

ALBANY

VA whistleblower keeps fighting

BY JILL BRYCE
Gazette Reporter

Nearly a decade after a local pharmacist went to the FBI to report patient abuse at Albany's Veterans Affairs hospital, which led to the conviction of two employees, he is still fighting to protect veterans and whistleblowers.

Dr. Jeffrey Fudin, a pharmacist at the Samuel S. Stratton Department of Veterans Affairs Medical Center, was so appalled by patient abuses that he reported it to administrators in 1995.

Instead of investigating, VA administrators retaliated, he said. Fudin decided to fight on, and in 2005 he started the Veterans Affairs Whistleblowers Coalition.

This week, Fudin and hundreds of whistleblowers from across the country will meet in Washington D.C. for "Whistleblower

Week." It begins Monday and lasts through Saturday.

The purpose, said Fudin, is to promote protections for whistleblowers who have risked their careers to challenge abuses of public trust.

The week-long conference comes on the heels of a March 14 vote by the U.S. House of Representatives to pass the Whistleblower Enhancement Act of 2007. If the Senate approves the bill, it would be the strongest whistleblower law ever passed by Congress. A congressional hearing is scheduled for May 15.

"I am not lobbying for anything," said Fudin. "I want Congress to recognize there is problem in the Veterans' Administration. I want hearings."

Whistleblowers are not protected, said Fudin. "It's a sham. I think veterans are harmed because of this. If someone blows a whistle,

it needs to be taken seriously."

Fudin and his colleague, Anthony Mariano, witnessed first-hand the abuse of veterans at Stratton VA and reported to administrators that patients' records were being changed so they would qualify for drug studies.

"As I climbed the chain of command to report my observations, it became painfully obvious that institution officials were angered by my 'protected' disclosure," said Fudin.

At times, after he reported what he had seen, Fudin said he felt paranoid, and he spent much time protecting himself. His focus has shifted. "It's not about me. The Stratton VA is treating me fine. It's a bigger issue, for patient safety and whistleblower protection around the U.S. It's the right thing to do."

Fudin gets philosophical when talking about the importance of protecting whistleblowers. "In this country, there is freedom

of speech. We should not be punished for speaking our mind and certainly not when we are protecting patients."

JOINING FORCES

The Veterans Affairs Whistleblowers Coalition is an alliance of whistleblowers who have come forward to address weaknesses in VA institutions specifically by informing authorities of research violations and other mistreatment of veteran patients, said Fudin. In some cases it has involved waste, fraud, abuse of power and criminal misconduct.

Fudin said the group is dedicated to aiding Department of Veterans Affairs whistleblowers through a variety of methods, including advocacy of governmental and legal reform and educating the public.

Signs at the Stratton VA urge employees

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Whistle: Groups join to help informants at veteran hospitals

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to call the VA Office of Inspector General, a federal agency intended to protect federal whistleblowers. But Fudin said if someone goes to the Office of Inspector General to disclose information about the VA administration, harassment escalates.

He said that when he put his concerns about abuse at Stratton in writing, an administrator told him: "Fudin, I will bury you." He kept returning to the Code of Ethics for Pharmacists, which demands pharmacists tell the truth and act with conviction of conscience.

Mary-Ellen Piche, director at Stratton since 2002, said there is zero tolerance for violating whistleblower rights at Stratton VA and all new employees receive training about their whistleblower protections under the No-Fear Act.

The Office of Research and Development has taken measures since 2003 to strengthen medical research practices to protect people involved in clinical trials, she said.

The VA also started in 2003 "Stand Down," a program that requires verification of credentials, license and certification for all members of VA research teams and training for all VA research teams in principles of human research protection and good clinical practice.

In a written statement, Piche said all VA facilities with active human research programs must have their programs accredited by the National Committee for Quality Assurance.

"These are programs in place that protect employees," said VA spokesman Peter Potter. "Fudin continues to work at the Stratton VA. It's not a matter of a bureaucracy going after our employees. We protect our employees."

Mariano said a conflict exists. The VA Inspector General is recruited and trained by the same VA officials they answer to, and this serves to avoid accountability by the VA.

Fudin and Mariano notified supervisors at Stratton VA in 1999 that patients were being subjected to unethical experimentation and given experimental drugs without the patient's knowledge.

The patients' records were altered so the patient would qualify for drug trials.

The Albany Research Inc., a not-for-profit arm of Stratton, received thousands of dollars for each pa-

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DR. JEFFREY FUDIN
Stratton VA Medical Center
pharmacist

tient enrolled in the program.

But Fudin said instead of investigating their claims, VA officials retaliated. Fudin was fired and Mariano forced to resign without a hearing.

Fudin prevailed in court and was reinstated to his job by a federal judge, but only after he was wrongly accused of patient abuse, practicing outside his scope and illegally writing prescriptions.

A federal investigation into Fudin's claims against the VA found that patients who did not qualify for clinical trials were included in studies.

The investigation led to criminal charges and convictions.

Last month, James Holland, an oncologist who led the cancer research program at Stratton VA, pleaded guilty in federal court to misdemeanor charges that he did not protect patients who were taking part in the drug studies at Stratton VA. In 2005, Paul Kornak pleaded guilty to criminally negligent homicide for falsifying documents at Stratton VA so patients could enroll in drug trials.

At least one veteran died — his records were among those changed — and dozens of other veterans suffered or were harmed by forgeries.

Mariano said he and Fudin were never asked to testify before a federal grand jury.

TIP OF THE ICEBERG

Many other employees at Stratton VA were involved in the abuse problems that date back to 1993, said Fudin.

"There is ample evidence to support the contention that bonuses are paid to administrative personnel who collude to obscure administrative malfeasance and incompetence and punitive action against whistleblowers. These funds are used to 'buy' silence from upper and middle management that have knowledge of wrongdoing," said Fudin.

He said there are numerous examples of facility directors and their designees who have been transferred to new assignments after "problematic performance

issues, including medical research violations and mandated drug substitution policies resulting in the death of veterans."

Fudin said that his problems at Stratton VA have subsided. "I am hopeful the current administration will be reticent to harass honest employees that have the best interest of veterans at heart should one find it necessary to disclose a problematic patient care issue."

He said the problems he found at Stratton are systematic throughout the VA system.

And he said he learned that within the federal government there's a protective shield for "insiders" known as bureaucracy, and he learned if he did the right thing, doctors, nurses, pharmacists and other health care professionals would help him achieve the ultimate goal of protecting the patient.

"Without realizing it, I was considered a modern day Paul Revere, a whistleblower. And so the struggle began."

Dr. James Murtagh, an Atlanta-based physician who founded the Patient Quality Care Project and organized Whistleblower Week, said Fudin has worked tirelessly to help protect whistleblowers.

The central goal of the conference is to pass whistleblower protection legislation, said Murtagh. Many whistleblower groups in the country decided to band together.

"We hope to be able to find what unites us — like good government, open government, transparency, constitution issues and whistleblower protection. The whistleblower is at the heart of everything," said Murtagh. "If people violate good government, you need someone to come out and say something is going on."

If a person who reports wrongdoing is not protected, the wrongdoing will continue, he said. "You can't have a democracy if people aren't told what's going on."

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