal the anger and frustration of firefighters, police and medics as the death toll rose over the two days.

McCulloch said he could not violate the secrecy of the grand jury by discussing the specific inconsistencies in what the emergency workers said.

Maj. Charles Adams of the University City Police Department said last week: "This is the first I've heard about conflicting comments." He said any other comments on the case should come from McCulloch.

The inspector general's office of the federal Health and Human Services Department has the authority and says it has the interest to investigate Leland.

"Our office has been concerned about Leland's deaths since they occurred," said Kimberly Brandt, a special counsel for the inspector general. "We had to wait until both the county prosecutor and the U.S. attorney failed in their attempts to get their grand juries to indict. That has happened now, and our investigators have taken on the case."

Brandt declined to discuss their investigation.

Knocking down civil penalties

Efforts to impose strong financial penalties were also blocked by law.

Missouri sought a total of \$143,000 in fines against the home, but Leland paid nothing to the state.

The nursing home took advantage of a state law designed to give nursing homes an incentive to correct problems quickly. Under the law, the nursing homes can avoid fines by submitting a document

that details how they plan to correct the problems that led to the citations.

"Civil penalties are watered down to nothing. There's no teeth in the law," said Nixon. "You've got people running businesses to make money, so one of the ways you can deal with them is to take some of that money if they don't follow the law. If all they have to do is clean up their mess within 30 days after the mess happens, it is no deterrent."

The state also sought to revoke the nursing home's license, a move that would have led to its closing. But the owner, Morris Esformes, sold the building before the June 14, 2001, revocation date.

Federal officials fined Leland \$66,950 but after an appeal settled for \$43,517.

Regulators also employed another provision in state law that allows additional fines of \$100 a day multiplied by the number of beds in a nursing home, up to a maximum of \$10,000. But a judge threw out the state's request for the \$10,000 fine after prosecutors failed to include the number of beds in court filings.

Missouri Sen. Christopher "Kit" Bond has repeatedly hammered at the Centers for Medicare & Medicaid Services, which funds the care of residents, and at the inspector general for the Health and Human Services Department, for the problems in state nursing homes.

The Leland case was high on the senior Republican's list of concerns.

"I remain gravely disappointed that four elderly women died in the state of Missouri and no one has been held responsible," Bond said. "It is simply appalling that the matter has been dismissed with less than \$43,000 in fines. What sense does it make to say that only broken air conditioners are to blame?"

"Sending corporate titans up the river for cooking the books while excusing nursing home operators and others with fines and a slap on the wrist just doesn't square with me," Bond said. "As the Leland tragedy showed, folks are not just suffering, they're dying

from neglect."

STLtoday.com

Follow the entire series and react in our online forum at  
STLtoday.com

COMING FRIDAY

FINDING ANSWERS: In a small town and a big city, two nursing homes show how to raise the level of care.

A GLOSSARY

Abuse - Willful intent to cause harm. Abuse may be resident-to-resident or staff-to-resident harm.

Bedsore/decubitus ulcer - An inflamed lesion of the skin or internal mucous tissue caused by pressure or friction. Pressure sores are classified in stages, with Stage 1 being a reddening and irritation, to the most severe, Stage IV, which can have tissue eaten away to the underlying bones and organs.

Civil Money Penalty - A federal fine imposed on facilities for noncompliance.

Citation - A written notification of a violation of state or federal nursing home regulations detected by investigators.

Complaint investigation - An on-site investigation of specific allegations that a nursing home failed to comply with federal or state requirements.

Neglect - Failure to provide life-sustaining care including food, liquid and treatment of wounds.

Ombudsman - Paid or voluntary staff that investigate nursing home complaints from residents and their families and act as advocates addressing concerns of nursing home residents. Many ombudsman programs are associated with state government departments or boards of aging.

Skilled Nursing Facility - A nursing home that meets the

requirements for Medicare certification. Also the term used by most states to define the nursing home type that is licensed to provide the highest level of care.

Survey - Inspection done by regulators to ensure that nursing homes are complying with state and federal laws.

Surveyor - Regulator who conducts nursing home inspections and investigates complaints.

Source: Center for Medicare and Medicaid Services, law dictionaries.

COMING SUNDAY

A CONSUMER GUIDE: How to go about evaluating or finding a nursing home for a loved one.

ONE FAMILY'S STORY: Photo essay captures the emotions as a father and son make a wrenching decision.

IF YOU SUSPECT ABUSE OR NEGLECT IN A NURSING HOME, CALL:

Police: 911

The Missouri Central Registry Unit Hotline: 1-800-392-0210

Missouri State Long-Term Care Ombudsman: 1-800-309-3282

Illinois Central Complaint Registry: 1-800-252-4343 (from Illinois); 1-217-785-0321 (outside Illinois)

Illinois State Long-Term Care Ombudsman: 1-800-252-8966 (from Illinois); 1-217-524-6911 (outside Illinois)

NEGLECTED TO DEATH PART FIVE OF A SPECIAL REPORT Reporter Andrew Schneider: E-mail: [aschneider@post-dispatch.com](mailto:aschneider@post-dispatch.com) Phone: 314-340-8101 Reporter Phillip O'Connor: E-mail: [poconnor@post-dispatch.com](mailto:poconnor@post-dispatch.com) Phone: 314-340-8321 Photographer Robert Cohen: E-mail: [rcohen@post-dispatch.com](mailto:rcohen@post-dispatch.com)

PHOTO | (1) PHOTO by ROBERT COHEN / POST-DISPATCH - St. Louis County police Sgt. Carl Schultz helps two dozen protesters cross

Central Avenue in Clayton in July as they try to call attention to the heat-related deaths of four women at Leland Health Care Center in University City. (2) PHOTO HEADSHOT - (Ray) Gruender - The federal laws "available to us are very narrow"; (Robert) McCulloch - There is "little we can do" with no mandated standards; (Jay) Nixon - Said he could do nothing without McCulloch's permission

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A West Side story told from a million miles away ; Her determination and a Lincolnwood man's gift got her into an elite college Determination and 1 man's gift got her from Marshall High to an elite college credit determination and one man's gift  
February 23, 2003  
Chicago Sun-Times

MIDDLETOWN, Conn.--It's early February and the cinder block walls in Zaahira Jones' freshman dorm room at Wesleyan University, an elite liberal arts college in the Connecticut River valley, are still bare.

She has no oversized celebrity posters, no tapestries disguising her stark walls. And unlike the typical freshman, she displays almost nothing from the life she left behind--in her case, on Chicago's West Side.

One small token from home sits on her bookshelf--a framed picture of her mother and sister.

Another hangs from a cork board across the room. It's her gold and maroon tassel from graduation day at Marshall High, a school where only 20 percent of the mostly poor students go on to a four-year college, let alone to one of the top schools in the country.

There is an easy explanation: Zaahira moved a lot during her chaotic childhood and couldn't hold on to much.

But there is also a deeper explanation that rings more true.

Zaahira is starting over. And when you start over, it's easier to leave your old life behind.

The gift

The slim 18-year-old with the Guess down jacket and the Samsung cell phone glued to her ear looks like any other Wesleyan freshman.

She darts around the historic snow-covered campus in a 2003 Honda Civic and strides into classrooms with the confidence of a girl who has seen this all before.

Nothing in her profile--a 30 out of 36 on the ACT college entrance exam and an A, a B and a B+ in her first semester at Wesleyan--gives her away.

But two years ago, Zaahira hadn't even heard of Wesleyan. She had rarely ventured beyond the West Side, and the very idea of attending an elite college that would cost \$36,000 a year was inconceivable.

She was a senior at Marshall, a place where homework is a rarity and a 30 on the ACT is unheard of--last year's average was 13.7.

That all changed last April, when a former rabbi and nursing home executive read about Zaahira's achievements in the Chicago Sun-Times. She had been accepted at Wesleyan but couldn't afford to go. Morris Esformes, who lives light-years away from her in an Orthodox Jewish community in Lincolnwood, marched into Marshall and asked to see Zaahira.

After less than an hour together, Esformes, a blunt father of three who is as bombastic as he is generous, asked a skeptical Zaahira and her principal how much Wesleyan would cost.

"About \$35,000," the principal answered.

"Don't worry about it," Esformes said. "I'll pay for it."

Tuition, housing, an allowance, a leased car, a computer and airfare to take her place among 720 freshmen--all on Esformes.

"She had her feet on the ground and she was so focused," Esformes said, recalling his first meeting with the petite young black woman with the piercing brown eyes. "She had it all."

With the gift of a lifetime before her, Zaahira, a big-city girl who knew little beyond her West Side universe, set off for a small town in Connecticut to see the world.

Big city, small world

Growing up, Zaahira's world was defined by a two-mile swath of the West Side that straddles three poor and working-class black neighborhoods.

She swam in Lake Michigan just once. She visited the city's museums only a few times. A big outing was a solo L trip to Oak Park, where she combed the Super Crown aisles looking for books.

By income measures, her family isn't poor. Her mother makes a solid living working for the postal service. But by every other measure, she grew up without.

Zaahira's father left before she was born, and Zaahira says her mother racked up serious debt over the years, forcing Zaahira and her older sister to go hungry at times.

Over the years the family moved abruptly several times, bouncing Zaahira from one school to another. By ninth grade, she was on her fifth school.

Zaahira always had a place to live and someone to care for her, but her childhood signposts are stark.

Standing in front of her grandparents' West Garfield Park graystone, she looks at a demolished house where a 3-year-old girl she once knew was raped. As she rounds the corner, she sees herself as the little girl she once was, walking to school. She passed her father's father regularly, but never said hello. Her granddaddy had no idea she was kin.

For high school, Zaahira's mother looked for better schools and found them in the west suburbs. In Aurora, the competitive tomboy who always scored highly on standardized tests was challenged for the first time--and she liked it.

But in her sophomore year, Zaahira and her mother, who often butted heads, fought over money, and Zaahira's mother told her to

leave. On a cold December night, Ms. Jones dropped Zaahira off at her grandparents'. Soon after, she started at Marshall.

Zaahira liked Marshall's family atmosphere and did well, earning a 3.8 grade-point average. But she also sat through semester after semester with little homework and few tests. Simply speaking up in class, she said, guaranteed her a decent grade.

After Esformes stepped forward to help Zaahira in her senior year, the environment at school soured. To Zaahira, the faculty appeared to split into two camps. Some teachers argued other students deserved the honor more than Zaahira, who regularly skipped class in her last year because, she said, she wasn't learning.

The other camp, which included her principal and a guidance counselor, rallied behind her. Dozens of average Chicagoans also sent Zaahira money after the Sun-Times outlined her financial needs.

"Some expect me to succeed and some don't," Zaahira said. "Some don't think I'll make it."

Zaahira focuses on the ones in her corner.

"There are times I don't want to study, but I know college isn't just about me," Zaahira said as she walked the deserted stretch of Kedzie and Adams near Marshall, a hulking brick building across from a vacant lot. "It's also about all the people who believed in me."

Small town, big world

When Morris Esformes walked into Marshall last April, Zaahira wondered whether the slightly eccentric man wearing the Bears sweat shirt was for real.

He was, and his offer of money also included a first taste of life beyond the West Side.

The former Jewish school administrator who struck it rich in the nursing home business introduced Zaahira to a generosity beyond her wildest imagination. He also peeled back the curtain on the

world of kosher Skokie steakhouses and pious North Shore Jews.

And he revealed the darker side of what motivated him.

"No one was stepping up from the well-off African-American community to help her," Esformes said over dinner with Zaahira at a Skokie restaurant in January.

"The world was sitting by while this girl was trying to get out of the gutter," said Esformes, 56, who is paying her expenses and about one-third of her tuition, with a scholarship picking up the rest.

He could have put it more delicately, Zaahira said after dinner, but she doesn't disagree, noting that most of the \$2,000 donated to her came from working-class blacks, people who could scarcely afford the \$50 or \$100 checks they sent.

Zaahira also knows she has, in turn, altered Esformes' world view.

"She gives me hope," he said. "She could have used the same cliché as others: 'Life sucks, I'm angry,' but no. She said 'I'm going to make something of my life.' "

'This is my chance'

It's 10 a.m. on a Thursday in early February, and Zaahira sits on her blue Thomas the Tank Engine comforter, trying to study for a Spanish test.

Mostly, she can't stop talking about how much she loves her new life.

In her first semester, Zaahira lapped up everything that came her way. She took three classes, earning good grades and discovering just how much there is to know about the world and how it works.

She also rowed on the crew team, taught local kids hip-hop, joined a black women's discussion group and went to more parties than she ever did before.

"I don't want to miss anything," she said, her voice rising. "Before,

I could never do these things. I want to pack in as much as I can."

In a typical day in Middletown, Zaahira travels a shorter distance than she did between school and home on the West Side, but at Wesleyan the world comes to her.

She starts the day in an immersion Spanish class, then heads across the main quad--a study in Jeffersonian charm--for lunch. In the student union, she passes postings for lectures on Indian politics and about the rapper DMX. Fliers announcing an anti-war protest and a "national transgender day of remembrance" also compete for space on a central bulletin board.

Her next class, women in U.S. history, transports her to 18th century Maine to study the life of a rural midwife. Sitting around her for the first time since she lived in Aurora are whites and Asians, some of whom attended posh boarding schools that cost up to \$29,000 a year.

Later, she joins up with her good friends--five black and biracial girls who went to public schools in New York City, Denver and Sioux Falls, S.D.

As the group moves from a dorm room to the dining hall, their talk flows easily from the existence of God to the latest hot rap artist. A favorite topic is the difference between private and public high school blacks on campus.

"If we get a little loud and start laughing in public, they'd try to be composed," one public school friend said about black private school grads.

"And they indulge more," another added. "You know, smoking and drinking."

The group nods in agreement.

Zaahira has found a group she can relate to--but even here, there are differences. These girls went to public schools, but not public schools like Marshall. They went to magnet schools or schools with strong honors programs. Most come from two-parent homes, and their parents are professional.

Zaahira notices the differences without feeling intimidated.

When a friend speaks of her mother's sabbatical year in Ghana, Zaahira doesn't tell her that the only sabbatical her mother took was three days off from work--to sleep. And when her dismayed classmates discover that she never wrote a research paper at Marshall, she shrugs it off and the moment passes.

Other kids like Zaahira--students who went from low performing high schools to competitive colleges--sometimes give up, saying it's just too hard to fit in.

Zaahira hasn't fallen prey to that, but other threats loom.

Studying does not come naturally to her. A decent visit to the library consists of 20 minutes of studying and 20 minutes of chatting. And in an anthropology class last term, her limited training caught up with her. She got advisory grades of F on two papers.

But with guidance from her professor and two or three re-writes, the novice writer ended up with an A in the class--and she was one of the only first-year students.

Like every college freshman, Zaahira is re-creating herself.

But unlike the typical 18-year-old, who can tell their family and old friends what they're becoming and what they left behind, Zaahira straddles the two worlds without a net below.

"If I mess up, there won't be chances waiting for me," she said.  
"This is my chance."

'I have a history here'

As Zaahira moves across campus in her red knit hat, her cell phone rings constantly.

Usually, it's a Wesleyan friend, ready to talk about last night's escapades. Occasionally, it's her mother, one of three high school friends or her sister, who is in the Navy stationed in San Diego.

She prefers to catch up on their lives and to say little about hers.

"The worlds are different, and I like it that way," she said. "I can't see this world influencing my homelife, and I don't want my homelife influencing this world."

But slowly, despite what she says, Zaahira is letting the worlds converge, ever so slightly.

During winter break in Chicago, she showed her mother pictures of her college friends. And when she returned to Middletown, she brought back the graduation tassel that hangs in her room.

"I have history here I don't have anywhere else," she said as she walked her old neighborhood. "I'm comfortable here, even if I wasn't always happy."

In return for his gift, Esformes asks only one thing of Zaahira-- that she give something back. And the farther away she gets from the West Side, the easier that seems.

"I know where I came from and I know it's not fair," she said during a study break in Wesleyan's library, a classic New England brick edifice overlooking a snow-covered sledding hill.

"I'm starting to realize how bad the situation was," she said, referring to the education she received. "And the more I'm here, the more I realize it's not right."

For now, Zaahira is thinking only of what's immediately ahead--a weekend of fun, a paper to write. She looks at her cell phone, taking note of the text message she inscribed: "Stay Focused."

"I have my goals, I have my master plan. I need to do well in college, get a job and"--she adds with a smile--"be happy. ... It's what I need to do."

"I have history here I don't have anywhere else," says Zaahira Jones, a freshman at Wesleyan University in Connecticut, as she tours her old West Side neighborhood. Morris Esformes read about Jones in the Sun-Times and offered to pay for her college tuition and expenses. "She gives me hope," Esformes said.

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## EDITORIAL

### THE LONGEST MILE

April 13, 2003

St. Louis Post-Dispatch

### NURSING HOMES

FOR an idea everyone claimed to support, nursing home reform has faced a mighty rough road through the state Senate. Credit for that belongs to Earl Carlson, who represents profit-making nursing homes.

But this week, despite Mr. Carlson's best efforts, the bill won a crucial Senate vote. Now it's off to the House. House Speaker Catherine Hanaway, R-Warson Woods, must ensure that the reform bill is quickly approved without being watered down.

Two members of the Senate deserve special credit for keeping significant reforms intact. Sen. Pat Dougherty, D-St. Louis, helped steer the bill. Sen. John Griesheimer, R-Washington, helped resolve one of the most contentious issues: whether homes should be allowed to avoid stiff fines by correcting violations. Mr. Griesheimer's compromise makes fines stick for most serious offenses, but gives nursing homes 30 days to correct the others.

The heat-related deaths of four elderly women in a University City nursing home in 2001 came up during the Senate debate. Sen. Jon Dolan, R-Lake St. Louis, attributed the deaths to "bureaucratic malfeasance," insisting that emergency workers should have evacuated residents in the home. The air conditioner wasn't working, and the inside temperature soared to 98 degrees. His statement was poorly aimed. Paramedics were rebuffed when they tried to get the patients moved. Moral responsibility for those deaths lies with Morris Esformes, the former owner, and Teresa Johnson, the former administrator of Leland Health Care. Mr. Dolan owes University City paramedics and firefighters a public apology.

The House must not weigh down the reform bill with an ill-considered moratorium on new nursing home construction, as the industry so desperately wants. It rewards poor-quality homes that have a hard time filling beds. Competition will be good for them, and for patients' families.

The House also would do well to restore two provisions stripped from the original bill. Reports of suspected abuse should be directed to law enforcement -- not to the state nursing home inspectors, who often conduct "investigations" over the telephone. Abusing the elderly is a serious crime, and only the police are competent to investigate it.

Nursing home operators also should be required to certify the quality of care they provide. Owners and operators whose tight-fisted policies set the stage for neglect and abuse must be held accountable. Running a nursing home is -- or should be -- about protecting the residents, not just cashing their checks.

The vehicle for meaningful nursing home reform is parked and running on Ms. Hanaway's doorstep. Thousands of elderly Missouri residents and the families who love them are counting on her to safely drive it the final mile home.

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KIMBALL ON REAL ESTATE

January 13, 2004

Broward Daily Business Review

Volume 04; Issue 1-13

...

Health care facility goes for more than \$4.3 million

GBRE Associates LLC has purchased a Miami-Dade health care facility for \$4.31 million from Integrated Health Services of Greenbriar LLC.

The buyer paid \$51.60 per square foot for 83,520 square feet built in 1976 at 9820 N. Kendall Drive. The building is on 4.03 acres.

The property sold for \$8.9 million in 1986 and \$19.45 million in December 1998.

Morris Esformes is manager of the buyer, which is affiliated with EMI Enterprises in Lincolnwood, Ill.

The seller's manager is Uri Kaufman of Sparks, Mo.

CIB Bank of Frankfurt, Ill., loaned \$3.451 million.

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LOCALLY

March 18, 2004

News Journal

Datona Beach News-Journal

DeLand firm to purchase nursing home

DAYTONA BEACH – The Huntington, a nursing home, assisted living facility and rehabilitation center behind Volusia Mall, has been sold to a DeLand firm, which renamed it The Terrace at Daytona Beach.

TDB Real Estate LLC, of which Illinois resident Morris Esformes is the sole principal, paid The Huntington LLP \$5.2 million for the property earlier in March, public records show.

The Huntington opened on Jimmy Ann Drive in 1998 after being forced to build a new facility because of construction plans for the new Broadway Bridge. Huntington Square Convalescent was at 100 E. International Speedway Blvd.

Gary Egerer, spokesman for TDB, said the company plans to relocate its headquarters to Volusia County from Chicago. Plans call for renovating the inside of The Terrace and doing a facelift on the building's exterior.

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U.S. SUES SEVERAL MIAMI AREA DOCTORS, LARKIN COMMUNITY HOSPITAL, SEVERAL ASSISTED LIVING FACILITIES FOR FALSE CLAIMS

July 1, 2004

US Fed News

MIAMI, July 1 -- The U.S. Department of Justice's U.S. Attorney's office for the Southern District of Florida issued the following press release:

Marcos Daniel Jiménez, United States Attorney for the Southern District of Florida, announced today that the United States has filed a civil lawsuit against defendants, Larkin Community Hospital, a Miami-based hospital; Jack Michel, M.D., James

Desnick, M.D., and Morris Esformes, its current and former owners; and ten (10) assisted living facilities ("ALFs") owned by Jack Michel and Philip Esformes, for violations of the False Claims Act, 31 U.S.C. § 3729. The lawsuit is based upon two schemes at Larkin. The first scheme involved the payment of kickbacks to doctors, primarily Jack Michel, at Larkin in 1997. The second scheme involved the churning of patients from the ALFs to Larkin for medically unnecessary services and procedures from 1997 to 1999.

Also named in the lawsuit were defendants, George Michel, M.D., who admitted the bulk of the patients; Claudia Pace, an administrator at several of the ALFs; Francisco Palacios, Jack Michel's assistant; Oracle Health Systems, Inc. ("Oracle"); and numerous holding corporations owned and controlled by the individual defendants.

Based on the allegations of the Complaint, in 1997, when Larkin was owned by Dr. Desnick, Larkin paid Jack Michel and Oracle approximately \$70,000 per month in kickbacks, which were disguised as payments for operating the Larkin Emergency Room, Radiology Department, and House Call Program. In return for these payments, Jack and George Michel admitted approximately 50% of the patients to Larkin in 1997, and many of these admissions were medically unnecessary. Additionally, Larkin paid kickbacks to other doctors for their admissions to Larkin that were disguised as Medical Directorship salaries. These doctors admitted approximately 25% of the patients to Larkin in 1997, and many of these admissions were medically unnecessary. Many of these patients were residents of ALFs with whom Jack Michel had long-term relationships, including Oceanside Extended Care, owned by the Esformes.

The Complaint further alleges that in early 1998, when Jack Michel purchased Larkin from Dr. Desnick, the defendants began a second scheme in which primarily George Michel admitted patients to Larkin for medically unnecessary treatments. These patients came from ALFs, including those owned by Jack Michel and the Esformes. This scheme continued through the end of 1999.

Mr. Jiménez commended the investigative efforts of the Federal Bureau of Investigation, the United States Department of Health and Human Services, the State of Florida Medicaid Fraud Control

Unit, and the Florida Agency for Health Care Administration. This case is being prosecuted by Department of Justice Commercial Litigation Branch Attorney Alicia Bentley and Assistant United States Attorney Magda Lovinsky. HTS rsbn 040703-11246  
BNBHOWMICK

Carlos B. Castillo, special counsel for public affairs, 305/961-9425;  
Yovanny Lopez, public affairs specialist, 305/961-9316.

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Miami vice? U.S. attorney accuses Fla. hospital, execs of kickbacks  
by Mark Taylor

July 5, 2004

Modern Healthcare

Volume 34; Number 27

The U.S. attorney's office in Miami filed a civil False Claims Act lawsuit against for-profit Larkin Community Hospital, South Miami, Fla., and several individuals over alleged kickbacks and unnecessary services.

Among other charges, the suit accused the 122-bed hospital and its owners of "churning" patients from long-term-care facilities into Larkin for unnecessary care from 1997 to 1999. The suit named three men-James Desnick, Morris Esformes and Jack Michel-who owned Larkin or some of the long-term-care facilities involved. Also named in the lawsuit were Philip Esformes, George Michel, Claudia Pace and Francisco Palacios, as well as companies owned by the defendants. Attempts to contact the individual defendants were unsuccessful, but Larkin attorney Craig Brand said the hospital denies the charges. The government made its allegations without reviewing Larkin records, and hospital officials believe the allegations are nothing but hearsay, Brand said.

In the complaint, the government alleged that while Desnick owned Larkin, the facility paid \$70,000 per month in kickbacks to Jack Michel and his company, Oracle Health Systems, disguising the kickbacks as legitimate payments for operating the hospital's emergency room, radiology program and house-call services. In 1997, brothers Jack and George Michel, both physicians, admitted half of the hospital's patients. The suit also alleges that Larkin paid kickbacks to other physicians in the form of phony medical

directorships. Jack Michel and Morris Esformes bought the hospital from Desnick in 1998.

Desnick previously owned Doctors Hospital of Hyde Park, Chicago. Desnick and Doctors Hospital paid nearly \$20 million in civil fraud settlements before the hospital filed for bankruptcy and closed in 2000. In the subsequent federal investigation of the bankruptcy, several individuals were convicted of criminal charges. Desnick has not been charged in that case.

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Feds' Lawsuit Alleges Miami Hospital Hid Kickbacks in Various Physician Contracts

July 12, 2004

Report on Medicare Compliance

To federal prosecutors, Larkin Community Hospital reveals a lot about its modus operandi on a single sheet of paper allegedly prepared for its former president, James Desnick, M.D. There's a list of 10 medical directors, how much they were paid monthly, how many patients each physician admitted to the hospital during a three-month period in 1997, and the charges those admissions generated for the hospital. That document has become "Exhibit A" in a new false claims lawsuit against the Miami hospital, which is accused of using medical directorships and other contracts to disguise payments to physicians for patient referrals. "While some of these physicians had written contracts with Larkin, these were sham contracts because the doctors performed virtually no services for Larkin, the payments often pre-dated the written contracts by months, and the doctors were paid above market rates," federal prosecutors allege.

For example, Francisco Cabrera was paid \$3,500 monthly and admitted 13 patients in October, 57 in November and 24 in December, which let the hospital charge payers a total of \$878,404, the false claims complaint contended.

The lawsuit, filed June 29 by the U.S. attorney's office in Miami, details Byzantine schemes involving multiple defendants, all swirling around the manipulation of patient referrals to Larkin from medical groups and nursing homes and from the provision of medically unnecessary services. With so many avenues for the alleged fraud, the ill-gotten gains quickly piled up. Prosecutors

allege that about 75% of the money that Medicare paid Larkin in 1997 was for services provided to patients referred by physicians who received kickbacks from the hospital. The kickbacks continued even after hospital staff warned management against the activity, prosecutors allege.

In addition to Larkin, the government is suing a long list of people and entities, including the hospital's former owner, James Desnick, M.D.; current owner, Jack Michel, M.D.; Michel's medical group, Oracle Health Systems; Michel's brother, George Michel, who worked at Oracle; and other physicians; Francisco Palacios, a business associate/patient recruiter for Jack Michel; numerous Florida nursing homes, assisted living facilities and retirement homes, owned variously by some defendants, including Michel and Desnick; and Morris and Philip Esformes, who were involved in the operations of the hospital and retirement home defendants.

The defendants deny the allegations, says one of their attorneys, Mike Pasano. They "look forward to the chance to show in court that the government's allegations are specious and unfounded. We'll aggressively fight this lawsuit."

#### Problems Continued After Ownership Changed

There are two phases to this story. The first begins in 1997, when Larkin was owned by Desnick. The complaint says that a cluster of kickback schemes grew out of a meeting involving Jack Michel and Desnick. The meeting was scheduled after Jack Michel allegedly told Desnick's representative to "ask your boss if he would pay \$1 million to make \$5 million." Among the kickback schemes charged in the complaint:

Larkin allegedly paid Jack Michel about \$70,000 a month in kickbacks in return for patient referrals by the Michel brothers and other Oracle physicians. No written contracts existed for services. Many of the patients admitted under this alleged kickback deal lived at Oceanside, a skilled nursing facility (SNF) in North Miami Beach where Jack Michel served as medical director. Oceanside residents were transported to Larkin for medically unnecessary services, the complaint alleges, "with the knowledge of Oceanside's ownership, Morris and Philip Esformes."

Larkin allegedly paid Jack Michel/Oracle \$46,000 a month to

operate the emergency room - \$18,000 more per month than the hospital paid the previous ER staffing company, even though it staffed the Larkin ER with medical doctors while Jack Michel staffed it with physician assistants. No written contract existed for this deal either.

Larkin allegedly paid Jack Michel/Oracle \$24,000 a month to operate the Larkin radiology department.

Before Michel came on board, Larkin's radiology department was a fee-for-service operation, with no out-of-pocket costs for the hospital.

Jack Michel/Oracle allegedly were paid \$8,000 a month plus expenses to staff Larkin's house-call program

In 1997, Larkin paid \$60,000 in salaries for Palacios and seven other Oracle employees as if they were hospital employees - again, as indirect kickbacks to Jack Michel, the complaint alleges.

In 1997, the complaint charges, Larkin paid \$14,000 to Le Jeune Pharmacy, which was owned by Jack Michel.

When Larkin's patient census was low, Palacios allegedly solicited referrals from SNFs and assisted living facilities where Jack or George Michel were medical directors. In 1997, Larkin paid \$84,000 to Advocare, which in 1996 had been operated by Jack Michel's in-laws.

As a result of all the hustle and bustle, the feds allege, patients admitted to Larkin by Jack and George Michel accounted for half of Larkin's Medicare payments - a total of \$4.1 million. Patients admitted by other physicians who allegedly got kickbacks from Larkin accounted for an additional 25% of Medicare payments to Larkin. Medicaid allegedly paid another \$1 million to Larkin for services provided to patients whose admissions stemmed from the kickbacks.

At times, Jack Michel and Desnick allegedly said all the money changed hands because Desnick planned to buy Oracle. But there was never any written agreement for the purchase and it was never consummated, the government contends.

The worm turned as 1997 gave way to 1998, the complaint alleges. Jack Michel bought Larkin from Desnick and stopped paying physicians kickbacks for patient referrals, says the complaint. Instead, prosecutors allege, Michel and Esformes decided to keep the hospital's patient census high by "having Larkin provide medically unnecessary services to the patients served by Oracle and the residents of the numerous ALFs, SNFs and other retirement facilities with which Jack Michel and/or George Michel were already associated as well as facilities Jack Michel, Morris Esformes and Philip Esformes owned or planned to buy," the complaint alleges.

"Many of the patients admitted to Larkin as a part of this scheme did not have conditions that warranted admission to Larkin, were unnecessarily admitted for conditions that were not supported by their symptoms and were provided with medical services, medical consultations and extended hospital stays that were not medically necessary."

The complaint notes that a Florida Agency for Health Care Administration study of patients admitted to Larkin in 1998 and 1999 found that at least 50% of services provided to the patients lacked medical necessity.

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Outliers: Asides & Insides

Florida fraud case defendants have rich history with the law

July 19, 2004

Modern Healthcare

Volume 34; Number 29

When the U.S. attorney in Miami last month charged 122-bed Larkin Community Hospital, its current and former owners, executives and some of their relatives with defrauding Medicare and Medicaid, several of the defendants already knew the drill.

The South Miami, Fla.-based for-profit hospital's co-owner, president and CEO, Jack Michel, is familiar with the False Claims Act process, having been a whistle-blower who successfully sued rival Miami Beach-based South Shore Hospital and Medical Center, winning nearly \$170,000 from the \$900,000 civil settlement.

In its lawsuit against the hospital, Michel and others, the

government alleged that the defendants paid and accepted kickbacks and illegally sent long-term-care patients from assisted-living centers they controlled to the hospital for unnecessary treatment.

Michel's partner in some of the nursing homes is Rabbi Morris Esformes, a millionaire owner of long-term-care facilities in Florida, Illinois and Missouri. Some of Esformes' facilities have come under fire from state and federal authorities. In 2001 four elderly women died of heat-related causes in a suburban St. Louis facility Esformes sold before its license could be revoked. He was fined \$43,000 by federal authorities.

Former Larkin owner James Desnick, who lost his Illinois medical license in the 1990s and later bought Doctors Hospital of Hyde Park in Chicago out of bankruptcy before returning it to the same condition, has seen his share of government troubles as well. Desnick and Doctors paid nearly \$20 million to settle civil False Claims Act lawsuits resolving kickback and fraud allegations there and the investigation resulted in several criminal convictions, although Desnick was never criminally charged.

When Desnick bought Larkin for \$11 million with the Island Trust, which is headed by President John F. Kennedy's nephew, Anthony Kennedy Shriver, in 1997, he purchased it from Birmingham, Ala.-based HealthSouth Corp., whose own fraud-related troubles would not surface for several years.

The hospital also has a rich legal pedigree. Its original owner was the late Miami developer and mob associate Cal Kovens, who served time with co-conspirator Jimmy Hoffa for illegally using cash from the Teamsters union pension fund to build Larkin and two other area hospitals, 264-bed Plantation (Fla.) General Hospital and North Miami (Fla.) General Hospital, now 392-bed Parkway Regional Medical Center.

The nurse shortage isn't this bad

An Alaska woman pleaded guilty to stealing the identities of at least two nurses to obtain nursing licenses and jobs at schools and hospitals, including a job as coordinator of occupational health nursing at Fairbanks (Alaska) Memorial Hospital.

Becky Nadine Hunter pleaded guilty earlier this month in U.S. District Court in Anchorage to 21 criminal counts, including identity theft, lying to the government, mail and wire fraud, and concealing assets. She faces as many as 120 years in prison.

Soon after hiring Hunter in February 2000, Fairbanks Memorial fired her for lying on her application. She then surrendered her three nursing licenses to the state. Prosecutors alleged that she used more than 20 aliases to defraud individuals and companies.

Assistant U.S. Attorney Karen Loeffler in Anchorage says Hunter was expelled from the University of Portland (Ore.) School of Nursing in 1992 and never completed her nursing degree. In addition to misrepresenting herself as a nurse, Hunter allegedly forged documents saying she was a bone-marrow transplant patient in order to obtain free air travel.

Accountants no more

So you think you know what GAO stands for? Often inaccurately called the Government Accounting Office instead of its real name, the General Accounting Office, the congressional watchdog agency has long labored under a name that ill suits its real role. Under a law signed by President Bush July 7, the agency's name has changed, but its acronym has not. Only time will tell if the change adds to the confusion or clarifies matters.

The new name is the Government Accountability Office. Along with the name change, the law creates a new compensation system for the agency; instead of paying employees according to the federal employee pay system, the agency will pay based on performance and other factors. The GAO can also offer workers early retirement and buyouts. Sponsors say the change will give the agency greater flexibility to attract and retain talent as well as flexibility with its budget during lean years.

Changes to the agency came as a result of legislation proposed a year ago by Rep. Jo Ann Davis (R-Va.) and Sen. George Voinovich (R-Ohio). The agency was created in 1921 primarily to audit the spending of federal agencies, but its duties have been expanded to include program evaluation and policy analysis.

The name change ``reflects what we do. We're not accountants,"

says Laura Kopelson, a spokeswoman for the GAO.

They're no Commies

At least GAO is a short acronym. The healthcare industry has earned a well-deserved reputation for nearly matching the military in the universal acceptance of impenetrable, lengthy shorthand. Few, however, are tougher on the tongue than ACEHSA-otherwise known as the Accrediting Commission on Education for Health Services Administration. The pronunciation alone is a bit tricky-it's a-KEE-sa.

Now, just when Modern Healthcare has finally managed to commit this name, acronym and pronunciation to memory, ACEHSA's leaders have decided to change the official title. Forthwith, ACEHSA will now be known as the Commission on Accreditation of Healthcare Management Education, or CAHME. And that is not pronounced like the derogatory abbreviation for a card-carrying member of the Communist Party, either; it's more like ``kammy."

Photo Caption: Michel and colleagues know all about the False Claims Act and other laws.

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The feds take aim at kickback schemes: scrutiny is increasing. Here are some real-life examples of how the antikickback statute is being enforced in the healthcare environment.

by Terry, Ken

October 8, 2004

Medical Economics

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Last May, three primary care physicians were charged in New York federal court with taking kickbacks in return for referrals to a gastroenterologist. If convicted, Paul Branda, Naum D. Tsynman, and William G. Johnson each face a maximum penalty of five years in prison and a \$250,000 fine for violating the federal antikickback statute. They could also be excluded from government programs, including Medicare and Medicaid.

Just a few weeks before the three doctors were arrested, a senior Justice Department official told healthcare lawyers at an American Bar Association meeting that the federal government would be

focusing on kickback arrangements in the healthcare industry. While there hasn't been a dramatic escalation in federal prosecutions of physicians, "the government is becoming more aggressive in its investigation of potential kickback cases than it was 10 years ago," says Sanford V. Teplitzky, chairman of the health law department at the Baltimore-based firm of Ober Kaler Grimes & Shriver. One reason for the increased number of investigations, he adds, is the rise in qui tam (whistleblower) suits over the past decade against those suspected of healthcare fraud.

Kickbacks as blatant as the alleged actions of the New York physicians seem fairly uncommon, judging by official reports and interviews with people in the industry. But a variety of more-sophisticated techniques have been used to reward doctors for referrals and admissions, as well as for lab, supply, and durable medical equipment orders. To supplement the "Physicians' Guide to antikickback regulations" (page 53), here are some real-life examples of things to watch out for, along with a few tips on how to avoid running afoul of the law.

#### Disguising kickbacks as rent payments

According to the federal suit in New York, between 1997 and 2003 the unnamed gastroenterologist paid Branda \$50 in cash for each Medicare patient and \$70 for each privately insured patient referred to him. Tsynman allegedly received 25 percent of the insurance reimbursement that the specialist got from Medicare and other payers.

The other physician charged in the suit, William Johnson, allegedly "rented" the gastroenterologist part of his office for 90 minutes to two hours each Wednesday. The consultant didn't perform any procedures there but simply interviewed patients who'd been referred to him. The gastroenterologist claimed that both he and Johnson knew that the rental payment--\$1,000 a month--was far in excess of fair market value and was actually a payment for patient referrals, according to the complaint. Neither Johnson nor either of the other physicians would comment on the suit.

Disguising kickbacks as rent is apparently such an obvious technique for avoiding detection that the HHS Office of Inspector

General has put out a Special Fraud Alert entitled, "Rental of space in physician offices by persons or entities to which physicians refer." (Among the "entities" in question are outpatient rehabilitation facilities, mobile diagnostic equipment suppliers, and suppliers of durable medical equipment, prosthetics, orthotics, and supplies.) So if you rent space to doctors to whom you refer, avoid any possible appearance of illegality by making sure your charge is reasonable based on your overhead cost, advises Jeff Denning, a consultant in La Jolla, CA.

When a specialist offers you a "deal"

Alice Gosfield, a Philadelphia-based healthcare attorney, recalls a recent OIG settlement with a cardiology group in Delaware. The group had been paying referring family physicians to supervise stress tests. "If the cardiology practice was understaffed and didn't have physicians who could do this, and if they hired one or two FPs to come over and supervise and paid them for their time, that would have been okay," she notes. "The problem was the extent of what these guys were allegedly doing: They were using 40-odd people for this." Since this was the bulk of their referring doctors, it looked like kickbacks for referrals, she says.

There are many variations on this theme, Gosfield continues. "Sometimes specialists say to the primary care guys, who have no idea of how to interpret a study, 'Well, you can interpret it and bill on it, and I'll back you up.'" Under this scenario, the primary care doctor bills the third party for the interpretation, and the radiologist, cardiologist, or pulmonologist gets future referrals, she says.

Of course, a qualified specialist has to interpret the test results, but he doesn't need to bill for it. He can claim that he was just doing an over-read, which is nonbillable, says Gosfield. "But if he's doing a full interpretation on each one of them, the question is, 'Why is he doing that at this cheap rate?' He's offering a cheap or free service to get the other business."

Kickbacks are reported from labs and suppliers

A number of doctors have been implicated in kickback arrangements with labs, home health agencies, and suppliers of durable medical equipment. In 1998, for example, 18 physicians in

the Tampa-St. Petersburg area were accused of receiving nearly \$1 million in bogus consulting fees and other illegal payments from a local lab in return for their business. A dozen of these physicians were indicted. \*\*

Labs are just the beginning. In the past few years:

\* A New York physician was ordered to pay a \$30,000 fine for taking kickbacks from a medical supply company, an MRI center, and a lab, according to the OIG.

\* A physician in Washington state paid \$11,000 in fines and restitution for writing bogus prescriptions that were used by durable medical equipment companies to bill Medicare and Medicaid for customized orthotic devices.

\* Three former employees of a Pennsylvania company were charged with conspiring to pay kickbacks to eight doctors to induce them to refer Medicare business to the company, which sold durable medical equipment and home health services. The alleged kickbacks were paid in the form of rent on unused, unneeded offices; improvements to the doctors' offices; and interest-free loans to two doctors and consulting fees to another.

\* Six New York physicians "signed stacks of orders for durable medical equipment without ever seeing the patients [for whom they were ordered], accepted kickbacks for doing so, and filed claims for services not provided," said an HHS official in congressional testimony in 2001.

"The actual incidence of physicians' intentionally submitting false or misleading certifications of medical necessity [CMNs] for durable medical equipment or home health care is relatively infrequent," admits the OIG in a Special Fraud Alert. However, the bulletin adds, physicians often don't read certifications carefully before signing them, which leaves an opening for unscrupulous operators. And some doctors' actions raise serious questions: "The OIG has found numerous examples of physicians who have ordered DME or signed CMNs for DME without reviewing the medical necessity for the item or even knowing the patient."

Hospital admissions:

Gray and not-so-gray areas There have also been allegations of kickbacks in return for admissions. For example, the Justice Department recently filed suit against Miami's Larkin Community Hospital, Jack Michel, MD, James Desnick, MD, Morris Esformes, and 10 assisted living facilities owned by Michel and Philip Esformes. The Feds claim that in 1997, Larkin paid Jack Michel and his practice about \$70,000 a month in kickbacks that were allegedly disguised as payments for operating the Larkin ED, radiology department, and house call program. In return for these payments, the complaint alleges, Jack and brother George Michel admitted about 50 percent of their patients to Larkin. The hospital is also alleged to have paid kickbacks disguised as medical directorship salaries to other doctors for their admissions.

The complaint further alleges that in early 1998, when Jack Michel purchased Larkin Community Hospital from Desnick, the defendants began to admit patients from assisted living facilities, including those owned by Jack Michel and the Esformes, for medically unnecessary treatments. Michel's attorney, Michael Pasano, did not return our phone calls.

The concept of no-show medical directorships is not unique. A pair of geriatricians in Kansas City were convicted a few years ago of taking kickbacks from a hospital that made them co-directors of its gerontology services and paid them generously for it. The doctors allegedly did little work for the money, and all of their Medicare and Medicaid admissions went to that hospital.

Hospital recruiting practices may also be scrutinized by federal authorities if it appears that a health system is paying more than fair market value for a physician's services or to set him up in practice. In this gray area, lit up here and there by "safe harbors," hospital conduct rarely triggers kickback allegations. But recently, federal prosecutors charged Alvarado Hospital Medical Center in San Diego and its CEO, Barry Weinbaum, with bribing doctors to admit patients under cover of paying them to recruit new physicians into their practices.

According to the indictment, Weinbaum paid more than \$10 million to physicians who agreed to relocate their practices to the Alvarado Hospital service area. The suit alleges that much of the money went to the medical practices that these physicians joined.

Payments by hospitals to groups to help set up doctors in practice are neither unusual nor necessarily illegal, say healthcare attorneys. But the issue here is whether Alvarado--part of the big Tenet chain--paid more than was required to support the new doctors, and whether the physicians in the recruiting groups pocketed the rest. "The indictment alleges that established physicians other than the recruited doctors received a substantial portion of this Relocation Agreement money to induce them to refer patients to Alvarado Hospital," states a press release from the office of US Attorney Carol Lam.

Ignorance and self-deception play roles in some cases

Greed may motivate some doctors to take bribes. But considering the penalties of being caught, why would a physician do something wrong in return for only a few thousand dollars a year, as the three New York doctors who were charged in May allegedly did? Joseph C. d'Oronzio, executive director of the Ethics Group of Summit, NJ, has some theories. D'Oronzio, who runs one of the few remedial programs in the US for doctors with behavioral problems, has encountered several doctors who've taken kickbacks, including a few who've served time in prison.

"The most prevalent type [of kickback] we've seen has to do with durable equipment sales and referrals to DME retailers. You can get badly burned with that, but it's extraordinarily difficult to identify," he notes. "Many doctors are pre-Stark practitioners who don't think of that in the same way they think of ownership of another facility or a lab and self-referral. Taking a cut of a durable good is almost clean--it's simply a better business deal for them than referral to another retailer that doesn't give a percentage of the cost."

Even if a physician knows what he's doing is wrong, says d'Oronzio, he might try to rationalize it as a way to get back at the government, which he thinks is underpaying him for his services.

Some international medical graduates also have a different attitude toward taking kickbacks, says d'Oronzio. "Individuals who've been educated and have practiced in another country before they came here might say, 'What are you talking about? In Russia, this is how it worked.' I've heard that more than once--and not just from Russians."

Are doctors judged by a higher standard?

The doctors interviewed for this article hadn't heard about any physicians taking kickbacks in their areas, but they weren't surprised that such activities were going on. "There's a scale of things," says a New Jersey FP who prefers not to be identified. "It goes from a nice card that says, 'Thank you for sending us somebody. We appreciate your support,' to 'Hey, it's Christmas, and they sent us 200 patients, let's send them a basket of fruit,' all the way up to 'For each patient you send us, we'll send you \$40.' I've never seen that, but I've heard that it goes on."

Since corruption is widespread in business and government, says this physician, some doctors wonder why they should be held to a different standard. Gregory A. Hood, an internist in Lexington, KY, terms this view "pessimistic." Doctors should hold themselves to a high standard, he says. "Our duty is to patients, and not doing harm to them. When we introduce other variables, we're increasing the odds that patients will get harmed."

Richard E. Waltman, a family physician in Tacoma, WA, agrees that kickbacks are "just not acceptable." But other issues involving referrals are more ethically complex, he says. For instance, the hospital that owns Waltman's group recently hired a couple of new thoracic surgeons to whom the primary care doctors are encouraged to refer. "The thoracic surgeons they brought in are very good," he says. "But sooner or later, they may bring in people who aren't as good as the guys in the community. And there's going to be a fight over that. The burden on us is to make sure that the new people they bring in are the best and to make sure those new doctors know they need to earn our referrals."

The question of whether doctors in group practices have to refer to the specialists in those groups is rife with ethical issues, but not legal ones. In fact, it's legally okay to do things within groups that would be illegal outside of them. As consultant Jeff Denning notes, if a surgeon who does ordinary procedures always refers patients who need exotic surgery to his more specialized partner and expects money for that, they're both safe; but if they weren't in the same practice, they could be prosecuted. Gray Turtle, a consultant in Lansing, MI, agrees that "there's a double standard in that regard."

So how do you stay safe? The basic fact to remember, says attorney Alice Gosfield, is that it's illegal to refer a patient to an unrelated healthcare provider if the transaction involves anything of economic value to you. "The fraud and abuse laws don't implicate pure referral relationships; they implicate referral relationships that are associated with economic benefits," she says.

With regard to more subtle inducements for referrals, orders, and admissions, attorney Sandy Teplitzky offers a three-part "smell" test: "Any relationship that involves financial considerations in either direction should be reviewed to ensure that the services that are being provided are medically necessary, that they're being provided at a professionally recognized standard of care level, and that the amount that's paid for them is fair market value.

"It's not illegal to pay fair market value for real services. But if they're made-up services, or they're not provided under a professionally recognized standard of care, or the physicians are overpaid, the government is going to make some assumptions that people might not like."

#### Power Points

- \* If you rent space to a consultant, be sure the charge is reasonable based on your overhead and fair market value.
  - \* Beware of payments for services that aren't medically necessary or don't fit the usual pattern.
  - \* Recruitment deals offered by hospitals are usually legitimate, but they must be set at appropriate market levels.
- \*\* See "Are those lab payments really kickbacks?" Jan. 25, 2002 (available at [www.memag.com](http://www.memag.com)).

At [6:30 AM](#), [yeshivaguy](#) said...

Even more idiotic than your usual fare.

At [7:11 AM](#), [KNHmember](#) said...

East Ramapo residents have been alerted that two men convicted of sexual assaults against children are living in the Monsey

community.

Letters from East Ramapo schools received this week identified Shimon Rosen, 36, and Robert Sternberg, 57, as Level 3 sex offenders, meaning they are at the highest risk of repeating their crimes. Both men have completed their sentences and are on either probation or parole.

Rosen and Sternberg have lived in Ramapo for several years, said Ramapo police Detective Lt. Brad Weidel. As far as he knew, the schools had never been alerted to their presence.

The Police Department recently instituted a new policy on sex offenders: review all the records and twice a year – before school starts and before it ends for the year – alert the district to what convicted sex offenders live in the area.

Weidel said there was no specific reason why the department decided to change the policy. In the past, the Police Department would notify school districts when a sex offender moved into the area but not give the twice-yearly status reports.

Police will continue to notify schools when a sex offender moves into the area regardless of when, Weidel said.

"I went to review what was doing with our sex offenders when I saw these two were Level 3s," Weidel said. "I didn't know myself if the schools were notified, so we notified them."

Residents received the letters in the past few days. The letters were sent out Thursday.

"I think it's a great idea. I think everybody has a right to know, but especially parents of young children," said Dagmar Klein, who has a child in East Ramapo's Fleetwood Elementary School.

School officials said they released the information as soon as they received it from police. The letter accompanying the information stated that the district had the option of releasing or withholding the information from the community.

"Our board has decided that any information received from a Police Department regarding a sex offender living in the community

should be shared with parents of our students," the letter said.

For more information, log on to the sex offender Web site,  
[criminaljustice.state.ny.us/nsor](http://criminaljustice.state.ny.us/nsor)

Level 3 offenders Shimon Rosen

Age: 36

Address: 4 Leon Drive, Monsey

Details: Arrested July 27, 1991, by Ramapo police. Convicted Sept. 3, 1991, of second-degree sodomy of a 12-year-old and a 7-year-old boy, both strangers to him. Sentenced to five years' probation.

Description: 5-foot-6, 125 pounds, green eyes, brown hair.

Robert Sternberg

Age: 57

Address: 11 Maple Leaf Road, Monsey

Details: Arrested March 6, 2002, by Stony Point police. Convicted in November 2002 of third-degree sodomy, promoting obscene sexual performance by a child younger than 16 and attempted dissemination of indecent material to minors via computer for sexual contact. Sentenced to one to three years in prison. Served 15 months; released February 2004.

Description: 5-foot-9, 180 pounds, blue eyes, gray hair.

At [8:13 AM](#), Anonymous said...

Does anyone know of a web site that allows one to query its registry by religion? This way one can help **JWB** search out **JEWS** to help the **anti-semite** with his life passion hatred of the **JEWS**.

At [9:01 AM](#), Anonymous said...

I agree with the above comment.

JWB is infatuated with publicising any negative fact about any Orthodox Jew (even when the "fact" is merely a flimsy rumor or innuendo).

An unknowing observer would probably think that this blog is run by skinheads or the KKK (et al).

At [9:35 AM](#), Anonymous said...

... "Accountability and transparency" ... yea, right. Just click on the **complete profile** on this **anti-semite** to see just how transparent this sleezy urchin is.

At [10:12 AM](#), Anonymous said...

"An unknowing observer would probably think that this blog is run by skinheads or the KKK (et al)."

The sexually predatory rabbis are the ones doing the best job of giving the anti-semites further material, not JWB.

Which one are you enabling?

At [10:47 AM](#), Anonymous said...

Point is that JWB is an anti-semite and doesn't deserve such a forum. One can expose Rabbi's that have done wrong while at the same time acknowledging when a Rabbi does right. Here is where the **anti-semetic** nature of this creep is exposed. Just check out [www.jewwatch.com](http://www.jewwatch.com) who says:

#### **Keeping a Close Watch on Jewish Communities & Organizations Worldwide**

**Jew Watch is a Not-For-Profit Library for private study, scholarship, or research. This is NOT a hate site. This is a scholarly research archive of articles.**

What is the difference between these two anti-semites? They both say that they are not "hate sites". I see no difference - Do you?

At [11:07 AM](#), Chani said...

The problem with JWB's blog is not his stated claim to want to expose true cases of abuse in the Jewish community.

The problem is that JWB makes no effort to pursue the **truth** whatsoever. Instead, he searches for any accusation (no matter how unreliable the source) and then further lies and exaggerates

those flimsy sources to make even more outrageous claims. He is no better than The National Enquirer (and probably even worse, because he cannot be held accountable for his statements).

**The bottom line is that JWB is nothing more than an attention monger who thinks that he is doing a great service to the world... when, in fact, he is nothing more than a sensationalist with too much time on his hands and a thirst for motzee shem ra.**

-Chani

At [12:01 PM](#), Anonymous said...

At 11:25 AM, Anonymous said...

This week's Jewish Press - JWB is getting slow...

Taking Stock Of The RCA`s Tandler Debacle  
Posted 5/4/2005  
By Editorial Board

In a series of editorials these past few weeks, The Jewish Press has explored the unfolding story of the Rabbinical Council of America`s expulsion of Rabbi Mordecai Tandler following an investigation conducted under the auspices of the RCA`s Vaad Hakavod.

Significantly, the Jerusalem Bet Din of the Chief Rabbinate of Israel, where Rabbi Tandler had commenced a case against the RCA for its decision to expel him, has twice denounced any action taken against a rabbi that can have adverse affects on the rabbi`s future when it is not the result of the ruling of a bet din. In its first decision the Jerusalem Bet Din said that the defendants, including the RCA and several others named, "are prohibited from damaging or in any way affecting any services provided by, or any status or position of, the Plaintiff [Rabbi Tandler] unless and until the Defendants summon the Plaintiff to a din Torah, in any location in the world, before an official rabbinical bet din or before a bet din constituted through the process of "zablah." In its second decision the Jerusalem Bet Din reaffirmed, explaining,

[I]t is prohibited to take any action which can cause or bring about the dismissal of a rabbi in the Jewish community. Any action which may have such an effect, if such action will be taken, may only be taken through an independent and impartial Bet Din or through the "zablah" process, and not through any investigative committee of the organization wherein the complainants and the individual about whom complainants were made are members:

The RCA`s responses to the Jerusalem Bet Din have been nothing short of stunning. Though the Jerusalem Bet Din twice directly addressed the issue of its jurisdiction, the RCA twice denied that the Jerusalem Bet Din had jurisdiction in the matter. Despite the fact that the Jerusalem Bet Din twice ruled that only a bet din could take any action that can adversely affect the future of a rabbi, the RCA twice asserted that its expulsion of Rabbi Tandler addressed only the issue of his membership, not his future as a rabbi, and that therefore the RCA is, at all events, in compliance with the rulings of the Jerusalem Bet Din. As we demonstrated last week, however, this position of the RCA is patently absurd.

In this connection, we cited a statement of the RCA`s executive vice president, Rabbi Basil Herring, to the effect that loss of RCA membership is important to a rabbi`s future – and therein lies the tale of a disturbing twist to an already unfortunate situation. Rabbi Herring`s quote was part of an article that appeared in the March 25, 2005 print and website editions of The New York Jewish Week and was reported as follows:

While Orthodox synagogues are not required to hire rabbis who are members of the denominations` allied rabbinical groups, being barred from the RCA will make it difficult for him to find work as a congregational rabbi elsewhere, some officials said.

"It`s a serious step for someone`s career," said Rabbi Basil Herring, the RCA`s executive vice president. "The RCA imprimatur is valuable."

Surely, Rabbi Herring`s comment qualified as a "smoking gun" given the official statement of his organization that its expulsion of Rabbi Tendler should properly be viewed only in the context of his membership in their organization. Yet it turns out that Rabbi Herring`s statement was deleted from the piece sometime after the fact – and is conspicuously absent from the article as it now appears on The Jewish Week`s website.

In sum, the RCA persists in defying the Jerusalem Bet Din of the Chief Rabbinate by unilaterally rejecting the latter`s jurisdiction and by not proceeding by way of a bet din in the Tendler matter. It also persists in its attempts to write the history of this debacle, as witness its transparent prevarications in trying to get around the rulings of the Jerusalem Bet Din. Most recently, it has, with the apparent complicity of The Jewish Week, attempted to rewrite history as well.

\* \* \*

In the course of our several editorials on the Tendler matter, we expressed our dismay, based upon information we received, over the reported role played by Rabbi Yosef Blau, given his deep involvement with the by now notorious Awareness Center. Last Friday we received an e-mail and telephone message from Rabbi Blau who was in Israel at the time. In both, Rabbi Blau narrowly stated that he has never been a member of the RCA`s Vaad Hakavod and that he "did not participate in the investigation of Rabbi Mordecai Tendler and was not part of the decision process." This of course gives rise to a whole host of questions as to his involvement in the process as a whole through others. As of Tuesday afternoon we were unable to reach Rabbi Blau for a follow-up. We hope to have more on this next week.

At [12:56 PM](#), Anonymous said...

The Awareness Center is a farce. They make no attempt to update or remove their slanderous stories even when presented with new information that reduces or diminishes or refutes the sensationalism of the story. The unsuspecting public meanwhile believes all that they read. This is the wisdom behind the prohibition behind Lashon Hara.

At [1:14 PM](#), Anonymous said...

If Rabbi Blau truly had nothing to do with the RCA investigation

against RMT, then why would he be the person sent to Israel to defend the RCA's decision in front of the Jerusalem Bais Din? (R' Blau was there defending the RCA investigation, not only his own reputation.)

Even if Rabbi Blau is truly innocent in this matter, he should resign from the RCA for being part of The Awareness Center in the first place. The place is a sham and has no interest in the pursuit of justice (for alleged victims nor alleged accusers).

At [1:25 PM](#), Anonymous said...

JWB was obviously sexually molested as a child.

Seek help, JWB.

At [1:37 PM](#), Chani said...

> JWB was obviously sexually molested as a child.

Your statement is out of line.

I do believe, however, that he was dropped on his head as a child - perhaps repeatedly.

At [1:46 PM](#), [KNHmember](#) said...

People are getting slow. In the same blog we are bashing Esformes and Tendler. Esformes was formerly Tendler's brother-in-law (Esformes was married to Michelle Tendler's sister). Esformes spoke at the infamous Sunday night meeting, threatening to sue anyone and everyone if KNH voted RMT out. His name is on the outside of the building. A shame, I think.

At [2:46 PM](#), Anonymous said...

It's time for Yosef Blau, Vicki Polin, and JWB to experience what it's like to be publicly attacked and humiliated based on false accusations. They are reaping intense karma under the guise of their "righteous cause." Wish someone would have the guts to go after all of them and bring 'em down, once and for all.

At [4:26 PM](#), [jewishwhistleblower](#) said...

I take on all comments:

>At 6:30 AM, yeshivaguy said...

>Even more idiotic than your  
>usual fare.

Your point?

>At 8:13 AM, Anonymous said...  
>Does anyone know of a web site  
>that allows one to query its  
>registry by religion?

Currently, prison inmate and sexual offender registries do not collect such information.

>This way  
>one can help JWB search out JEWS  
>to help the anti-semite with his  
>life passion hatred of the JEWS.

I love Judaism, that's why it is important to expose these dangerous predators... to protect Jewish children, women and men.

>At 9:01 AM, Anonymous said...  
>I agree with the above comment.  
>

>JWB is infatuated with  
>publicising any negative fact  
>about any Orthodox Jew

I publicize fellow Jews of ALL denominations who have/are doing evil acts.

>(even  
>when the "fact" is merely a  
>flimsy rumor or innuendo).

Nonsense.

>An unknowing observer would  
>probably think that this blog is  
>run by skinheads or the KKK (et  
>al).

Nonsense. I love Judaism and want to improve it by exposing hypocrites. The others you mention hate Jews and subject them to abuses. They have more in common with those I expose.

>At 9:35 AM, Anonymous said...  
>... "Accountability and  
>transparency" ... yea, right.  
>Just click on the complete  
>profile on this anti-semite to  
>see just how transparent this  
>sleezy urchin is.

Says the man named anonymous. Next.

>At 10:12 AM, Anonymous said...  
>"An unknowing observer would  
>probably think that this blog is  
>run by skinheads or the KKK (et  
>al)."  
>  
>The sexually predatory rabbis  
>are the ones doing the best job  
>of giving the anti-semites  
>further material, not JWB.  
>  
>Which one are you enabling?

Correct. Further who cares about the anti-semites? They will hate us regardless of anything I post/don't post.

It's a red herring. A big red herring.

>At 10:47 AM, Anonymous said...  
>Point is that JWB is an anti-  
>semitic

Incorrect. Judaism is the true and noble religion.

>and doesn't deserve such  
>a forum.

So don't read it.

>One can expose Rabbi's that have  
>done wrong while at the same  
>time acknowledging when a Rabbi  
>does right.

So? Start a blog that does that. I praise rabbis and groups that stand up for victims.

>Here is where the anti-semitic  
>nature of this creep is exposed.  
>Just check out [www.jewwatch.com](http://www.jewwatch.com)  
>who says:  
>Keeping a Close Watch on Jewish  
>Communities & Organizations  
>Worldwide  
>  
>Jew Watch is a Not-For-Profit  
>Library for private study,  
>scholarship, or research. This  
>is NOT a hate site. This is a  
>scholarly research archive of  
>articles.

The difference is that:

- 1) I am Jewish
- 2) I love Judaism
- 3) I am trying to expose hypocrites and protect fellow Jews

>What is the difference between  
>these two anti-semites? They  
>both say that they are not "hate  
>sites". I see no difference - Do  
>you?

See above.

>At 11:07 AM, Chani said...  
>The problem with JWB's blog is  
>not his stated claim to want to  
>expose true cases of abuse in  
>the Jewish community.  
>  
>The problem is that JWB makes no

>effort to pursue the truth  
>whatsoever. Instead, he searches  
>for any accusation (no matter  
>how unreliable the source) and  
>then further lies and  
>exaggerates those flimsy sources  
>to make even more outrageous  
>claims. He is no better than The  
>National Enquirer (and probably  
>even worse, because he cannot be  
>held accountable for his  
>statements).

I am extremely accurate. Go back and review my posts.

>The bottom line is that JWB is  
>nothing more than an attention  
>monger who thinks that he is  
>doing a great service to the  
>world... when, in fact, he is  
>nothing more than a  
>sensationalist with too much  
>time on his hands and a thirst  
>for motzee shem ra.

All wrong.

>At 1:14 PM, Anonymous said...  
>If Rabbi Blau truly had nothing  
>to do with the RCA investigation  
>against RMT, then why would he  
>be the person sent to Israel to  
>defend the RCA's decision in  
>front of the Jerusalem Bais Din?  
>(R' Blau was there defending the  
>RCA investigation, not only his  
>own reputation.)

He went to the Bet Din in Jerusalem as a false complaint naming him as a party was filed there by RMT.

>Even if Rabbi Blau is truly  
>innocent in this matter, he

>should resign from the RCA for  
>being part of The Awareness  
>Center in the first place. The  
>place is a sham and has no  
>interest in the pursuit of  
>justice (for alleged victims nor  
>alleged accusers).

Nonsense. The Awareness Center operates no differently than other survivor websites in other religions. All legal and legitimate.

See: <http://www.survivorsfirst.org/>

>At 1:25 PM, Anonymous said...  
>JWB was obviously sexually  
>molested as a child.

Incorrect. I have never been sexually molested. Nor has any member of my family.

>Seek help, JWB.

For what?

>At 1:37 PM, Chani said...  
>  
>> JWB was obviously sexually  
>>molested as a child.  
>  
>Your statement is out of line.

Correct.

>I do believe, however, that he  
>was dropped on his head as a  
>child - perhaps repeatedly.

He .. she ... it. Whatever.

Never suffered any head trauma. I have no mental defects. There is no family history of such either.

>At 1:46 PM, KNHmember said...  
>People are getting slow. In the  
>same blog we are bashing  
>Esformes and Tendler. Esformes  
>was formerly Tendler's brother-in-  
>law (Esformes was married to  
>Michelle Tendler's sister).  
>Esformes spoke at the infamous  
>Sunday night meeting, threatening  
>to sue anyone and everyone if  
>KNH voted RMT out. His name is  
>on the outside of the building.  
>A shame, I think.

Interesting .....

>At 2:46 PM, Anonymous said...  
>It's time for Yosef Blau, Vicki  
>Polin, and JWB to experience  
>what it's like to be publicly  
>attacked and humiliated based on  
>>false accusations. They are  
>reaping intense karma under the  
>guise of their "righteous  
>cause." Wish someone would have  
>the guts to go after all of them  
>and bring 'em down, once and for  
>all.

Says the degenerate who supports a certain deviant Rabbi who didn't even show up in court to fight for visitation rights for his children. Not that he'll financially support them in any way regardless. He simply fled the country.

At [5:19 PM](#), [KNHMember](#) said...

> I am extremely accurate. Go back and review my posts.

Your posts speak for themselves, certainly moreso than you are able to comprehend.

At [5:45 PM](#), Anonymous said...

>At 2:46 PM, Anonymous said...  
>It's time for Yosef Blau, Vicki

>Polin, and JWB to experience  
>what it's like to be publicly  
>attacked and humiliated based on  
>>false accusations. They are  
>reaping intense karma under the  
>guise of their "righteous  
>cause." Wish someone would have  
>the guts to go after all of them  
>and bring 'em down, once and for  
>all.

Another example of the tendler cult's religion. Attack and destroy anyone courageous enough to expose tendler's actions! This is why tendler needs to be gotten rid of (from jewish public life now and forever! He and his father are evil and dangerous, as is only too well known to so many in the Jewish world!!!

At [6:58 PM](#), Anonymous said...

You crave the attention, JWB.

You'll respond to any comment, it is orgasmic for you.

At [8:33 PM](#), Anonymous said...

**The difference is that:**

- 1) I am Jewish**
- 2) I love Judaism**
- 3) I am trying to expose hypocrites and protect fellow Jews**

1) I am Jewish -> **Maybe, but a self-hating one**

2) I love Judaism -> **I don't see it, you HATE Rabbi's and spit upon the prohibition of Lashon Hara**

3) I am trying to expose hypocrites and protect fellow Jews -> **And the only ones who are hurtfull are the JEWS**

People, point #3 is the definitive proof that this sc-m bag IS an anti-semite! There are plenty of non-jews that are out there to hurt the jews and this fool's ONLY focus is against Jews - the trademark of a true anti-semite - not the work of a **lover of Judaism**

At [8:40 PM](#), [jewishwhistleblower](#) said...

>1) I am Jewish -> Maybe, but a  
>self-hating one

No, I don't hate myself or Judaism.

>2) I love Judaism -> I don't see  
>it, you HATE Rabbi's and spit  
>upon the prohibition of Lashon  
>Hara

Wrong again. I hate leaders who are corrupt or refuse to take  
action against evil.

My actions conform to the obligations of shmirat halashon.

>3) I am trying to expose  
>hypocrites and protect fellow  
>Jews -> And the only ones who  
>are hurtfull are the JEWS

Huh?

>People, point #3 is the  
>definitive proof that this sc-m  
>bag IS an anti-semite! There are  
>pleanty of non-jews that are out  
>there to hurt the jews and this  
>fool's ONLY focus is against  
>Jews - the trademark of a true  
>anti-semite - not the work of a  
>lover of Judaism

Nonsense.

I want to protect Jews by exposing predators and hypocrytes that  
prey on my fellow Jews.

At [7:04 AM](#), [jewishwhistleblower](#) said...

Latest:

[http://www.swnewsherald.com/news\\_frontpage/2005/08/080305olbv\\_License.php](http://www.swnewsherald.com/news_frontpage/2005/08/080305olbv_License.php)

August 3, 2005 Southwest News-Herald — Oak Lawn, Burbank, Bridgeview, Edition

Release License Of Emerald Park Owners

By YVETTE PRESBERRY

Owners of the now-closed Emerald Park Health Care Center, 9125 S. Pulaski Road, Evergreen Park, have agreed to have their license suspended and later taken away as part of a settlement with the Illinois Department of Public Health.

State health officials said that Morris Esformes and Marvin and Doreen Mermelstein are banned from applying for nursing home licenses for at least two years.

The owners have to sell the Emerald Park building within nine months, and IDPH must approve of the new ownership.

The agreement comes a month after Esformes agreed to sell Emerald Park because of years of inefficient care to patients and other problems at the residential center.

IDPH officials had reprimanded Emerald Park's owners after finding cases of residents' lives at risk because of a lack of monitoring and/or improper acts.

One resident allegedly offered sex for favors, and was not noticed to be eight months pregnant or to be having a sexually transmitted disease.

Another patient with drinking problems reportedly died after being intoxicated and passing out.

Other residents complained of ill treatment from security guards, but the information was not assessed or followed up by the Emerald Park staff under state guidelines.

State Sen. Edward Maloney (D-18th) and state Rep. James Brosnahan (D-36th) tried to get Emerald Park shut down after media reports alerted the public that several state sex offenders lived in the facility.

Maloney and Brosnahan said that the occurrences at Emerald Park were putting patients and local residents at a risk for possible danger.

Attorney General Lisa Madigan stepped in and filed a lawsuit against the owners on behalf of IDPH to shut down Emerald Park, but both groups eventually created an agreement to avoid court.

Emerald Park was closed on June 3, and its residents have been moved by IDPH to other facilities.

Esformes and the Mermelsteins are banned from operating a nursing home where Emerald Park stands for 50 years, stated IDPH representatives.

This does not affect any other facilities the owners have in Illinois, said Tammy Leonard, IDPH spokeswoman.

The Mermelsteins have ownership in four other nursing homes in Chicago and Chicago Ridge.

Esformes has ownership in 18 nursing homes throughout Illinois, including Presidential Pavilion, 8001 S. Western Ave., a Chicago residential home that has also been circled by controversy and alleged crime for many years.

He could not be reached for comment.

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