



**State of Delaware
Department of Justice**

M. JANE BRADY
ATTORNEY GENERAL

Carvel State Building
820 N. French Street
Wilmington, DE 19801
Criminal Division (302) 577-8500
Fax: (302) 577-2496
Civil Division (302) 577-8400
Fax: (302) 577-6630
TTY: (302) 577-5783



U.S. Department of Justice
United States Attorney's Office
District of Delaware

COLM F. CONNOLLY
UNITED STATES ATTORNEY

Nemours Building
1007 Orange Street, Suite 700
P.O. Box 2046
Wilmington, Delaware 19899-2046
(302) 573-6277
FAX (302) 573-6220

PRESS RELEASE

FOR IMMEDIATE RELEASE

November 10, 2005

HARBOR HEALTHCARE SETTLEMENT REACHED

(Wilmington, DE): The United States and the State of Delaware reached a \$150,000 settlement with Harbor Healthcare Concerning inadequate care provided to children in the late 1990's.

Colm F. Connolly, United States Attorney for the District of Delaware, and M. Jane Brady, Attorney General for the State of Delaware, announced that the United States and the State of Delaware ("the government") have reached a \$150,000 settlement with Harbor Healthcare & Rehabilitation Ctr. ("Harbor") (Lewes, Delaware) concerning alleged inadequate healthcare provided to children who were Medicaid patients in the late 1990's.

From 1998 through 1999, Harbor provided skilled nursing home care to a number of severely disabled children whose care was paid for by the Medicaid program. Many of the children were in a persistent vegetative state. Harbor billed the State of Delaware's Medicaid program for the care of many of these children. The allegations are that Harbor submitted false claims to the government for payment in violation of both the state and federal False Claims Acts, 31 U.S.C. § 3729; 6 Del. C. 1201, in that the care they provided to these children was inadequate. The government further alleged that Harbor was understaffed during the relevant time period and that the inadequate staffing led to the provision of substandard care. The government further alleged that Harbor's staff was not properly trained to operate and maintain feeding tubes, perform suctioning, pulmonary toileting and to do assessments of the children,

many of whom could not communicate. Harbor has not operated a pediatric skilled nursing facility since 2001.

The settlement consists of a lump sum of \$120,000 paid to the government and a \$30,000 fund to be expended on behalf of Harbor's current patients. The "Quality of Care/Quality of Life Fund" ("the Fund") will be expended in addition to expenditures for programs, services and equipment already budgeted in the ordinary course of business by Harbor. The Fund will be used to enhance the quality of life of the residents of Harbor and the quality of care provided to them. Additionally, Harbor is required to enter into a Corporate Integrity Agreement ("CIA"). As part of the CIA, a neutral consultant monitor will inspect the facility and report on its compliance with relevant regulations and standards of care. The monitor will cost Harbor up to an additional \$125,000. Additionally, as part of the Agreement, Harbor has agreed not to operate a pediatric skilled nursing facility (but may apply to HHS for such authority after five years).

In announcing the settlement, U.S. Attorney Connolly and Attorney General Brady commended members of the Department of Health and Human Service's Office of Inspector general ("HHS-OIG"), and the Delaware Medicaid Fraud Control Unit ("MFCU") in the State Attorney General's office. In particular, they praised the outstanding investigative efforts and assistance of HHS-OIG Special Agent Stan Rutkowski; HHS-OIG attorneys, Richard Linzer and Andrew Penn; MFCU investigator Ruth Townsend; and the Director of the Delaware MFCU, Deputy Attorney General Daniel R. Miller. In addition, U.S. Attorney Connolly also commended Assistant U.S. Attorneys Rudolph Contreras and Virginia Gibson (now in the E.D.Pa.) who coordinated the civil investigation and settlement discussions, and USAO auditor Larry Kutys who provided invaluable assistance to the investigation.

Attorney General Brady said "These children and their families suffered, with inadequate care and unacceptable conditions. The action cannot reverse the harm that was done them, but it does act to prevent others from undergoing similar experiences by prohibiting Harbor Healthcare from offering pediatric skilled nursing services."

U.S. Attorney Connolly added "in this instance, the system failed some of our most vulnerable citizens. When such failures occur, we will use whatever tools are available to us, in this case the False Claims Act, to creatively address and correct whatever problems are discovered."

For further information, please contact:

For the United States: Assistant United States Attorney Rudolph Contreras at (302) 573-6277, ext. 154.

For the State of Delaware: Deputy Attorney General Daniel R. Miller, (302) 577-8859; Lori Sitler/Janice Fitzsimons, (302) 577-8314, Pager (302) 247-1132.

###