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MEDICAL HEALTH OFFICIAL FL FRAUD ARREST CHARGE CHILD GROUP

DENTISTS ACCUSED OF BILKING MEDICAID

Author: *George Bennett, Palm Beach Post Staff Writer*

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The 3-year-old boy arrived at the dental clinic in a van loaded with 13 other children one January evening.

He would not even sit in the dental chair, a witness said.

No matter. The clinic sent a bill to Medicaid claiming X-rays, cleaning, oral evaluation, fluoride application and oral hygiene instruction had been given to the boy, the state **attorney** general's office says.

Investigators say bogus claims for the boy and seven other youngsters whisked through the Delray Beach office that night were submitted under the Medicaid provider number of a dentist who wasn't there. The dentist, Douglas Peterson of Boca Raton, was employed by the clinic but "out of the loop" on billing matters, his lawyer says.

Peterson and four others connected to the clinic face Medicaid fraud charges. They are among the 17 dentists and 89 others arrested in South Florida in an ongoing crackdown called "Operation Tooth Decay" that investigators say has uncovered millions of dollars' worth of dubious dental claims for children.

Those arrested include two Palm Beach County dentists.

Peterson, who practices in Lake Worth, was arrested in May and pleaded not guilty.

Edward Polsky, who lives in Boca Raton and practices in Boynton Beach, was charged in December with being part of a scheme to illegally recruit Medicaid clients. Polsky has pleaded not guilty.

The **attorney** general's Medicaid Fraud Unit says at least four separate groups in South Florida have been involved in either illegally recruiting young Medicaid patients or submitting claims to Medicaid for unneeded, unlicensed or non-existent dental work on children.

Investigators say recruiters with good connections in poor neighborhoods are paid \$25 to \$35 for each Medicaid-enrolled child they round up. Kids are driven from as far away as Orlando - in some cases without the knowledge of their parents, investigators say. The youngsters are often paid \$5 apiece or given a fast-food meal. They are shuttled through dental offices, where investigators say they often receive unnecessary treatment, or treatment by unlicensed people, or no treatment at all.

Dentists then submit claims to Medicaid for reimbursement.

Investigators say laws were broken at three different dental offices in Delray Beach - all of which are now closed - as well as in several clinics in Broward and Miami-Dade counties.

Since the crackdown began, Medicaid dental claims from South Florida have dipped from about \$3.4 million a month in 1999 to about \$2 million a month this year, said Steven Kogan, who oversees the Medicaid Fraud Unit for the region.

Medicaid is the federal program that pays for health care for poor people. The money - nearly \$10 billion in Florida this year - is doled out by the state's Agency for Health Care Administration. Abuse is common enough that the **attorney** general's office has more than 130 employees assigned to its Medicaid Fraud Unit, including 68 supervised by Kogan in South Florida.

Despite all the Operation Tooth Decay arrests, Kogan says dental schemes are continuing and more arrests are likely in Palm Beach County and elsewhere.

The charges against the two Palm Beach County dentists illustrate two different types of cases.

Peterson and his four codefendants are accused of being part of a fraudulent billing scheme. Polsky is one of 10 people accused of being part of a business that illegally solicited Medicaid clients.

Peterson, 43, was charged in connection with claims submitted for children who visited a clinic at 210 N.E. Sixth Ave. in Delray Beach. Investigators say the clinic, headed by father-and-son businessmen Alan and Ross Lipton, was open for only four days. It billed Medicaid for more than \$6,000, which represents 36 recipients and 358 claims, the **attorney** general's office says.

Ross Lipton, 39, of Miami, was charged with fraud, along with Peterson and three other people who worked out of the Northeast Sixth Avenue office. All have pleaded not guilty. Peterson is the only dentist in the group.

Ross Lipton and his **attorney** did not return phone calls last week. Alan Lipton has not been accused of any wrongdoing.

Authorities were tipped off by a dentist who said he was asked by the Liptons to work at the clinic. The dentist, Jean Elysee of Boynton Beach, said he had read about previous Medicaid fraud arrests and was suspicious about being asked to treat groups of children at night. Elysee agreed to cooperate with the fraud unit.

Investigators watch kids arrive

With investigators watching from outside on Jan. 9, the 3-year-old boy and 13 other children arrived in a van at 5:46 p.m., according to an affidavit by investigator Thomas Watterson. Elysee arrived at 6:38 p.m. The children left in the van at 7:53 p.m.

A dental assistant - whom investigators would later determine did not have a license - "had already completed most of the 'dental work' " when Elysee arrived, Watterson's affidavit says. Elysee then conducted a few examinations and applied a few sealants, but said he was told by Ross Lipton not to sign any patient charts.

Investigators said claims were later submitted using Peterson's Medicaid provider number for eight children who visited the clinic that night. Several claims were for fluoride treatments, but Elysee said the office did not have the equipment to provide them. Claims were also submitted for nonexistent "oral hygiene instruction," said Elysee. He also said many of the children were also given unnecessary X-rays.

Elysee made similar evening visits to the clinic on Jan. 16 and Jan. 17. In each case, Elysee told investigators, most of the dental work was performed prior to his arrival by the unlicensed assistant. Claims from Jan. 16 and Jan. 17 were also submitted to Medicaid using Peterson's provider number.

"If anything wrong was going on, it really wasn't Dr. Peterson. Dr. Peterson was just an employee of the dental clinic," said Peterson's **attorney**, James Eisenberg. "Dr. Peterson thought everything was being done correctly. . . . He was totally out of the loop when it came to the actual billing."

According to Watterson's affidavit, Peterson told investigators in a February interview that "Ross and Alan Lipton told him, as long as a dentist performed the work any dentist could bill Medicaid for the services."

Peterson told investigators the Medicaid reimbursements were direct-deposited into his bank account, but the bulk of the money went to the Liptons, who paid him a salary, Watterson's affidavit states.

The charges against Polsky, 63, and nine other people associated with a business called Dental Express focus only on solicitation and do not accuse any of the defendants of making false claims or allowing unlicensed work.
A Florida statute forbids soliciting Medicaid clients.

Dental Express owner Gabriel Harden's **attorney**, Anthony Vitale, doesn't deny the business paid recruiters to bring in Medicaid-eligible children. But Vitale and the lawyer for Joel Berger, another businessman facing Operation Tooth Decay charges, say they'll challenge the anti-solicitation law.

'Safe harbor ' law cited

"They believed in good faith they were operating lawfully," Vitale said. He said Harden, who has been charged with fraud and racketeering, believed a federal "safe harbor" regulation allows solicitation if it is done by employees of a business.

While Dental Express hired drivers to recruit children, Vitale said, the business did not authorize the drivers to pay the youngsters and Harden did not know about it.

An employee who handled billing at Dental Express told investigator Karen Lee that Harden was "well aware of how the drivers were soliciting the children to get them to come to the dentist," an affidavit by Lee says.

The same employee "advised that Polsky had nothing to do with the solicitation and transportation of the children, but that he was definitely aware of how the drivers were paid," Lee's affidavit says.

Polsky and his **attorney** did not return calls last week.

Attorney Bruce Lehr, whose client Berger, of Miami, also faces prosecution after setting up a similar Medicaid dentistry business, said the anti-solicitation law violates the First Amendment.

Lehr cited a recent Florida Supreme Court decision in which the justices said a law banning solicitation of motor vehicle accident victims was an "impermissible encroachment upon First Amendment commercial speech rights."

Dental Express was based in Opa-locka, but opened a second office at 74 N.E. Fourth Ave. in Delray Beach and then moved it to a shopping center at Congress Avenue and Lake Ida Road.

Dental Express was asked to move from its first Delray Beach site after Tom Dolvin, a dentist who is one of the building's owners, thought "something was not right" about the nocturnal dentistry on children.

Dolvin, who was not involved with Dental Express and has not been charged, said he'd arrive at the building in the morning to find McDonald's wrappers and other garbage strewn about the premises from the night before.

"I thought it was strange that all of the business was done when I was gone," Dolvin said. "It did not seem like a normal dental practice to me."

Lehr, the **attorney** for defendant Berger, agrees dental businesses that recruit Medicaid children aren't conventional. But he said unusual means are needed to reach poor kids.

"He (Berger) set up a way to deliver dental care to a huge number of needy Medicaid recipients. Had he waited for them to come in, they never would have seen a dentist," **Lehr** said. "The fact that he found a way to make money from it isn't against the law."

george_bennett@pbpost.com

How it works

According to investigators:

- Recruiters in poor neighborhoods are paid \$25 to \$35 for each Medicaid-enrolled child they round up.
- Kids are driven from as far away as Orlando - in some cases without the knowledge of their parents - and are often paid \$5 apiece or given a fast-food meal.
- They are shuttled through dental offices, where they receive unnecessary treatment or no treatment at all.
- Dentists submit claims to Medicaid for reimbursement.

Memo:

Ran all editions.

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