

1 Case No. 7975

2
3 FILED
J. Money Clerk
Justice of the Peace
4 11-21, 1997
5

6 IN THE JUSTICE COURT OF THE TONOPAH TOWNSHIP
7 AND FOR THE COUNTY OF NYE,
8 STATE OF NEVADA

9 * * *

10 STATE OF NEVADA,)
11 Plaintiff,)
12 vs.)
13 BERNICE FAY ANDERSON,)
14 PATRICIA PERRY PAUL and JANE)
15 RUDOLPH,)
16 Defendants.)

CRIMINAL COMPLAINT

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19 Personally appeared before the undersigned notary public this
20 20 day of November, 1997, BARBARA BACKMAN, an Investigator
21 for the Office of the Attorney General, Medicaid Fraud Control
22 Unit, who being first duly sworn and within her knowledge,
23 information and belief, complains and charges BERNICE FAY ANDERSON,
24 PATRICIA PERRY PAUL and JANE RUDOLPH, the above named Defendants,
25 with each having committed the offense(s) of:

- 26 (1) Criminal Neglect of Patient, one (1) count, a felony, in
27 violation of NRS 200.495, within Tonopah Township, Nye County; and
28 (2) Abuse, Neglect and Exploitation of Older Persons, one (1)

1 count, a felony in violation of 200.5099(3) and (7) and NRS
2 200.5092(3) within Tonopah Township, Nye County, as follows:

3
4 COUNT 1 - (Felony)
5 CRIMINAL NEGLECT OF PATIENT
6 (NRS 200.495)
7 (Defendants ANDERSON, PAUL and RUDOLPH)

8 That within her knowledge, information and belief, BERNICE FAY
9 ANDERSON, PATRICIA PERRY PAUL and JANE RUDOLPH, as professional
10 caretakers, did between November 23, 1996 and November 27, 1996,
11 fail to provide such service, care or supervision as was reasonable
12 and necessary to maintain the health or safety of a patient, Sarah
13 , age 92 with medical diagnoses including senile dementia,
14 rheumatoid arthritis and an unhealed fracture of her left distal
15 femur, in the following manner:

16 Specifically, as to BERNICE FAY ANDERSON (ANDERSON):

17 Defendant BERNICE FAY ANDERSON, between the hours of 11:00
18 a.m. to 2:00 p.m., November 23, 1996, while employed as a
19 professional registered nurse/caretaker at Nye Regional Medical
20 Center, a medical facility pursuant to NRS 449.0151, located within
21 Tonopah Township, Nye County, did fail to provide such service,
22 care or supervision as was reasonable and necessary to maintain the
23 health or safety of patient, Ms. Sarah , in the following
24 manner:

25 Defendant ANDERSON while acting as Charge Nurse did commit an
26 aggravated, reckless or gross act by failing to follow facility
27 protocol, the instructions of supervisory staff, notes in the
28 facilities communications book, Ms. s patient care plan and
her patient chart when transporting Ms. . Specifically,
Defendant ANDERSON knowingly chose not to use a mechanical

1 transport method, commonly referred to as a Hoyer Lift, when
2 transporting Ms. [REDACTED] within the shower room. Defendant
3 ANDERSON knowingly chose to utilize a contraindicated two person
4 manual transport method, commonly referred to as a Towel Lift.
5 The act of using the Towel Lift was such a departure from the
6 conduct of an ordinarily prudent and careful person under like
7 circumstances that it constituted failure to perform her duties as
8 prescribed in the Regulations of the Board of Nursing Chapter 632
9 of the Nevada Administrative Code and Chapter V of the Medicaid
10 Services Manual. The act also constituted a disregard for danger
11 to Ms. [REDACTED]. Furthermore, it was reasonably foreseeable that
12 substantial bodily harm could occur from ANDERSON'S use of the
13 contraindicated Towel Lift transport method. In fact, by
14 ANDERSON'S use of the contraindicated Towel Lift method, Ms.
15 [REDACTED] was dropped in the shower room, subjecting her to prolonged
16 physical pain and impairment/separation of her left arm from her
17 shoulder. Such resulting injuries were a natural and probable
18 result of Defendant ANDERSON'S use of the contraindicated manual
19 Towel Lift.

20 After dropping Sarah [REDACTED], ANDERSON then knowingly failed
21 to take the proper actions to assess Ms. [REDACTED] for injury, and
22 knowingly failed to render appropriate aid and care to Ms. [REDACTED].
23 Defendant ANDERSON, upon obtaining assistance from co-workers
24 lifted Ms. [REDACTED] up from the shower room floor, placed her in a
25 geri chair, and instructed co-workers not to report the incident or
26 mention it to others. Defendant ANDERSON repeated this instruction
27 to co-workers after one co-worker advised ANDERSON that Ms. [REDACTED]
28 was in pain and her left arm hurt. ANDERSON'S actions and failure

1 to assess were in direct contradiction to the instructions,
2 policies and protocol of her employer, constituting aggravated,
3 reckless or gross negligence. Her actions and omissions were such
4 a departure from the conduct of an ordinarily prudent and careful
5 person under like circumstances that it constituted a failure to
6 perform her duties as prescribed in the Regulations of the Board of
7 Nursing Chapter 632 of the Nevada Administrative Code and Chapter V
8 of the Medicaid Services Manual. The acts and omissions also
9 constituted disregard for danger to Ms. [REDACTED]. Defendant
10 ANDERSON'S omissions and affirmative attempts to thwart the proper
11 reporting of the incident prevented Sarah [REDACTED] from receiving
12 reasonable and necessary care. Ms. [REDACTED] remained in prolonged
13 severe physical pain and did not receive treatment for her injuries
14 for an additional 24 to 36 hours. On November 27, 1996, x-rays
15 were conducted and her dislocated left shoulder was fully
16 diagnosed.

17 The consequences of Defendant ANDERSON'S acts and omissions
18 were reasonably foreseeable and the physical danger and prolonged
19 severe pain were natural and probable results of Defendant
20 ANDERSON'S actions and omissions.

21 All of this constitutes a felony offense of CRIMINAL NEGLECT
22 OF A PATIENT in violation of NRS 200.495.

23 Specifically as to PATRICIA PERRY PAUL (PAUL):

24 Defendant PATRICIA PERRY PAUL, between the hours of 11:00 a.m.
25 to 2:00 p.m. on November 23, 1996, while employed as a professional
26 Certified Nurse Assistant/Caretaker at Nye Regional Medical Center,
27 a medical facility pursuant to NRS 449.0151, located within Tonopah
28 Township, Nye County, did fail to provide such service, care or

1 supervision as was reasonable and necessary to maintain the health
2 or safety of patient, Ms. Sarah M . . . , in the following manner:

3 Defendant PAUL did commit an aggravated, reckless or gross act
4 by failing to follow facility protocol, the instructions noted in
5 the facility communications book, Ms. M . . . s patient care plan
6 and patient chart when transporting Ms. M Specifically,
7 Defendant PAUL knowingly chose not to use a mechanical transport
8 method, commonly referred to as a Hoyer Lift, when transporting Ms.
9 . . . within the shower room. Defendant PAUL knowingly chose to
10 utilize a contraindicated two person manual transport method,
11 commonly referred to as a Towel Lift. The act of using a Towel
12 Lift was such a departure from the conduct of an ordinarily prudent
13 and careful person under like circumstances that it constituted
14 failure to perform her duties as prescribed in the Regulations of
15 the Board of Nursing Chapter 632 of the Nevada Administrative Code
16 and Chapter V of the Medicaid Services Manual. The act also
17 constituted a disregard for danger to Ms. Furthermore it
18 was reasonably foreseeable that substantial bodily harm could occur
19 from PAUL'S use of the contraindicated Towel Lift transport method.
20 In fact, by PAUL'S use of the contraindicated Towel Lift method,
21 Ms. . . . was dropped in the shower room, subjecting her to
22 prolonged physical pain and impairment/separation of her left arm
23 from her shoulder. Such resulting injuries are a natural and
24 probable result of PAUL'S use of the contraindicated manual Towel
25 Lift.

26 All of which constitutes a felony offense of CRIMINAL NEGLECT
27 OF A PATIENT in violation of NRS 200.495.

28 Specifically as to Defendant JANE RUDOLPH (RUDOLPH):

1 Defendant JANE RUDOLPH, between the hours of 11:00 a.m. to
2 4:00 p.m., November 23, 1996, while employed as a professional
3 registered nurse/caretaker in a supervisory capacity at Nye
4 Regional Medical Center, a medical facility pursuant to NRS
5 449.0151, located within Township, Nye County, did fail to provide
6 such service, care or supervision as was reasonable and necessary
7 to maintain the health or safety of patient, Ms. [REDACTED], in
8 the following manner:

9 Defendant RUDOLPH did commit aggravated, reckless or gross
10 acts by failing to follow facility protocol and reporting
11 requirements; and by failing to adhere to required duties as
12 prescribed in the Regulations of the Board of Nursing Chapter 632
13 of the Nevada Administrative Code and Chapter V of the Medicaid
14 Services Manual in her provision of service, care or supervision of
15 Ms. M [REDACTED]. Defendant RUDOLPH arrived at the facility in her
16 supervisory nurse/caretaker capacity to respond to an incident
17 involving Ms. [REDACTED] being dropped in the shower room by two co-
18 workers who at the time were utilizing a non-approved
19 transportation method. RUDOLPH did not properly assess or examine
20 Ms. M [REDACTED] for injuries or physical pain. RUDOLPH did not conduct
21 a thorough physical examination or inspect or palpate Sarah
22 McMurry's extremities. RUDOLPH did not contact Nye Regional's
23 emergency room or contact a physician. RUDOLPH'S omissions and
24 failure to act occurred with knowledge of [REDACTED] s existing
25 medical conditions.

26 Defendant RUDOLPH'S acts and omissions in failing to properly
27 assess, examine or report Ms. [REDACTED]'s injuries constituted such a
28 departure from the conduct of an ordinarily prudent, careful person

1 under the same circumstances as to be a disregard for danger to Ms.
2 , or constitutes indifference to the resulting consequences.
3 With all of Defendant RUDOLPH'S training and experience, it was
4 reasonably foreseeable that her failure to properly assess, examine
5 or report Ms s physical condition would lead to prolonged
6 physical pain and/or medical complications. By being dropped in
7 the shower room, Ms. was in fact subjected to prolonged
8 physical pain, and an impairment/separation of her left arm from
9 her shoulder, and this injury was not properly diagnosed for an
10 additional 24 to 36 hours. Such resulting prolonged severe
11 physical pain was a natural and probable result of RUDOLPH'S
12 aggravated, reckless or grossly negligent acts and omissions of
13 knowingly failing to properly assess, examine or report Ms.
14 injuries, and of RUDOLPH'S failure to properly carry out
15 her duties.

16 All of which constitutes a felony offense of CRIMINAL NEGLECT
17 OF A PATIENT in violation of NRS 200.495.

18
19 COUNT 2-(Felony)
20 ABUSE, NEGLECT AND EXPLOITATION OF OLDER PERSONS
(NRS 200.5099(3) and (7); NRS 200.5092(3))
(Defendants ANDERSON, PAUL and RUDOLPH)

21 That within her knowledge, information and belief, BERNICE FAY
22 ANDERSON, PATRICIA PERRY PAUL and JANE RUDOLPH, as professional
23 caretakers who assumed a legal responsibility or a contractual
24 obligation for caring for an older person , age 92
25 with medical diagnoses including senile dementia, rheumatoid
26 arthritis and an unhealed fracture of the left distal femur, to
27 provide services which are necessary to maintain the physical or
28

1 mental health of the older person failed to do so in the following
2 manner:

3 Specifically as to BERNICE FAY ANDERSON (ANDERSON):

4 Defendant ANDERSON, as a registered nurse employed at Nye
5 Regional Medical Center, did on November 23, 1996 through November
6 27, 1996, in Tonopah Township, County of Nye, Nevada, cause and
7 permit S: to suffer unjustifiable physical pain and/or
8 mental suffering as a result of neglect, or did permit Ms.
9 to be placed in a situation in which she may, and in fact, did
10 suffer unjustifiable physical pain and/or mental suffering as a
11 result of neglect in that ANDERSON failed to provide services
12 necessary for the physical and mental health of Ms. M a
13 person over the age of 60 years, and for whom Defendant ANDERSON
14 had assumed a legal responsibility and/or a contractual obligation
15 to care for, in the following manner:

16 While working at Nye Regional Medical Center, ANDERSON chose
17 not to follow facility protocol, instructions of supervisors, notes
18 in the facility communications book, Ms. M s patient care
19 plan and patient chart when transporting Ms. ANDERSON
20 failed to perform her duties as prescribed in the Regulations of
21 the Board of Nursing Chapter 632 of the Nevada Administrative Code
22 and Chapter V of the Medicaid Services Manual.

23 ANDERSON failed to provide ambulation services and other
24 services as required in the patient's care plan. On November 23,
25 1996, ANDERSON failed to use a mechanical transport method,
26 commonly referred to as a Hoyer Lift, when transporting Ms. M
27 within the shower room. ANDERSON knowingly utilized a
28 contraindicated two person manual transport method, commonly

1 referred to as a Towel Lift. Through ANDERSON'S use of the
2 contraindicated Towel Lift method, Ms. [redacted] was dropped in the
3 shower room, causing her unjustified prolonged physical pain and
4 impairment/separation of her left arm from her shoulder. ANDERSON
5 then obtained assistance from co-workers, lifted Ms. [redacted] from
6 the shower room floor and placed her in a geri chair. Upon doing
7 so, ANDERSON did not properly examine or assess Ms. [redacted].
8 Instead, ANDERSON instructed co-workers not to report the incident
9 or mention it to others. Defendant ANDERSON repeated this
10 instruction to co-workers after one co-worker advised ANDERSON that
11 Ms. [redacted] was in pain and her left arm hurt. Defendant
12 ANDERSON'S actions and efforts to thwart the proper reporting of
13 the incident prevented Ms. [redacted] from receiving the proper care
14 or services necessary to maintain the physical or mental health of
15 [redacted]. These same actions caused Sa. [redacted] to suffer
16 physical pain or mental suffering and allowed Ms. [redacted] to
17 continue to suffer unjustifiable physical pain or mental suffering
18 until her separated shoulder was properly diagnosed 24 to 36 hours
19 after being dropped.

20 All of which constitutes a felony offense of ABUSE, NEGLECT
21 AND EXPLOITATION OF OLDER PERSON in violation of NRS 200.5099(3)
22 and (7).

23 Specifically as to PATRICIA PERRY PAUL (PAUL):

24 PAUL, as a certified nurse assistant employed at Nye Regional
25 Medical Center in Tonopah Township, County of Nye, Nevada, did on
26 November 23, 1996 through November 27, 1996 cause and permit Ms.
27 S [redacted] to suffer unjustifiable physical pain and/or mental
28 suffering as a result of neglect, or did permit Ms. M. [redacted] to be

1 placed in a situation in which she may, and in fact, did suffer
2 unjustifiable physical pain and/or mental suffering as a result of
3 neglect in that PAUL failed to provide services necessary for the
4 physical and mental health of : a person over the age
5 of 60 years, and for whom Defendant PAUL had assumed a legal
6 responsibility and/or a contractual obligation to care for, in the
7 following manner:

8 While working at Nye Regional Medical Center, PAUL with co-
9 worker BERNICE FAY ANDERSON, a registered nurse, chose not to
10 follow facility protocol, instructions of supervisors, notes in the
11 facility communications book, Ms. ... s patient care plan and
12 patient chart when transporting Ms. ... Defendant PAUL failed
13 to perform her duties as prescribed in the Regulations of the Board
14 of Nursing Chapter 632 of the Nevada Administrative Code and
15 Chapter V of the Medicaid Services Manual.

16 Defendant PAUL failed to provide ambulation services and other
17 services as required in the patient's care plan. On November 23,
18 1996, PAUL with co-worker ANDERSON, chose not to use a mechanical
19 transport method, commonly referred to as a Hoyer Lift, when
20 transporting Ms. ... within the shower room. Defendant PAUL
21 knowingly utilized a contraindicated two person manual transport
22 method, commonly referred to as a Towel Lift. Through Defendant
23 PAUL's use of the contraindicated Towel Lift method, Ms. ...
24 was dropped in the shower room, causing her unjustified prolonged
25 physical pain and impairment/separation of her left arm from her
26 shoulder. ANDERSON then obtained assistance from other co-
27 worker(s), including PAUL, and lifted Ms. M ... from the shower
28 . . .

1 room floor and placed her in a geri chair. Shortly after being
2 dropped, Ms. I complained to PAUL that she was in pain.

3 All of which constitutes a felony offense of ABUSE, NEGLECT
4 AND EXPLOITATION OF OLDER PERSON in violation of NRS 200.5099(3)
5 and (7).

6 Specifically as to Defendant JANE RUDOLPH (RUDOLPH):

7 Defendant RUDOLPH, as a registered nurse supervisor employed
8 at Nye Regional Medical Center, in Tonopah Township, County of Nye,
9 Nevada, did on November 23, 1996 through November 27, 1996 cause
10 and permit Sa to suffer unjustifiable physical pain
11 and/or mental suffering as a result of neglect, or did permit Ms.
12 to be placed in a situation in which she may, and in fact,
13 did suffer unjustifiable physical pain and/or mental suffering as a
14 result of negligence in that Defendant RUDOLPH failed to provide
15 services necessary for the physical and mental health of Ms.

16 , a person over the age of 60 years, and for whom Defendant
17 RUDOLPH had assumed a legal responsibility and/or a contractual
18 obligation to care for, in the following manner:

19 Defendant RUDOLPH did commit neglect by failing to follow
20 facility protocol, or reporting requirements; and by failing to
21 adhere to required duties as prescribed in the Regulations of the
22 Board of Nursing Chapter 632 of the Nevada Administrative Code and
23 Chapter V of the Medicaid Services Manual in her provision of care
24 or services necessary to maintain the physical or mental health of
25 Ms. . On November 23, 1996, RUDOLPH was summoned to the
26 facility in her supervisory nurse/caretaker capacity to respond to
27 an incident involving Ms. being dropped in the shower room
28 by two co-workers, who at the time were utilizing a non-approved

1 transportation method. Upon her arrival, RUDOLPH evaluated the
2 situation, but did not properly assess or examine Ms. . . . for
3 injuries or physical pain, nor did she direct others to do so.
4 Defendant RUDOLPH also failed to report the incident to Ms.
5 . . . 's physician.

6 Defendant RUDOLPH'S neglect in failing to properly provide
7 care or necessary services in assessing, examining or reporting Ms.
8 . . . 's injuries caused, allowed and/or permitted Sarah . . .
9 to suffer severe prolonged physical pain and substantial bodily or
10 mental harm for an additional 24 to 36 hours when an
11 impairment/separation of her left arm from her shoulder was
12 properly diagnosed. RUDOLPH'S failure to properly assess and/or
13 diagnose injuries allowed Ms. . . . to be neglected until she was
14 properly diagnosed. These same neglectful failures of duty or
15 responsibility by RUDOLPH caused or permitted Ms . . . to
16 receive services in a manner that a reasonable person would not
17 have allowed if information from a proper assessment, examination
18 or reporting had been provided.

19 All of which constitutes a felony offense of ABUSE, NEGLECT
20 AND EXPLOITATION OF OLDER PERSON in violation of NRS 200.5099(3)
21 and (7) .

22 All of the above is contrary to the form, force and effect of
23 the statutes as such cases made and provided, and the peace and
24 dignity of the State of Nevada.

25 . . .
26 . . .
27 . . .
28 . . .

1 Said complainant prays that Arrest Warrants be issued for
2 Defendants BERNICE FAY ANDERSON, PATRICIA PERRY PAUL, and JANE
3 RUDOLPH; and that Defendants be dealt with according to law.

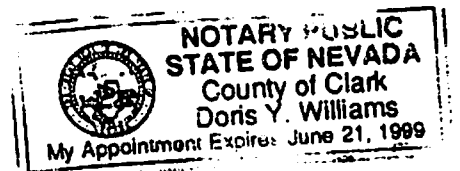
4 DATED this 20 day of November, 1997.

5
6 FRANKIE SUE DEL PAPA
7 Attorney General

8 By: Barbara Backman
9 BARBARA BACKMAN
Investigator

10 SUBSCRIBED AND SWORN to before me
11 this 20 day of November, 1997
12 by: BARBARA BACKMAN.

13 Doris Y. Williams
14 Notary Public in and for the County
15 of Clark, State of Nevada



16 SUBMITTED BY:
17 FRANKIE SUE DEL PAPA
18 Attorney General

19 By: Mark N. Kemberling
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