

SPECIAL REPORT

# Medicaid Madness

**It's a nightmare scenario: With the connivance of state bureaucrats, public spending on private psychiatric hospitalization for the poor explodes 9,000 percent in five years. A new breed of politically connected, for-profit hospitals steps in and earns millions of dollars, as much as 10 times the national average. Many deliver skimpy care that sometimes makes the patients worse. And most of the beds the new hospitals provide weren't needed in the first place. It happened in Louisiana.**

By **CHRIS ADAMS**  
*Staff writer*

For years, a hospital sat abandoned in the tiny Iberville Parish town of Plaquemine. It was owned by a foundation supporting an aging order of priests that had tried to unload it. Nobody would buy it, nobody would rent it.

Until 1992, when former Lt. Gov. Robert Freeman showed up, leased the building and proceeded to turn sand into gold.

Renting the building on a monthly basis, Freeman and a group of investors set up a psychiatric hospital and called it Caring Inc. Freeman's hospital soon began making money, pulling down a pretax profit of \$9.6 million in one year, more than was netted that same year by Southern Baptist Hospital, a New Orleans general hospital four times its size.

See **MEDICAID, A-13**

SUNDAY, AUGUST 13, 1995 THE TIMES-PICAYUNE

## **RULES OF THE GAME**

How hospitals boosted the bottom line

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## WHAT WE FOUND

**Huge profits.** Some years, hospitals reaped pretax profits of 50 percent to 60 percent, compared with the industry standard of 5 percent.

**Links to the governor.** Six hospitals primarily owned by the Rayford family of Alexandria have earned a total pretax profit of \$52 million, and in 1993, five of the six had profit margins near 50 percent. Chris Pilley, first appointed Department of Health and Hospitals secretary by former Gov. Buddy Roemer, is a longtime friend of the Rayfords and vacationed in the Caribbean with family members in 1993. The Rayfords and their companies have contributed or loaned Edwards \$64,500 for his campaigns since 1981, records show.

**Poor patients, rich doctors.** Hospitals receiving millions in taxpayer dollars for treating the poor in some cases paid their doctors salaries more than five times the national average. Dr. Richard W. Williams, a psychiatrist who practices at Orleans Regional Hospital in Algiers and North Louisiana Regional Hospital in Shreveport, received \$811,000 in hospital salary last year, records show. The profession's national average is less than \$130,000.

**Payments against policy.** In June, top Department of Health and Hospitals officials awarded a \$3.3 million payment to Orleans Regional and North Louisiana Regional — which have ties to state Rep. Steve Theriot, D-Marrero — although department staff members considered the payment to be against state policy. The decision came only after hospital officials appealed directly to Edwards, and Edwards called a department official to the Governor's Mansion to review the payment, that official said.

**Salaries of half a million.** Former Lt. Gov. Robert Freeman and two other owners of Caring Inc. paid themselves each \$50,000 a month for 10 months for serving as company directors.

**Payments to related companies.** The Rayford hospitals paid \$6.2 million to a Rayford-controlled company for management work in a 13-month period; that company spent \$860,295 on travel and entertainment and made \$780,962 in profit.

**Unneeded beds.** The Department of Health and Hospitals recognized as early as 1992 that there were enough psychiatric beds to service the Medicaid program, but the number of beds skyrocketed anyway.

**Unaccredited care.** After Edwards took office in 1992, the politically connected psychiatric hospitals continued to open and expand in the Medicaid program with the state's blessing, even though most lacked accreditation required by the state's Medicaid contract with hospitals.

**Profits for legislators.** In 1993, the Department of Health and Hospitals approved a payment of \$385,000 to help start a psychiatric hospital partly owned by state Rep. Willie Singleton, D-Shreveport.

**Diverted funds.** A major rewriting of the rules helped private psychiatric hospitals boost their share of the Medicaid disproportionate share pot from 4.2 percent to 14 percent in 1993, for a total increase of \$60 million. Part of the increase came from a three-sentence rule, pushed by a company partly owned by state Rep. Sherman Copelin, D-New Orleans, that allowed certain private hospitals to increase their payments — and in the process take money from the state-owned Charity hospitals.

**Federal guidelines skirted.** In the past two years, the state has paid more than \$25 million for the psychiatric treatment of adults who were checked into hospitals that received Medicaid money apparently in conflict with federal guidelines. The hospitals appeared to be eligible largely because of a favorable accounting interpretation, and the state has not tried to recoup the money, despite urging by federal regulators.

**State officials rewrote the rulebook. Poor people became the patients. And a small group of psychiatric hospital owners and doctors made millions of dollars in profits at taxpayer expense.**

**CARING INC.**



**ROBERT FREEMAN**

**\$50,000 a month each and drove a Mercedes-Benz leased by the hospital.**

**For treating poor patients, it profited \$9.6 million in 1993. Former Lt. Gov. Robert Freeman was among Caring's co-owners who paid themselves**



**CHRIS PILLEY**

**Under Gov. Edwards, the secretary of the Department of Health and Hospitals oversaw rule changes that helped annual Medicaid private psychiatric costs soar to \$240 million.**



**DR. RICHARD W. WILLIAMS**

**His pay last year as medical director and physician at two hospitals topped \$800,000, six times the national average for psychiatrists, for treating mostly poor patients.**



**THE RAYFORD HOSPITALS**



**ROBERT RAYFORD JR.**

**During Gov. Edwards' term, hospitals controlled by Robert Rayford Jr. and his family made \$52 million in profits. The Rayfords or their companies have loaned or contributed \$64,500 to Edwards' campaigns.**

## From Page 1

Caring was not alone. It was one of about three dozen psychiatric units opened or greatly expanded statewide by a variety of investors in the past four years. Although the growth started before Edwin Edwards regained the governorship in 1992, it accelerated during his tenure.

That was no coincidence. An investigation by The Times-Picayune found that the Edwards administration, through design and indifference, cleared the way for millions of dollars in taxpayer money to flow to a new cadre of psychiatric hospital owners, among them current and former elected officials, Edwards campaign contributors and other political supporters.

### Poverty program pays

The vehicle for the new-found wealth was Medicaid, the government health program for the poor. Many hospital owners made staggeringly high profits by taking advantage of special rules and lax oversight by Edwards' first cabinet-level appointee, state Department of Health and Hospitals Secretary Chris Pilley, and Pilley's successor in mid-1993, Rose Forrest.

The boom among the psychiatric facilities fueled a nearly hundred-fold increase in private Medicaid psychiatric hospitalization spending in Louisiana, from \$2.6 million in 1989 to \$240 million last year. And records indicate that some of the private hospitals delivered bare-bones care while generating profit margins that would be the envy of any major acute-care medical center.

Many of the private psychiatric hospitals sprang into existence at a time when there was no clear evidence that Louisiana's Medicaid psychiatric patients, children or adults, weren't getting the care they needed.

The growth among the private psychiatric hospitals is one reason the state's Medicaid program skyrocketed from \$1.1 billion in 1989 to more than \$4 billion in 1994, most of it in federal dollars. After the massive increase through 1994, state spending on private psychiatric hospitals decreased to an estimated \$169 million this year, and profit margins were cut some — although they remain above industry norms.

"Hospitals were in it for the big bucks — big bucks for a short

period of time," said Mike Nolan, who was state's Medicaid budget manager until June. "And the saddest thing is that it was avoidable. There's no question the rules could have been written in a more stringent and fair way so all hospitals got paid a fair but not outrageous rate. A 30 or 40 percent profit margin for a Medicaid hospital — that's absurd, it's exorbitant."

Now, a federal government crackdown on the flow of Medicaid money into Louisiana has created a budget crisis. And as the state tries to slash its Medicaid spending, many of the upstart psychiatric hospitals are closing.

Other, more established hospitals reaped large payments from Medicaid, too. But at those hospitals, the quality of care did not result in nearly as many citations from state inspectors, and the profit margins stayed closer to industry norms.

Although not familiar with specifics of the new psychiatric hospitals, Marc Forman, chairman of child psychiatry at Tulane Medical Center, said good psychiatric care doesn't come cheap. "If you're going to do psychiatric care well, there's not a lot of money to be made," he said.

For its investigation, The Times-Picayune reviewed internal Department of Health and Hospitals memos, as well as financial and inspection reports on 200 hospitals across the state. The newspaper also analyzed 60 million Medicaid claim records, which detail when and where the state's poor received health care services. More than 200 people were interviewed.

Through a spokeswoman, Edwards said he would have no comment and referred all questions to Forrest; Forrest did not return phone calls for comment.

### Windfall from D.C.

As with many government programs, the Medicaid program that led to the huge hospital profits began with good intentions.

In 1981, lawmakers in a committee room of the U.S. Capitol were told a startling tale of urban hospitals on the brink of financial collapse.

From that testimony came a line in the 1981 federal budget that dealt with Medicaid, the program administered by states but primarily paid for by the federal government. The line said

that states, in setting Medicaid rates, shall "take into account the situation of hospitals which serve a disproportionate number of low-income patients with special needs."

For several years, Louisiana did nothing. Finally, in 1989, following the lead of other states, Louisiana health authorities declared that hospitals with a large percentage of poor clients could apply for status as "disproportionate share" facilities and collect higher rates of Medicaid reimbursement.

If recognition had dawned slowly, it now hit the state with the force of revelation: With the 11 charity hospitals, the nation's largest state-owned system, Louisiana was sitting on a potential gusher of Medicaid money. And with a direct financial interest in every procedure administered in the Charity Hospital System, the state had an incentive to set higher and higher Medicaid reimbursement rates.

By 1992, the charity hospitals were collecting \$1,000 a day in Medicaid reimbursements for care that cost less than \$300. All the extra money was plowed back into the state's Medicaid program, allowing the state to offer more services and causing the Medicaid budget to grow fourfold in less than five years.

Private hospitals realized that they, too, could tap this federal gusher by winning disproportionate share status and billing Medicaid at the inflated rates set with the charity hospitals in mind. Across the state, private business people decided to open hospitals — specifically, psychiatric hospitals, which are cheaper to equip

and operate than full-service, acute-care hospitals that require high-tech equipment and highly trained staff. Often, the facilities were opened in nursing homes; owners converted blocks of unused patient rooms into highly profitable "hospitals."

While the Charity Hospital System's profits went to the state, the excessive Medicaid reimbursements to the private hospitals lined the pockets of the business partners who had set them up.

Congress had voted in 1991 to give states the power to set different reimbursement rates between public and private hospitals. Other states did that. But until 1994, when rates were cut, Louisiana continued to give private hospitals the same inflated rates given Charity.

"I don't think Congress ever intended money to go to hospitals like these," said John Futrell, who recently retired as the Department of Health and Hospitals' deputy secretary.

State Sen. B.B. "Sixty" Rayburn, D-Bogalusa, said, "Medicaid looks like a program for the greedy, not the needy."

### **A golden opportunity**

The road to Medicaid riches varied from hospital to hospital. But the story of Freeman's hospital contains many of the common elements.

The foray by Freeman, the former lieutenant governor and now a Plaquemine city judge, into the world of psychiatric hospitals began in 1992, when one of his business partners approached the Christian Brothers Foundation, which raises money for an order of priests. The foundation

owned the old, empty Spedale Hospital in Plaquemine that for years had brought nothing but headaches to its benefactors.

The foundation negotiated a lease with Freeman's new company, calling for rent of \$1,000 a month, an affidavit filed in court shows. Freeman's company spent \$500,000 renovating the building, and in November 1992 opened Caring Inc. hospital for mentally ill children.

At first Caring was relatively small: 35 psychiatric beds. But Freeman and his colleagues soon were asking the state for permission to let the hospital grow.

They weren't the only ones. From 1989 to 1992, many Louisiana psychiatric facilities sought to increase the number of their Medicaid beds, prompting the total to climb from 471 to 1,045.

"There were no complaints from any Medicaid patients that they couldn't get treatment," said Futrell, who was Medicaid director at the time, "yet hospitals were starting up all over the state."

Other Louisiana and national officials had begun to worry that the state was overextending its Medicaid programs. Congress, informed of abuses in several states, had decided to phase out the huge disproportionate share payments over a three-year period beginning in 1992.

Effective Dec. 18, 1992, a month after Freeman's hospital opened, Pilley, the Department of Health and Hospitals secretary, signed and released to the public a rule saying that no more psychiatric beds would be approved for use in the Medicaid program.

Many hospital officials were outraged. They contacted lawyers and began twisting the arms of

state regulators, asking that their facilities be exempted from the ban. Big money was at stake; at many facilities in 1993, each bed represented more than \$200,000 in Medicaid payments, of which \$100,000 or more was profit.

Some pleas fell on deaf ears, as Department of Health and Hospitals bureaucrats said they couldn't even mail out an application packet, Futrell said.

### **New beds added**

But some hospitals did get their beds. Pilley told some hospital administrators they could get additional beds, despite the ban, according to memos and letters on file at the department.

For example, on Feb. 2, 1993, six weeks after the ban started, Pilley sent a memo to his staff asking department workers to "expedite" a request from North Louisiana Regional Hospital to add beds. By April 6, 1993, the hospital more than quadrupled its number of psychiatric beds.

Today, Pilley says he doesn't remember the particulars of the North Louisiana Hospital approval. Although interviews and records indicate some bed requests were denied, Pilley said the ban was open to legal challenges from the start and was a rule only on paper.

Across Louisiana, other hospitals wanted in. And, faced with their complaints, as well as questions from federal regulators about the way the ban had been implemented, state officials relented. On May 20, 1993, they published a new rule lifting the ban.

In 1993 and 1994, both the Department of Health and Hospitals and the Legislature had opportunities to stop the growth of psychiatric beds in the Medicaid program; neither did so. Since December 1992, when regulators determined Louisiana had enough Medicaid psychiatric beds, at least 849 have been added, nearly doubling the state's total.

As for Freeman's hospital, it more than tripled its psychiatric beds to reach 117 beds as of Dec. 2, 1993. And Freeman and his partners in November 1993 opened a second Medicaid psychiatric hospital, a 66-bed facility in Jonesville. Through their attorney, Caring officials said they would have no comment.

Of all the new psychiatric hospitals approved for Medicaid, few even applied for accreditation from the Joint Commission on Ac-

creditation of Healthcare Organizations, the national body that sets quality standards. The state let the hospitals into the Medicaid program, even though the hospitals' contract with the state required them to be accredited by the Joint Commission.

"It's right there, No. 4 on the list of guidelines," said Jack Peters, an administrator for Orleans Regional Hospital and North Louisiana Regional Hospital, two new hospitals that did get accredited by the Joint Commission. "It's very clear-cut. I assumed every hospital did it."

Lisa Deaton, a Department of Health and Hospitals licensing official, said the rule on accreditation hasn't been enforced for the past few years. She was unsure why, or whether the guideline ever was enforced. Accreditation was not a federal requirement for participation in the Medicaid program.

If the standard had been upheld, Peters said, the ability of hospitals to open and turn a quick profit would have been severely hampered. Accreditation takes time, and costs money.

### **\$2.2 million break**

Freeman's hospital got one other break in the spring of 1993. Against written state rules, Caring was allowed to claim credit for beds that hadn't been added before a state-imposed deadline.

When Caring asked for the extra payment, which amounted to \$2.2 million, a Department of Health and Hospitals employee wrote a note that the request should be denied.

Nevertheless, the department approved the payment.

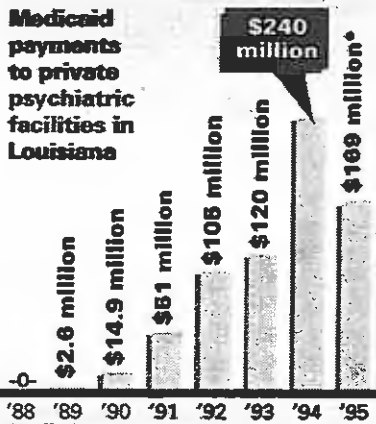
Also that spring, Freeman and two other Caring owners voted to pay themselves each \$30,000 a month, retroactive to May 1992, for serving on the board of directors. They later raised that to \$50,000 a month, for 10 months, an affidavit filed in court said.

That year, when 93 percent of the hospital's treatment was for poor patients eligible for Medicaid, Caring made profits of \$9,594,594. Caring officials spent \$86,060 on entertainment and travel, including at least 14 trips on a private airplane service. And to get around when they were on the ground, Freeman and co-owner John Gum gave themselves one other perquisite. At a total cost to Caring of \$19,564, they each leased a Mercedes-Benz.

# MEDICAID MONEY EXPLODES

Beginning in 1989, the state devised ways to get more money from the federal government. Private psychiatric hospitalization boomed. As a result:

## SPENDING SOARED



## SMALL HOSPITALS MADE BIG PROFITS

When state officials certified dozens of additional hospital beds for psychiatric patients in the Medicaid program, they allowed some brand new, relatively small hospitals to reap huge profits. In many cases, the profit margins dwarfed those of some of the biggest hospitals in the state.

### THE ESTABLISHED HOSPITALS

#### SOUTHERN BAPTIST, N.O.\*



438 beds | \$6.9 million total profit  
**Profit margin 5%**  
 (Fiscal year 10/92-9/93)

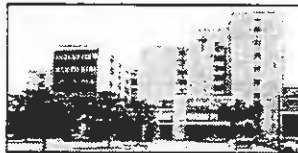
### THE NEW PSYCH HOSPITALS

#### PARKLAND, Baton Rouge



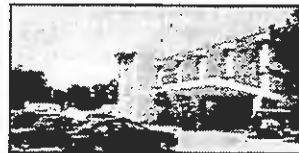
83 beds | \$9.9 million total profit  
**Profit margin 45%**  
 (Fiscal year 1/93-1/94)

#### EAST JEFFERSON, Metairie



466 beds | \$12.2 million total profit  
**Profit margin 8%**  
 (Fiscal year 1/93-12/93)

#### CARING INC., Plaquemine



117 beds | \$9.6 million total profit  
**Profit margin 48%**  
 (Fiscal year 1/93-12/93\*\*)

\*Before merger with Mercy Hospital

\*\*From court documents

Note: Profit refers to net income in hospital finance reports to the federal government.

## DOCTORS COLLECTED BIG SALARIES

Many of the doctors in the new Medicaid psychiatric hospitals received pay that was far above the norm, or did limited work, or worked at more than one hospital.

	U. S. average	Dr. Lynn Simon Caring Inc.	Dr. Richard W. Williams North La. Regional; Orleans Regional	Dr. Joe Ben Hayes Highland Hills
Pay	\$128,000	\$226,222	\$811,000	\$56,675
Avg. rate per hour	\$48	\$145	\$220	\$404
Hours/(year)	2,652 (1992)	1,560 (1994)	3,683 (1994)	140 (1/93-2/94)

Note: The hours worked are from cost reports the hospitals submitted to the federal government.

Source: La. Department of Health and Hospitals records, American Medical Association

STAFF GRAPHIC BY ERICA B. BYNUM

## RULES OF THE GAME

Thomas Nolan, a former business partner of Gov. Edwards', asked the Department of Health and Hospitals in 1993 to designate as a teaching facility a hospital he partly owned, Three Rivers, earning it extra Medicaid payments. The state said it didn't qualify. Three months later, the rules were rewritten. Instead of the tougher federal guidelines that regular, acute-care hospitals had to meet, private psychiatric hospitals had to meet only criteria "as designated by the secretary of the department."

## TEACHING HOSPITALS

Obtaining teaching status enabled private psychiatric hospitals to earn 50 percent more in Medicaid disproportionate share payments than regular psychiatric facilities. The result was large payments for little actual teaching:

Hospital	Bonus payment	Residents taught	Outlook
<b>THREE RIVERS</b> (Affiliated with LSU School of Medicine, New Orleans)	<b>\$4.3 million</b>	<b>5</b> (part-time for three months each)	None. The hospital in Covington closed in June.
<b>NORTH LA. REGIONAL</b> (Affiliated with LSU School of Medicine, Shreveport)	<b>\$2.9 million</b>	<b>1</b> (For two weeks)	LSU said it would send two or three residents to the hospital in Shreveport in the next year.
<b>ORLEANS REGIONAL</b> (Affiliated with Tulane Medical School, New Orleans)	<b>\$1.5 million</b>	<b>0</b>	Tulane canceled the agreement in June after learning from The Times-Picayune of the extra Medicaid payments. "We feel we've been somewhat used," said Marc Forman, chairman of child psychiatry at Tulane.

Source: La. Department of Health and Hospitals records

STAFF GRAPHIC BY ERICA B. BYNUM

# WHO BENEFITED FROM PSYCH HOSPITALS

Since 1989, Louisiana has maneuvered to increase its take of federal Medicaid money, boosting payments for private psychiatric hospitalization from \$2.6 million to \$240 million a year. After Gov. Edwards took office for his final term, a number of new private psychiatric hospitals tapped into the gusher of taxpayer money by admitting poor patients and billing the government for their care. They received special breaks from the state, and most earned spectacular profit margins. These are some of the biggest players.

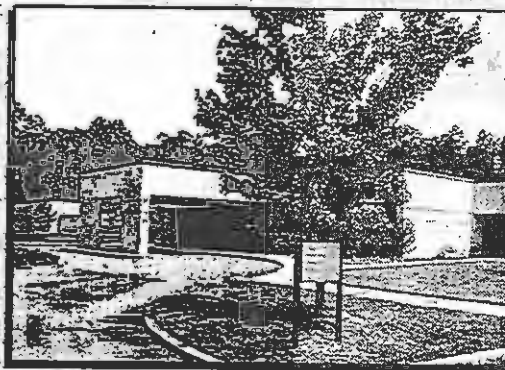
## THREE RIVERS

**Three Rivers  
Hospital, Covington**

**PROFIT**  
**\$7.2 million**  
(Fiscal year 1993-94)  
**PROFIT MARGIN**  
**22%**

### OWNERS

Ramsay Health Care Inc., a national company, owns a majority of the



hospital. Thomas A. Nolan, James Rogers and their company, TAJ Management Inc., own 31 percent; Three Rivers has paid TAJ Management \$4.7 million. In the 1980s, Nolan, Gov. Edwards and other investors owned land near Covington that they hoped to develop into a theme park. Nolan, Edwards and other Edwards family members once owned several Fuddrucker's restaurants. In 1991, Ramsay gave Edwards a \$1,000 contribution. In 1993, two companies for which Rogers and Nolan are the principal directors gave Edwards \$6,000.

### SPECIAL BREAKS

► Teaching hospital bonus: \$4.3 million in 1994 and 1995.

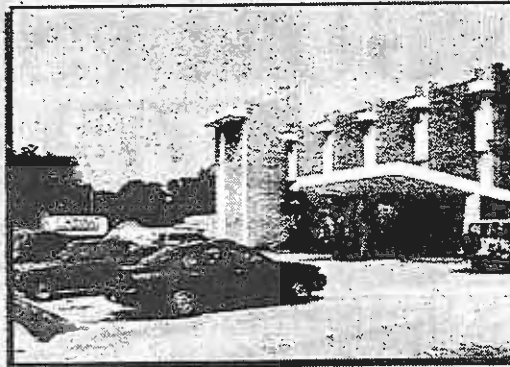
### ACCREDITATION

► National accreditation: Yes.

## CARING

- ▶ **Caring Inc.,**  
Plaquemine
- ▶ **Caring of**  
**Catahoula,**  
Jonesville
- ▶ **River West**  
**Medical Center,**  
Plaquemine

**PROFIT**  
**\$13 million**  
(Fiscal year Jan. 1993-  
June 1994)  
**PROFIT MARGIN**  
**46%**



Profit figures are for Caring. Figures for Catahoula Caring and River West's psychiatric wing were not available.

### OWNERS

Former Lt. Gov. Robert Freeman, a close political ally of Gov. Edwards' and now a Plaquemine city judge; his brother James Freeman; and John Gum Jr. Several other people have minor ownerships in one of the two hospitals. In 1993, Caring Inc. gave a \$1,000 contribution to Gov. Edwards and in 1991 River West gave him a \$1,000 contribution.

▶ River West is owned by a separate company, but its psychiatric wing is housed in a nursing home owned by the Freeman and Gum families. In 1994, the nursing home reported being paid \$762,445 in rent from River West.

### SIDE DEALS

The two Caring hospitals paid at least \$10.3 million to companies controlled by members of the Freeman and Gum families. Included:

- ▶ \$4.3 million for "directors fees" to the hospitals' three directors — Robert Freeman, James Freeman and John Gum Jr. — and their company, JRJ Services LLC. At one time, the three were paying themselves each \$50,000 a month for being directors of Caring.
- ▶ \$2.6 million for "management fees" to JRJ Services.
- ▶ \$3.4 million in rent paid by Caring to a nursing home owned by the Freeman and Gum families.

### SPECIAL BREAKS

▶ Federal rules said River West's psychiatric wing would have to wait until 1994 before it could expand. But in June 1993, the state approved new Medicaid beds for the unit anyway.

### STANDARDS OF CARE

- ▶ A 1994 inspection said Caring had too few nurses and psychiatrists. At the time, one psychiatrist was responsible for 98 patients, more than double what mental health experts recommend.
- ▶ Caring failed 1993 and 1994 surveys by federal inspectors, potentially making the hospital ineligible for Medicare or Medicaid patients. The hospital corrected its problems.

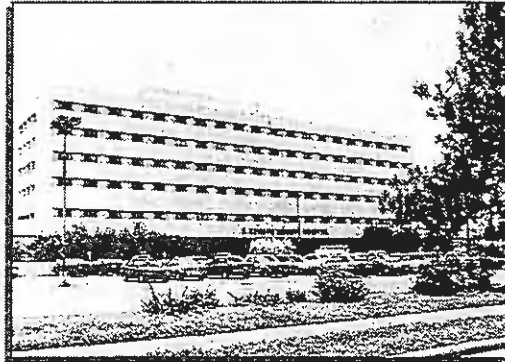
### ACCREDITATION

▶ National accreditation: The Caring hospitals, no. River West, yes.

## ORLEANS/NORTH LA REGIONAL

- ▶ **Orleans Regional Hospital**, Algiers, in F. Edward Hebert Hospital
- ▶ **North Louisiana Regional Hospital**, Shreveport

**PROFIT**  
**\$12.4 million**  
(Fiscal years 1992-94)  
**PROFIT MARGIN**  
**28%**



### OWNERS

John S. Turner Jr., a Shreveport businessman who also partly owns Harrah's Shreveport riverboat casino; William Windham, a Bossier City businessman; and Dr. Richard W. Williams, a Shreveport psychiatrist. Turner gave \$1,000 to Gov. Edwards' campaign in 1991. In 1993, Orleans was partly owned by state Rep. Steve Theriot, D-Marrero, an Edwards ally. His ownership interest has since passed to his son and business partner, Lesley, whose company owns 5 percent of the hospital. Lesley Theriot is a 1992 Edwards appointee to the Louisiana Airport Authority.

The hospitals' owners have hired former Department of Health and Hospitals Secretary Chris Pilley as a consultant and adviser since early or mid-1994, Windham said. Pilley left the department in 1993; he said he considered Turner and Windham to be friends.

### SIDE DEALS

North Louisiana paid \$3.3 million to individuals or companies linked to the hospital's owners. Orleans paid \$687,007. Included:

- ▶ **Magnolia Health Systems LLC**, owned by Turner, Williams and Windham, was paid \$607,858 for providing management services to the hospitals.
- ▶ **Conquest Air**, owned by Turner, Williams and Windham, was paid \$392,019 for providing private plane service for hospital officials.
- ▶ North Louisiana leases its building from **River Rouge Inc.**, which is owned by Turner and Windham. River Rouge bought the hospital building for \$235,000 in 1992. So far, North Louisiana has paid River Rouge \$1.2 million in rent.

### SPECIAL BREAKS

- ▶ In June, the Department of Health and Hospitals approved a \$3.3 million payment to the hospitals, even after mid-level department officials wrote the payment would be "in violation of the state plan." The payment decision was made the same week the governor and Legislature announced massive Medicaid cuts.
- ▶ Teaching hospital bonus: \$1.5 million to Orleans Regional and \$2.9 million to North Louisiana Regional. Combined, they have taught one resident.

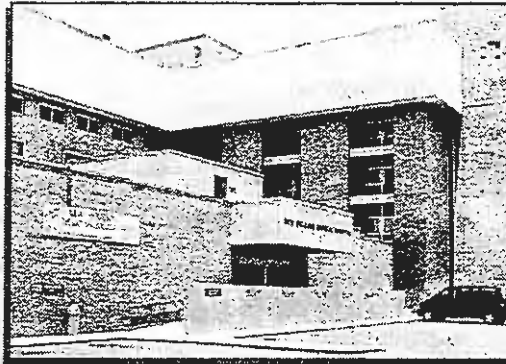
### ACCREDITATION

- ▶ **National accreditation: Yes.** Orleans Regional recently was given accreditation with commendation, the highest designation.

## N.O. GENERAL/UNITED MEDICAL

- ▶ **Reality Treatment Center**, operated a unit at New Orleans General
- ▶ **Reality Treatment Center**, operated a unit at United Medical Center, New Orleans

**PROFIT**  
**\$4.2 million**  
(Fiscal year 1993)  
**PROFIT MARGIN**  
**47%**



Reality official Lloyd Villavaso wouldn't provide financial statements for other years but said profit margins were "consistent." The hospitals received \$41 million in Medicaid money for the Reality units, which opened in 1989. Under the terms of its contracts, Reality's share would be \$30 million, and its profits, if consistent with 1993's figure, \$14 million since beginning operations.

Details of individual owners' profits or directors' fees were not available. However, in a deposition for an unrelated lawsuit, one owner, Vernon Shorty, said the value of his stock in the company rose from \$40,000 to \$675,000 between 1989 and 1993; the value of that stock now that the company has ceased operations is not known. Another owner, Martin Weitzner, said his share of the company grew from \$150,000 in 1989 to \$675,000 in 1991, when he sold it.

### OWNERS

State Rep. Sherman Copelin, D-New Orleans, president pro tem of the Louisiana House of Representatives and a close political ally of Gov. Edwards', is one of the five original owners. From 1991 to 1993, the officers of Reality and the two hospitals gave Edwards \$51,000 for his political campaigns. That included \$20,000 given on one day — Oct. 23, 1991.

### SPECIAL BREAKS

▶ State officials approved the opening of Reality's unit at New Orleans General, but four years later federal officials determined Reality's lease didn't comply with regulations. They said Reality was essentially a separate and distinct hospital, not just a wing of New Orleans General. If that ruling had been made in 1989, Reality would have been denied most of the Medicaid money it received between 1989 and 1993. New Orleans General officials disputed the federal government's interpretation, but terminated their lease with Reality in October 1993.

### STANDARDS OF CARE

- ▶ An inspection in 1992 at New Orleans General found that the psychiatrist often didn't participate in a patient's treatment.
- ▶ In 1992, inspectors recommended New Orleans General be cut off from Medicaid and Medicare payments because of low quality, but it was allowed to continue after promises that improvements would be made.

### ACCREDITATION

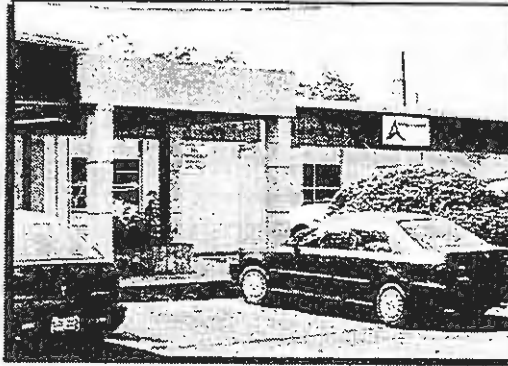
- ▶ National accreditation: New Orleans General, no. United Medical Center, yes.

## AMALGAM

**Amalgam Hospital,  
Pleasant Hill**

**PROFIT**  
**\$338,925**  
(Fiscal year 1994-95)  
**PROFIT MARGIN**  
**7%**

In 1994, State Rep. Willie Singleton, D-Shreveport, was paid \$302,000 as an attorney for and employee of the hospital.



### OWNERS

Singleton; S.P. Davis, Singleton's law partner; Phillip Penneywell Jr., Singleton's campaign treasurer; and Eric S. Bennos.

### SPECIAL BREAKS

► Amalgam was given \$385,000 in Department of Health and Hospitals grant money to help pay its start-up costs, even though state officials had determined there were enough psychiatric beds to handle the state's Medicaid population.

The grant was awarded in 1993, apparently without undergoing the department's formal review process, records show. Amalgam's grant proposal, submitted to the department two months after the hospital opened, said Sabine Parish was in desperate need of a psychiatric hospital for Medicaid patients and described itself as having constituted the "primary health care provider to the citizens of Sabine Parish for the past two months."

But no Medicaid patients from Sabine Parish had used the hospital during that period; they had traveled to hospitals in Shreveport and Alexandria. Amalgam's only Medicaid patients had been children from Caddo, Webster or Ouachita parishes, at least 45 miles away. In the 18 months after Amalgam received the grant, only 7 percent of the hospital's Medicaid patient days were for treating children from Sabine; in all, 13 such children checked in.

### ACCREDITATION

► National accreditation: No.

## HIGHLAND HILLS

**Highland Hills  
Hospital,  
Shreveport**

**PROFIT**  
**\$3.7 million**  
(Fiscal years 1992-94)  
**PROFIT MARGIN**  
**33%**



### OWNERS

Denny Gamble, a Shreveport podiatrist. During 1992 and 1993, former state Rep. Alphonse Jackson Jr., D-Shreveport, also was an owner, as was Dr. Joe Ben Hayes.

### SIDE DEALS

- ▶ In addition to sharing in the hospital's profits, the owners split "owners compensation" payments of \$380,509 in 1992 and 1993. Those years, Gamble owned 65 percent of the hospital, Jackson 15 percent, Hayes 10 percent and Hal Brennan 10 percent.
- ▶ For a 14-month period in 1993 and 1994, Hayes was paid \$56,675 for 140 hours of work — or \$405 an hour, records show. In an interview, Hayes said he worked more hours than that.

### SPECIAL BREAKS

- ▶ Reimbursements for treatment of mentally ill adults, paid apparently in conflict with federal guidelines: \$765,690 in 1993.

### STANDARDS OF CARE

- ▶ A 1992 government inspection cited the hospital because treatment plans — which are supposed to be specific to each patient — were "pre-typed" and "generic." The hospital didn't meet standards for number of psychiatrists. At the time of the survey, Hayes was the only treating and admitting psychiatrist. The inspection said he worked two or three hours a day with a caseload of from 14 to 39 patients. He was not board certified in child psychiatry, although most of the patients were children. Hayes said he never treated that many patients at once.

### ACCREDITATION

- ▶ National accreditation: No.

# THE RAYFORD HOSPITALS

- ▶ **Parkland Medical Center, Baton Rouge**
- ▶ **Dixon Medical Center, Denham Springs**
- ▶ **Ouachita Medical Center, Monroe**
- ▶ **Caddo Oaks Hospital, Shreveport**
- ▶ **Shoreline Medical Center, Metairie**
- ▶ **Bayou Rapides Hospital, Alexandria**



**PROFIT**  
**\$52 million**  
(Fiscal years 1992-94)  
**PROFIT MARGIN**  
**43%**

Robert Rayford Jr. received a cash distribution of \$4.8 million in 1993, Parkland records show. Dr. Rao Chalasani and Dr. Rama Kongara, who were shareholders and practiced at the hospital, each received a cash distribution of \$622,104 in 1993.

## OWNERS

All six hospitals are primarily owned by members of the Robert Rayford family of Alexandria. A friend of Gov. Edwards', Robert Rayford Sr. was a major nursing home operator until his death in 1991; the family business is run by his son, Robert Jr. The Rayfords and their companies have contributed or loaned Edwards \$64,500 for his campaigns since 1981. They are longtime friends of former Department of Health and Hospitals Secretary Chris Pilley, who established many of the new rules for psychiatric hospitals. In 1993, Pilley and the Rayfords vacationed together in the Caribbean.

## SIDE DEALS

- ▶ The hospitals paid a Rayford-controlled company \$9.3 million for management work. In 1993 that company paid \$791,586 in salaries for its officers and spent \$860,295 on travel and entertainment. It had a profit of \$780,962.
- ▶ Caddo Oaks Hospital leased space from a Rayford-owned nursing home, paying it \$544,437 for rent.

## SPECIAL BREAKS

- ▶ Reimbursements for treatment of mentally ill adults, paid apparently in conflict with federal guidelines: \$21 million among all six Rayford hospitals.

## STANDARDS OF CARE

- ▶ Bayou Rapides, 1994: The hospital's clinical director said it was short-staffed. The hospital was cited by government inspectors because its director of psychiatric nursing had no experience in a psychiatric hospital.
- ▶ Caddo Oaks, 1993: There wasn't always a registered nurse on duty as required, and patients' treatment plans were inadequate, "generic" and "pre-printed."
- ▶ Parkland, 1993: Patients weren't evaluated by the doctor for five or six days after admission. Under state rules, the evaluation should take place within two days. In none of a sample 25 records reviewed by the state was a diagnosis substantiated.

## ACCREDITATION

- ▶ National accreditation: State records show only one of the hospitals, Parkland, is accredited.

Sources: Financial information is from cost reports submitted by hospitals to the state, and court records. Profits are pretax, and represent the time the hospital participated in the Medicaid program. Other information is from state records, court records and interviews with hospital officials.

# Hospital payments apparently in conflict with U.S. guidelines

## Federal officials to investigate

By CHRIS ADAMS  
Staff writer

The Louisiana Medicaid program has paid millions of dollars to hospitals in an apparent conflict with federal guidelines, an investigation by The Times-Picayune shows.

The payments, for adult psychiatric and substance-abuse treatment, total more than \$25 million and resulted largely from an accounting sleight of hand. And the payments continue, two years after federal regulators advised the state that the hospitals might not be eligible for the money.

Among the hospitals that have received the payments are six, including Shoreline Medical Center in Metairie, owned by a company with ties to Gov. Edwards and former Secretary of Health and Hospitals Chris Piley.

State health officials said the situation arose from a misunderstanding of federal Medicaid rules. Federal officials said they will investigate The Times-Picayune's findings and might ask for some money back from the state, which could, in turn, seek to recover the payments from the hospitals.

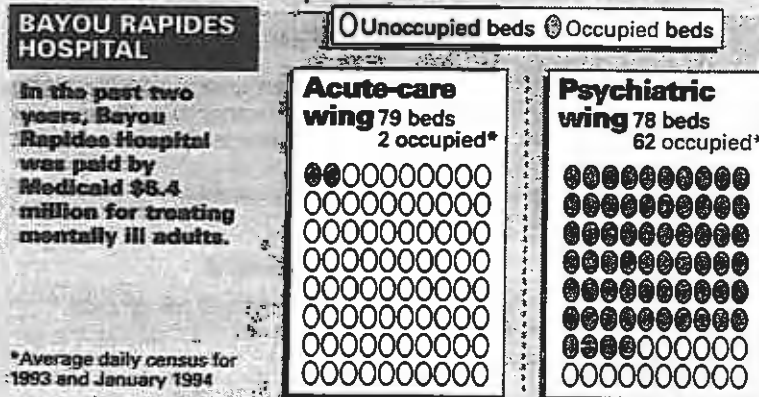
### Government rules

Medicaid is a jointly run program: The federal government sets many of the rules and sends most of the money to Louisiana, where officials in the state Department of Health and Hospitals administer the program.

One federal rule says Medicaid will pay for the psychiatric treatment of adults only when they are patients in general, acute-care hospitals. The rule is designed to help Medicaid officials control psychiatric costs, and it is enforced nationwide.



Another hospital had more acute-care beds than psychiatric beds — but almost all the acute-care beds were empty.



Source: La. Department of Health and Hospitals records

STAFF GRAPHIC BY ERICA B. BYNUM

To meet the wording of that rule — and still avoid the high cost of opening a fully equipped, full-service general hospital — several Louisiana psychiatric hospitals simply dedicated bed space to general hospital care, even though the majority of their patients were receiving mental health care.

Take, for example, Bayou Rapides Hospital in Alexandria.

The hospital is one of seven in the state controlled by the family of the late Robert Rayford Sr. Rayford, his family and his companies have given or loaned \$64,500 to Edwards' campaigns

since 1981, and the Rayfords are friends with Pilley, secretary of the Department of Health and Hospitals until 1993.

In documents submitted to the state, Bayou Rapides, opened in a converted nursing home, said it was a general, acute-care hospital. Within that hospital, Bayou Rapides had what state bureaucrats call a "distinct part" psychiatric unit, a portion of a full-service hospital dedicated to treating mental illness. In 1993 records, Bayou Rapides said its general wing had 79 beds and its psychiatric wing 78 beds.

### Counting beds

Federal rules for determining the true character of a hospital say a mental hospital is one "maintained primarily for the care and treatment of individuals with mental diseases." Pilley said recently that he had advised Robert Rayford Sr. that as long as his hospitals had more beds in their general wing than in their psychiatric wing they could qualify as general hospitals — and get paid by Medicaid for treating adults for mental illness. Whether those general-

care beds actually were used apparently didn't matter.

Pilley and other department officials said they were given that interpretation of the rules by an official with the federal Health Care Financing Administration, which oversees Louisiana's Medicaid program. Pilley said he couldn't recall the official's name.

"At the time, I didn't really question whether it made sense. It was my understanding that it was the rule," he said.

Pilley said the federal government never gave that interpretation in writing, which is the standard procedure. Andy Fredrickson, the federal official in charge of Louisiana's Medicaid program, said recently that the federal government considers such an interpretation "totally wrong."

Even so, the Department of Health and Hospitals licensed Bayou Rapides as a general hos-

pital. The hospital then treated the vast majority of its patients in the psychiatric wing, state records show.

In 1993 and January 1994, 97 percent of the days spent by patients in the hospital, called "patient bed days," were in the psychiatric unit, the hospital's annual report says.

The hospital switched its certification in 1994 to that of a mental hospital. Before doing so, however, Bayou Rapides was paid at least \$6.4 million by Medicaid for treating mentally ill adults, according to The Times-Picayune's analysis of 1993 and 1994 claims.

Robert Rayford Jr., in a written response to Times-Picayune questions, said none of his hospitals — including Bayou Rapides — was found by state officials to be out of compliance with licensing requirements. He said the state even provided his company "detailed technical ad-

vice on the allocation of beds," and that all other hospitals in Louisiana received the same treatment his did.

Bayou Rapides wasn't the only hospital in that situation. Several hospitals statewide, including five others owned primarily by the Rayfords, described themselves on paper as general hospitals while the vast majority of their care was psychiatric.

In most of those hospitals, the traditional medical wing had just over half the beds but was nearly empty — while the psychiatric wing was bustling. Many of these hospitals were new and didn't have the equipment, much less the staff, to perform surgeries, deliver babies or even set a broken bone, state inspection reports show.

### Federal complaints

The federal government, which sends Louisiana most of its Medicaid money, was alarmed by the explosion in state psychiatric costs. In April 1993, federal officials alerted Louisiana in a letter that some hospitals, including Shoreline and Parkland Medical Center in Baton Rouge, two Rayford hospitals, might be classified improperly. A follow-up letter said Parkland "may well have been a ... (mental hospital) since it began operation."

Federal and state officials also met with each other. On Aug. 17, 1993, at the Health Care Financing Administration regional office in downtown Dallas, Louisiana Medicaid officials promised a thorough review of all suspect hospitals.

Jimmy Street, a federal finance official, urged the state to conduct the review as quickly as possible. Tom Collins, the state's Medicaid director, told Street the review should be completed by Jan. 1, 1994; it wasn't completed until November 1994.

Street further suggested that the state try to get back money obtained by hospitals not meeting federal guidelines.

Since that 1993 meeting, two things happened that allowed millions of dollars more in adult psychiatric payments to flow to hospi-

# Payments: Appear to be in conflict

From A-16

tals that Fredrickson, the Health Care Financing Administration official in Dallas, says probably shouldn't have been eligible.

Instead of stopping payments abruptly, the state waited more than 12 months. For example, Shoreline was flagged by a state inspector as early as February 1993 as a psychiatric facility that may have been a full-service hospital in name only.

Shoreline essentially admitted as much. In one state document, submitted when it opened in 1992, Shoreline was asked to declare what label "most accurately describes the hospital." Shoreline officials marked "psychiatric." When it placed an advertisement in the 1993 New Orleans phone book, Shoreline said only that it offered "adult psy-

chiatric services, medical detox and dual diagnosis program."

Yet when state inspectors showed up Feb. 26, 1993, Shoreline officials said their facility was a general, acute-care hospital.

"The provider insisted that the beds are medical-acute care beds," the inspector wrote. "But (hospital officials) did state that they doubted a general medical patient would want to come to their hospital."

In their April 1993 letter, federal officials specifically mentioned Shoreline as a possibly ineligible hospital.

But between that letter and July 7, 1994, when Shoreline's classification was switched to a mental health facility, 236 Medicaid-eligible adults checked into Shoreline for mental health treatment, ringing up \$1.42 million in Medicaid payments, the Times-Picayune review of Medicaid claims shows.

Soon after the state switched Shoreline's designation, cutting off the lucrative payments, Shoreline slowed its Medicaid admissions. The hospital, which occupied one floor rented from Lakeside Hospital in Metairie,

closed this year.

Although federal officials urged Louisiana officials to recoup any questionable Medicaid payments, "it never seemed like they really wanted to," Fredrickson said. There are no plans to do so, he said.

## Practice common

Although some hospitals have switched their status from general hospital to psychiatric hospital, some are still operating under a general license even though most of their patient days are in the psychiatric wing.

When determining the nature of a hospital, government regulators look at several factors: the range of services offered, the types of physicians on staff and the way the hospital advertises itself to the public. But a "critical criterion" is how many patients are in for mental treatment.

"If the psychiatric care goes a little above 50 percent, that's kind of iffy," Fredrickson said. "But when it gets to 60 percent or 70 percent, then a case can be made that it really is a mental hospital."

## RULES OF THE GAME

### WHAT'S IN A NAME?

**A number of hospitals that classified themselves as acute-care or general hospitals treated mostly psychiatric patients. The acute-care label allowed them to bill Medicaid for psychiatric treatment of adults.**

► Six Rayford hospitals initially were classified as general hospitals even though the vast majority of their care was for mental illnesses. In 1993 and 1994 — before they closed, changed classifications or modified operations — those hospitals were paid at least \$21.9 million by Medicaid for treating mentally ill adults. The Rayford hospitals receiving payments were Bayou Rapides Hospital, \$6.4 million; Caddo Oaks Hospital, \$4.7 million; Dixon Medical Center, \$6.2 million; Parkland Medical Center, \$672,775; Ouachita Medical Center, \$883,425; and Shoreline Medical Center, \$3.1 million.

► In Vacherie, River Region Hospital is classified as a general hospital, although its advertisement in the local phone

book says only that it treats "alcohol and drug abuse, depression, sexual/physical abuse, and behavioral/emotional problems." The receptionist answering the phone recently said the facility was for "psychiatric and chemical dependency" problems. Although it has 21 medical beds and 19 psychiatric beds, in the past two years 89 percent of all its patient days were in the psychiatric wing. During that time Medicaid paid the hospital \$3.2 million for treating adults.

► In Shreveport, Highland Hills Hospital opened in 1992 as a general hospital with a psychiatric wing. In 1993, 79 percent of the hospital's patient days were in the psychiatric wing, and it was paid \$765,690 by Medicaid for treating mentally ill adults. It has since switched its classification to a mental hospital.

► In Pineville, two hospitals are contained in the same building, one called RiverNorth, one called Northgate. They are owned by the same company, run by the same administrator. RiverNorth is classified as a psychiatric hospital; Northgate is called a general hospital. Northgate treats Medicaid-dependent adults who have mental illnesses. It does take general

medical patients, although nearly all are admitted to the acute-care wing 60 miles away in Many, at another hospital owned by the same company. After a 1994 visit to the Pineville building, an inspector wrote that there "are very unclear boundaries" between the two hospitals and that employees had name tags that said "RiverNorth" on one corner and "Northgate" on the other. In the combined RiverNorth/Northgate Building, the average daily census for a six-month period in 1994 was 98 percent psychiatric. In the past two years, Northgate has been paid \$3.2 million by Medicaid for treating mentally ill adults.

► Riverside Community Hospital in Bossier City is classified as a general hospital. In 1993 and 1994, 82 percent of its patient days were for psychiatric treatment. During those two years, it was paid \$4.2 million for treating mentally ill adults.

► New Orleans General Hospital, which paid a company partly owned by state Rep. Sherman Copelin, D-New Orleans, to run its psychiatric wing, had 60 percent of its patient days for mental health in 1993. That year, a federal reviewer wrote that the distribution of beds in the hospital

"seems to indicate that this facility is primarily engaged in providing psychiatric services." In 1993, New Orleans General was paid \$5.8 million by Medicaid for the mental health treatment of adults.

# Private operations benefit from Medicaid rule change

## *Charity system is the big loser*

By CHRIS ADAMS  
Staff writer

In the arcane rules that govern Medicaid finances, a few carefully placed words can mean millions of dollars. That's what happened in 1993, when a three-sentence provision inserted into the state's Medicaid guidelines pumped \$7.6 million into a group of politically connected, high-profit private psychiatric hospitals.

The rule was suggested by an official with a company partly owned by an influential lawmaker — state Rep. Sherman Copelin, D-New Orleans — whose company then benefited from it. The provision was removed less than a year later, when state officials decried it as both unwarranted and harmful to the interests of the state-owned Charity hospitals.

Here's how it worked:

In the spring of 1993, the federal government told Louisiana it was spending far too much on a Medicaid program that gave money to hospitals serving a "disproportionate share" of poor patients.

The state was told that no matter how many hospitals participated, no matter how many patients were treated, Louisiana would have to stay within a certain limit.

To stay within that limit, state officials, led by Department of Health and Hospitals Secretary Chris Pilley, devised a "pool" system based on "patient bed days."

Every night a Medicaid patient stayed in a hospital that had disproportionate share status counted as one point. There would be four pools, including one for psychiatric facilities.

### **Built-in bonus**

Under the rules of this system, Pilley said he would tally up all the points in the pools and divide the money according to each hospital's share.



**Department of Health and Hospitals Secretary Chris Pilley approved a rule allowing private hospitals to reap extra Medicaid payments. Several months later, he seemed to regret what he had done.**

But then Pilley added a twist: three sentences that gave hospitals extra points if their percentage of patients on Medicaid was above a certain threshold.

Because most of the new private psychiatric hospitals were almost exclusively treating Medicaid patients, and most of the large public hospitals in the Charity Hospital System had thousands of non-Medicaid patients, the new provision represented a windfall for the private hospitals.

An analysis of Department of Health and Hospitals finance records show that, in 1993's psy-

chiatric pool, an extra \$8.5 million that would have gone to other hospitals was awarded to private hospitals because of this new rule. Nearly 90 percent of the money went to a small group of hospitals, all of which already were highly profitable.

### **Special calculation**

The idea for the provision, known as the 1.25 multiplier because it increased a hospital's number of points by a factor of 1.25, can be traced either to an official with Copelin's company or to Pilley, records show.

The meeting notes of a state official show that the 1.25 multiplier was suggested by the president of Copelin's Reality Treatment Centers, Mark Keiser. On March 3, 1993, Keiser met with

## RULES OF THE GAME

### THE BONUS POOL

**In 1993, the state changed the rules about how to distribute a \$122 million pool of Medicaid money for psychiatric hospitals treating a high percentage of poor patients. The effect of the new rule was an extra windfall for a small number of private hospitals.**

- ▶ Six hospitals controlled by the family of Robert and Iris Rayford Sr. received an extra \$3.2 million because of the rule change. The Rayfords have been major campaign contributors to Gov. Edwards and are friends of former Department of Health and Hospitals Secretary Chris Pilley's.
- ▶ North Louisiana Regional Hospital in Shreveport, partly owned by a campaign contributor to Edwards and a former business partner of state Rep. Steve Theriot's, D-Marrero, received \$1.2 million extra.
- ▶ Caring Inc. in Plaquemine, which former Lt. Gov. Robert Freeman, a political ally of Edwards', partly owned, received \$831,118.
- ▶ Three Rivers Hospital in Covington, partly owned by a former business partner of Edwards', received \$782,076 extra.
- ▶ New Orleans General Hospital and United Medical Center in New Orleans paid Reality Treatment Center, a company partly owned by close Edwards ally Rep. Sherman Copelin, D-New Orleans, to provide psychiatric care within their facilities. Those two hospitals received an extra \$799,048 in psychiatric payments.
- ▶ River West Medical Center in Plaquemine earned an extra \$675,132 in psychiatric payments.
- ▶ Highland Hills Hospital in Shreveport, which until 1993 was partly owned by former state Rep. Alphonse Jackson Jr., D-Shreveport, received an additional \$131,313.

money, the memo said the 1.25 multiplier "would serve to provide them (the hospitals) with payments more comparable to those they were getting under the old methodology."

On March 16, Pilley approved the rule, records show.

Several months later, he seemed to regret what he had done.

In a late 1993 meeting to discuss Medicaid policy, Pilley and department officials reviewed the 1.25 multiplier. According to a transcript of the tape-recorded meeting, here is what they said:

Pilley: "The psych facilities are eating our lunch. I don't know how many state facilities qualify for it."

Mike Doering, an accountant: "Zero."

Pilley: "Why are we giving them this? The psych facilities, in essence they are getting a 25 percent kickback."

Robin Hunn, a department official: "It was your idea."

Pilley: "Yes, I know it was my idea to start with, but now we can take it away."

It was removed from the Medicaid rules, beginning in 1994.

a department finance official and asked for a "Medicaid-dependent hospital" designation that would give the two hospitals higher Medicaid payments.

Department finance officials notified Pilley in a March 15 memo that such a rule, by their initial calculations, would benefit only eight hospitals, including the two linked to Copelin and four hospitals primarily owned by the family of Robert Rayford Sr. — Bayou Rapides Hospital, Caddo Oaks Hospital, Dixon Medical Center and Ouachita Medical Center. As it turned out, several other private psychiatric facilities did qualify.

Although the new pool system was intended to scale back hospitals' disproportionate share

## RULES OF THE GAME

How would you like a \$2 million loan, interest-free, from the state of Louisiana? Since 1993, Medicaid has

overpaid 30 hospitals a total of \$38 million because it paid them in advance for care they anticipated, but ended up not providing. For example: Catahoula Caring estimated its patient days for 1994 at 24,031 — meaning its 66 beds would have to be filled 99.7 percent of the time. The hospital actually had 11,783 Medicaid patient bed days that year. The state has yet to recover the \$1.9 million overpayment.

## ADVANCE PAYMENTS

The state overpaid hospitals because it let them estimate how many "patient days" they would earn in a given year for treating poor patients, then paying them in advance. Some hospitals estimated far too high. The overpayments for several hospitals have not been recovered, and some of them have closed or are about to.

Hospital	Year	Projected days	Actual days	Over-payment	Status with Department of Health and Hospitals
North Louisiana Regional, Shreveport	1993	31,726	19,890	\$3.8 million	Recovered \$2 million; two years, interest-free, to pay back the remaining.
Caring Inc., Plaquemine	1993	21,000	19,259	\$569,459	Settlement reached on that overpayment, plus \$1.3 million in other overpayments. Recovered most; hospital has 12 months to pay back \$489,000 balance, interest-free.
Catahoula Caring, Jonesville	1994	24,031	11,783	\$1.9 million	Yet to recover the money.
Shoreline Medical Center, Metairie	1993	8,427	4,426	\$1.3 million	Recovered all but \$245,943. Hospital closed in mid-1995.
Parkland Medical Center, Baton Rouge	1993	26,558	15,171	\$3.7 million	Yet to recover the money.
New Orleans General, New Orleans	1993	24,104	19,286	\$2.7 million	Yet to recover the money. Hospital closed in July.
Fairfield Hospital, Shreveport	1995	9,052	NA	NA	Paid \$497,000 in June for projected 1995 care. Hospital closed in July.

Source: La. Department of Health and Hospitals records

STAFF GRAPHIC BY ERICA B. BYNUM

## FRIENDS IN HIGH PLACES

Sometimes it helps to talk to the governor. That's what North Louisiana Regional Hospital and Orleans Regional Hospital learned this spring.

**1) The hospitals ask for an extra payment for designation as Medicaid teaching hospitals.** North Louisiana Regional and Orleans Regional sought several million dollars in extra Medicaid reimbursements they said they were entitled to.

**2) The hospitals' request for payment is denied.** In April, a mid-level official in the Department of Health and Hospitals wrote,

"... we have concluded that there is no justification to support additional payments to either of these two hospitals."

**3) The hospitals appeal to Gov. Edwards.** Hospital officials met with Edwards at the Governor's Mansion. A Department of Health and Hospitals official was told to attend. The meeting was set up by top Edwards aide Sid Moreland, an old college friend of hospital part-owner William Windham. Hospital officials followed up with a letter to Edwards.

**4) The state makes the payment.** In May, state officials wrote to the hospitals,

"The Department is prepared to enter into a settlement agreement in which payments would be made."

The state then paid the hospitals \$3.3 million. Because state officials determined the payment was in violation of Medicaid guidelines, the money came from the state general fund.

## WHAT THEY SAID

### The department:

Charles Castille, the department official who approved the payment but said he wasn't ordered to, said a former department official whom he wouldn't name had said the hospitals would be paid the money, raising the possibility that the department would be sued.

### Hospital officials:

Windham, chief executive officer and part owner of both hospitals, said the payments were proper and that the state

Source: La. Department of Health and Hospitals records

# Patients suffer restraints, neglect at high-profit psychiatric hospitals

By CHRIS ADAMS  
Staff writer

He showed up Sept. 21, 1994: a 10-year-old boy admitted into Fairfield Hospital of Shreveport, one of the state's new breed of psychiatric facilities. He was still there almost five months later — and his condition had worsened.

During the boy's stay for psychiatric treatment, an inspection report shows he was placed 28 times in a four-point restraint — a device, shunned by many psychiatrists, that pins the arms and legs to the four corners of a bed.

On Dec. 11, 1994, a doctor had noted that there was "no progress, actually regression" in the boy's status. The evaluation Feb. 5 was the same: "No improvement over yesterday, last month, last week or last year."

The hospital's medical director and chief psychiatrist, during much of this period, was elsewhere. State records indicate that in the fall of 1994, Dr. Suresh Donepudi visited the hospital only on Monday afternoons and Thursday mornings; he also was medical director of two psychiatric facilities in other cities. Neither Donepudi nor the hospital's administrator returned phone calls from *The Times-Picayune*.

Inspectors found a host of problems at Fairfield, a hospital that between September 1994 and July 1995 opened, took in \$1.8 million in Medicaid payments and then closed. It was owned primarily by the brother and cousin of state Sen. Gregory Barro, D-Shreveport, who served as the hospital's corporate counsel.

The situation at Fairfield wasn't unique. The state's Medicaid psychiatric budget mushroomed in the past four years as more than three dozen psychiatric units opened their doors to cash in on a bonanza of Medicaid money. They pulled in millions of dollars for some politically well-connected business people. But the care some patients received was skimpy and, at a few facilities, shockingly inadequate, according to state inspection reports and interviews with dozens of mental health experts.

"The growth of these facilities was driven by economics. There was money to be made, and there were dollars-and-cents questions

asked long before quality of care even came up," said Edward Hardin, a Baton Rouge lawyer who specializes in mental health issues and is familiar with the new psychiatric facilities.

► In many facilities, even those with dozens of beds, one doctor treated most, if not all, patients. Some psychiatrists saw their patients sporadically, giving each a glancing examination before zipping off to private practices or to another hospital. Of the 15 facilities that received the most Medicaid money in the past five years, five were cited by government regulators for not having enough doctors to adequately attend to their patients.

► Many doctors who mostly treated children weren't board certified in child psychiatry, as recommended but not required by the state. Although they had psychiatric training, it usually was in the treatment of adults; they often lacked the expertise to deal with the complex needs of young children, mental health experts said.

► Most of the hospitals were unaccredited, meaning they didn't submit to the rigorous quality reviews administered nationally by the Joint Commission on Accreditation of Healthcare Organizations. The state contract that allows a psychiatric hospital to participate in Louisiana's Medicaid program requires the hospital to be accredited by the Joint Commission.

► With limited staff, some hospitals skimped on intensive therapy and depended on cheap and potentially dangerous patient-care practices, such as the overuse of restraints, seclusion and medications. Lori Geisler, a worker with a Jefferson Parish mental health advocacy service, said sometimes "the patient actually ends up worse than when they went in."

Dr. Jeanne Estes, a Baton Rouge psychiatrist who reviewed the care at many facilities for the Louisiana Psychiatric Medical Association, said she often was appalled. It's "immoral but not illegal," she said. "There's no way to stop it until the Medicaid money dries up."

## Hospitals mushroom

In the 1980s, few private hospitals in Louisiana provided psychiatric treatment to Medicaid patients. The money wasn't good enough.

But then state officials took advantage of an obscure Medicaid provision called "disproportionate share," causing the federal government to send Louisiana hospitals that serve a large number of poor patients higher and higher reimbursements. Suddenly, in about 1992, making a profit from Medicaid was more than possible; it was virtually assured.

"It really started when the dispropo money became available," said Roxanne Sykes, a Baton Rouge lawyer who has represented patients of some of the new facilities.

"These hospitals went up quickly, without adequate staff, without adequate training."

It happened so quickly that many experts in the mental health field still aren't aware that some of the highly profitable hospitals existed.

"I haven't even heard of those two," Dr. Ruth Ettinger, former president of the Louisiana Psychiatric Medical Association, said when asked about two new psychiatric hospitals in New Orleans, her hometown. In less than three years, one of the hospitals opened, turned a profit, and then closed.

To cash in on the new Medicaid payments, the hospitals needed three things: a building, patients and doctors.

The buildings were easy to come by; new psychiatric hospitals were set up in unused wings of existing hospitals or nursing homes, or in community hospitals that had been mothballed.

The patients, too, were easy to find. Some hospitals hired headhunters who rounded up patients, often children, some as young as 3, from poor neighborhoods, state investigators said. State officials said several hospitals started admitting children who had no need to be hospitalized, and many patients were hospitalized for two, three or four months — far longer than in hospitals accepting traditional, private insurance. Hundreds of children have been ad-

## BAD BEHAVIOR

### "I don't know of any studies that show hospitalization is an effective treatment of conduct disorder."

SHANNON ROBESHAW, president, Mental Health Association of Louisiana

mitted for "conduct disorder," a diagnosis similar to old-fashioned acting up, mental health professionals said.

When the state — prodded by the federal government — toughened its Medicaid admissions requirements late last year, at least 10 psychiatric facilities saw their patient count drop in half.

"We don't think it's appropriate to admit these kids to a psychiatric hospital," said Tom Collins, the state's acting Medicaid director. "Not only does it cost money, but it unnecessarily brands these kids for life. It could affect them getting jobs, getting in the military."

And the doctors?

"One of these new hospitals approached me two years ago, asking if I wanted to be involved," said Dr. David Rees, a psychiatrist in Lafayette. "I was told all I had to do is show up once a week to sign the medical sheets. I didn't do it because it sounded disreputable."

#### Doctors offered easy job

Enough doctors, however, did sign on and, in some instances, handled so many cases that mental health professionals said it would have been difficult to provide adequate care.

State health regulators say that was the case at Caring Inc., a psychiatric hospital in Plaquemine, where Dr. Lynn Simon, a psychiatrist, became clinical director in November 1992 while still operating under what state officials call a provisional license.

In 1984, Simon had had his medical license stripped by the Louisiana State Board of Medical Examiners for illegally prescribing a morphinelike drug in unusually high quantities. For the next several years, Simon applied to get his license back, and eventually received a provisional license.

When hired by Caring, a new facility partly owned by former

"Conduct disorder" refers to children who exhibit a wide range of anti-social behavior that is worrisome, but not usually serious enough to require a hospital stay. Those who support hospitalization say the diagnosis may mask more serious disorders that are apparent only after further evaluation.

#### Here are some hospitals' percent of Medicaid juvenile admissions for conduct disorder\*:

State average	30%
Ouachita Medical Center	76%
Caddo Oaks Medical Center	55%
Caring Inc.	44%
Bayou Rapides Medical Center	43%
Parkland Medical Center	39%

\* Percentages refer to patient days for children admitted for one of several primary diagnoses of conduct disorder, as defined by the International Classification of Diseases. Claims are from hospital distinct-part psychiatric units from March 1993 to March 1995, and from mental hospitals from January 1995 to March 1995. Total patient days included in review: 106,769.

Source: La. Department of Health and Hospitals records

Lt. Gov. Robert Freeman and set up in an abandoned hospital, Simon still was prohibited from prescribing certain drugs on his own, state records show. Simon took over as clinical director of the hospital, which treats children, although his psychiatric residency training was with adult patients. And he didn't get the training required for board certification in child psychiatry, according to the Louisiana Psychiatric Medical Association.

The hospital quickly filled its beds, and quickly came under fire from government inspectors.

"This facility opened on Nov. 17, 1992, and by the third day was filled to capacity," one inspector wrote. "They do not seem to have had the time to pay attention to all of the details necessary to achieve compliance with our standards."

In the next several months, children were repeatedly put in seclusion or restraints, practices that inspectors say become common when staffing levels are inadequate. During a February

1993 survey, for example, 35 patients were in Caring. During the two days before the inspection, eight had been in locked seclusion and five had been in leather or full-body restraints. A 1994 survey showed there often was no indication in a patient's files why the restraints had been ordered.

In some cases hospital records didn't indicate that children received the individual attention that state inspectors said they would expect to see.

► Feb. 21, 1994: A 14-year-old girl was admitted with "oppositional defiant behavior." There were no progress notes by the psychiatrist to determine the girl's condition for 24 days.

► April 20, 1994: A 13-year-old boy was admitted with conduct disorder. There were no progress notes on the boy's condition for 23 days.

► June 24, 1994: A 12-year-old girl was admitted. For more than one month, there were no psychiatric progress notes except comments that the girl was "doing well."

See next page

### From preceding page

During this time, the number of psychiatric beds at Caring tripled; the care was being handled largely by Simon. On Aug. 1, 1994, the date of a state inspection, he was the only psychiatrist on staff. The hospital's half-time psychiatrist had just resigned.

Simon was responsible for the treatment of 98 patients, more than double the patient load mental health experts consider manageable. After being cited by inspectors, the hospital added two full-time psychiatrists, state records show.

For the year, Simon was paid \$251,222, the hospital's financial statement says. Simon and the hospital administrator have referred all questions to their attorney, who had no comment.

### Standards spelled out

For a hospital to participate in Medicaid, it must follow myriad rules designed to ensure patient safety and adequate care. The rules, set by the federal government and enforced by the state, involve everything from the number of nurses on duty to the care given by psychiatrists.

The best psychiatric hospitals have standards that are far higher. Their patients are seen three or four times a week by a psychiatrist; a full range of activities is offered; and restraints and seclusion are a last resort, if they are used at all.

At many of the new psychiatric hospitals, the government's minimum standards weren't always met. For example, Orleans Regional Hospital in Algiers and North Louisiana Regional Hospital in Shreveport, owned by the same investors and opened within a year of each other, failed their first quality inspections. Federal officials say that happens less than 20 percent of the time.

When Orleans Regional was first inspected in 1994, investigators found patients admitted with an "unsubstantiated diagnosis," many without undergoing needed medical exams. There was no evidence the psychiatrist saw some of the patients, all of them children.

When North Louisiana was inspected in 1993, some of the same criticisms were leveled. In-



STAFF PHOTO BY BRYAN S. BERTEAUX

## SUDDEN DEATH

**Clyde Felix, above with his daughter Sandra, sued a Pineville psychiatric facility after his son, Kevin Felix, right, died in 1993. The younger Felix had checked himself into Northgate Hospital for a drinking problem; while there, he stopped breathing. Although Northgate was licensed as an acute-care hospital, staff members called 911 and asked for an ambulance. Felix was rushed to a local Charity hospital, where he died.**



investigators singled out the case of a 16-year-old girl, who had seen her father kill her mother.

When she was admitted, the girl was withdrawn, depressed and suicidal. But North Louisiana's treatment plan called for none of the intensive psychotherapy that a government reviewer said the girl needed. Instead, she was sent to an "anger lecture one time," and "group therapy 5x weekly," her medical records stated.

"How and when the trauma and grief and loss are to be addressed and by whom are never addressed," the reviewer wrote. "The discharge plan states, 'return home to reside,' but she has no home. Her mother is dead and her father is in prison."

Both hospitals have corrected their problems, and their owners attributed the failed inspections to "growing pains" and overzealous inspectors. Both facilities have earned national accreditation.

Few other private hospitals did. Of the 15 that received the most money from Medicaid's psychiatric program, only five are accredited by national organiza-

tions, state records show.

Several psychiatrists said that minimal treatment like that given to the 16-year-old girl was unacceptable, but better than nothing. At least the patient was in an institution, out of harm's way. That reasoning didn't always ring true, though.

The practice of restraining patients in leather straps has long been controversial in psychiatry. In the 1960s, it was banned in 36 states; since then it has been reinstated in some of those states.

Strapping down a patient by his arms, legs and sometimes waist — called the five-point restraint — can, many psychiatrists say, do more harm than good.

"It's horrifying. It's dehumanizing," said Dr. Patrick Dowling, a New Orleans psychiatrist. "It's something that people have nightmares about afterward."

Proponents of restraints say they should be used on a limited basis to keep patients from hurting themselves, Dowling said.

But, he said, some new psychiatric hospitals used them to reduce costs. "By using restraints, you can cut down on the number

of workers you need," he said.

At Fairfield, state inspectors concluded that restraints were used excessively, sometimes as punishment, sometimes because the staff was too small.

Hospital workers used straitjackets and other restraints without approval of the hospital's governing body, sometimes "with no clinical justification," a state review said.

One patient's chart indicated: "In 4 point restraints, he has been a naughty boy."

Another declared: In four-point restraint "because of excessive use of the phone above his allotted time."

Patients were restrained in chairs, restrained with their hands behind their backs. One youngster was restrained because of a "bad attitude," one because he "still won't settle down," one because he "talks too much, defiant." One mentally retarded patient was confined in wrist restraints most of the day.

Often the restraints were ordered by nurses, not doctors. At Fairfield, nurses were allowed to put a patient in restraints at

night and then alert the psychiatrist the next morning. Nearly half the staff members interviewed by state inspectors acknowledged that patients often were put in restraints because there weren't enough workers to handle them.

Fairfield was cited because a doctor wasn't available 24 hours a day, as required. On the west wall of the second-floor nursing station, a small memo was posted: "Do not call MD at night."

This spring, the state Department of Health and Hospitals threatened to cut off the hospital's participation in Medicaid, although it relented after state Sen. Gregory Barro and his brother, Albert Barro, a part-owner of the hospital, assured the department the problems were being corrected. The hospital closed in July, just as the state's high Medicaid reimbursements ended.

### Who's the boss?

Just how lax supervision became at some of the new psychiatric hospitals astonished field inspectors.

On the morning of Oct. 3, 1994, two inspectors arrived at Northgate Hospital in Pineville for a routine visit. As always, they started with the basic questions: How many nurses are there? How many doctors? Who is the medical director?

The Northgate's assistant administrator said the medical director of the psychiatric unit was a Dr. Puvvada.

Later in the day, the hospital's nursing director said the medical director was a Dr. Benghozi.

The inspector went back to the assistant administrator, asking again: Just who is the medical director?

The assistant administrator replied: Dr. Puvvada. Or, rather, he said he was "almost sure" it was Dr. Puvvada.

A few hours later, the story changed. The hospital's top administrator told the assistant administrator that the medical director was Dr. Lyn Goodin.

Not according to Goodin's personnel file.

"Subsequently, it seems clear that there is less than optimal psychiatric leadership on this unit if even the administrators and staff cannot agree on who is currently the medical director," the inspector wrote.

Northgate shares a building with RiverNorth, a psychiatric hospital with the same owners. Federal rules don't allow RiverNorth to receive Medicaid reim-

bursement for treating adult patients. But Northgate can, because it is an "acute-care" hospital, even though its primary acute-care facilities are 60 miles away.

Kevin Felix was 34 when he checked into Northgate. He had been drinking heavily for several months, ever since Oct. 9, 1993, when his mother, just 53, died of a brain aneurysm.

"He had a bottle of beer with him all day," said his father, Clyde Felix. "I'm not a drinking man, and it was upsetting to me. I couldn't handle it."

When Kevin Felix drove his late mother's car while drunk, Clyde Felix told him his mother wouldn't approve.

Kevin Felix agreed. "Well, Daddy," Clyde Felix recalls him saying. "I'm going to go and see about myself."

Kevin Felix checked into Northgate the first week of December. It was a new hospital, specifically designed, administrators said, to attract as many Medicaid patients as possible.

Five days before Christmas, Felix seemed to be doing fine. He was sleeping well. He was cooperative. His mood was improving. He talked to his grandmother, saying he'd be home by Christmas Eve.

That evening, when a nurse checked on him, Felix wasn't breathing, a state report says. A code blue was called, but Northgate, though approved by the state as an acute-care hospital, had to dial 911 for an ambulance. Felix was rushed to the local Charity hospital, where he died, state records show.

The family is still trying to find out what happened to Felix. His autopsy was inconclusive, his death labeled "undetermined," state records show. It's unknown whether the need to transport him to another hospital played a role in his death.

The family has sued, saying the Pineville hospital delivered poor care and wasn't equipped to handle the medical complications Felix may have experienced. The lawsuit is in its preliminary stages. Hospital officials had no comment on the case, other than to say that of thousands of patients a year in for detoxification, a few unexpectedly die from complications.

"He was perfectly healthy, with the exception of the drinking problem," Clyde Felix said. "He had already passed through detox. How could this happen? It's baffling to me."

## THE LONG WEEKEND



**Dr. Richard W. Williams**, who earned \$811,000 in pay in 1994 as a psychiatrist for two private Medicaid hospitals that he co-owns, was the treating psychiatrist for dozens of patients a day, including the weekend of Feb. 19-20 at North Louisiana Regional Hospital in Shreveport.

### WHAT WAS BILLED

**The hospital billed Medicaid \$4,039 for 77 visits Williams had with patients on each of the two days.**

Under Medicaid guidelines, visits of this kind typically would last 15 or 25 minutes; if each of Williams' visits were consistent with those typical times, he would have had to work 21 hours Saturday and 21.5 hours Sunday.

### WHAT THEY SAID

Although there is no evidence that Williams did not conduct the visits that were billed to Medicaid, he admitted it was unlikely he was actually at the hospital for 21 hours those days, meaning that the average duration of the visits fell below the typical times listed by Medicaid. Williams said he probably was the only psychiatrist on call, and was by the phone to deal with whatever patient crises popped up. North Louisiana's finance director said the hospital is examining the appropriateness of 1994 physician billings.

Source: La. Department of Health and Hospitals records

**HOW  
THE  
PROJECT  
WAS  
DONE**

As part of its investigation, The Times-Picayune obtained 60 million computerized records that detail each time a Medicaid recipient checked into a hospital, visited the doctor, or used one of the other Medicaid services provided by the state. The information, obtained under the state's Public Records Act, included all claims paid in the last two years. The data was analyzed to show how much particular hospitals and doctors were paid to perform services out of the 30,000 Medicaid providers in the state.

# OF PAIN AND GAIN



Stories by  
**CHRIS ADAMS**  
Staff writer

**THE FAMILY OF HENRIETTA MAYS** doesn't know that Louisiana is the nation's second-worst state in the percentage of nursing homes cited for insufficient care. But her relatives watched in horror as their loved one withered away in one north Louisiana home.

They don't know much about the powerful political force that nursing homes represent in the halls of the state Capitol. But they remember when Mays was put in the hospital for badly infected sores on her left foot that threatened her leg.

And they are unaware that the home's owners, Denny Jr., Kevin and Keith Gamble, split nearly \$2.8 million in salaries in 1993 and '94 from six nursing homes. But they remember the day in 1993 when the doctors cut off Henrietta Mays' leg.



DENNY GAMBLE



KEITH GAMBLE



KEVIN GAMBLE

**Fueled largely by the taxpayer-financed Medicaid program, Louisiana's nursing homes are the most profitable in the nation. But too many nursing home owners are getting rich while their patients suffer.**

**STORIES START ON A-8**

**INSIDE**

**PROFITS SOMETIMES AT PATIENTS' EXPENSE, A-8 • INSPECTORS FAULT SOME PROFITABLE HOMES, A-8 • RELATIVES RECALL NIGHTMARES-COME-TRUE, A-9**

**MONDAY**

**WITH LOBBYING AND WELL-PLACED CAMPAIGN CONTRIBUTIONS, THE NURSING HOME INDUSTRY IS A FORCE IN THE HALLS OF THE CAPITOL**

# Many nursing home owners profit at their Medicaid patients' expense

By **CHRIS ADAMS**  
Staff writer

For the elderly residents of the Gamble Guest Care nursing homes, the problems have been piling up for years. For the Gamble brothers, so have the profits.

Henrietta Mays was one of the residents. When she moved into Alpine Guest Care Center in Ruston, she was 83 and bedridden.

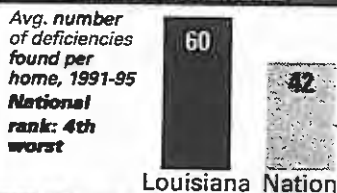
To her family's shock, Mays withered while at the home, losing 34 of her 126 pounds. She wasn't fed properly, according to a nurse later hired by Mays' family to review her medical records in preparation for a lawsuit. By the time Mays was admitted to a hospital in 1993 after 11 months at the home, she was dehydrated, her medical records show. When she was sent back to the hospital a month later, her left ankle had an "open bloody area," according to medical records, and her left heel was covered with gangrene. The only remedy, a doctor concluded, was to cut off Mays' leg above the knee.

"Bottom line, this lady was desperately neglected," Linda Dessommes, the registered nurse hired by the family said in a deposition. The family recently settled their lawsuit, collecting \$120,000, their attorney said.

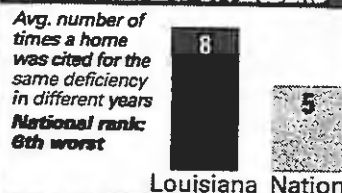
## COMING UP SHORT

Despite their profitability, many Louisiana nursing homes come up short in quality of care compared with homes nationwide, according to federal inspection reports that look for deficiencies, which include unsafe practices and unsanitary conditions.

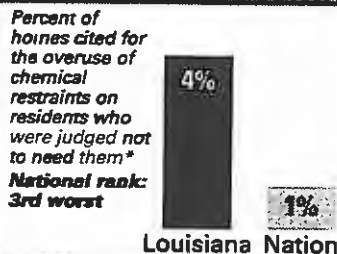
### MORE DEFICIENCIES



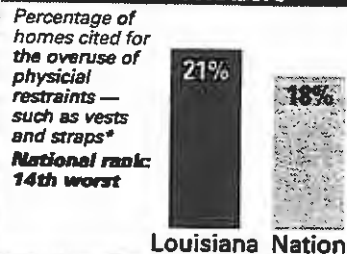
### MORE REPEAT OFFENDERS



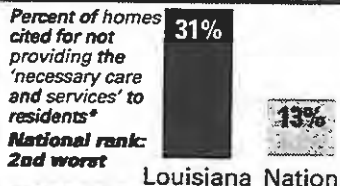
### MORE UNNEEDED SEDATION



### MORE RESTRAINTS



### MORE INADEQUATE CARE



\*Within the last year.

Source: Computerized inspection reports maintained by the federal Health Care Financing Administration, which oversees the Medicaid program. Included are inspections of all 15,866 nursing homes in the country from a four-year period through mid-1995.

Such amputations were among a host of problems that state inspectors have cited in the past four years at the six north Louisiana Gamble Guest Care homes, where most care is paid for by Medicaid, the government health program.

But while the care might have suffered, the Gambles — Denny Jr., Keith and Kevin — have prospered: In 1994, their six nursing homes recorded a total combined pretax profit of more than \$2 million. That year, each of the Gamble brothers was paid an owner's salary of \$399,000. In 1993, they shared a total of \$1.6 million in owners' salaries.

The Gambles' homes have had more than their share of some of the problems found in many of Louisiana's 284 Medicaid-supported nursing homes, state records show. An investigation by The Times-Picayune revealed that, across the state, residents at some homes are neglected while the homes' owners reap millions of dollars in taxpayer money.

The Times-Picayune found that some nursing homes profit by employing too few workers and giving them insufficient training. As a result, residents often are neglected, forced to sit in their own feces or urine for hours; strapped to chairs or beds, or injected with unnecessary sedatives; or underfed and denied water. Because of the conditions, some residents suffer amputations or early death.

Louisiana's nursing homes are cited, on average, for more deficiencies, based on federal criteria, than nursing homes in most other states — while profit margins in the state are the nation's highest.

And the reason those two extremes are allowed to co-exist, nursing home experts and some lawmakers say, is politics.

The nursing home industry is

one of the most powerful forces in Baton Rouge, and it repeatedly has turned to the Edwards administration and legislators to do its bidding. A few lawmakers have had ownership interests in nursing homes. Some state officials charged with regulating nursing homes have, year after year, crafted rules that benefit the privately owned homes and did not enforce rules that could hurt them.

And, although Louisiana regularly inspects nursing homes for deficient care, it, unlike other states, rarely assesses fines. State officials say they can't remember ever cutting off a home's Medicaid revenue.

The state government has supported a system that lets the nursing home industry generate high profits while Medicaid pays for the care of 86 percent of residents, a percentage higher than in any other state. The state has approved more nursing homes than its data show are needed. Proposals to expand low-cost alternatives to nursing homes for those who need simpler care have been ignored by the Legislature.

Despite crushing pressures on Louisiana to curtail Medicaid spending, rates paid to nursing homes have been allowed to drift higher than even the state considers reasonable, and most recently have been largely shielded from cutbacks. Louisiana in the 1995-96 fiscal year has earmarked \$479 million of its \$3.2 billion Medicaid budget for nursing homes, money that pays not only for care, but also for the hefty salaries and luxury cars some nursing home owners give themselves, and for the fees paid to side companies that some owners control.

"What becomes an unconscionable profit versus a conscionable profit?" asked Dennis

## LOCAL PROFITS

Louisiana homes have the highest profit margins in the nation — by a wide margin

1. Louisiana	7.10%
2. Alabama	5.57%
3. Arkansas	5.50%
4. Nebraska	4.85%
5. Kentucky	4.51%
U.S. average	4.07%

Source: HCIA, Inc., 1993 data

Mann, an attorney who represents the state Board of Licensed Practical Nurses. "What is the level of care that people deserve, and at what expense?"

Many owners referred all questions about their nursing homes and the industry to the Louisiana Nursing Home Association.

"Louisiana private nursing facility providers are extremely efficient, and run facilities that are extremely economical," Joseph Donchess, the association's director, said in a written response.

He said the inspection process that showed Louisiana to have a high average number of deficiencies is "very subjective" and "holds perfection as its ideal." Many of the deficiencies cited, he said, are minor, and therefore don't justify heavy fines.

"Every well-run business is entitled to make a profit," Donchess said. Louisiana's nursing home system, he said, rewards providers who have been in business the longest, who have been cost-conscious and who attract residents by providing "high levels of quality care."

## Not all homes deficient

Not all nursing homes are substandard. Thousands of

Louisiana residents live in quality homes, receiving the care and attention they expect. Sometimes a state inspector will show up at a nursing home, check the records, talk to residents, observe the nurses and find nothing wrong.

Most homes have some problems. Some are minor, such as sloppy paperwork. Some are serious. But, on average, nursing homes in Louisiana are cited for more deficiencies in care or living conditions than in nearly any state, and these deficiencies are repeated from year to year more than in most states.

That doesn't surprise Lily McAlister, the Department of Health and Hospitals official who oversees the inspection process. She said federal officials have pointed out much of the same information to her in the past, and that Louisiana is working with nursing homes to correct their problems.

"I think overall that Louisiana has many excellent homes," she said. "I do think we have a small percentage of poor performance facilities, which is where we want to concentrate our efforts."

For its investigation, The Times-Picayune did a computer analysis of inspection reports and financial statements for all federally monitored nursing homes in the United States from mid-1992 to mid-1995. The newspaper also interviewed more than 200 people and reviewed Department of Health and Hospitals inspection reports, financial statements and

internal memos.

Among findings about Louisiana nursing homes from the past year:

▶ Thirty-one percent of nursing homes were cited for failing to provide, in general, the "necessary care and services" to ensure their residents' physical and mental well-being. The national average is 13 percent. Only Maryland was cited at a higher rate than Louisiana.

▶ Fourteen percent of homes were cited for failing to give their nurse aides the required amount of training, compared with 3 percent nationally. Only Michigan was cited at a higher rate.

▶ Seven percent were cited for having fewer than the required number of registered nurses, compared with 3 percent nationwide. Only three states were cited at a higher average.

▶ Twenty percent were cited for excessive medication errors, compared with the national average of 7 percent. Only the District of Columbia was cited at a higher rate.

In the four-year period:

▶ Louisiana homes, on average, were written up for 60 deficiencies in care and living conditions. The national average was 42, and only six states had a higher average than Louisiana. One home, St. Ann's Convalescent Home in Arabi, has been cited for 206 deficiencies, more than in 99.8 percent of the 15,866 homes nationwide. The home's owner, Anthony Men-

See NURSING, A-10

# Nursing

From A-8

doza, said those problems have been corrected.

The number of deficiencies written up at Louisiana homes has declined each year since 1992, but the number per home in the past year was still 24 percent above the national average. Nursing home experts say they don't know whether the decline can be attributed to a change in quality or to state inspectors being pressured to disregard some quality standards.

"I've seen some cosmetic changes, like the adding of a privacy curtain in rooms," said Peggy Essick, who for 11 years has been an ombudsman overseeing care at 70 Baton Rouge-area nursing homes. But, she said, at most of the homes she's familiar with, "the food's about the same; the homes still are short on activities. I honestly don't think the care has improved at all."

Essick is one of 25 ombudsmen coordinators and scores of volunteer ombudsmen officially sanctioned by the state to monitor every nursing home. They are advocates for residents and may visit their assigned homes any time of the day or night.

In addition to observations by Essick and other ombudsmen, other reports suggest that care at Louisiana nursing homes hasn't improved in the past few years.

For example, the number of abuse complaints registered by Louisiana nursing home residents and their families has in-

## WELL-PAID PROVIDERS

The people who own and run Louisiana's nursing homes often give themselves salaries to operate one or a handful of homes at levels that rank favorably with executives running the nation's largest nursing home chains.

### NATIONAL CHAINS

**Boyd Hendrickson**  
President, Long-term Care Division, Beverly Enterprises, the nation's largest nursing home chain with 737 homes, employing 82,000  
**\$404,414**  
1994 salary\*

**Edgar S. Brower**  
Chief executive officer, The Hillhaven Corp., the nation's second-largest chain, overseeing 288 homes, employing 38,100  
**\$522,454**  
1994 salary

\*Salaries for national chain executives include annual compensation, such as salary and bonus, but not long-term compensation.

### LOUISIANA OWNERS

**Denny Jr., Keith and Kevin Gamble**  
Owners of 6 homes, employing 601  
**\$1.2 million**  
1994 salary\*  
**Response:** Denny Gamble Jr. said he and his brothers have paid their dues over two decades and have earned their salary.

\*Salary split equally among the three men.

**Mabel Mangano**  
Owner/administrator of St. Rita's Nursing Facility, St. Bernard community, employing 51  
**\$599,464**  
1994 salary  
**Response:** Stephen Hurstell, an attorney for Mangano, said her salary was actually a combination of \$75,000 in salary and the remainder in profit dividends, although the entire amount was listed as salary on state records.

**Melvin J. Harris**  
Owner/employee of 3 homes, employing 289  
**\$610,745**  
Fiscal '93-'94 salary  
**Response:** Did not respond to written questions.

**Ray Naquin**  
Owner/administrator of Hammond Nursing Home, Hammond, employing 89  
**\$511,102**  
Fiscal '94-'95 salary  
**Response:** Naquin said he has been in business since 1969 and that if his salary over the years were averaged out it would be in line with any reasonably paid business person.

**L. Michael Ashbrook**  
Owner of 3 homes, employing 348  
**\$451,437**  
Fiscal 1993\*\*  
**Response:** Did not respond to written questions.  
\*\* For 30 hours a week; listed as management fees.

Sources: State Department of Health and Hospitals; Securities and Exchange Commission

creased significantly since 1991. This year, 384 complaints had been received by November, more than in all of 1994, state records show. The totals include abuse complaints at community homes for the mentally retarded, although the majority are nursing home cases.

"I used to hope it was just better reporting that led to the growing numbers," said Glen Petersen, the assistant attorney general who prosecutes nursing home abuse cases in the state. "But now I don't think it is. It just seems like we have a lot of caregivers who can't deal with the residents and who lose their cool, lose their temper. I don't know how to explain our increasingly high numbers. It's just disturbing."

### Required inspections

An annual inspection is required for every nursing home that receives Medicaid or Medicare revenue. Teams of nursing home experts spend up to a week reviewing medical records, talking to residents and their families, and quizzing the nurses. Although the teams are made up of state employees, the inspections are conducted according to federal standards.

The inspections are supposed to be a surprise, although Hope Kingery, an ombudsman in Lake Charles, said nursing home ad-

ministrators have told her they know when inspectors are coming. Often, the inspectors arrive the same month every year, sometimes the same day.

Inspectors say the quality and number of nurses at a home determine the quality of care provided. That's because the nursing staff is most directly responsible for the residents' care. Each home is required, under Medicaid rules, to provide a specific number of nursing hours for each resident, depending on his condition. The home also must ensure the nursing staff receives a certain amount of in-service training every year. A home's nursing staff is made up of registered nurses, licensed practical nurses and nurse aides.

It is the nurse aides who do the heavy work: They are supposed to turn bedridden residents regularly so they don't develop pressure wounds known as bedsores. They are to feed and clothe residents who can't do it themselves; and they are to put diapers on residents and change them when needed.

"It's the least popular area of work in the nursing field," said Mann, the attorney for the state's licensed practical nurse board, speaking of all nursing duties in nursing homes. "The star jobs, the glamour jobs, are in hospitals. In nursing homes, there's a significant amount of job stress. You're dealing with people who aren't all there. A lot of nurses would rather not practice medicine if the only job they can get is in a nursing home."

Nursing home jobs are also among the lowest-paying in the health field: Nurse aides usually make minimum wage with few or no benefits.

Pay at nursing homes often starts at \$4.25 an hour, while entry-level hospital jobs pay \$5 or \$6 an hour, and home health jobs pay \$7 or \$8 an hour, said Hal Ruddick, an organizer for the Service Employees International Union.

Although salary breakouts aren't available for each type of nurse, figures analyzed by HCIA Inc., a Baltimore-based health research company, show that the average wage per full-time worker at nursing homes in Louisiana is 21 percent below the national average. With annual salary and benefits totaling \$16,662, full-time workers in Louisiana nursing homes are paid less than in any state except Tennessee and Missouri, according to HCIA figures from 1993, the most recent information available.

### Chronic understaffing

Understaffing has been chronic at some nursing homes.

At one Gamble facility, South

Park Guest Care Center in Shreveport, the low nursing levels have been cited by state regulators repeatedly.

According to inspection reports:

► July 1993: The home is short nurses four of 14 days checked by inspectors, and none of the nursing assistants employed for more than a year received proper training. The home recognized the problem, noting in its response to state inspectors that "the needs of all residents suffer with insufficient staff. We have and will continue to address this very real problem aggressively."

► October 1993: The home is short on nursing hours two of 14 days.

► February 1994: The home is short on nursing hours nine of 14 days. Residents complained it often took two or three hours for call lights to be answered.

► June 1995: The home is short on nursing hours eight of 14 days.

► September 1995: The home is short on nurse training. It failed to schedule the training sessions it had promised.

"I see an obvious pattern: Certain owners have the same basic deficiencies in all their homes," said Gia Kosmitis, a Shreveport lawyer and Edwards appointee to the Riverboat Gaming Commission who has taken several suits against the Gamble homes.

Denny "Kit" Gamble Jr. defended his nursing homes, saying in a written reply that "our most recent surveys have all been in the high quality range" and that "we have never purposefully gone below state minimum requirements on nursing hours. ... Quite frankly, I resent any implications that we do not do our absolute best to give our residents excellent care."

About the company's executive salaries, he said that "our salary and bonuses were high," but that "my brothers and I put 10 hours a day into Gamble Guest Care Corp. ... We have been in business since 1973, and I have seen times when I had to

See next page.

### From preceding page

drive from Bastrop, La., to Winfield, La., and then to Natchitoches, La., all in one day, just to make payroll many years ago. I feel that we have paid our dues."

At South Park, understaffing directly affected the care residents received, reports filed this year by inspectors show.

When inspectors visited South Park in September, they found residents with Alzheimer's disease wandering in the halls, wondering where they should go, asking for help. Inspectors overheard a nurse aide saying there was not enough staff at mealtimes to help residents eat their food.

During a June visit, inspectors found a resident in restraints for more than four hours, twice the professional standard of two hours. The call buttons residents use to buzz a nurse were out of reach. One man was strapped into his chair, making it impossible for him to reach a button.

And residents were tricked, reports show. An inspector watched as a nurse aide told Alzheimer's residents to hurry to dinner. There was chocolate cake and ice cream for dessert. The residents were excited, discussing the treat among themselves. But there was no cake, no ice cream.

Then, to get the residents back to the day room, they were promised ice cream. There was none. In fact, there was no ice cream at the home.

At Alpine Guest Care Center in Ruston, another Gamble home, inspectors in 1993 found that residents with bedsores or dramatic weight loss didn't receive proper treatment. The case of Mays, who lost her leg, is one illustration.

After Mays moved into the home, her family noticed problems immediately. When Martha Green, her daughter, went to visit, food would be hanging out of Mays' mouth; often she hadn't been changed and was in a urine-soaked diaper. Another daughter saw a nurse hit Mays in the face, although the nurse said it was an accident, Green said.

The Gambles said it would be inappropriate to comment on any case involving a lawsuit over negligent care.

The worst problems, Green said, were with the inadequate

feeding and the bedsores that led to Mays' amputation.

The two were closely related. Dessommes, the registered nurse who reviewed Mays' case as part of a lawsuit filed by her family, said in a legal deposition that the bedsores probably were exacerbated by poor nutrition. During one period, according to Mays' medical records, she was supposed to be fed through a tube, but she wasn't because the nursing home couldn't find the equipment necessary to make the tube feeder work. So, the nursing home switched to regular feedings, according to a legal deposition given by a nurse at the home.

Dessommes said in her deposition that Mays went into a "downward spiral" as dehydration and malnutrition contributed to bedsores, which caused her body to need more calories to fight the sores, which led to greater malnutrition. Once a patient is in the spiral, "it takes a very concentrated and focused effort on the part of the nurses to arrest the process," Dessommes said.

One licensed practical nurse in charge of Mays' care testified in a legal deposition about problems getting Mays to eat. But the nurse said she never treated Mays for bedsores. She said she didn't know the sores were there until Mays went to the hospital.

A nursing home administrator who reviewed Mays' case for her family said it was "inconceivable" the home wouldn't notice such a severe injury, which can take days or weeks to develop. Mays' relatives, who say they saw the sores at the hospital, said they believe Mays would be alive today if she had received better care at Alpine Guest Care Center; Mays died at another nursing home soon after leaving the hospital.

"We were leery about putting her in a home in the first place," Green said. "But we just couldn't take care of her ourselves. Sometimes you just have to put your trust in people. This time I guess it backfired."

Families often don't know where to turn when they discover they can't count on a nursing home to fulfill basic needs, such as feeding.

Peggy Barr, director of social services for the Caddo Council on Aging, who previously worked in a California nursing home, said she was surprised

when she saw "sitters" in Louisiana nursing homes.

"You go into nursing homes and these people have sitters, people who sit there with the resident and make sure their needs are met," Barr said. "They're paid by the family. I asked somebody why they hired a sitter and he looked at me perplexed. 'Well, if I don't do this, she won't get fed.'"

Across the state, ombudsmen familiar with the nursing home industry say it is often impossible for the public to know which homes provide quality care.

Ombudsmen overseeing homes in four areas of the state — Lake Charles, Baton Rouge, Shreveport and Bienville Parish — were asked if they would put a loved one in the nursing homes they cover. Of the 109 homes they oversee, there were 22 they said they would trust.

Elton Lamkin, ombudsman for Bienville Parish, says it can be hard for families to make the right choice.

"I'm just hoping and praying that the Lord will take me before I have to go to a nursing home," he said.

## NURSING HOME PROFITS

**These nursing home owners are among those who earned above-average profits at their homes or were paid above-average salaries. Some of their facilities were cited for an above-average number of deficiencies, and in some cases were singled out for the nature of their cost-cutting measures.**

### ROBERT LABORDE

#### FULL- OR PART-OWNER OF SIX NURSING HOMES

**T**he six nursing homes had a total \$3.6 million pretax profit in 1994, with a profit margin of 24 percent, about five times the national average. The homes include Maison Orleans I in Arabi and Maison Orleans II in New Orleans. At one, Plaquemine Manor in Iberville Parish, investigators reported this year that residents said they weren't provided cloth towels in their rooms and had paper towels instead. The company didn't respond to written questions.

### L.P. HARRELL, JR. ESTATE

#### OWNER OF SEVEN NURSING HOMES

**T**he Alexandria-based homes, primarily owned by the estate of the late L.P. Harrell Jr., who died in 1994, were among the most profitable in Louisiana in 1994, bringing in \$5.3 million in pretax profits with a profit margin of 24.6 percent, about five times the national average. Three times in the past three years, state regulators have threatened to cut off one of the Harrell homes from Medicaid, but state officials relented after corrections were made. A 1994 inspection of Lafayette Guest House-West in Lafayette Parish showed that the home was short of the state's minimum nursing hours nine of 14 days. Company president Barry Hines said in an interview that the company's homes are now performing well on state surveys, and that past deficiencies hadn't been serious. He asked that questions be sent to him in writing. He did not respond to the written questions.

### MELVIN J. HARRIS

#### OWNER OF THREE NURSING HOMES

**I**n the 1993-94 fiscal year, Harris paid himself \$610,745 in owner's salary. In the past two years, one home owned a Jaguar automobile and then a \$39,019 Oldsmobile 98. At two of his homes, inspectors discovered that residents were paying for items such as toothpaste, toothbrushes and shampoo, even though, under Medicaid regulations, the home should provide those supplies. This year, when his Colonial Nursing Home in Marksville was cited for a fire code violation, the home requested it be exempt from the regulation because fixing the problem "would create a financial burden at this time." Harris did not respond to written questions.

### GLENN LABORDE

#### OWNS FIVE NURSING HOMES; RUNS A NURSING HOME MANAGEMENT COMPANY

**I**n 1993, Laborde was paid \$520,000 in salary from his nursing home management company and \$449,000 in profit dividends from four of the homes he owns. In 1994, the salary was \$525,140 and the dividends \$200,000. In 1994, Stonebridge Convalescent Center in Gretna was short on nursing hours three of the 14 days inspectors checked. Another facility, Acadian House Care Center in Baton Rouge, has been threatened with expulsion from Medicaid twice since 1993. This year, Acadian House residents in wheelchairs complained that they hadn't been taken into the community for any activities in two years; the home's activity director said there wasn't a van to provide the transportation.

"Are you saying I don't earn it?" Laborde said when asked about his salary. "I have 500, 600 employees. I have millions of dollars in assets. For the amount of responsibility and the amount of investment," the salary is reasonable. He also said, "All my homes are in very good condition, and are deficiency-free at this time."

### EDWARD ROSE

#### PART-OWNER OF LEXINGTON HOUSE

**R**ose is part-owner of the Lexington House nursing home in Alexandria. His home earned \$705,964 in pretax profit in 1993-94, with a profit margin of 21 percent. The home also leased its owners a 1991 Lexus and a 1994 Cadillac, each costing more than \$1,400 a month.

Lexington House administrator Robert Burns said his home has been able to maintain good profits while still providing excellent care. Asked about the cars, Burns said, "The average impression is that nursing home owners are getting filthy rich. But Mr. Rose doesn't live like that. He could be driving a Mercedes, like most nursing home owners do."

### BRYAN POSTON

#### PART-OWNER OF SIX NURSING HOMES

**A** state senator from Hornbeck for 28 years until he retired in 1992, Poston owns between 11 percent and 27 percent of six homes. Combined, the homes had a profit margin of 21 percent with a combined pretax profit of \$2.4 million in 1994. Based on his ownership percentages, Poston's share of the profits was \$454,800. Three of the homes took more than 99 percent of their revenue from Medicaid. This year, investigators at Westwood Manor in DeRidder noted in their report that a resident remained isolated in his room with no meaningful activities for four days.

"The bottom line is whether people are given the proper care," Poston said. "We've done that and still maintained a good margin of profit." He said his homes have collected their Medicaid revenue according to the formula set by the state, but added, "There probably is some other way the industry could get its funds."

MEDICAID MADNESS



**Mike Foster holds court at a fund-raiser at his home attended by members of the Louisiana Nursing Home Association just before the November election. Nursing homes have long been big contributors to Gov. Edwards and state lawmakers. But like many, the industry was surprised by Foster's late surge into the runoff. In the four weeks after the primary, 57 nursing homes, their owners and related companies contributed \$181,900 to Gov.-elect Foster's campaign.**

STAFF PHOTO BY TYRONE TURNER

# OF PAIN AND GAIN

PART II OF II

Stories by  
**CHRIS ADAMS**  
Staff writer

Gambling recently grabbed the spotlight as the biggest contributor to the state's political coffers. But over the years, it's the nursing home industry that's been a ready source of campaign cash. With taxpayers financing the Medicaid payments that fuel their profits, nursing homes have contributed generously to politicians who control their fate. Their persistence has paid off. With deep pockets and friends in high places, Louisiana's nursing homes have maintained their status as the nation's most profitable.

**STORIES BEGIN ON A-6**



Few lawmakers have been more helpful to the nursing home industry than state Sen. Joe McPherson, a nursing home co-owner who has served on a committee that oversees nursing homes. The industry's key legislative victories are detailed on A-7.

**INSIDE**

**NURSING HOME INDUSTRY USUALLY GETS ITS WAY, A-7 • ALTERNATIVES ARE HARD TO FIND, A-6 • HOMES ARE REGULATED WITH A LIGHT TOUCH, A-6 • STATE HELPS NURSING HOMES EARN WINDFALL, A-6**

# Nursing home industry usually gets what it wants

By CHRIS ADAMS  
Staff writer

A bill to create a corps of better-trained nurse aides that could work in Louisiana's nursing homes was introduced recently in the Legislature. The state's colleges, which would provide the training, were for it. The state's licensed practical nurses were for it.

But the nursing home owners were against it. And in Louisiana, that's about all that matters.

In a committee room of the state Senate, the director of the Louisiana Nursing Home Association argued against the bill, which among other things had the potential to increase nursing homes' costs. Sen. Joe McPherson, D-Woodworth, a committee member who co-owns a nursing home, also opposed the bill. He said there was no logic behind it, that it was unnecessary.

On McPherson's motion, the bill was tabled — another victory for the nursing home industry.

"When you're pro-nursing home, you get any damn thing through you want," said Dennis Mann, an attorney for the Board of Licensed Practical Nurses, which advocated the measure. "If you're anti-, you sit there and suck your thumb. You never come up. There's no quorum. When McPherson wanted to kill something, it was dead."

Over the years, nursing homes have formed powerful bonds with lawmakers and regulators. Medicaid-supported nursing homes, heavily dependent on government money, state licensing and state administration of federal regulations, have worked hard to befriend Louisiana politicians. For their efforts, nursing homes have benefited from favorable legislative actions and rules that give them the highest profit margins for nursing homes in the nation, even though they are cited for more deficiencies in care or living standards than homes in most states.

## FRIENDS IN HIGH PLACES

**A Times-Picayune analysis of every contribution given to legislators and statewide officeholders in 1993 and 1994 shows that the nursing home industry is one of the most generous in the state.**

### NURSING HOMES ARE GENEROUS . . .

Top individual contributors to the Louisiana Legislature and statewide officeholders:

1. Louis J. Roussell, casino owner	\$148,000
2. Grand Palais Casino Inc., casino company	\$100,000
3. Louisiana Association of Business and Industry	\$97,181
4. Philip Morris USA, tobacco company	\$88,350
<b>5. Louisiana Nursing Home PAC</b>	<b>\$84,125</b>
6. Louisiana Independent Finance Association	\$74,900

► In addition to the Nursing Home PAC, 86 individual nursing homes or their owners and related companies chipped in thousands of dollars more for a total of **\$244,573**.

### AND POLITICIANS ENJOY THE BENEFITS

#### The Legislature **\$146,500**

► The Legislature has killed measures that would help nursing home competitors. Contributions from nursing homes are heavily weighted toward legislators in health leadership positions, such as Senate Health and Welfare Committee Chairman Gerry Hinton (\$18,800) and Sen. Joe McPherson (\$15,100), a nursing home owner who often has spearheaded nursing home-related legislation.

► Even so, the nursing home industry is one of the most generous across the board: 96 of the 144 members of the Legislature received nursing home money in 1993 or 1994.

#### Gov. Edwards **\$49,000**

► Since taking office, the Edwards administration has written rules that help nursing homes maintain their high profits, and the governor has personally stepped in to help new nursing homes open. Edwards also received \$73,566 from more than 50 nursing homes or their operating companies in his 1991 race.

#### Attorney General Richard Ieyoub **\$14,000**

► Ieyoub oversees the unit that investigates nursing home fraud and abuse. When first elected in 1991, he received nursing home contributions totaling \$45,000. That included \$22,900 from one nursing home operator — Robert Rayford Sr. of Alexandria — and eight of his related companies or homes.

Source: Campaign finance reports for all contributions reported by members of the Legislature, legislative committees and statewide officeholders in 1993 and 1994. A total of 25,463 contributions, totaling \$9.6 million, were analyzed.

As a group, nursing homes are among the most generous donors to political war chests at the state level, along with gambling, petrochemicals and the insurance industry. A handful of legislators, some in key positions, have had ownership interests in nursing homes. In one case, the industry's lobbyist helped set up a powerful lawmaker as an owner.

But as strong as their presence is in Legislative chambers, the nursing homes' greatest influence might be felt in the meeting rooms of the Department of Health and Hospitals. There, state officials — appointed by Gov. Edwards — write the little-noticed, nitty-gritty rules and regulations that govern the nursing home industry. And those officials determine how vigorously such rules are enforced.

One example: Despite state rules that Medicaid payments to nursing homes be in line with true costs of care, reviews to determine true costs weren't done from 1983 to 1993. The state simply increased nursing home rates a little each year.

The net effect of 10 years of unchecked payment increases? An excess payout of taxpayer money to nursing home proprietors projected at \$19.5 million in one year, the department's auditor said in 1994.

Another example: Medicaid rates for other health care providers were cut drastically this year. But after the Louisiana Nursing Home Association went directly to Edwards to head off any reduction in members' rates, the governor's office told the Department of Health and Hospitals to accept the association's recommendations, department officials said.

And finally: Although the department has the authority to fine substandard nursing homes, it rarely does. Most other states routinely impose fines, using them to induce homes to comply with requirements.

### Money talks to lawmakers

"The nursing homes are one of the most powerful lobbying groups in the state, as far as I'm concerned," said Mike Nolan, who was the state Medicaid budget manager until June.

If money equals power for a lobbying group, then a Times-Picayune review of contributions to political campaigns shows

that the nursing home industry is one of the state's most influential. The newspaper entered a list of all contributions given to legislators, legislative committees and statewide officeholders in 1993 and 1994 into a computer, and then used information from the secretary of state's office and other sources to identify as many of the contributors as possible by industry.

In those two years, the Louisiana Nursing Home Political Action Committee ranked fifth among individual contributors behind two casino owners, a business PAC and a tobacco company, with contributions totaling \$84,125.

In addition, an army of individual nursing home owners gave thousands of dollars, making the nursing home industry among the top donors to campaigns in 1993 and 1994, the review shows.

The industry has been willing to spread around its cash, contributing to two thirds of sitting legislators, and has shown it can raise money quickly. In the 1991 gubernatorial race, more than 50 nursing homes or their operators pumped \$73,566 into Edwin Edwards' campaign.

They were big players in this year's gubernatorial election, too, although they initially bet on the wrong candidate. In the primary, the industry heavily backed Buddy Roemer, contributing \$199,527 through 95 companies, individuals and nursing homes, records show. The contributions from one owner, L. Michael Ashbrook of Monroe, or his related companies and partners totaled \$51,000.

After the primary, the industry turned its attention to Mike Foster, giving his campaign \$181,900 from 57 nursing homes, individual owners or their related companies. Most of the money poured in during a one-week period, including \$86,250 on Nov. 3, \$47,250 on Nov. 6 and \$30,400 on Nov. 8, campaign finance reports show.

Among those contributors was Ralph Ballentine, part-owner of a Shreveport nursing home who sent a \$1,250 contribution by overnight delivery to the Louisiana Nursing Home Association office in Baton Rouge. It was delivered, with other contributions, to Foster at an event at Foster's home, Ballentine said.

"Nobody gave to him before the primary because we didn't

think he had a chance," Ballentine said. "But then after the primary, people were saying, 'Look, we had better get behind one of these guys.'"

"It was evident he was going to be the next governor," said Ray Naquin, a nursing home

owner from Hammond and former officer with the Louisiana Nursing Home PAC. He attended the event at Foster's home, and his company contributed \$5,000. "We didn't want him to forget us," Naquin said.

Foster wasn't available for comment.

Such contributions buy the industry a unique ability to have bills passed and rules written that help — and squelch the ones that hurt, several lawmakers said.

"The nursing home industry has had an inordinate amount of power ever since I've been in the Legislature," said Rep. Mitch Landrieu, D-New Orleans, who has served for eight years.

The industry says that's bunk. Former Rep. Joseph Delpit, D-Baton Rouge, dismisses the notion that nursing homes wield an inordinate amount of political power. Delpit, who was a close political ally of Edwards', owns an interest in a company that runs two Baton Rouge nursing homes.

Delpit entered the nursing home business when he was still a powerful lawmaker, having recently served as speaker pro tem of the House. Lemmie Walker, the industry's lobbyist, approached Delpit about investing in the two homes, Delpit said. Walker went to Delpit, not because of his political clout, but "because I had money," said Delpit, who has several business interests.

Walker and Delpit were co-owners of the homes, and Delpit recruited two other owners: V. Jean Kirksey Tarver, the wife of Sen. Gregory Tarver, D-Shreveport, and Robert Piper, an attorney and Tarver's campaign treasurer. Walker later sold his share to A.Z. Young, a civil rights activist, Democratic Party stalwart and former Department of Hospitals secretary under Edwards. Young died in 1993, leaving his share to his wife.

"I don't see as much politics in the industry as some want to believe," Delpit said. He said he has talked to the governor about the nursing home business only in passing, and said that Tarver

once voted against the industry on the floor of the Senate.

"Greg Tarver voted against us!" Delpit said. "I called him and chewed his butt out."

### Not all cuts are equal

For evidence of nursing homes' political clout, lawmakers and health care providers outside the industry point to the tussle over the Medicaid budget last spring and summer. Because of changes in federal rules, the state faced a severe Medicaid shortfall for its 1995-96 budget and everybody in the medical field — doctors, hospitals and pharmacies — braced themselves for substantial cuts.

In the end, the Medicaid budget was decreased 23 percent overall; the budget for nursing homes was cut 9 percent, and the Department of Health and Hospitals reduced the daily per-patient rate paid to nursing homes.

The industry quickly protested the cuts. Ronald Goux, a nursing home owner from St. Tammany Parish, wrote Edwards that the cuts would result in "staff layoffs, a reimbursement rate which is the lowest in the nation, and most importantly, a negative impact on patient care."

But lost in the debate was the fact that the Department of Health and Hospitals was only returning to rate calculations in place before Jan. 1, 1995. Those rates were based on the actual cost of providing care and built in a 5 percent profit. Under that rate structure, the average nursing home in Louisiana would be ensured a profit greater than the national average. But the nursing homes wanted to keep the higher payment formula, and they got their way.

The night in June that the Legislature passed the budget, two Department of Health and Hospitals officials encountered a group of jubilant nursing home owners. Why were they happy? Their budget had just been cut \$50 million.

Richard Greer, part-owner and president of Health Care Capital Inc., confidently predicted that the rates would be restored by August, one of the department officials said. Greer didn't respond to a request for comment.

It didn't take that long.

On July 21, Goux, the St. Tammany nursing home owner and Edwards appointee to the Louisiana Health Care Authority, went to the Governor's Mansion with three or four nursing home owners, Edwards recalled. Goux requested that the old rates be restored. Edwards said he agreed.

"Look, I would have preferred that none of the Medicaid providers got cut," Edwards said later.

Although the daily rates were restored, the nursing homes agreed to pay for non-emergency transportation of residents, and to forgo some of the leave days they had been paid for. The industry says that will result in a \$25 million overall savings to the state, or a 5 percent decline from last year; David Hood of the Legislative Fiscal Office said he didn't think the savings will be nearly that much. So far this year, actual nursing home spending is down 2 percent from last year, state records show.

The speed of the turnaround left other health care providers awestruck, and angry.

"The hospitals and nursing homes will come to blows soon, and the issue is money," said lobbyist Gregory Frost, who represents the state's biggest hospital chain, Columbia/HCA. "We took our share of cuts, and the nursing homes didn't. Not to sound like a fourth-grader, that ain't fair."

### Inspection reports altered

Big-money issues aren't the only ones in which politics play a part. On day-to-day matters, the Department of Health and Hospitals routinely tailors its actions to benefit nursing home owners, often in direct conflict with residents' needs.

For example, it's up to state inspectors to determine what goes into the "statement of deficiencies" that shows whether a nursing home meets federal standards of care. But sometimes administrators decide what inspectors will report.

"I've sat in on the exit conferences when the inspectors told the administrator what the deficiencies were going to be," said Peggy Essick, a nursing home ombudsman who often accompanies inspectors to Baton Rouge-area nursing homes, and who works closely with the inspec-

tors. "But by the time the inspectors get back to their office, the 'right' calls have been made. The inspectors are told to take off most of what they were planning to write up."

In at least one instance, the request to modify the report came directly from an elected official. On Jan. 13, 1994, an inspector recommended that Camellia Garden, the home part-owned by Sen. McPherson, be assessed a "Level A" deficiency, a relatively rare rating that often results in penalties, such as a fine. According to inspection records, the home, which earned \$665,919 in pre-tax profit in 1994 with a profit margin of 27 percent, had repeatedly failed to fix the system that bedridden residents use to call a nurse.

By 7:30 a.m. on Jan. 14, however, McPherson had called John Futrell, who was deputy secretary of the Department of Health and Hospitals, Futrell said. As a member of the Senate's Health and Welfare Committee, McPherson oversaw the department's operations. Futrell said McPherson told him the deficiency was being corrected, and asked that the finding be reconsidered.

After the call, an "administrative decision" was made to write up the problem as a routine Level B deficiency, according to a department memo. The inspector "was notified to write deficiencies under standard level," the memo said.

Futrell, now retired, said he felt torn in such situations. "When I was there it was very difficult when a provider was also an elected official," he said. "It would be difficult to keep the roles straight. We talk to providers every day, but seldom talk to senators."

McPherson said the Level A deficiency rating was due only to an overzealous inspector that had a grudge against him. McPherson said the report was unwarranted and all problems at the home have been corrected. McPherson, whose term ends in January, didn't seek reelection to the Senate this fall.

### Controversy nothing new

Controversy about the nursing home industry's ties to politicians dates back at least to 1984, the year in Edwards' sec-

ond stint as governor that he ordered the Department of Health and Human Resources to approve certificates of need for eight projects that included hospitals and nursing homes, even though research showed some of the projects weren't needed. After ordering the approval of the projects, Edwards placed a moratorium on additional projects.

Companies shut out by the moratorium brought civil suits against the department. That led to the decision by U.S. Attorney John Volz to criminally charge Edwards with engineering the process to enrich himself: Edwards was acquitted.

State Rep. Charles DeWitt Jr., D-Lecompte, was one of the people who testified in the 1985 Edwards trial. An Edwards political ally, he testified that he had promised to vote for Edwards' controversial 1984 tax package if the governor would secure a certificate of need for a proposed Rapides Parish nursing home. Though department figures showed the home wasn't needed, the governor agreed, DeWitt said.

During the trial, DeWitt said he had no financial interest in the Rapides Parish home; he was just trying to help friends.

"Did you get anything out of this?" DeWitt was asked on the stand.

"No sir," he responded. "The only thing I'm getting out of this is publicity."

State records show that eventually, however, Dewitt became a 10 percent owner of the home, which in 1994 paid profit dividends of \$1.6 million.

The home was sold in late 1994. In addition to the land,

building and equipment, the sale transferred ownership of the certificate of need that had caused so much controversy in 1984. The price of the certificate: \$755,000.

### Stretching the rules

Jim Cobb, the lawyer who brought the civil suits against Edwards in 1984, says history is repeating itself. In the past two years, Edwards, spurred on by legislative allies, has twice asked the Department of Health and Hospitals to open nursing homes.

Under department rules, a nursing home may be opened if two conditions are met: the number of beds per 1,000 elderly citizens is 65 or less, and occupancy of existing homes is more than 95 percent. In the case of a St. Landry Parish license, only one of the two conditions was met, but the department used its executive authority to open up the process anyway.

Doing so is permitted by the rules, but in the St. Landry case, a department official said in a legal deposition that the department might not have proceeded if the governor hadn't called. "I think it certainly didn't hurt," said Charles Castille, the department's deputy secretary.

The department asked for proposals for the St. Landry licence, and six companies applied, including one with ties to Edwards' friend and ally, Sen. Armand Brinkhaus, D-Sunset. Brinkhaus' brother, Allan, owned 5 percent of the company, and the senator's law firm did its legal work.

Department planners scored the six proposals. The one con-

nected to Brinkhaus tied for last.

After the scoring, a midlevel official took the results to Castille, who informed Rose Forrest, his boss. Not long afterward, Edwards called Castille.

"And specifically he asked me about the Sunset application," Castille said in the legal deposition, referring to the proposal linked to Brinkhaus. "I said, 'Well, the Sunset evaluation came in tied for last.' He said — I'm trying to remember. I think he said something like, 'Uh, oh.'"

Castille said he took the "Uh, oh" to mean: "Despite the fact, you know, that I had told him there were no guarantees, that his hope was that the Sunset application would have gotten a higher score."

Castille, Forrest and the department declared all proposals "unsatisfactory" and rejected them. They have since rebid the project, and nine companies, including Sunset, have applied. The decision to require new bids is under appeal, and scores from the second round of proposals haven't been released.

Castille defends his role in the process, saying the grading system used in the first round was "clearly flawed," because the scores for all proposals, including the winner's, were less than 50 out of 100. Awarding a license based on such a score, which he considered unsatisfac-

tory, would have been controversial, Castille wrote in a letter to The Times-Picayune.

A member of the grading committee, however, disagreed. Charles Purcell said in a legal deposition that while the grading curve was low, all six applications were satisfactory. The winner, in fact, was "somewhere between satisfactory and outstanding," he said.

The company that placed first is now represented by Cobb. At a hearing on the case in November, Forrest said that if she had known the grading committee considered all applications satisfactory, she wouldn't have rejected them, said Cobb's partner, John Emmett. The judge at the hearing, Bruce Danner, said that while his ruling isn't final, he thought the department abused its discretion in taking the initial bids, Emmett said.

During the hearing, Brinkhaus testified that he had an understanding with the nursing home developers that he could get 5 percent of the company, apart from his brother's 5 percent stake, if the project went forward, Emmett said.

"It's the same damn thing," Cobb said. "We've been dealing with this since 1985."

Under department rules, a nursing home may be opened if two conditions are met: the number of beds per 1,000 elderly citizens is 65 or less, and occupancy of existing homes is more than 95 percent. In the case of a St. Landry Parish license, only one of the two conditions was met, but the department used its executive authority to open up the process anyway.

## HOW IT WAS DONE

For its investigation into the state's nearly 300 nursing homes and the state officials who regulate them, The Times-Picayune analyzed more than 200,000 computerized inspection reports and financial statements for 15,866 nursing homes in the United States that are tracked by federal regulators. The records, obtained under the federal Freedom of Information Act, cover four years worth of inspections, from mid-1992 to mid-1995. The newspaper also analyzed 60 million computerized records from March 1993 to March 1995,

one for each time a Louisiana Medicaid recipient checked into a nursing home or hospital, visited a doctor or filled a prescription. And it interviewed more than 200 people and reviewed thousands of Department of Health and Hospitals inspection reports, financial statements and internal memos. The newspaper also conducted an analysis of every campaign contribution received by legislators and statewide officeholders in 1993 and 1994, as well as contributions to gubernatorial candidates this year.

# POLITICAL MUSCLE

Year after year, legislation has been passed or killed to the benefit of the nursing home industry. Often, the legislative efforts were spearheaded by Sen. Joe McPherson, D-Woodworth, a nursing home co-owner and member of the Senate Health and Welfare Committee that handles all nursing home legislation.

## The issue: Alternatives to nursing home care

Advocates for the elderly have tried to pass a bill that would expand services such as adult day care, allowing senior citizens to stay out of nursing homes.

1987 — House Bill 1115. Voted down in committee, withdrawn from consideration.

1991 — Senate Bill 741 and House Bill 416. Both died in committee.

1992 — House Bill 154. Died in committee.

1993 — House Bill 184. Died in committee.

1994 — The efforts resulted in a resolution, co-sponsored by McPherson, to study the issue, effectively killing it for the year.

## The outcome

Louisiana spends less on alternatives to nursing home care than most states. Taxpayers fork over an average of \$13,700 a year per recipient for nursing home care, compared with \$3,500 for alternative home-care programs, according to the Governor's Office of Elderly Affairs.

## The issue: Number of nursing home beds

1995, Act 1236. Sponsored by Rep. Rodney Alexander, D-Quitman, this bill freezes the number of nursing home beds in the state, effectively killing new competition for existing homes.

## The outcome

The bill passed and was signed by the governor. Although it originally was proposed to go into effect Jan. 1, 1996, an amendment by Sen. Armand Brinkhaus, D-Sunset, was approved that delayed the date it goes into effect to July 1, 1996 — allowing a company Brinkhaus was affiliated with to submit an application for a new nursing home; that application is still pending.

## The issue: Qualifications of nurse aides

1993, Senate Bill 406. The bill, supported by the Board of Elementary and Secondary Education, would have created a new class of nurse aides who received four times as much training as typical nurse aides in Louisiana nursing homes. Proponents contend the nursing home industry feared the bill would cause aides to demand higher salaries — cutting into profits.

## The outcome

In a Senate Health and Welfare Committee hearing, McPherson led the debate against the bill; it was killed.

## The issue: Taxes and fees on nursing homes

1992, Act 260. A bill co-sponsored by McPherson set up a tax system for nursing homes and other Medicaid providers. It included a provision that prohibited the Department of Health and Hospitals from imposing any additional fee on nursing homes without the approval of both houses of the Legislature — something not required for other providers.

## The outcome

The bill was passed and signed by the governor.

## The issue: Nursing home administrator qualifications

1992, Act 241. A bill by Rep. Jerry Thomas, D-Bogalusa, changed existing law to redefine the job of a nursing home administrator, effectively changing the requirement that nursing home administrators be full time.

## The outcome

The bill was passed and signed by the governor.

## The issue: Qualifications for nursing home barbers and beauticians

1990, Act 602. Sponsored by McPherson, it excluded beauty shops operated inside nursing homes from normal state rules.

## The outcome

It passed and was signed by the governor.

## The issue: Taxes on nursing homes

1989, Act 332. A bill sponsored by Sen. Don Kelly, D-Natchitoches, changed the way occupational taxes were levied on nursing homes.

## The outcome

The bill passed and was signed by the governor. It lowered the tax burden by an estimated \$1,000 per nursing home, according to the Legislative Fiscal Office.

## The issue: Penalties for deficient nursing homes

1990, Act 859. Over the initial objections of nursing home owners, this allowed the state to assess fines of up to \$10,000 for nursing homes that violated state rules or used unsafe practices. Although the industry eventually went along with the penalty system, there was little anyone could do to stop it: The penalties were mandated by federal law. The final bill was co-sponsored by McPherson.

## The outcome

Although the penalty system passed and was signed by the governor, few nursing homes have been fined by the state.

## [ MEDICAID MADNESS ]

# Doctors tap into Medicaid stream

## *Reimbursement guidelines lax*

By **CHRIS ADAMS**  
Staff writer

The year started out with a bang for Dr. Truman Davidson.

On Jan. 2, working from a small chiropractic clinic in the Delta town of Tallulah, Davidson, according to the bills he submitted to Medicaid, treated 128 people, most of them children, some as young as 1.

Included were 126 office visits, which typically last 10 minutes, according to American Medical Association code books, which the state uses for its Medicaid guidelines. Also included were 236 "manipulations" to a specific part of the body; and 89 massages, which, under the Medicaid guidelines, typically last 30 minutes.

The times from the 126 office visits alone would work out to 21 hours of care, provided they all lasted, on average, the typical time listed in AMA code books. The total bill from that one day of service: \$9,236, all paid by taxpayers.

It wasn't Davidson's best day of the year. It wasn't even his best day of the week.

On Jan. 4, he billed — and Medicaid paid — for \$9,409 in care. On Jan. 5, the total was \$8,856.

In fact, during the first working week of January 1995, Davidson billed Medicaid for

**During the first working week of January 1995, Dr. Truman Davidson billed Medicaid for \$47,056 in care. He billed for 386 office visits, when the average doctor, according to the AMA, conducts 110 patient visits a week.**

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\$47,056 in care. During that one week, he billed for 386 office visits, when the average doctor, according to the AMA, conducts 110 patient visits a week.

In the 12 months that ended June 30, Davidson billed \$1,034,952 to Medicaid, the government health program for the poor that, by nearly all accounts, is seriously out of whack. While Louisiana has been struggling to curb spending on the program, its efforts have been repeatedly thwarted, by policy-makers who can't agree on the best way to fix the program, and by doctors who continue to rack up hundreds of thousands of dollars in claims.

In the 1994-95 fiscal year, 10 Louisiana physicians were paid more than \$1 million by Medicaid, according to a review of Medicaid claims and other state records. The payouts came during the very period in which state officials had tried, and failed, to implement the kind of "managed care" program that would cut down on high billings by individual doctors.

"I've been concerned for some time by the doctors who are making large sums of money from Medicaid," said Dr. Larry Hebert, a state Department of Health and Hospitals official and medical director for the Medicaid program in Louisiana. "That's why we need managed care."

Davidson couldn't be reached for comment. The phone number he listed with the Louisiana Board of Chiropractic Examiners is disconnected, and his name couldn't be located in other national computerized phone books and address locators.

### **Top biller arrested**

Davidson wasn't the champion among the state's Medicaid chiropractors in the 1994-95 fiscal year. That title goes to Dr. Jeff Salczenko of Shreveport, who billed Medicaid for \$1.1 million during the 1994-95 fiscal year before being shut down by state investigators in May.

Salczenko was arrested at his Action Back Care office and charged with 51 counts of Medicaid fraud. Some of the charges centered on billings he submitted to Medicaid for treatment allegedly performed on a day when Salczenko was out of his office and on vacation, said Glen

Petersen, director of the state attorney general's Medicaid fraud unit.

Salczenko pleaded guilty to five counts of Medicaid fraud in October. He agreed to pay back \$603,975 in fraudulent billings, Petersen said.

One of Salczenko's biggest days of the year, according to Medicaid claims records, was March 21, when he billed for \$11,921. Included were 31 visits of "high complexity" — visits that typically last one hour each, according to Medicaid guidelines.

Although Salczenko was eventually caught, Petersen and others said dozens of doctors escape scrutiny, running up thousands of bills for services they never performed or performed so quickly that neither the patient nor Louisiana taxpayers were adequately served.

"No doctor can work 22 hours in one day," Hebert said.

The Times-Picayune reviewed state reports listing total billings submitted by and paid to physicians in the Medicaid program for the 1993-95 fiscal years, and obtained computerized records of all Medicaid claims paid by the state for a one-year period ending last March. Included were the 12 million claims for physician services — each office visit and procedure performed by doctors.

The claims show dozens of doctors billing for more than \$500,000 in a year's time, and a handful collecting more than \$1 million. The claims show only payments to the doctors, and not the costs doctors incur providing services. However, a 1993 survey by the AMA showed that the average doctor has expenses of \$182,200 a year and has a net, pretax income of \$189,300 a year.

Medicaid has no limits on how much a doctor can bill in one year, or even in one day. Although the state can go after doctors who purposely defraud the program — as well as those who unintentionally overbill — there are no steadfast rules for what is and isn't allowed.

Many of the procedure "codes" doctors bill under don't state the amount of time the procedure could be expected to take, something that frustrates fraud investigators such as Petersen. Under the Medicaid chiropractic program, in which payouts mush-

roomed in three years from nothing to more than \$10 million in 1995, chiropractors routinely bill for one or two manipulations per patient. How long those should last isn't listed in state rules, and the state's chiropractic board has told Petersen that some manipulations are legitimately done in just 30 seconds.

Further, on the codes that do come with times attached, the references are only to "typical" times, and other factors — such as complexity of care — are also taken into account. Those times are based on AMA guidelines, developed through the association's surveys of practicing physicians. If a doctor bills under the 10-minute code and spends only five minutes with the patient, that doesn't mean he has committed fraud.

On balance, though, a series of the 10-minute code procedures should average to about 10 minutes each, said Petersen, who has directed the state's Medicaid fraud unit for more than a decade.

The U.S. District Court for the District of Columbia, which handles major government policy cases, recently reviewed the case of a St. Louis doctor who billed Medicaid and Medicare for the equivalent of 21.5 hours of care in one day. In the court's opinion, that was too much.

"While Dr. Krizek may have been a tireless worker, it is difficult for the Court to comprehend how he could have spent more than even 10 hours in a single day serving patients," the judge wrote. At the conclusion of the trial, the government, which was suing Dr. George Krizek for over-billing, and Krizek's lawyers "agreed that an appropriate benchmark for excessive billing would be the equivalent of ... nine patient-service hours in a single service day."

### **Many visits, many bills**

In Louisiana, some of the biggest Medicaid doctors prosper by treating dozens of patients a day, and billing Medicaid for as many procedures per patient as allowed.

► Dr. Jerry Fairchild, a Baton Rouge chiropractor, saw one patient — a 7-year-old boy — for 39 visits, collecting \$1,849.07 for his treatment. Nearly all of the treatment came during a three-month period at the start of 1994: 35 visits, each consisting

of the same four procedures; 35 is the maximum number of times Medicaid allows one patient to see the same doctor in a year.

Even so, the type of work Fairchild was performing on the boy — manipulations and the application of hot and cold packs — generally shouldn't go on for more than a half-dozen visits, Petersen said.

"If you don't do what you need to do in six manipulations, something's wrong," Petersen said. "Even the chiropractic board agrees that's red-flag material."

Fairchild billed Medicaid for \$433,206 in the 1993-94 fiscal year and \$470,038 in 1994-95, records show.

Fairchild couldn't be reached for comment.

► Dr. Anthony Palazzo, a Bogalusa pediatrician, conducted 269 office or hospital visits with his patients the week of May 8, 1994. According to the AMA, the average pediatrician makes 126 office or hospital visits in a week.

Based on the typical times listed in AMA code books, his work days often topped 15 hours: 22 hours on Feb. 10, 1995; 20 hours on Feb. 8, 1995; 19.5 hours on May 9, 1994; 19.1 hours on Jan. 6, 1995; and 19 hours on Sept. 27, 1994.

He billed Medicaid for \$998,747 in the 1993-94 fiscal year and \$940,792 in 1994-95, records show. Palazzo said he employs 15 people and office overhead costs consume "probably 80 percent" of his gross revenue.

Palazzo said his office volume was high, but said the "typical" times listed in AMA code books are for the entire time he spends on a case, not just "face-to-face" time. However, the time-specific codes explicitly refer to "face-to-face" time with the patient or the patient's family, Petersen said.

Even allowing for different interpretations of the AMA codes, Palazzo was asked if he was working on cases 20 or 22 hours a day. "I stay here late at nights sometimes," he said. "I might have worked 20 hours three days in a row. I might have."

He said his office is open from 7:30 a.m. to "whenever we finish. Sometimes 6 or 7."

He also said that the AMA codes refer to not only time, but

also the complexity of care, and that is the determining factor he uses when billing. While a typical doctor might spend 15 minutes on a moderately complex case, he can do it faster — and still should be able to bill at the code for moderately complex cases.

"Maybe I'm better," he said. "Maybe I'm able to make a medical decision a lot faster than these other people. ... My point is we do a good job."

He added that with his focus on preventive care, the hospital admission rate for his patients is the lowest in the community and far below national averages. ► Dr. Marc Desoler of Monroe, who handles critically ill newborns, has taken in more than \$5,000 in a single day, and in the 1994-95 fiscal year billed Medicaid for \$1,012,266.

His biggest payday was July 29, 1994, when he was paid \$7,882, mostly for tending to the hospital care of 21 infants. Included in that was the management of seven "critically ill and unstable" infants, whose condition, according to the code Desoler billed under, "is changing almost minute by minute."

"Such an infant requires almost constant attention by a physician," the code book says.

Desoler couldn't be reached for comment.

► Dr. Gerald Derouen, a Houma pediatrician, topped \$5,000 on several days in 1994 by seeing up to 116 patients in a day. The week of Sept. 25, 1994, he conducted 476 patient visits, collecting up to \$172 for each patient. Much of the caseload was for preventive services, such as immunizations. For that week, he billed Medicaid for \$25,962.

Derouen agreed his patient load was high for a time during 1994, when he said he was the only pediatrician in the area taking Medicaid patients. He

also sees non-Medicaid patients, who make up 10 percent or 20 percent of his caseload, he said.

September 1994 was particularly hectic, he said, because of the start-of-school rush for children's immunizations. He said he sees or supervises the visit of each patient, although a nurse assistant handles one-third of the examinations and shots.

"Last September we were in the office until late," Derouen said. "I would say we see patients eight to 10 hours a day. On some days, it does get long."

For the 1994-95 fiscal year, he billed Medicaid for \$915,185. Derouen said his pretax income was 40 percent to 45 percent of that, while the rest goes to office overhead. The average pediatrician, according to the AMA, earns \$135,400 after expenses.

► Dr. Charles Attwood, a Crowley pediatrician, billed Medicaid for \$9,443.95 for 80 office visits and dozens of medical tests on Aug. 17, 1994. That was his top earning day of the one-year period; his second-best was Aug. 18, for which he was paid \$9,086. Third was Aug. 19, for which he was paid \$8,725.

For the five work days that week, he conducted 369 visits with patients and was paid \$42,055. Attwood said his records for that week, which he said was the largest in his practice's history, reflect a total billing to Medicaid of about \$39,000. He said he was so busy because of a backlog of patients seeking a new allergy shot that Medicaid recently had begun covering. For the 1994-95 fiscal year, he billed Medicaid for \$1,004,487, records show.

Attwood said he has an efficient and computerized office with 11 highly trained workers. Most of his operation is preven-

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# Medicaid

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tive care, he said, and he said he moves quickly from one patient room to the next, alerting nurses to which room he is in by a lighting system. He said his operation has been audited regularly by state regulators and no problems have been found.

"I think we are far more streamlined and organized than most offices," Attwood said. He is also a published author and has repeatedly called on other doctors to accept Medicaid patients and to focus on preventive care.

Attwood said from the more than \$1 million in payments he received in the 1994 calendar year, his pretax income on his tax return was \$403,726. He took home \$263,615, he said.

## Reform effort collapsed

Just about a year ago, state officials were busy preparing a

blueprint for the future of Medicaid in Louisiana. It was to be a statewide managed care plan, much like those in place in several other states. It would have prevented the incentives that prompted a doctor like Salczenko to bill for as many visits as he possibly could.

Under a managed care plan, each recipient of Medicaid is assigned a primary care doctor, who manages the patient's care. The doctors would be paid by a health maintenance organization, which would receive a fixed fee for each Medicaid recipient it covers. In theory, managed care plans save money because doctors no longer are rewarded for performing as many tests and procedures as possible. Instead, doctors and their HMOs are rewarded by eliminating waste — and, critics charge, skimping on necessary care.

Although research is still preliminary, much of it shows that states can save a significant

amount of money with a well-run managed care program. A recent report by the the General Accounting Office, an arm of Congress, noted that per capita Medicaid costs in Arizona declined 11 percent under a managed care plan, even as costs in other states continued to grow.

Louisiana's attempt to put in managed care, however, failed early this year. A skeptical federal government didn't accept the state's financing projections, and state officials couldn't agree on the best approach to use. The whole effort collapsed, forcing the state to drastically cut the existing Medicaid program to contain costs.

Those cuts were put into place. But without adequate safeguards to prevent doctors from running up bills, it already looks as if the program will bust its budget for the 1995-96 fiscal year.

Recent figures from the Legislative Fiscal Office indicate that the Medicaid program, under current projections, will overspend its budget by \$100 million. For example, in five months, the Medicaid chiropractic program has already run up \$3.8 million in claims when its budget for the entire fiscal year is \$5.4 million.

Though many officials in the Department of Health and Hospitals still are trying to switch to a managed care model, they note that such programs aren't a panacea. They can cut down on runaway Medicaid costs, and they should prevent doctors from being paid \$1 million or more a year. But Petersen notes that some doctors will find a way to game the system no matter what the system is.

"When there's a will, there's a way," he said.