

CONSUMER BULLETIN



FROM THE OFFICE OF FLORIDA ATTORNEY GENERAL CHARLIE CRIST

DECEMBER 2004 - JANUARY 2005

In the News

Insurers get subpoenas

The Antitrust Division of the Attorney General's Office served subpoenas on 10 insurance brokerage firms and 11 insurance companies in an investigation into possible anti-competitive practices within the insurance industry.

Attorneys and investigators are examining allegations that brokers and companies engaged in unlawful practices such as bid-rigging, in which phony bids are submitted to consumers in order to direct consumers' business to a particular company.

Another unlawful practice under investigation is whether brokers would recommend insurers to consumers based on what fees the brokers would receive, not on the best coverage or price for the consumers.

Attorneys General in several states -- including Florida, California, Ohio, Massachusetts and New York -- have launched investigations into insurance-industry practices.

Insurance companies that received subpoenas include Continental Casualty Co., St. Paul Fire & Marine Insurance Co. and State Farm Florida

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HELPING THE HELPLESS

A new program aims to ensure that harm to the elderly is treated as a crime

The photograph is shocking. A frail, very old lady lies dead in a nursing home bed, apparently of injuries.

Seeing grim images of this kind is an unfortunate part of a new job at the Attorney General's Office. In an ambitious and unique new program, investigators and attorneys are now responding to reports of abuse and neglect in Florida nursing homes with full powers of arrest and prosecution.

"They're able to take actions quickly that we can't take," said Ralph Forehand, manager at the state Department of Children and Families (DCF), which under Florida law is responsible for protecting vulnerable adults. Under the new program -- officially known as the PANE (patient abuse, neglect and exploitation) Project -- DCF's efforts will be backed up by the Attorney General's authority to enforce criminal laws against perpetrators.

"The word is out that the Attorney General's Office is looking into the facilities," said Assistant Attorney General Kitty Larson, who runs the PANE Project in Dade County. As a result, they are working harder to improve living conditions, she said.

Last year, DCF received nearly 40,000 reports of abuse and neglect aimed at elderly, retarded and mentally ill adults in Florida, twice as many as a decade earlier. It's a problem that's likely to get even worse because of population trends. About one sixth of Floridians are over age 65 now. In 20 years,

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a quarter will be over 65.

The proportion of elderly is growing rapidly throughout the United States. Abuse and neglect are expected to increase accordingly. For that reason, the federal Department of Health and Human Services is taking an interest in Florida’s one-of-a-kind new program and is sending officials to study it later this month, said Charles Faircloth, Chief Assistant Attorney General in the Medicaid Fraud Control Unit.

About a third of reports to DCF concern adults who live in nursing homes, "assisted living facilities," homes for retarded adults and homes for mentally ill adults. More than 100,000 Floridians live in such places, which are the focus of the PANE Project. Begun earlier this year in Miami, it has been expanded so far into the Tampa and Tallahassee areas.

Perpetrators are usually employees

In the overwhelming majority of cases of abuse, neglect or exploitation, a facility employee is responsible, though patient-on-patient instances are also reported, along with actions by patients’ relatives, according to officials who are familiar with the problem.

Often, the low-skill, low-paid workers at these facilities "realize the stress is more than they can handle," Forehand said. They also realize their work is much reduced if they simply do not provide needed services, such as turning patients over to prevent bedsores or giving patients food and water. This power over the patients can be easy to wield because patients are often utterly helpless and dependent.

Another frequent problem is that aging patients in assisted living facilities reach the point of needing specialized treatment that only a nursing home or hospital can provide, Larson said. Yet, in order to retain government support payments, they keep these patients and fail to care for them properly.

Financial exploitation is another problem. Administrators at facilities sometimes are given power over dependent patients’ funds, and they use the money for their own personal benefit.

When the abuse or neglect of a resident leads to serious consequences, police and other law enforcement authorities have had trouble responding because of limited resources and expertise.

Before the new project, response by law enforcement agencies to reports of abuse or neglect was spotty, with large state attorney's offices handling situations effectively, but small ones less so, Faircloth said.

Often, if a patrolman did arrive, he or she would not have the training needed to understand whether what had happened -- bruising, sores, evidence of a fall -- could be reasonably explained or might instead be criminal.

Corporations may be held responsible

Now trained Attorney General investigators are filling in the gaps. "It's a piece of the puzzle that was missing." Faircloth said. In addition, the Attorney General's Office is participating in surprise inspections of adult residential facilities, along with DCF and local prosecution, fire and code-enforcement agencies.

When responding to reports of abuse, neglect or exploitation, the Attorney General's team can even include auditors, who have a look at the facilities' books before facility administrators get a chance to conceal or alter them.

That's because the goal is to prosecute not only those most directly involved in harmful acts but also, when appropriate, administrators and the facilities as corporations. Charges against higher-ups can include criminal neglect and violations of laws against filing false claims for government support money.

This new muscle is having the important deterrent effect of making facilities more careful about how they treat their residents, Larson said. "I don't think they were intimidated by the prospect of DCF looking into their operations," she said. "This makes them more mindful."

The toll-free number
of the State of Florida's
Elder Abuse Hotline is
1-800-962-2873
(1-800-96-ABUSE)





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**Office of Citizen Services
850-414-3990
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**Economic Crimes
Division
Consumer Protection
850-414-3600**

**Antitrust Division
850-414-3300**

**Office of Statewide
Prosecution
850-414-3700**

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Insurance Co. Among the brokerage firms are Brown & Brown, Inc., the Heath Lambert Group and Marsh & McLennan Companies.

Free generic drugs

Floridians will get millions of dollars in generic drugs under an agreement between the Attorney General's Office and Medco Health Solutions, a company that dispenses drugs for patients enrolled in health plans. The settlement enables about 7,500 elderly and poor Floridians to each get about \$300 in generic drugs.

One of the largest companies of its kind, Medco handles drugs for about 62 million patients. The company contracts with health plans to fill prescriptions received at its mail-service pharmacies and ships drugs directly to consumers.

Twenty states including Florida accused Medco of substituting certain drugs for other drugs in a way that benefitted the company financially. The company allegedly did not adequately inform prescribers or patients that these switches would increase incentives and rebates that it received from drug manufacturers.

Changing the drugs in some cases led to higher costs for patients and health plans because of a need for follow-up doctor visits and tests. For example, the company switched patients from certain cholesterol-lowering medications to the well-known brand Zocor, a change that usually meant patients had to have follow-up blood tests.

The Attorney General's Office and the state Department of Elder Affairs will soon notify Floridians who are over age 60, live on low incomes and are not receiving Medicaid that they may be eligible for the generic drugs. More information is available at 1-800-96-ELDER (1-800-963-5337).

The settlement requires Medco to pay a total of \$29.2 million to the 20 states, including \$2.3 million to Florida, which the state and the company agreed would be received in the form of free generic drugs.

Telemarketer sued

The Attorney General filed a lawsuit against a St. Petersburg telemarketing company that allegedly told consumers they had been selected to receive government grants. The company then informed the consumers that they would have to pay money to get additional information, according to the lawsuit.

Consumer Grants USA, Inc., told consumers they could get as much as \$25,000 in government funds but would have to pay several hundred dollars in fees first, an investigation by the Attorney General's Office found.

But after paying the money, the consumers would get only a book listing government grants, information that was already available for free. What's more, investigators found, the consumers were not eligible for most of the grants that were listed.