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REGIONAL NEWS

CAPITAL REGION : Sentencing in May for VA fraud

BY JILL BRYCE Gazette Reporter

ALBANY — A man who posed as a physician at the Stratton Veterans Affairs Medical Center and who pled guilty to criminally negligent homicide in connection to the death of a veteran will be sentenced in May in federal court.

Paul H. Kornak, 53, former chief research assistant at the medical center, pleaded guilty in January 2005 to fraud and criminally negligent homicide in the death of Air Force veteran James DiGeorgia.

He could face up to 29 years in prison.

Kornak was arrested as the result of a widespread federal investigation into the cancer research program at the Stratton VA. Assistant U.S. State Attorney Grant C. Jacquith would not comment when asked if other arrests are pending.

He also would not say how long the investigation by the Inspector General will take or whether individuals who supervised Kornak may face charges.

"I can say the Department of the VA office of Inspector General has conducted a very thorough investigation. It is ongoing," said Jacquith.

He also would "neither confirm nor deny" whether Dr. James Holland, Kornak's former supervisor who was the principal oncology researcher at the Stratton VA, is being investigated or will be charged.

Federal prosecutors did say in court papers last year that Dr. Holland was possibly facing criminal charges, according to the New York Times.

Bruce Sackman, Special Agent in Charge, VA Office of Inspector General, Northeast Field Office, could not be reached for comment.

Jacquith said the investigation by the Office of Inspector General began after a routine review in late 2002 of records at the Stratton VA uncovered irregular documents. He said management of the VA Medical Center notified the Office of the Inspector General of the Department of Veterans Affairs.

Eventually, Kornak was accused of changing medical records of dozens of patients over more than a three-year period in order to enroll them in drug studies. For each patient included in research protocols, money is paid to researchers.

Two pharmacists, Dr. Jeffrey Fudin and Anthony Mariano, Stratton's former pharmacy director, have questioned the integrity of an investigation and the independence of the Inspector General's office.

The two say they have suffered years of retaliation after they reported corruption at Stratton VA. They went to the FBI in Albany in 1999 to report that patients with cancer and other illnesses were placed at risk because of how experimental drugs were used. Their allegations included corruption in the cancer research program, including patients being given experimental drugs outside medical protocol.

Fudin and Mariano said they'll closely watch what happens to Kornak when he is sentenced May 27 in federal court.

After Kornak entered a guilty plea in January, Mariano filed a request with the Office of Special Counsel to have his own case reopened. He still hasn't gotten a response.

He is seeking whistle-blower status.

"My problem and Jeff's problem, aside from the VA retaliation, is that the Office of Inspector General is hired by the VA and trained by the VA. At the end of the day, they used to report back to the VA officials and VA officials would work with the Inspector General to write up a report."

Mariano said if the FBI or the Office of Inspector General had investigated their claims in the summer of 1999, patients' deaths may have been prevented.

Some patients in the research program died in 1999-2000 after Fudin and Mariano visited the FBI to report their concerns.

Mariano criticized the hospital's use of a drug for hypertension to save money, and said it was harming patients. He wrote an article about the department's drug policies and he was reassigned from the pharmacy to a locked psychiatric ward. He resigned after pressure in 2001 and works as a pharmacist at Wal-Mart.

Meanwhile, despite an ongoing federal investigation, Fudin, a clinical pharmacist at the Stratton VA, said the administration at the hospital continues to retaliate against him for his whistleblowing.

He said that most recently he was denied administrative leave to attend an educational seminar — the American College of Clinical Pharmacy Annual meeting in Dallas, Texas in October 2004.

Stratton VA director Mary Ellen Piche was the one who denied his request saying: "Mr. Fudin's request to be on administrative leave was carefully considered and it was determined that it was more appropriate for him to attend the conference using annual leave."

Fudin said he was never given an explanation from Piche for why his leave was denied. He attended the conference anyway using personal vacation time and asked Congressman Michael McNulty's office on Jan. 29 to intervene at a congressional level if necessary to determine why the request for an authorized absence was denied.

"Why have other Stratton VA pharmacy employees been approved for authorized absence for similar conferences within the last month?" Fudin asked.

Fudin also said he's the only clinical pharmacist in the entire VA system with board certification in pain management and is recognized as an international expert on the topic.

Fudin points out to McNulty he was fired from the Stratton VA in December 2001 and considers the denial by Piche the latest example of harassment. "This behavior by VA officials needs to be squelched. It is a hostile working environment for employees, unprofessional and an obvious abuse of power," Fudin wrote in a letter to McNulty.

In a Nov. 10, 2004 letter to McNulty, Fudin said he hoped to avoid another court battle. "I have decided to file an official complaint to the Office of Special Counsel specific to reprisal for whistle-blowing."

Fudin said official reports were filed with overseeing agencies alleging Stratton VA administrators participated in reprisal against him for exposing major ethical flaws that allegedly led to patient harm or death.

The information is on file with the FBI, FDA, VA Inspector General and McNulty's office. He said that almost every administrator accused of alleged reprisal against him has received a major promotion.

Fudin and Mariano may have been some of the first to raise complaints about the research program and other problems at the Stratton VA. Since then, others have come forward about other problems.

Dr. Fathali Borhan-Manesh, former chief of gastroenterology at Stratton VA, said after he reported that illegal tissue sampling was being done, he was suspended, his clinical privileges were taken away and he was eventually forced to resign.

Also, Dr. Roberta Miller, who was director of the Stratton's home care patient program, and who had written a so-called crisis paper to the central office of Department of Veterans Affairs in Washington D.C., was removed from her position.