

Legal, Regulatory and Human Sources

SEIU continues to find support for our interpretation of the data in first-hand sources such as sworn depositions, lawsuits, regulatory documents, and conversations with former employees of NAHC. Excerpts from particularly salient cases, documents and conversations are below.

Plaintiff Attorney's August 1, 2008 statement about a criminal investigation at a NAHC facility.

"Ms. Manning [defense attorney] also refused to provide a date for the deposition of current Gramercy and former Rosewood [NAHC facility] employee Judy Taylor, who has admitted under oath to falsifying patient records at Rosewood at the direction of her supervisors, Rosewood managing agents Sharon Laidley and Doug Hawkins. Ms. Manning claimed that Ms. Taylor was sick, but plaintiffs have subsequently learned that Ms. Taylor has been placed on administrative leave from Gramercy because she is under criminal investigation by the California Department of Justice in connection with falsifying patient records at Rosewood. On July 10, 2008, Michael Rothschild, a criminal defense attorney retained by Ms. Taylor, informed our office that Ms. Taylor would not be made available for deposition until he had, an opportunity to review documents and make a decision about whether he would instruct his client to assert the fifth amendment at deposition. To date, Mr. Rothschild has not informed plaintiffs of his decision." ⁱ

Sworn 2007 videotaped deposition from Judy Taylor, former Director of Nursing at NAHC Facility, Rosewood Terrace, about a conversation she had with the facility administrator and a NAHC corporate-level employee.

Q: So they called you in to the administrator's office?

A: Yes.

Q: They were both there?

A: (Witness nodding head.)

Q: That's a yes?

A: Yes. Sorry.

Q: Did they specifically tell you to write particular documents, or did they tell you that you needed to go through and figure out a way to make it look like he came into the facility with softened heels?

A: No, he said, "Everybody that comes in here comes with red, softened heels and you guys should put that upon admission."

Q: Did he tell you that he wants you to go back and recreate that admission record to say that?

A: Yes.ⁱⁱ

Sworn 2008 videotaped deposition from NAHC corporate-level Quality Services Nurse Consultant Andrew Chua. The following is among multiple sworn statements about undated entries on a patient's medical records:

Q: And what have you written on page 74?

A: 'Rehab sessions daily as tolerated on the right side.'

Q: Is that the only place your handwriting appears on page 74?

A: Yes.

Q: And did you date that?

A: No.ⁱⁱⁱ

In the same sworn videotaped deposition, Chua states that multiple undated entries on a patient's medical record were entered on the same day.

Q: Is it possible that you made these entries on various parts of the care plan on different dates?

A: No. I mean just as -- as a habit, I don't. I mean if I look at a chart, then I just look at it once and finish everything once -- in one day.

Q: So it's your best estimate that all of the, entries that we've reviewed so far, including the entry on page 85, were made on February 1st of 2007, correct?

A: That I had written, it's the same; I'm assuming.^{iv}

In the same sworn videotaped deposition, Chua is asked about corporate-level coordination of alterations to medical charts.

Q: So on at least one occasion for each of your three facilities, Teresa DePaul -- Teresa DePaul instructed you and other nurse consultants from North American Healthcare to review charts and make additions to those charts in preparation for surveys, correct?

A: Correct.^v

Plaintiff Attorney's characterization of another NAHC corporate-level employee's deposition.

"Doug Hawkins, an NAHC corporate nurse consultant and Director of Nursing at Rosewood when Sylvia was admitted, testified that two nurses involved in Sylvia's admission and subsequent wound treatments told him that the facility administrator, Sharon Laidley, asked them to falsify patient records. (Exhibit LL)"^{vi}

Allegation from a former Director of Nursing in her wrongful termination lawsuit against another NAHC facility, Fireside Convalescent Hospital.

"Following the commencement of plaintiff's employment at Fireside in September, 2005, various falsifications of the restorative-charting records by two RNAs were discovered by representatives of the Department of Health Services when they conducted an audit known as a "survey" of the facility... [Facility Administrator Karen] Eccleston had full knowledge of the aforementioned falsifications of the restorative charting records by the involved RNAs Eulogio Cameron and Anna Flores."^{vii}

Excerpt from the California Department of Health and Human Services citation referred to by the plaintiff above, citing the facility for having "failed to ensure that treatment records were not falsified resulting in treatments not provided as ordered by the physician."

"A review of the RNA charting record for the month of April 2005 revealed that RNA 1 provided the treatment [for a resident who required rehabilitative therapy] daily. However, review of the time card revealed that he was off on April 3, 4, 6, 10, 16, 17, 24 and 30, 2005. For the month of May 2005, RNA 1 also documented that he had provided the treatment daily. However, review of the time card revealed that he was off on May 1, 7, 8, 14, 15, 21, 22, 28 and 29, 2005. For the month of June, RNA 2 documented that she provided the treatment daily. However, time card revealed that she was off on June 3, 10, 11, 17, 18, 24, and 25, 2005. For the month of October RNA 1 also documented that he provided the treatment on the days that he was off on October 1, 2, 15 and 16, 2005."^{viii}

Notes from an SEIU investigator's conversation with a former employee at another NAHC facility, Garden View Care Center.

A former employee declared to an SEIU investigator that in 2003, the Administrator and Director of Nursing at Garden View Care Center asked him to forge doctors' signatures for two residents' medical records. He was then advised to leave the facility right away, through a back door, so he would not run into state surveyors who were coming through the facility. He was subsequently fired 2-3 weeks later.^{ix}

ⁱ 8/1/08, “Declaration of David L. Ditora in Support of Plaintiffs’ Motion Terminating Sanctions against Defendant Carmichael Care, Inc., et al.,” pp. 13-14. From Case # 07AS04923, *SYLVIA EVENS-PARKS and MURIEL EVENS, V. COTTAGE PARK PLACE, d.b.a. GRAMERCY COURT, CARMICHAEL CARE, INC. d.b.a. ROSEWOOD TERRACE CARE AND REHABILITATION, a California Corporation, NORTH AMERICAN HEALTH CARE, INC., a California Corporation, GRAMERCY HEALTHCARE, LLC, and DOES 2 through 50, inclusive*. Superior Court of California, County of Sacramento.

ⁱⁱ 2/16/07, “Videotaped Deposition of Judith Ann Taylor, Volume II,” pp. 260-261. Excerpt found in Exhibit QQ, “Paper Exhibits.” From Case # 07AS04923, title same as above.

ⁱⁱⁱ 6/24/08, “Videotaped Deposition of Andrew Phillip Chua,” p. 62. Found in Exhibit MM, “Paper Exhibits.” From Case # 07AS04923, title same as above.

^{iv} *Ibid*, p. 74.

^v *Ibid*, p. 98.

^{vi} 8/1/08, “Declaration of David L. Ditora in Support of Plaintiffs’ Motion Terminating Sanctions against Defendant Carmichael Care, Inc., et al.,” pp. 22-23. From Case # 07AS04923, title same as above.

^{vii} 1/24/07, “Complaint,” pp. 12-13. From Case # BC365215, *MONTEENA VILLAREAL v. NORTH AMERICAN HEALTHCARE, INC., A California Healthcare Corporation; FIRESIDE CONVALESCENT HOSPITAL; and DOES 1 through 50 inclusive*. California Superior Court for the County of Los Angeles.

^{viii} “Statement of Deficiencies and Plan of Correction,” for Fireside Convalescent Hospital, California Department of Health and Human Services, 1/26/06.

^{ix} Interview with former employee by SEIU investigator. Information available upon request.