

# At Guardian, an entrenched pattern of abuse and neglect

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Guardian Postacute Services, the nursing care corporation indicted on six felony counts of elder abuse by a Santa Clara County criminal grand jury Tuesday, has long abused and neglected patients at its facilities, records from the Department of Health Services show.

According to DHS records, 10 of the 16 facilities owned by Guardian in Northern California have received citations since 1996. The records also show that at three facilities in Santa Clara County the number of substantiated complaints and the amount in fines assessed by the DHS increased after takeovers by Guardian.

At Guardian Los Gatos, which was acquired by Guardian in October 1995 and triggered the current investigation in March, the number of substantiated complaints rose from 13 for the period of October 1992 to October 1995 to 32 for the period of January 1996 to May 1999; the amount in fines assessed rose from \$3,800 to \$118,900 and the number of A-level violations, or those posing imminent danger of death or serious harm, from zero to six.

In a telephone interview Wednesday Robert G. Peirce, the president and chief executive officer of the Guardian Health

Group, attributed the increase in citations to conditions experienced during renovations in 1996. However, DHS records show that all the citations stemmed from lapses in patient care, administration, record-keeping and respect for patients' rights.

For similar periods before and after a takeover by Guardian, the number of citations at Guardian San Jose rose from five to nine, the number of A-level violations from two to three, and the amount in fines assessed from \$26,400 to \$34,000. At Guardian Rehabilitation Center in Los Gatos the number of violations increased from 21 to 29, the number of A-level viola-

tions from one to two, and the amount in fines assessed from \$15,400 to \$20,400. The causes were similar to those underlying the citations at Guardian Los Gatos.

Patients from all three facilities were hospitalized for ulcers, injuries and illnesses brought on by their treatment.

Pat McGinnis, the founder and executive director of the patients' group California Advocates for Nursing Home Reform, was not surprised by the complaints, which are like those she hears from nursing home patients' families at a support group she has run for 14 years in Santa Clara County.

"We've had so many complaints about Guardian's facilities," McGinnis commented. "I urge [the families] to write to their assembly members to let them know what's going on."

Nursing home reform has been taken up in the state legislature this session by Assemblyman Kevin Shelley (D-San Francisco). A bill he has sponsored, AB 1160, would require higher staff-to-patient ratios, better training for skilled nurses and stricter enforcement of regulations.

McGinnis, who has endorsed AB 1160, believes that universal quality care can be achieved only by community-based nonprofits. Noting that conditions deteriorated at Guardian facilities including Los Gatos and San Jose after their nonprofit to for-profit conversion, she points to Guardian as an example of the link she sees between for-profit status and a decline in care.

In addition to the provisions of AB 1160, McGinnis is seeking stricter accounts of charitable assets in nonprofit to for-profit

conversions, mandatory disclosure of profits made by facilities that receive state and federal money and reform of reporting standards for staff-to-patient ratios, which currently allow each nurse to be counted twice.

The Guardian case is the first in California in which the owners of a nursing care corporation, rather than members of the nursing staff, have been prosecuted for elder abuse. If they are convicted, the company will automatically lose its state and federal funding, which Peirce says accounts for about 50 percent of the chain's revenues.

Company officials will be arraigned in Santa Clara County Superior Court June 7. Deputy District Attorney Randy Hey, the head of the elder abuse unit in Santa Clara County, does not expect the case to go to trial until after the first of next year.