OVERCHUCK & BYRON, P.A.

ATTORNEYS AT LAW

JOHN R. OVERCHUCK ▪ PAUL G. BYRON

OF COUNSEL:
JOHN K. OVERCHUCK, P.A.

March 25, 2014

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
437 Russell Senate Building
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

I have reviewed the questionnaire submitted to the Senate Judiciary committee on February 21, 2014, in connection with my nomination to the United States District Court for the Middle District of Florida. Since the submission of my questionnaire, I have located additional information responsive to certain questions that I had inadvertently overlooked in my previous search of my records and the Internet. I sincerely apologize for the inconvenience caused by the submission of this additional information. Incorporating the additional information listed below, I certify that the information contained in these documents is, to the best of my knowledge, true and accurate.

Q. 6 and Q. 9

I served on the board of directors of the Florida Justice Association for approximately three months in 2010. The address of the Florida Justice Association is 218 South Monroe Street, Tallahassee, Florida 32301.

Q. 12(d)

I have located two additional video presentations, which are available on my firm's website and which may be accessed at the following hyperlinks:

September 23, 2010: Video on "Toxic Tort Claims." Available at http://www.youtube.com/watch?v=lFisMqFhO1w&feature=player_detailpage#t=3

September 23, 2010: Video on "Importance of Contacting a Personal Injury Attorney when Having an Accident." Available at http://www.youtube.com/watch?v=xXNF46aqU9Y&feature=player_detailpage&list=UUr7xzq7eYnBJF3Igv2W6cpg#t=2

I also have discovered three additional speaking events:

November 29, 2007: Speaker, "Resources You Need to Use – Technology, Office Equipment to Create the Product, Telephony." I gave a lecture to attorneys on the use of technology in the courtroom. The CLE course was held in Tampa, Florida. I have no notes, transcript, or recording. The sponsor of the event was the Florida Justice Association, 218 South Monroe Street, Tallahassee, Florida 32301.

October 2007: Speaker, "International Criminal Tribunal for the Former Yugoslavia," Eighth Annual Conference of the Florida Trial Court Staff Attorneys Association. I gave a lecture on the mission of the ICTY and my work at the Tribunal. The conference was held in Orlando, Florida. I have no notes, transcripts, or recording. The sponsor of the event was the Florida Trial Court Staff Attorneys Association, which does not have a physical address.

October 7, 2003: Panelist, Lou Frey Institute of Politics and Government at the University of Central Florida Fall 2003 Symposium on "American Foreign Policy in Perspective." This event was held in Orlando, Florida. Video Recording available at http://www.youtube.com/watch?v=Lm8HDd-Hw6E.

Q. 12(e)

I have located the following additional interviews given to newspapers, magazines or other publications:

May 1, 2012: Interview with WFTV 9, "Parking Lot Owner Who Took Customer's Corvette on Joyride Appears to have Abandoned Business." Video recording available at http://www.wftv.com/news/parking-lot-owner-broke-law-when-driving-customers/nNN2p/.

Editorial Review of *Lawyers Crossing Lines Explores Outrageous Conduct by Legal Profession*, March 22, 2010. Copy supplied.

Timothy Aeppel, *Group Seeks Probe Into Effectiveness of Firestone Recall*, The Wall Street Journal Online, June 22, 2006. Copy supplied.

Graham Brink, *Front-Runner for U.S. Attorney in Tampa Left Out,* St. Petersburg Times Online, June 27, 2001. Copy supplied.

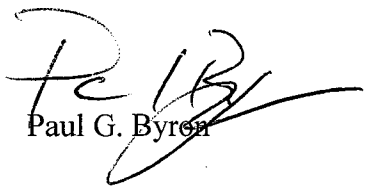
In 1996 or 1997, I was interviewed by The Discovery Channel regarding my prosecution of Forrest Jimmy Utter for arson, resulting in the death of two firefighters. The Discovery Channel was filming a program regarding forensic investigations, and I provided background on the case. The United States Attorney authorized this interview, which was subsequently aired on television. I have no notes, transcript, or recording of my interview.

Michael Higgins, *Chronic Cases of Medical Fraud No Weapons Required for these Crimes,* Osceola News Gazette, undated but likely published in 1996. Copy supplied.

Michael Higgins, *Area Cases Add to Billion-Dollar Fraud Tab*, Osceola News Gazette, undated but likely published in 1996. Copy supplied.

Please accept my apologies for this oversight. I appreciate the Committee's consideration of my nomination and regret that I overlooked these materials.

Yours very truly,



Paul G. Byron

FlaLaw Online
(http://www.law.ufl.edu/flalaw/)
University of Florida Levin College of Law

Lawyers Crossing Lines explores outrageous conduct by legal profession

Published: March 22nd, 2010

Category: Feature (http://www.law.ufl.edu/flalaw/category/feature/)

What were they thinking? Shouldn't they have known better? As legal practitioners, didn't they understand their fundamental ethical obligations? *Lawyers Crossing Lines: Ten Stories*, (Carolina Academic Press, 2nd edition) is a new book that examines the bizarre conduct of members of the legal profession that will have readers shaking their heads in disbelief. Primarily designed as a supplemental text for U.S. law students enrolled in professional respons bility courses, the book can also be used as the foundation for advanced seminars in ethics. A teacher's manual is also available.

Lawyers Crossing Lines is a collection of true stories about lawyers from all segments of the legal profession. The authors, Michael L. Seigel, University of Florida Research Foundation Professor of Law at the University of Florida Levin College of Law and former first assistant U.S. Attorney for the Middle District of Florida, and James L. Kelley, who prior to his death, practiced law for more than 30 years and taught professional responsibility at Georgetown University Law Center, chronicle those who have transgressed ethical boundaries in a big way.

The book's 10 chapters reveal in rich detail some of America's most infamous trials and legal personalities. Chapter titles include, "The Ironic Road to Club Fed," "The Legal Doctor Kevorkian," "The Case of Casanova and His Clients," and "Vegas Judge Gone Wild." Comments and questions designed to explore the issues in greater depth follow each tale.

Here's what the legal profession has to say about *Lawyers Crossing Lines*.

"Students learn more from real life than they will ever learn from just reading cases and codes," said Laurie L. Levenson, David W. Burcham Chair of Ethical Advocacy and professor of law, Loyola Law School. "This book provides an opportunity for students to learn the critical lessons of ethical practice by carefully examining situations where lawyers crossed the line. These are lessons that will stick with them forever."

"I use *Lawyers Crossing the Lines*, in a required first-year course on professionalism," said Patrick E. Longan, William Augustus Bootle Chair in Ethics and Professionalism, Mercer University Walter F. George School of Law. "The stories make it poss ble for the students to see problems of ethics and professionalism from the perspectives of real lawyers dealing with real situations. They learn more from discussions about the stories than they could possibly learn from just studying abstract principles."

"The stories contained in this work are compelling, instructive and witty," said Paul Byron, partner, Overchuck, Byron, Overchuck P.A., Winter Park, Fla. "I had the pleasure of working with Professor Seigel when he was second in command at the U.S. attorney's office. M ke leads by example, and his message was clear – always take the high road and never short cut ethics. This is a lesson for lawyers, young and not-so-young, to live by."

To order *Lawyers Crossing Lines: Ten Stories*, 2nd Edition, visit www.cap-press.com/isbn/9781594606847 (http://www.cap-press.com/isbn/9781594606847).

Tagged as: Book (http://www.law.ufl edu/flalaw/tag/book/), ethics (http://www.law.ufl.edu/flalaw/tag/ethics/), James L. Kelley (http://www.law.ufl.edu/flalaw/tag/james-l-kelley/), Michael Seigel (http://www.law.ufl.edu/flalaw/tag/michael-seigel/), Volume XIV Issue 10 (http://www.law.ufl.edu/flalaw/tag/volume-xiv-issue-10/)

← UF Law seminar to focus on professionalism, feature local judges (http://www.law.ufl.edu/flalaw/2010/03/uf-law-seminar-to-focus-on-professionalism-feature-local-judges/)
Environmental Moot Court team reaches quarterfinals (http://www.law.ufl.edu/flalaw/2010/03/environmental-moot-court-team-reaches-quarterfinals/) →

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June 22, 2006

Group Seeks Probe Into Effectiveness Of Firestone Recall

By TIMOTHY AEPPEL
June 22, 2006; Page D3

A research group that often works with plaintiffs' attorneys has asked federal highway-safety officials to study the effectiveness of the big Firestone tire recalls of 2000 and 2001, saying some tires weren't replaced and continue to be linked to rollover crashes on Ford Explorers.

In a filing to the National Highway Traffic Safety Administration, Safety Research & Strategies Inc. cited four cases in which spare tires not captured during the recalls were put into service and later failed, allegedly causing crashes. The result was one death and three crippling injuries.

The group wants NHTSA to initiate a "recall query," an investigation into whether a past recall was adequate. If the agency determines the efforts weren't sufficient, it could order further steps by the companies, such as additional advertisements.

"We don't have any way of estimating how many of these tires are still out there," says Sean Kane, president of Safety Research & Strategies, a research group that specializes in motor-vehicle safety issues.

An NHTSA spokesman said the agency would examine the group's request but wouldn't comment

otherwise on the filing.

As of late last year, federal authorities had linked 271 fatalities to accidents involving Firestone tires, most involving Ford vehicles.

Bridgestone Corp.'s North American unit, which produces the Firestone brand, and **Ford Motor** Co. broke off commercial relations in 2001 in a dispute over which company was to blame for a rash of deadly rollover accidents involving Explorer sport-utility vehicles equipped with certain Firestone tires. Bridgestone, based in Japan, announced a recall in August 2000, but Ford later demanded a much larger replacement program in 2001. When Bridgestone refused, Ford recalled the tires on its own. Later in 2001, Bridgestone announced a more limited replacement program of its own.

The two companies settled their dispute last year, with Bridgestone agreeing to pay Ford $240 million.

Christine Karbowiak, a spokeswoman at Bridgestone's U.S. headquarters in Nashville, Tenn., says the tire maker did all that it could to assure that as many recalled tires as possible were taken out of circulation, saying it replaced more than 6.3 million of the 6.5 million tires it originally estimated were in use in August 2000. Ms. Karbowiak says this doesn't mean they missed 200,000 tires, since the company's original estimate of the number of tires in use might have been too high.

Bridgestone has settled more than 2,300 personal-injury lawsuits arising from the recalled tires. The company won't say how many other cases are outstanding.

Jennifer Moore, a Ford spokeswoman, says, "Owners were notified by multiple letter, media advertising, and extensive media coverage," adding that "NHTSA has investigated the safety of the Ford Explorer and found no additional action was warranted."

Paul Byron, an Orlando, Fla., lawyer, represents Michael Enriquez, a 28-year-old former security guard who was left a quadriplegic last year after a recalled tire on his 1993 Ford Explorer came apart and the vehicle crashed. The driver of another car was killed in the accident. Mr. Enriquez is suing Ford and Firestone in county court in Sanford, Fla.

Mr. Byron says his client was the third owner of the Explorer and never thought to check whether any of the tires on the vehicle were subject to a past recall.

Write to Timothy Aeppel at timothy.aeppel@wsj.com[1]

URL for this article:
http://online.wsj.com/article/SB115093421290286976.html

Hyperlinks in this Article:
(1) mailto:timothy.aeppel@wsj.com

St. Petersburg Times ONLINE TAMPA BAY

'Front-runner' for U.S. attorney in Tampa left out

By GRAHAM BRINK

The list of finalists to become U.S. attorney in Central Florida is as notable for one name that didn't make it as it is for three names that did.

The list of finalists to become U.S. attorney in Central Florida is as notable for one name that didn't make it as it is for three names that did.

The selection committee chose Edward Nucci of Miami, Paul Byron of Orlando and Paul Perez of Jacksonville from a list of nine who applied to be head federal prosecutor for the Middle District of Florida.

Tampa lawyer John "Jack" Rudy was considered one of the favorites, given a stint as interim Hillsborough County state attorney last fall and a glowing endorsement from Gov. Jeb Bush.

Rudy said Tuesday he was disappointed not to be among the three finalists but thought the selection committee gave everyone a fair shake.

Despite his early status as the possible front-runner, recent talk in local legal circles was that the committee may be looking for a younger person, someone who could stick around for several years and possibly move up in the Justice Department.

At 62, this would have likely been the last stop in Rudy's federal career.

Rudy said he will continue to practice law at his Tampa firm. His immediate plans call for some fishing. "Sure, I'd like to have gotten the job," Rudy said. "They made up their minds after a fair process, and I think they chose three capable candidates."

The successful candidate will take over from interim U.S. Attorney Mac Cauley, who has run the office since Donna Bucella resigned in May.

Bucella was appointed by President Bill Clinton. The nation's 93 U.S. attorneys serve at the pleasure of the president. Many times, only a handful keep their jobs when a new party takes over the White House.

The U.S. attorney in Florida's 35-county Middle District, which stretches from Jacksonville through Orlando and down to Fort Myers, oversees a 220-employee operation with a $17-million budget. The job is based in Tampa and pays $125,700 annually.

President George W. Bush will make the final selection. The U.S. Senate must confirm the president's choice.

Byron graduated from law school at Louisiana State University and then joined the Army, working as a public defender and prosecutor. During his four years, he also served as a paratrooper and gained the rank of captain. He then went into commercial construction law before joining the U.S. Attorney's Office in 1991.

Since then, Byron, 41, has worked everything from medical malpractice to white collar crime to drugs. His cases are often covered by the Orlando media, and he's been interviewed on various national TV shows, including NBC's Dateline. He spends most of his time prosecuting money laundering and organized crime cases.

Byron acknowledged earlier this year that he might not have the political connections of some of the other candidates.

"I've spent most of my life working and very little time networking," he said. "I'm always looking for new challenges."

Perez, 46, a Cuban-American who settled in Florida when he was 5 years old, works as a federal criminal defense attorney.

Perez graduated with a law degree from George Washington University and worked from 1988 to 1992 as an assistant U.S. attorney in the Jacksonville office.

Perez thinks his experience on both sides of the courtroom aisle puts him in a good position to assess what's being done well and what needs to change.

"My strength is in my qualifications," Perez said in March. "I certainly don't have the political connections."

Nucci, 48, is criminal division chief for the U.S. Attorney's Office in Miami. He has worked as a federal prosecutor in Orlando, Tampa and Pittsburgh. In 1995, Nucci was tapped to be part of the independent prosecution team to investigate the finances of former Commerce Secretary Ron Brown.

In Miami, Nucci was heavily involved in Operation Greenback, a money-laundering initiative in South Florida and has made the news for his successful prosecutions of high-level drug dealers.

Nucci is known for his attention to detail, said State Rep. Dan Gelber, a former colleague of Nucci's in the U.S. Attorney's Office.

"He's got a great work ethic and is exceedingly conscientious," Gelber said.

- Times news researcher John Martin contributed to this report. Contact Graham Brink at (813) 226-3365.

Chronic cases of medical fraud No weapons required for these crimes

By Michael S. Higgins News-Gazette Staff Writer

Robbers holding up convenience stores and sticking guns in the faces of motel clerks may garner more publicity, but individuals who fraudulently bill the federal government for Medicare and Medicaid claims can steal a lot more money than your average stick-up person. These thieves don't need to wear ski masks, risk getting shot or, in many of the cases, even take a chance on losing their license to practice medicine, experts said.

False billings and sham medical clinics have long been fixtures in the Miami area, doctors and prosecutors say, but you don't have to drive south on Florida's Turnpike to see this kind of larceny.

"There is a good deal of health-care fraud going on in the Orlando area," said local Assistant U.S. Attorney Greg Miller during a recent interview. "We know that."

Medical fraud in Osceola

During the past five years, Osceola County has experienced its share of high-profile, costly, medical fraud.

The Kissimmee region has seen a medical supplies salesman/business owner go to federal prison for setting up a multistate system that earned him and nursing homes that signed up with him millions in improper Medicare refunds.

A psychiatric hospital formerly located off Orange Blossom Trail claimed to have performed dozens of startling therapeutic turnarounds with Alzheimer's patients and other difficult cases; many patients were over the age of 80. But when officials blew the whistle on the hospital, Charter Behavioral Health System Orlando agreed to pay the United States $4.75 million in August 1998.

In addition, a group of clinics primarily located in Osceola County billed Disney, Albertson's and a major airline more than $6 million by churning out sonograms, ultrasounds and electrocardiograms quickly. They used a method described by one partner after he was indicted by a federal grand jury as doing the easy tests "and making up the rest."

Another medical fraud case reflected Osceola's changing population when 14 individuals were indicted in 1998 for the "Disney" scam, a group of storefront medical clinics that targeted Hispanics, many new to the area. Six listed Kissimmee as their home in a press release provided on April 29, 1998, by the Kissimmee Police Department. In addition to local police, the Florida Statewide Prosecutors' office and the state Division of Insurance Fraud were involved.

Around the region, the U.S. Attorney's office in Tampa concluded an investigation in Central Florida earlier this year it named the Psychiatric Hospitals Project. This probe used employees and counselors to expose a pattern of bribes and kickbacks in psychiatric hospitals. As a result, two patient brokers were convicted, with combined restitution set at $3 million. One broker was said to have pocketed up to $195,000 a month for producing patients for the hospitals.

Proving few hospitals have avoided problems, a Florida Hospital director of radiology was given five years in prison for scheming to take $13.3 million through the sale of used medical equipment at the chain's Altamonte Springs hospital in 1997.

In Orlando, federal prosecutor Thomas Turner earned a distinguished service award recently. Turner was honored for working on the $450 million Heritage Life Insurance case prosecuted in Central Florida. In this investigation, 11 individuals ended up pleading guilty and four others were convicted after trials.

Suspect cooperates with investigators

Kissimmee resident Ben O. Carroll received a five-year prison term for his stewardship of three local companies, Bulldog Medical, Rocket Marine and MLG Geriatric Health Services. Presently at a federal correctional facility in Florida, Carroll received a reduced sentence after he cooperated with federal investigators.

U.S. District Court documents said that Carroll made as much as $4.5 million in Kansas on code falsifying

and about 10 times as much in Florida. Orlando-based federal prosecutor Paul Byron said Carroll made a good livelihood before by selling legitimate medical products.

"If he hadn't been so greedy, he wouldn't have been caught," Turner said.

After his arrest in 1995, federal lawmen say Carroll helped them discover just how medical fraud is wide open for those with access.

"For all the bad things he did, it's so good to have an insider," said Byron.

That medical fraud is turning up all around Kissimmee shouldn't be a surprise. After all, it's a problem everywhere else in the country.

The U.S. Justice Department reported recovering $1.5 billion through civil and criminal agreements with health-care abusers during its last fiscal year. Medical payments are an industry in which an estimated 7 to 10 percent of $176 billion nationwide is lost to fraud, waste and mistakes.

Fighting back

The local scorecard also includes some individuals who fought what they saw as medical fraud.

Francine Mettevelis is a Kissimmee mother of seven who formerly worked as a deputy in Cook County, Ill., and acted as one of two designated whistleblowers under the U.S. False Claims Act in the Charter case.

Mettevelis told of false report sheets and other profitable abuses after she was fired by Charter Hospital Kissimmee six years ago. Thanks to witnesses Mettevelis and nurse manager Rhea Rowan helped identify, Charter Hospital's parent company settled a costly federal action, prosecutors said.

The U.S. Health and Human Services Inspector General said after many prosecutions, the nation has "turned a corner" on medical fraud.

Steve Cole, the Central Florida District's spokesman for the U.S. Attorney, agreed, saying, "The word is going out to the public about medical fraud."

A settlement finalized just several weeks ago saw HCA - The Healthcare Co. agreeing to pay a massive $840 million in fines and penalties for unlawful billing. HCA was known before as Columbia - HCA. Osceola Regional Medical Center is one of the chain's hospitals.

Prison sentence not always likely

While former State Senator Alberto Guzman, R-Hialeah, received a prison sentence of five years for his role in $15 million worth of medical fraud, prosecutors say many other false claims operations move to another state when the questioning of bills paid starts here.

"There's mountains of paperwork," 12-year Assistant U.S. Attorney Paul Byron learned after he was transferred from drug investigations into medical fraud.

Trust built into system

A Florida statewide grand jury warned of the lack of periodical controls in Medicare designed to catch fraud. As federal prosecutor Miller said, the medical system is built on trust.

"There's a presumption of honesty," Miller said from his office in the federal building in Orlando. "And there has to be or the system would collapse. The bills wouldn't be paid for two years.

Doctors are seen in one state, bills often paid in another.

Not easy to stop

"The evidence convinced us that fraud against the Medicare and Medicaid systems is easily accomplished," the special grand jury appointed by the late Gov. Lawton Chiles reported four years ago.

From his office on South Orange Blossom Trail, general practitioner Dr. Oscar Merida told the Osceola News-Gazette that he thinks cheating the government is a growing industry in Central Florida. Over the years, he said he has seen it as part of "the system" in the Miami area.

Merida, a veteran of 20 years as a physician since being educated in Spain, said he was personally victimized when his father-in-law was brought to Charter Hospital in Kissimmee from a nursing home near St. Cloud a few years ago.

Roberto Colina, 76 then, suffered from Alzheimer's. Charter Hospital officials noted much improvement during Colina's 13 days at Charter.

He couldn't hold a stick of ice cream, Merida said, but did generate $14,000 of therapy and related billings for Charter, according to federal records. Merida said his father-in-law couldn't communicate to therapists, who only spoke English, not Colina's Spanish.

"There was absolutely no therapy," said Merida. "He was unable to understand basic commands."

No criminal prosecution followed, however.

"Proving criminal intent is much more difficult," said Miller.

Close

Area cases add to billion-dollar fraud tab

Officials say controls lacking to prevent fraud
By Michael S. Higgins News-Gazette Staff Writer

An atmosphere described by a statewide grand jury as being "provider friendly" without enough controls leads to dishonest people finding out how easy it is to become a certified Medicare provider.

It?s like a license to print money. That?s what experts told the Osceola News-Gazette in interviews. The U.S. Justice Department estimates more than $10 billion is lost annually to medical fraud nationwide.

Osceola County has seen its share of kickbacks, faked accidents, forged documents, billing by phony medical providers or for non-existent patients and asking for larger reimbursements by falsely labeling tests.

Such cases aren?t easy to prove, prosecutors say. And, there are other challenges.

Assistant U.S. Attorney Greg Miller said staff cutbacks at the Orlando office of the U.S. Department of Health and Human Services have hampered health-care investigations.

Investigations are paperwork intensive and can take up to four years, officials told the Osceola News-Gazette.

However, a friend of the fraud business has also become its foe. The computer systems that allowed medical fraud to become a billion-dollar business also permit insurance companies and federal investigators to notice patterns of abuse.

Sophisticated auditing of claims, called data mining, can discover fraudulent operations. Providers, such as Blue Cross/Blue Shield, notice specific procedural codes being used much more than expected.

Criminal prosecution and determining intent can be difficult, however, when claims are sent electronically with no signatures even made, Orlando-based prosecutors said.

Adult diapers worth millions

Kissimmee resident Ben Carroll knew from selling medical products and having Medicare provider status since 1993 that nursing homes aren?t reimbursed for items such as bedpans, latex gloves and the common adult diaper, prosecutors said.

Carroll knew the more costly incontinence kits were reimbursed. Sensing large profits, Carroll convinced nursing home operators in different states to accept such a change in paperwork, writing incontinence kits when they were using diapers.

This ruse allowed 50-cent diapers to net Carroll?s companies as much as $50 million in reimbursements nationally, said prosecutors.

The U.S. Attorney?s Office documented that Carroll received unjustified claim checks from July 1993 until September 1994. Prosecutors also found that Carroll gave nursing home owners and operators consulting deals for participating in his plan.

Nursing-home patients rarely double check cost invoices. Carroll was betting that it wouldn?t be discovered that Item G7542 was only an adult diaper.

Some of the nursing home operators provided evidence against Carroll, who was eventually sentenced to a low-security federal correctional institution.

He pleaded to one count of mail fraud in Kansas and was able to avoid going to trial in Florida. Cooperating with South Carolina investigators earned him a lesser sentence, officials said.

A case of excessive greed, commented Assistant U.S. Attorney Paul Byron. He said Carroll lived well when

he actually listed the diapers he sold as diapers.

"He made good money doing it," said Byron.

Charter sent elderly to psychology programs

The parent organization of the former 56-bed Charter Hospital-Orlando South in Kissimmee agreed to return $4.7 million to the government in a civil case concluded in August 1998.

According to thousands of pages of federal documents housed in the Orlando federal building, Charter would take elderly patients from nursing homes or assisted-living facilities, report intensive therapy, and then send the elderly back to their nursing homes just before the home?s federal payments would be cut off.

Attorneys for Charter argued through the lengthy civil process that therapy can help the patients it served, at least 15 percent of whom were over the age of 85. Charter officials submitted an estimated 75,000 pages worth of evidence before deciding to settle.

Dr. Peter Rabins, the director of geriatrics and neuropsychiatry at the Johns Hopkins University School of Medicine, was slated to be a Charter witness. Rabins said patients battling Alzheimer?s disease can improve with properly administered, in-patient psychiatric programs like Charter Hospital?s.

Working against Charter in the Kissimmee case, however, were depositions given by staff members, an outside peer-review that examined 600 or so Charter admissions of elderly psychological patients, and family members who said they saw relatives harmed when they were transferred.

Mary Cubelo and husband, Antonio, said Antonio?s mother deteriorated after she was sent to Charter in June 1996. The couple said she wasn?t bathed enough there, even though she was incontinent, and according to Antonio, ended up "with legs like basketballs." Rosa Cubelo was transferred back to the nursing home she came from when the home?s Medicare payments were about to expire.

Stephen Glazier, the hospital?s on-site administrator, told federal authorities that the patients would be sent home when the federal payments were about to expire.

Federal legal documents concerning Cubelo noted another problem, one shared by Dr. Oscar Merida as he observed his 76-year-old father-in-law at Charter Hospital. Neither Cubelo nor Roberto Colina, Merida?s family member, could converse in English and the Cubelos and Merida never encountered therapists at the hospital who were fluent in Spanish.

Yet, Charter patient charts found both patients dramatically improving while hospitalized in Kissimmee.

"How could they give therapy?" Merida told the Osceola News-Gazette from his family practice located on South Orange Blossom Trail. "He was unable to understand basic commands."

Rosa Cubelo died of embolisms seven months after her discharge from Charter.

Federal documents refer to elderly Charter patients described as either suffering from dementia or violent outbursts when they came in, yet improving greatly while at Charter. Insiders provided evidence explaining why this occurred, prosecutors say.

"In my view, Charter Hospital was using these patients as a money-making machine, instead of treating them in a psychiatric and therapeutic milieu," said Michael Kellogg, Charter?s former director of active therapy.

Former Nursing Manager Rhea Rowan said patient write-ups had to follow directives from administrators. She testified that administrator Glazier told her his hands were "tied" regarding the patient census; she said she saw many "incompetent" patients signing themselves in voluntarily. Abuse of Florida?s Baker Act, the process of committing patients viewed as being a danger to themselves or others, was also common at Charter, the U.S. Attorney?s Office claimed.

Rowan said she was told by a top administrative head that she had to write that each patient participated in group therapy sessions three times a day "so payment would be received." Kissimmee resident Francine Mettevelis, a health technician at Charter from 1990 until 1994, testified about "routinely" signing log sheets when she wasn?t present at the sessions described.

"If a person is brought in as suicidal and they are smiling, don?t write down that they are smiling because then the insurance company will not pay for a suicidal, smiling patient," recalled Rowan in her testimony.

A government review by peer physicians found 59 percent of the geriatric admissions examined in the Charter case were not medically necessary and 38 percent revealed unnecessarily long stays at the facility.

Hired by the prosecution, Dr. Donna Cohen, the University of South Florida?s chairman of Aging and Mental Health Studies, said the patients had disorders that couldn?t be improved by the Kissimmee hospital?s treatment. Noting that Charter had no goals plan, she joined others in finding profit as the overriding motive.

After losing Medicare and Medicaid certification, Charter Hospital Kissimmee ended up closing its doors last year. Osceola Mental Health was given county funds to occupy the site on Park Place.

The Disney scam

The plan worked out by Luis Portas, 53; his wife, Miriam Portas, 55, both of Kissimmee; Erick Bernal, 26, of Kissimmee; Domingo Bejerano, 51, of Miami; Horacio Valdes, 27, of Miami; and about seven others arrested during a May 7, 1998, raid on phony Osceola and Orange counties medical offices was simple.

Bring in many fellow Hispanics, pay some for ongoing visits to clinics with names like Optimum Diagnostics, Best Medical Clinic and Kissimmee?s A+ Diagnostic Center, and turn out a lot of fake medical tests.

After all, the plan has long been a moneymaker in South Florida.

As a fellow partner testified in Bejerano?s trial on fraud and racketeering charges last year: "So what he would do is take the easy tests and once he already had information from the patient, he would go and make up the rest of the tests..."

Four patients would visit the medical offices, but insurance companies for Albertson?s, Disney and United Airlines, among others, would be billed for 10 or more patients.

Thomas Sadaka of the statewide prosecutor?s office said "maxing out" employees at Disney World - which is self-insured - led to the ring being broken up.

"You hit Disney?s insurance for money, you?re hitting Disney," said Sadak from his Orlando office.

Not helping was another employee who informed a boss at Disney, "We have some guys offering us money to go to the doctor," said Sadaka.

Bejerano?s clinic joined the others in "treating" as many as 160 Disney employees, nearly all from Latin America.

"They definitely targeted the Spanish community," said Sadaka.

He said another "red flag" was Kissimmee residents being billed by Miami clinics.

The local clinics were frequently located in strip malls. The clinics employed doctors, billing companies, technicians and runners. No physicians were indicted, said Sadaka, because it was harder to prove they knew what was going on was illegal.

False billings added up to around $6 million, about $2 million of which was Disney?s share. Time was money and the tests were performed quickly, court records show. An estimate of between 50 to 90 percent of the tests were fabricated, court papers said.

Electrocardiograms, sonograms, echograms and nerve tests were reused for many different patients? results.

"Every one of these people was medically jeopardized," said Sadaka of employees who may not have been aware the extra tests weren?t medically necessary.

Until the group was raided by the Kissimmee police and the Florida Department of Insurance Fraud investigators, making money was as easy as Bernal was quoted as saying in court papers.

"Send me a prescription and I make the tests up."

Close