

Cover-up charged in VA probe

Administrators manipulated investigation into cancer research at hospital, ex-staffers claim

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First published: Sunday, May 25, 2003

ALBANY -- Stratton Veterans Affairs Medical Center Hospital administrators manipulated an internal investigation into a research program in which whistle-blowers warned that cancer patients were unduly suffering and possibly dying prematurely while being used as unwitting guinea pigs, according to former hospital officials.

Hospital workers and former staffers familiar with the 1995 investigation contend the allegations were never appropriately addressed or corrected, and that serious problems in the cancer program persisted until last year, when two researchers were suspended as federal authorities launched a criminal investigation of patient deaths.

Critics contend the handling of the investigation underscores a long-standing systemic problem in the nation's Veterans Affairs' hospital system, where internal investigations are routinely manipulated to shield lucrative research programs and to protect administrators who face intense pressure to control spending.

"Rather than start getting to the truth, they started a coverup," said Dr. Thomas Ferro, a former pulmonary physician at Stratton who was appointed to head the internal investigation eight years ago. "I mean, it was the investigation from hell. I stopped a few months after the fact and I thought: 'What was the purpose of this whole thing?' The purpose of this whole thing was to thwart the truth."

The new allegations by Ferro, which are supported by current and former hospital officials, come as federal agents are intensively scrutinizing the hospital's cancer program. The new probe has included interviews of hospital workers and relatives of deceased patients.

Federal authorities are examining whether a hospital oncologist, Dr. James A. Holland, and his clinical research assistant, Paul H. Kornak, altered the medical backgrounds of patients in order to enroll them in drug study programs.

Some patients may have died or suffered as a result of the alleged forgeries, and federal authorities said they are weighing manslaughter charges.

But VA insiders contend the criminal investigation is the fallout from years of efforts by hospital administrators to ignore accusations of medical violations, including some that predate Holland and Kornak and that may have led to patient deaths in the cancer program.

They contend the problems began with the alleged mishandling of the 1995 internal investigation, which raises questions about whether two pharmacists, Jeffrey Fudin and Anthony Mariano, were punished for warning officials about the way drugs were prescribed to cancer patients. Fudin and Mariano eventually were fired by VA administrators.

"They started going after Fudin and Mariano and making life impossible for them, and not just to make them shut up," Ferro said. "They had to discredit these two guys to make them look like kooks."

In 1999, Mariano was ordered to work at a desk on a vacant wing in the hospital's psychiatric ward. His isolation on the hospital's top floor ended after four months when a U.S. House of Representatives Veterans Affairs subcommittee staffer learned about his plight and ordered hospital officials to "cut the crap," the staffer said.

Fudin's job was later reinstated by a federal whistle-blower court; Mariano's federal lawsuit seeking reinstatement is pending. Both were selected as grand marshals of Monday's Memorial Day parade in Albany by parade organizers who say the pair are being honored because they stood up for veterans.

Ferro, now an attending physician at McGuire Veterans Affairs Medical Center in Richmond, Va., spoke for the first time last week about his role in the 1995 investigation of the whistle-blowers. He said he signed off on changes in his final report at the request of top hospital officials in Albany -- elimination of information that outlined possible violations of medical protocols -- because he thought it might help advance his career.

Ferro said he believes hospital officials preyed on his desire to move up the ladder when they picked him to investigate Fudin's allegations against Dr. William Hrushesky, who was then Stratton's chief cancer researcher. Hrushesky now works at a VA hospital in South Carolina.

Ferro said his friendship with Hrushesky also led hospital administrators to choose him to head the investigation.

Hrushesky, who once held clinical privileges at Albany Medical Center Hospital, was regarded as a brilliant researcher. He received high accolades in his field for his studies on the effectiveness of certain chemotherapy regimes that depend on when they are administered in relation to a person's biological clock.

Still, some of Hrushesky's colleagues considered him a maverick who disregarded medical protocol and strayed across the fuzzy lines that separate research from accepted patient-care standards. Most of the allegations centered on the way he prescribed powerful cancer drugs.

Hrushesky worked for Albany Med when he was recruited to take over of the cancer research program at Stratton VA. Physicians familiar with the move said VA

administrators were anxious to have Hrushesky's research dollars and support from drug companies credited to Stratton.

Fudin, a clinical pharmacist at Stratton VA who specializes in pain management, spotted what he believed were some serious problems with Hrushesky's work and wrote a memorandum to VA officials questioning the oncologist's use of Taxol, an FDA-approved cancer drug.

Hospital insiders said Fudin's allegations were so serious the VA was required to investigate. That's when former Stratton VA Director Fred L. Malphurs, now head of a VA hospital in Gainesville, Fla., enlisted Ferro.

Ferro contends his investigation was undermined from the start. He claims Malphurs encouraged him to clear Hrushesky before the investigation began, and that two hospital staffers appointed by Malphurs to assist him in the investigation lacked appropriate medical training.

"They had no background at all in clinical practice or clinical research," Ferro said. "I was bewildered why I got these two people to help me. They really weren't qualified."

Ferro said he complained to Malphurs that he needed people on the investigative board with deeper medical backgrounds.

"Fred said, 'I appreciate the input but that's the way it'll be.' I remember thinking I was stuck with myself," said Ferro, also currently a professor of internal medicine at the Medical College of Virginia. "They certainly weren't going to give me the resources to find anything, if they wanted to find anything. ... There was this manipulating of the investigations."

Ferro said he found evidence of minor patient-care violations and other problems in Hrushesky's program. A handful of patients were being given unusual -- though not unlawful -- dosages of chemotherapy drugs and there was no paperwork showing they had been informed of the risks and consented to the treatments.

Ferro said his investigation was not as deep as it could have been because he stopped it when he found some apparent violations and wrote a report that was forwarded to hospital administrators.

Ferro said he received a call from Dale Morgan, who is now retired but at the time was the chief assistant to Dr. Larry Flesh, the hospital's chief of staff. Flesh is now deputy director of the VA hospital network in upstate New York, which includes Albany.

Morgan, who declined comment, allegedly showed Ferro a version of his report reflecting deletion of certain critical portions. Ferro said he initially refused to sign off on the changes.

"Dale said, 'Tom, it's not me, it's Larry, this is what Larry wants me to do,' " Ferro recalled. "I wanted to know it was the boss who wanted me to do this. I was trying to get Larry to promote me. I wanted Fred (Malphurs) to promote me, so that's when I did it."

Other hospital officials, who spoke on condition of anonymity, supported Ferro's version of events. They contend the changes were made before the report was forwarded to the Office of the Inspector General for Veterans Affairs, and as result there was no follow-up investigation.

Later, when Fudin and Mariano reported their concerns to the FBI in Albany, agents there declined to investigate the allegations and referred the case to the VA's Office of Inspector General, according to FBI documents obtained by the Times Union.

Malphurs and Flesh did not respond to written requests for comment.

Ferro said he never kept a copy of his original report because hospital officials told him all records related to the investigation would have to be turned in at the end.

"I was given instructions to wipe off the hard drive of my computer and hand in the only hard copy," Ferro said.

Hrushesky left Stratton VA in 2000 to become head of clinical research at a VA hospital in Dorn, S.C, where he still works. He has declined requests for comment.

"It is unfortunate that veterans were the victims in this terrible tragedy," Mariano said, speaking about the case for the first time. "I have always prayed that justice would prevail and that I would be vindicated. I empathize with Dr. Ferro in the courage it took for him to speak out."

Mariano said sweeping changes are needed because similar alleged cover-ups are taking place at other VA hospitals.

"Congress needs to move internal VA investigations ... to an outside agency, not under VA control so that this type of tragedy will not happen again," he said.