



## U. S. Department of Justice

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Northern District of Illinois

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### **TWO DOCTORS AND FOUR NURSES AMONG 11 NEW DEFENDANTS ADDED TO CASE ALLEGING \$20 MILLION HOME HEALTH CARE FRAUD CONSPIRACY, MEDICAL KICKBACKS, MONEY LAUNDERING, AND INCOME TAX EVASION**

CHICAGO — Two physicians and four registered nurses are among 11 new defendants who were added to a federal indictment against a suburban Chicago man who operated two home health care businesses for allegedly swindling Medicare of at least \$20 million over five years, federal law enforcement officials announced today. Nine of the 11 new defendants allegedly conspired with the initial defendant, **Jacinto “John” Gabriel, Jr.**, to submit millions of dollars in false claims for reimbursement of home health care services purportedly provided to Medicare beneficiaries, which allegedly were never provided or were not medically necessary so that they could profit from the fraudulently-obtained funds. Gabriel and his co-schemers allegedly used the proceeds for various purposes, including: using cash to gamble at casinos in the Chicago area and Las Vegas, and to buy automobiles, jewelry and real estate in the United States and the Philippines; to perpetuate the businesses by paying his employees and providing them with gifts, and to bribe physicians and pay kickbacks to others in exchange for patient referrals.

Gabriel, 44, of Berwyn, who had no formal medical training, medical degrees, nor licenses to practice as a health care professional, was charged in the new indictment with one count of health

care fraud conspiracy, 43 counts of health care fraud, 11 counts of money laundering, and four counts of federal income tax evasion in a 69-count superseding indictment returned yesterday by a federal grand jury, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois. Gabriel was arrested on preliminary charges in February 2011 and was charged alone in a 15-count indictment last summer. He pleaded not guilty to the original charges and is free on bond.

According to the indictment, Gabriel did not identify himself as an owner, but in fact exercised ownership and control over Perpetual Home Health, Inc., based in Oak Forest, and Legacy Home Healthcare Services, which was located on the city's north side. Both firms have ceased operating and no longer receive Medicare payments. Between May 2006 and January 2011, Perpetual submitted more than 14,000 Medicare claims seeking reimbursement for services allegedly provided to beneficiaries. As a result of those claims, Perpetual received more than \$38 million in Medicare payments. Between 2008 and January 2011, Legacy submitted more than 2,000 claims for Medicare reimbursement and received more than \$6 million. Neither Perpetual nor Legacy had any sources of revenue other than Medicare funds, the indictment states.

The new defendants are:

**Jassy Gabriel**, 42, of Berwyn, John Gabriel's brother, the nominal majority owner of Perpetual and its president, as well as a registered nurse. He was charged with one count of health care fraud conspiracy and one count of filing a false federal income tax return;

**Stella Lubaton**, 46, of Midlothian, a minority owner of Perpetual and an officer and administrator, as well as a registered nurse. She was charged with one count of health care fraud conspiracy, 16 counts of health care fraud, one count of filing a false federal income tax return, and one count of violating the medical anti-kickback statute;

**Nessli Reyes**, 35, of Elgin, part-owner of Legacy and its president, as well as a registered nurse. She was charged with one count of health care fraud conspiracy and nine counts of health care fraud;

**Charito Dela Torre**, 71, of Berwyn, a physician, who was charged with one count of health care fraud conspiracy, 12 counts of health care fraud, and three counts of federal income tax evasion;

**Ricardo Gonzales**, 75, of Orland Park, a physician, who was charged with one count of health care fraud conspiracy, 19 counts of health care fraud, and one count of violating the medical anti-kickback statute;

**Rosalie Gonzales**, 42, of Chicago, a registered nurse and Ricardo Gonzales' daughter, who was charged with one count of violating the medical anti-kickback statute;

**James Davis**, 37, of West Chicago; **Francis Galang**, 27, of Crest Hill; and **Michael Pacis**, 38, of Homer Glen, all data entry employees of Perpetual, who were charged with one count each of health care fraud conspiracy;

**Regelina "Queenie" David**, 58, of Joliet, a Perpetual quality assurance employee, who was charged with one count of health care fraud conspiracy; and

**Kennedy Lomillo**, 44, of Mundelein, who provided bookkeeping and payroll services to Perpetual and also prepared a corporate tax return for Perpetual, as well as an individual return for Lubaton, was charged with two counts of aiding and abetting the preparation of false income tax returns.

The indictment also seeks forfeiture of \$20 million against the Gabriel brothers and Lubaton.

As part of the conspiracy, Gabriel, acting in various combinations with the nine co-conspirators, allegedly obtained personal information of Medicare beneficiaries to bill Medicare without the beneficiaries' knowledge or consent; paid bribes and kickbacks in cash and by check, directly and indirectly, to physicians and others in exchange for referrals of patients to Perpetual and Legacy; created false patient files to support fraudulent Medicare claims and submitted false claims based on those records; used Medicare proceeds to pay themselves and others who assisted in

carrying out the scheme; and concealed the fraud proceeds by directing Perpetual and Legacy to issue checks payable to fictitious entities, John Gabriel's friends and associates.

Among other details, the indictment alleges that John and Jassy Gabriel, Lubaton, and Reyes authorized Perpetual and Legacy to pay various amounts, ranging between \$200 and \$800, to employees and others, including indirectly to Ricardo Gonzales, for each patient they referred and enrolled in home health care services. John Gabriel and others also cold-called Medicare beneficiaries to try to persuade them to enroll with Perpetual and Legacy.

As part of allegedly falsifying patient records, John Gabriel directed Perpetual and Legacy employees, including Davis, Galang, and Pacis, to systematically complete standard forms by listing the same false diagnoses, including arthropathy (joint disease) and hypertension, which enabled them to claim a higher level of Medicare reimbursement, according to the charges.

In addition to the fraud counts, the money laundering charges allege that between October and December 2010, Gabriel cashed 11 checks in amounts under \$10,000 — usually \$9,000 and all involving fraud proceeds — to avoid federal currency transaction reporting requirements.

The four tax evasion counts against John Gabriel allege that for calendar years 2006 through 2009, he failed to pay taxes totaling approximately \$889,062 on gross income totaling more than \$2.82 million. The three tax evasion counts against Dela Torre allege that for calendar years 2005 through 2007, she failed to pay taxes totaling approximately \$158,405 on gross income totaling more than \$560,000.

Lubaton was charged with filing a false tax return for 2007 for allegedly failing to report all of her income, which was in excess of the \$546,442 that she reported, and Lomillo was charged with aiding and abetting the preparation of her false return. Jassy Gabriel was charged with filing a false

tax return for 2007 for allegedly failing to report all of his adjusted gross income, which exceeded the \$603,974 that he reported, and Lomillo was charged with aiding and abetting the preparation of his false return.

Health care fraud conspiracy and each count of health care fraud carries a maximum penalty of 10 years in prison and a maximum fine of \$250,000, or an alternate fine totaling twice the loss or twice the gain, whichever is greater, as well as mandatory restitution. Each count of money laundering carries a maximum 20-year prison term and a maximum fine of \$500,000. Violating the medical anti-kickback statute carries a maximum penalty of five years in prison and a \$250,000 fine. Each count of tax evasion carries a five-year maximum prison term, while each count of filing a false income tax return carries a three-year maximum, and a \$250,000 fine. In addition, defendants convicted of tax offenses must pay the costs of prosecution and remain liable for any and all back taxes, as well as a potential civil fraud penalty of 75 percent of the underpayment plus interest. If convicted, the Court must impose a reasonable sentence under federal statutes and the advisory United States Sentencing Guidelines.

Mr. Fitzgerald announced the charges together with Lamont Pugh III, Special Agent-in-Charge of the Chicago Region of the U.S. Department of Health and Human Services Office of Inspector General; Robert D. Grant, Special Agent-in-Charge of the Chicago Office of Federal Bureau of Investigation; and Alvin Patton, Special Agent-in-Charge of the Internal Revenue Service Criminal Investigation Division. The Railroad Retirement Board Office of Inspector General also participated in the investigation, which is continuing. The investigation is being conducted by the Medicare Fraud Strike Force, which expanded to Chicago in 2011, and is part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT), a joint initiative between the Justice

Department and HHS to focus their efforts to prevent and deter fraud and enforce anti-fraud laws around the country.

The government is being represented by Assistant U.S. Attorneys Brian Havey, Raj Laud and Tony Iweagwu, Jr.

The public is reminded that charges are not evidence of guilt. The defendants are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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