



**2014 CLM Annual Conference**

**April 9, 2014 – April 11, 2014**

**Boca Raton Resort  
501 E. Camino Real  
Boca Raton, FL 33432**

**Roundtable 4: Friday, April 11, 2014 (10:25 am – 11:25 am)**

**Will the True Pip Clinic Owner Please Stand Up! Uncovering the True Owner versus the “Owner on Paper”**

**FLORIDA STATUTES - HEALTH CARE CLINIC ACT**

**§400.9935 Clinic responsibilities.** (pertinent sections)

- (1) Each clinic shall appoint a medical director or clinic director who shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:
  - (a) Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic readily visible to all patients.
  - (b) Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.
  - (c) Review any patient referral contracts or agreements executed by the clinic.
  - (d) Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.
  - (e) Serve as the clinic records owner as defined in s. 456.057.
  - (f) Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted under this part and part II of chapter 408.
  - (g) Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director shall take immediate corrective action. If the clinic performs only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to all personal injury protection insurance carriers was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgment provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.
  - (h) Not refer a patient to the clinic if the clinic performs magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography. The term “refer a patient” means the referral of one or more patients of the medical or clinical director or a member of the medical or clinical director’s group practice to the clinic for magnetic resonance imaging, static radiographs, computed tomography, or positron

emission tomography. A medical director who is found to violate this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- (1) Ensure that the clinic publishes a schedule of charges for the medical services offered to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the urgent care center and must include, but is not limited to, the 50 services most frequently provided by the clinic. The schedule may group services by three price levels, listing services in each price level. The posting may be a sign that must be at least 15 square feet in size or through an electronic messaging board that is at least 3 square feet in size. The failure of a clinic to publish and post a schedule of charges as required by this section shall result in a fine of not more than \$1,000, per day, until the schedule is published and posted.
- (2) Any contract to serve as a medical director or a clinic director entered into or renewed by a physician or a licensed health care practitioner in violation of this part is void as contrary to public policy. This subsection shall apply to contracts entered into or renewed on or after March 1, 2004.
- (3) All charges or reimbursement claims made by or on behalf of a clinic that is required to be licensed under this part, but that is not so licensed, or that is otherwise operating in violation of this part, are unlawful charges, and therefore are noncompensable and unenforceable.
- (4) In addition to the requirements of s. 408.812, any person establishing, operating, or managing an unlicensed clinic otherwise required to be licensed under this part or part II of chapter 408, or any person who knowingly files a false or misleading license application or license renewal application, or false or misleading information related to such application or department rule, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- ...
- (9) In addition to the requirements of part II of chapter 408, the clinic shall display a sign in a conspicuous location within the clinic readily visible to all patients indicating that, pursuant to s. 626.9892, the Department of Financial Services may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized employee of the Division of Insurance Fraud may make unannounced inspections of a clinic licensed under this part as necessary to determine whether the clinic is in compliance with this subsection. A licensed clinic shall allow full and complete access to the premises to such authorized employee of the division who makes an inspection to determine compliance with this subsection.

**§400.9905 Definitions.** (pertinent sections)

- (4) “Clinic” means an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. As used in this part, the term does not include and the licensure requirements of this part do not apply to:
  - (a) Entities licensed or registered by the state under chapter 395; entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services or other health care services by licensed practitioners solely within a hospital licensed under chapter 395.
  - (b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.
  - (c) Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; entities that are owned, directly or indirectly, by an entity licensed or registered by the state and

providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital under chapter 395.

- (d) Entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state pursuant to chapter 395; entities that are under common ownership, directly or indirectly, with an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.
- (e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan under 26 U.S.C. s. 409 that has a board of trustees at least two-thirds of which are Florida-licensed health care practitioners and provides only physical therapy services under physician orders, any community college or university clinic, and any entity owned or operated by the federal or state government, including agencies, subdivisions, or municipalities thereof.
- (f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.
- (g) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 480, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, and that is wholly owned by one or more licensed health care practitioners, or the licensed health care practitioners set forth in this paragraph and the spouse, parent, child, or sibling of a licensed health care practitioner if one of the owners who is a licensed health care practitioner is supervising the business activities and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) which provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

...

Notwithstanding this subsection, an entity shall be deemed a clinic and must be licensed under this part in order to receive reimbursement under the Florida Motor Vehicle No-Fault Law, ss. 627.730-627.7405, unless exempted under s. 627.736(5)(h).

- (5) "Medical director" means a physician who is employed or under contract with a clinic and who maintains a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461. However, if the clinic does not provide services pursuant to the respective physician practices acts listed in this subsection, it may appoint a Florida-licensed health care practitioner who does not provide services pursuant to the respective physician practices acts listed in this subsection to serve as a clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license, except that a licensee specified in s. 456.053(3)(b) who provides only services authorized pursuant to s. 456.053(3)(b) may serve as clinic director of an entity providing services as specified in s. 456.053(3)(b).
- (6) "Mobile clinic" means a movable or detached self-contained health care unit within or from which direct health care services are provided to individuals and which otherwise meets the definition of a clinic in subsection (4).
- (7) "Portable equipment provider" means an entity that contracts with or employs persons to provide portable equipment to multiple locations performing treatment or diagnostic testing of individuals, that bills third-party payors for those services, and that otherwise meets the definition of a clinic in subsection (4).

## Florida Motor Vehicle No-Fault Law

### §627.732 Definitions. (pertinent sections)

As used in ss. 627.730-627.7405, the term:

(8) “Immediate personal supervision,” as it relates to the performance of medical services by nonphysicians not in a hospital, means that an individual licensed to perform the medical service or provide the medical supplies must be present within the confines of the physical structure where the medical services are performed or where the medical supplies are provided such that the licensed individual can respond immediately to any emergencies if needed.

...

(10) “Knowingly” means that a person, with respect to information, has actual knowledge of the information; acts in deliberate ignorance of the truth or falsity of the information; or acts in reckless disregard of the information, and proof of specific intent to defraud is not required.

(11) “Lawful” or “lawfully” means in substantial compliance with all relevant applicable criminal, civil, and administrative requirements of state and federal law related to the provision of medical services or treatment.

...

(13) “Properly completed” means providing truthful, substantially complete, and substantially accurate responses as to all material elements to each applicable request for information or statement by a means that may lawfully be provided and that complies with this section, or as agreed by the parties.

...

(17) “Entity wholly owned” means a proprietorship, group practice, partnership, or corporation that provides health care services rendered by licensed health care practitioners and in which licensed health care practitioners are the business owners of all aspects of the business entity, including, but not limited to, being reflected as the business owners on the title or lease of the physical facility, filing taxes as the business owners, being account holders on the entity’s bank account, being listed as the principals on all incorporation documents required by this state, and having ultimate authority over all personnel and compensation decisions relating to the entity. However, this definition does not apply to an entity that is wholly owned, directly or indirectly, by a hospital licensed under chapter 395.

### §627.736 Required personal injury protection benefits; exclusions; priority; claims.

(1) REQUIRED BENEFITS.—An insurance policy complying with the security requirements of s. 627.733 must provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to subsection (2) and paragraph (4)(e), to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits resulting from bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—Eighty percent of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices and medically necessary ambulance, hospital, and nursing services if the individual receives initial services and care pursuant to subparagraph 1. within 14 days after the motor vehicle accident. The medical benefits provide reimbursement only for:

1. Initial services and care that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, ... or a chiropractic physician licensed under chapter 460 ... Initial services and care may also be provided by a person or entity licensed under part III of chapter 401 which provides emergency transportation and treatment.

2. Upon referral by a provider described in subparagraph 1., followup services and care consistent with the underlying medical diagnosis rendered pursuant to subparagraph 1. which may be provided, supervised, ordered, or prescribed only by a physician licensed under chapter 458 or chapter 459, a chiropractic physician licensed under chapter 460, a dentist licensed under chapter 466, or, to the extent permitted by applicable law and under the supervision of such physician, osteopathic physician, chiropractic physician, or dentist, by a physician assistant licensed under chapter 458 or chapter 459 or an advanced registered nurse practitioner licensed under chapter 464. Followup services and care may also be provided by the following persons or entities:

...  
b. An entity wholly owned by one or more physicians licensed under chapter 458 or chapter 459, chiropractic physicians licensed under chapter 460, or dentists licensed under chapter 466 or by such practitioners and the spouse, parent, child, or sibling of such practitioners.

...  
d. A physical therapist licensed under chapter 486, based upon a referral by a provider described in this subparagraph.

e. A health care clinic licensed under part X of chapter 400 which is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state, or

(I) Has a medical director licensed under chapter 458, chapter 459, or chapter 460;

(II) Has been continuously licensed for more than 3 years or is a publicly traded corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange; and

(III) Provides at least four of the following medical specialties:

(A) General medicine.

(B) Radiography.

(C) Orthopedic medicine.

(D) Physical medicine.

(E) Physical therapy.

(F) Physical rehabilitation.

(G) Prescribing or dispensing outpatient prescription medication.

(H) Laboratory services.

3. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. up to \$10,000 if a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced registered nurse practitioner licensed under chapter 464 has determined that the injured person had an emergency medical condition.

4. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. is limited to \$2,500 if a provider listed in subparagraph 1. or subparagraph 2. determines that the injured person did not have an emergency medical condition.

5. Medical benefits do not include massage as defined in s. 480.033 or acupuncture as defined in s. 457.102, regardless of the person, entity, or licensee providing massage or acupuncture, and a licensed massage therapist or licensed acupuncturist may not be reimbursed for medical benefits under this section.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a) A physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge the insurer and injured party only a reasonable amount pursuant to this section for the services and supplies rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment ...

...  
(b) 1. An insurer or insured is not required to pay a claim or charges:  
a. Made by a broker or by a person making a claim on behalf of a broker;  
b. For any service or treatment that was not lawful at the time rendered;  
c. To any person who knowingly submits a false or misleading statement relating to the claim or charges;

...  
(h) As provided in s. 400.9905, an entity excluded from the definition of a clinic shall be deemed a clinic and must be licensed under part X of chapter 400 in order to receive reimbursement under ss. 627.730-627.7405. However, this licensing requirement does not apply to:

1. An entity wholly owned by a physician licensed under chapter 458 or chapter 459, or by the physician and the spouse, parent, child, or sibling of the physician;

...  
3. An entity wholly owned by a chiropractic physician licensed under chapter 460, or by the chiropractic physician and the spouse, parent, child, or sibling of the chiropractic physician; ...

## Florida Administrative Code

### 59A-33.006 Certificates of Exemption and Exempt Status.

- (1) Facilities and entities exempt from health care clinic license requirements are set forth in Section 400.9905(4), F.S. A facility is not required to have, but may voluntarily apply for a certificate of exemption.
- (2) Facilities that claim an exemption, either by filing an application for a certificate of exemption with the Agency and receiving a certificate of exemption, or self-determining, must maintain an exempt status at all times the facility is in operation.
- (3) When a change to the exempt status occurs to an exempt facility or entity that causes it to no longer qualify for an exemption, any exempt status claimed or reflected in a certificate of exemption ceases on the date the facility or entity no longer qualifies for a certificate of exemption. In such case, the health care clinic must file with the Agency a license application under the Act within 5 days of becoming a health care clinic and shall be subject to all provisions of the Act applicable to unlicensed health care clinics. Failure to timely file an application for licensure within 5 days of becoming a health care clinic will render the health care clinic unlicensed and subject the owners, medical or clinic directors and the health care clinic to sanctions under the Act.
- (4) A facility becomes a "clinic" as defined in Section 400.9905 (4), F.S., when it does not qualify for an exemption, provides health care services to individuals and bills third party payers for those services.
- (5) Change of Exempt Status. When exempt status changes are discovered, the Agency will notify a facility or entity applying for, obtaining or self-determining exempt status, that the exempt status is no longer valid, giving the grounds therefore, the date of the change, when known, and the statutory and rule provisions applicable. The Agency shall give the facility or entity notice of unlawful health care clinic operation, the statutory and rule requirements of becoming a health care clinic and sanctions for operating without a valid license for the owners, medical or clinic directors and the location. The Agency shall also provide information to the facility or entity believed to be operating without exempt status of the licensing procedures and the Agency filings necessary to meet licensure requirements.
- (6) The applicant for a certificate of exemption must affirm, without reservation, the exemption sought pursuant to Section 400.9905(4), F.S., and the qualifying requirements for obtaining and maintaining an exempt status; the current existence of applicable exemption-qualifying health care practitioner licenses; qualified ownership, qualified certifications or registration of the facility or owners; federal employer identification number; services provided; proof of legal existence and fictitious name, when the entity and name are required to be filed with the Division of Corporations, Department of State; plus other satisfactory proof required by form adopted by this rule.
- (7) The fee for issuance of a certificate of exemption shall be \$100 and submitted to the Agency with the application.
- (8) Within 30 calendar days after application receipt, the Agency shall determine whether the application is complete. If the application is deemed incomplete, the Agency shall request in writing from the applicant specific information necessary for the application to be deemed complete. Only one such request will be made by the Agency. If the applicant does not provide the specific additional information required by the statute and rule in writing to the Agency within 21 calendar days of receipt of the Agency's request, the application will be deemed incomplete and the certificate of exemption shall be withdrawn from further consideration. The applicant's response must be received by the Agency no later than 5:00 p.m., E.S.T., on the omissions due date. An application for a certificate of exemption from health care clinic licensure shall be granted or denied by the Agency within 90 days of receipt of a fully completed application on AHCA Form 3110-0014, July 2006, which is incorporated by reference and may be obtained in accordance with Rule 59A-33.007, F.A.C.
- (9) The Agency shall rely upon the address given on the application as the official address to which correspondence may be sent. It is the duty of the applicant to notify the Agency in writing at least 10 days in advance of any change of the current mailing address by contacting the Agency according to Rule 59A-33.007, F.A.C.
- (10) Certificates of exemption are not moveable or transferable, directly or indirectly. They are valid only for the applicant, qualifying owners, licenses, registrations, certifications and services provided under specific statutory exemptions and are valid only to the specific exemption claimed and granted. In order for a certificate of exemption to be valid the applicant must apply for and receive a new certificate of exemption for changes of location and any qualifying statutory or rule requirement of an exemption.

*State Farm Fire and Casualty v. Silver Star Health and Rehab, Inc., et al*, Federal Court, Middle District, Orlando Division, Case No. 6:10-CV-01103-GAP-GJK

*Allstate Insurance Company, et al v. Sara Vizcay, et al*, Federal Court, Middle District, Tampa Division, Case No. 8:11-CV-00804-EAK-EAJ

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### **Criminal Investigations: Articles from Florida's Department of Financial Services**

#### **Florida CFO Jeff Atwater Announces Arrest of 'Straw Owner,' Clinic Operator for Violating Clinic Law, Filing Fraudulent PIP Claims. 2/3/2012. Contact: Alexis Lambert 850-413-2842. TALLAHASSEE.**

Florida Chief Financial Officer Jeff Atwater announced today that charges have been filed against an Orlando chiropractor and two clinic operators for allegedly conspiring to create a "straw" ownership arrangement to thwart Florida's clinic licensing laws.

Judith Christina McKenzie, a chiropractic physician, allegedly fronted ownership of Silver Star Health and Rehab Inc., located at 5026 Silver Star Road. However, an investigation by the Department of Financial Services' Division of Insurance Fraud (DIF) determined that Silver Star was really owned, operated and managed by non-physicians Jean Ely Colin and Marc Arthur Maxis. Arrest warrants have been issued for all three. McKenzie and Colin have surrendered and were booked into the Orange County Jail. Maxis remains at large.

"This kind of fraud costs every honest Floridian with a car in the driveway, and we can't throw the crooks in jail fast enough," Atwater said. "My department is committed to finding the perpetrators and bringing them to justice, but we also must put more barriers in place to stop this fraud and the skyrocketing cost of auto insurance in Florida."

McKenzie purported to be the sole owner of Silver Star, so the clinic operated with a selfproclaimed exemption since its inception in May 2008. Because McKenzie held a license with the Department of Health (DOH), she was automatically exempt from clinic licensing requirements regulated by the Agency for Health Care Administration under the Health Care Clinic Act, FSS 400.9935. However, as a result of the clinic's fraudulent business arrangement, insurance claims filed by the clinic were fraudulent. The DIF found that more than \$525,000 in fraudulent PIP claims filed with five different insurance companies. Detectives said Silver Star's banking records proved the "straw owner" arrangement. Furthermore, McKenzie admitted she did not run the clinic and had no financial obligations to the operation.

The three co-conspirators are charged with organized scheme to defraud, operating an unlicensed health care clinic, filing false and fraudulent insurance claims and grand theft. If convicted on all charges, each could face up to 125 years in prison in addition to fines and restitution. The case is being prosecuted by the Orange County State Attorney's Office.

#### **CFO Jeff Atwater Announces Two Arrests in Undercover Sarasota PIP Clinic Sting. 11/2/2012. Contact: Anna Alexopoulos (850) 413-2842. TALLAHASSEE.**

Florida Chief Financial Officer Jeff Atwater announced today the arrests of Nerber A. Iglesias, 40, and Michael Borkowski, 42, for patient brokering and involvement in an ongoing personal injury protection (PIP) fraud scheme in Manatee County. These arrests were the result of an undercover sting.

"This investigation is a prime example of the organized nature of PIP fraud rings in Florida," CFO Atwater said. "Those who cheat the system to make a buck are stealing from every honest Floridian. I applaud the hard work of our fraud investigators and the chiropractor who worked with us from the inside to bring these criminals to justice."

Rep. Jim Boyd (R-Bradenton), sponsor of the 2012 PIP legislative reforms, joined law enforcement on the bust.

"Every dollar of insurance premiums stolen by criminals is a dollar taken away from honest Floridians," Rep. Boyd said. "I was proud to see Florida's anti-fraud efforts first hand, and I commend CFO Atwater's leadership on this issue."

An investigation by the Florida Department of Financial Services' Division of Insurance Fraud revealed that Iglesias approached a Sarasota chiropractor about becoming the straw owner of Garden Relief Center, LLC. The chiropractor contacted law enforcement and, under the direction of the department, applied for a clinic exemption certificate to begin operating the facility. The chiropractor, working undercover, was also contacted by a local body shop

owner named Michael Borkowski, who made arrangements to provide accident patients to the clinic for a fee. During the course of the investigation in 2011, Garden Relief Center submitted almost \$40,000 in fraudulent insurance claims to six different insurance companies.

Iglesias and Borkowski were booked into Hillsborough County Jail and charged with eight counts of patient brokering. If convicted on all charges, they each face up to 5 years in prison

**DIF Case #12-529. PIP – Personal Injury, West Central Region.**

On 11/20/2012, search warrants were executed at a residence and a medical clinic named "The Collier Chiropractic Center" both allegedly owned by Wilhem Vilbon. This was the result of an eight month investigation into criminal activities being conducted at The Collier Chiropractic Center by employees and associates of Wilhem Vilbon. On 11/26/2012, Wilhem Vilbon and his attorney met with Detectives at the DIF Fort Myers office. After a brief statement, Wilhem Vilbon was placed under arrested and transported to the Collier County Jail.

This investigation was predicated on information provided by All State Insurance Company SIU Ronald Sullivan. All State Insurance Company alleged that as the result of a suspected staged motor vehicle accident, several of their accident participants received medical treatment at The Collier Chiropractic Center located at 255 Airport Road South in Naples, Collier County, Florida. Detective Nichols began researching this clinic's ownership and discovered that "The Collier Chiropractic Center" is owned by the Sunshine Medical Inc., whose Registered Agent and President is a Podiatrist Doctor having a medical practice on the East Coast of Florida. Sunshine Medical Incorporate uses the same address as The Collier Chiropractic Center located at 255 Airport Road South in Naples. According to an Agency for Health Care Administration (AHCA) Clinic Exemption application, a Podiatrist Doctor claimed that he was 100% owner of The Collier Chiropractic Center.

Detective Robert Nichols conducted an investigation into the finances of this clinic and discovered that the All State Insurance claim checks were being made payable to The Collier Chiropractic Center. The All State Claim checks were mailed to a Post Office Box rented by Wilhem Vilbon. These insurance claim checks were then found to have been deposited into a Wells Fargo Bank Business Account under the name of Chiro Management, Inc. The sole signatory on this account was Wilhem Vilbon. Further investigation revealed that this account was used by Wilhem Vilbon for personal business such as; recreation and shopping.

This investigation resulted in the discovery that Wilhem Vilbon was operating an unlicensed medical clinic in violation of Florida State Statute 400.9935 (4). The Podiatrist Doctor enabling Wilhem Vilbon to operate an unlicensed medical clinic by being a "straw owner" and obtaining an Agency for Health Care Administration (AHCA) Clinic Exemption concealing the true ownership of this clinic.

Det. Nichols' investigation revealed that during the past 5 years two insurance companies have been fraudulently billed nearly 1.4 million dollars in medical PIP claims. State Farm Insurance Company has been billed over \$700,000.00. All State Insurance Company has paid \$676,429.37 in Personal Injury Protection (PIP) insurance claims. According to Florida Statutes these claims are unlawful medical charges and non-compensable charges.

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**Criminal Investigations: Federal Bureau of Investigation Articles**

**West Palm Beach Resident Sentenced for Role in Staged Accident Scheme.** U.S. Attorney's Office December 19, 2012; Southern District of Florida (313) 226-9100

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida; Michael B. Steinbach, Special Agent in Charge, Federal Bureau of Investigation (FBI), Miami Field Office; José A. Gonzalez, Special Agent in Charge, Internal Revenue Service-Criminal Investigation Division (IRS-CID); and Jeff Atwater, Florida Chief Financial Officer, announced today's sentencing of Maria Molina, a/k/a Cary, 41, of West Palm Beach, in connection with her participation in a staged accident fraud scheme. U.S. District Judge Kenneth A. Marra sentenced Molina to 48 months in prison, to be followed by two years of supervised release. Defendant Molina previously pled guilty to conspiring with others to commit mail fraud, in violation of Title 18, United States Code, Section 1341; all in violation of Title 18, United States Code, Section 1349.

According to court documents, under Florida's "No Fault" insurance law, insurers must provide Personal Injury Protection (PIP) coverage of \$10,000 per person. Defendant Molina and other co-conspirators unlawfully enriched themselves by submitting fraudulent PIP claims for chiropractic and massage therapy treatments for individuals who had participated in staged automobile accidents.



Court documents state that Molina worked as the receptionist, office manager, and billing specialist at OVY Rehabilitation Medical Center (OVY) and HHR Rehab Medical Center (HHR), both located on Congress Avenue, West Palm Beach, Florida. Molina and other co-conspirator employees and recruiters advised the staged accident participants on how to fill out the paperwork and what to say if an insurance investigator interviewed them about their injuries or treatment. The staged accident participants were instructed to sign numerous blank treatment forms that would later be submitted indicating that they had visited the clinic on a number of separate occasions for treatment, although they may have visited the clinic only once or twice. During their visits, some staged accident participants received no treatment at all or may have received only a short exam or treatment from the chiropractor or LMT, but the paperwork completed by the LMTs and chiropractors indicated that a full and lengthy exam and treatment was given.

According to court documents, Molina admitted that she was aware that patients would sign blank therapy forms for days when they did not receive treatment in order to justify the bills submitted to the insurance companies. Molina specifically admitted that the patients who came to OVY and HHR never remained longer than 15 minutes and that the patients did not receive the treatments that were billed to the insurance companies. Molina also admitted that she was the person responsible for compiling and mailing the claims to the insurance companies, although on some occasions she supervised others who assisted with this task.

Court documents state that during a series of controlled meetings between a co-conspirator and Molina, Molina advised the co-conspirator on how to set up a clinic to perform PIP fraud. Molina advised the co-conspirator that she would need \$30,000 to pay the lease and to pay the patients. Molina also described how the patients would come from “pre-arranged accidents” and that the clinic would have to pay the patients upfront. Molina told the co-conspirator not to worry about the patients admitting that the accidents were staged because everything was illegal, and the accident participants would not risk problems by telling the truth. Molina stated the accident participants expected to be paid 20 percent of the amount to be received from the insurance company. Molina offered to do all the bookkeeping for the new clinic. When the co-conspirator asked how Molina would keep receipts for the cash payments to the “patients,” Molina responded that there would be nothing to show for those payments because “this is illegal, it is fraud, and this is what people are doing.”

Ms. Molina is the latest federal defendant to be sentenced in the investigation known as Operation Sledgehammer. To date, a total of 26 defendants have been charged, resulting in 22 federal convictions. Four defendants are fugitives who have fled the United States.

Mr. Ferrer commended the investigative efforts of the FBI, IRS-CID, and the Florida Department of Insurance Fraud, and issued a special thanks to the National Insurance Crime Bureau (NICB) for its assistance in this investigation. Mr. Ferrer also thanked the members of the Greater Palm Beach Health Care Fraud Task Force. The case is being prosecuted by Assistant U.S. Attorney A. Marie Villafañá.

**Thirty-Three Defendants Charged in Staged Automobile Accident Scheme Ninety-Two Defendants Have Been Charged to Date in Operation Sledgehammer I-VI.** U.S. Attorney’s Office May 16, 2013; Southern District of Florida (313) 226-9100

Wifredo A. Ferrer, United States Attorney for the Southern District of Florida; Michael B. Steinbach, Special Agent in Charge, Federal Bureau of Investigation (FBI), Miami Field Office; Michael J. DePalma, Acting Special Agent in Charge, Internal Revenue Service-Criminal Investigation (IRS-CI); Jeff Atwater, Florida Chief Financial Officer; and Dave Aronberg, State Attorney, Office of the State Attorney for Palm Beach County, announced the unsealing of a federal indictment and three separate criminal informations charging 33 defendants, including doctors, licensed professionals, and clinic owners, for their participation in a massive staged automobile accident scheme based in Palm Beach and Miami-Dade Counties, Florida. Of the 33 defendants charged, 26 were arrested or are expected to surrender. Four of the defendants are known to have fled to Cuba, with an additional three of the defendants have not been located at this time and are considered fugitives.

The charges announced today are the culmination of a three-year joint federal and state law enforcement investigation, dubbed Operation Sledgehammer, into a series of chiropractic clinics that were allegedly involved in staged accidents and filing false insurance claims. Starting with Operation Sledgehammer I in June 2011 and including the defendants charged today in Operation Sledgehammer VI, 92 defendants have been charged for their participation in this automobile insurance fraud scheme. Of those 92 defendants, 56 have been charged federally by the U.S. Attorney’s Office, resulting in court-ordered restitution of more than \$5 million to the defrauded insurance companies. Thirty-six defendants have been charged by the Palm Beach County State Attorney’s Office.

Operation Sledgehammer VI, announced today, has resulted in a second superseding indictment and three separate criminal informations charging 33 defendants. The second superseding indictment charges 30 individuals, including ring leaders Vladimir Lopez and Lazaro Vigoa Mauri, with conspiracy to commit and substantive mail fraud (counts one–91), conspiracy to commit and substantive money laundering (counts 92-153), and conspiracy to and actual structuring of financial transactions (counts 154-183). The indictment also seeks the forfeiture of proceeds of the fraud, including \$714,621 in currency, and any real or personal property derived from the fraud. In addition, defendants Lawrence Schechtman, 45, Parkland; Olinda Rodriguez, 39, West Palm Beach; and Iris Roca, 41, of Davie, were charged in three separate informations for their participation in staged accident fraud schemes. These three defendants will be surrendering to the court.

U.S. Attorney Wifredo A. Ferrer stated, “Staged accident automobile insurance fraud is not a victimless crime. Rather, it affects every driver in Florida, as fraud inevitably causes our insurance rates to rise. Worse still, staged accidents make our streets more dangerous and distract police from answering legitimate distress calls. We hope that this continued operation will send a message to those who seek to line their pockets through fraud. Together with our federal and state law enforcement, regulatory and private industry partners, we will find you, we will prosecute you, we will take away your ill-gotten money, and you will face substantial prison time.”

“If you get upset about your car insurance premiums going up, this crime is one of the reasons why,” said William J. Maddalena, Assistant Special Agent in Charge of FBI Miami. “Every time an insurance payout is made for a staged accident in Florida, we all feel the pain in the pocketbook. The FBI and our partners with the Greater Palm Beach Health Care Fraud Task Force will continue to use all investigative techniques to bring to justice those responsible for this type of fraud.”

“Consistently, law-breakers try to hide their crimes by laundering their ill-gotten gains and by structuring financial transactions to avoid detection by law enforcement. Today’s indictment reflects the futility of that strategy,” said IRS-CI Acting Special Agent in Charge Michael J. DePalma. “By following the money trail, IRS-CI agents will continue to aggressively target these defendants’ finances and their freedom.”

“These staged accidents are the lifeblood of Personal Injury Protection (PIP) fraud, which has cast a shadow over Florida’s roads,” Florida Chief Financial Officer Jeff Atwater said. “Every Florida family is negatively affected by these fake crashes in the form of high auto insurance premiums. I am proud of the collaborative efforts across local, state and federal agencies to put these criminals behind bars.”

According to the charging documents, between approximately October 2006 and December 2012, the defendants staged automobile accidents and thereafter caused the submission of false insurance claims through chiropractic clinics they controlled. To execute the scheme, the true owners of the chiropractic clinics allegedly recruited individuals, who had the medical or chiropractic licenses required by the state to open a clinic, to act as “nominee owners” of the clinics. The defendants also recruited individuals, whom they referred to as “Perro” and “Perra,” to participate in the accidents, and others to help the clinics launder the insurance proceeds. The defendants also hired complicit chiropractors and therapists who prescribed and billed for unnecessary treatments and/or for services that had not been rendered. Thereafter, complicit clinic employees prepared and submitted claims to the automobile insurance companies for payment for these unnecessary or non-rendered services. Twenty-one clinics participated in this scheme.

If convicted, the defendants face the following possible maximum statutory sentences: 20 years in prison for conspiracy to commit mail fraud, substantive mail fraud, and conspiracy to commit money laundering; 20 years for each count of substantive money laundering; five years for conspiracy to structure financial transactions, and 10 years for structuring financial transactions involving more than \$100,000 in one year. Restitution to the victims of the offenses is mandatory.

Mr. Ferrer commended the efforts of the FBI, IRS-CI, the Florida Department of Insurance Fraud, the Palm Beach County State Attorney’s Office, and the Greater Palm Beach County Health Care Fraud Task Force for their outstanding work in this case. Mr. Ferrer also recognized the National Insurance Crime Bureau (NICB) for its collaboration and assistance in this investigation. Mr. Ferrer thanked the U.S. Marshal’s Service and Customs and Border Protection for their assistance in today’s arrests. The federal cases are being prosecuted by Assistant U.S. Attorney A. Marie Villafaña and the state cases are being prosecuted by the Palm Beach County State Attorney’s Office.

An indictment or information is only an accusation and a defendant is presumed innocent until proven guilty.

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**Other Florida DFS website articles Found at [www.myfloridacfo.com](http://www.myfloridacfo.com)**

**DFS’s “The PIP Source” newsletters Found at [www.myfloridacfo.com/fraud](http://www.myfloridacfo.com/fraud)**