



U.S. Department of Justice

Civil Division

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Elder Justice Coordinating Council
Remarks of Susan Carney Lynch, JD, DrPH, Senior Counsel for Elder Justice
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Good morning Chairwoman Barkoff and members of the Elder Justice Coordinating Council. I am Susan Lynch, Senior Counsel for Elder Justice at the United States Department of Justice, where for the past 24 years I have civilly prosecuted health care fraud matters, and where I lead the Department's National Nursing Home Initiative. I appreciate the opportunity to appear before you today to discuss three topics. First, the Department's response to what we are focused on today – natural disasters and resulting elder fraud and scams. Second, the Department's actions taken as a result of the evacuation of nursing home residents during Hurricane Ida in the Bob Dean matter in Louisiana. I will also share more broadly the work of the National Nursing Home Initiative in bringing to justice skilled nursing home chains and owners who provide grossly substandard care to their residents. Finally, as we head into World Elder Abuse Awareness (WEAAD) week next week, I want to share some highlights of the work that the Department's Elder Justice Initiative is doing to combat abuse, neglect, and exploitation across this nation.

To combat natural disasters and public health emergencies, the Department's National Center for Disaster Fraud (NCDF) was established in 2005 in the wake of Hurricane Katrina, when billions of dollars in federal disaster relief poured into the Gulf Coast region. The NCDF is the national coordinating agency for all man-made and natural disasters. Since 2005, the NCDF has received over 220,000 complaints.

The NCDF hotline number is **866-720-5721**. The public can call this hotline to get help reporting national disaster fraud by filing out the National Disaster Complaint Form.

The Department's Center is the result of a partnership between the U.S. Department of Justice and various law enforcement and regulatory agencies to form a national coordinating agency within the Criminal Division of the Department of Justice to improve and further the detection, prevention, investigation, and prosecution of fraud related to natural and man-made disasters, and to advocate for the victims of such fraud. The Center has also been involved with many matters involving the COVID-19 public health emergency such as pandemic relief fraud.

The Department's commitment to combatting fraud in the wake of a national disaster was also evident in the Department's creation of the Hurricane Katrina Fraud Task Force. The Task Force was charged with deterring, detecting, and prosecuting individuals who tried to take advantage of the disasters related to Hurricanes Katrina, Rita, Wilma, Gustav, and Ike, as well as other natural disasters. The Task Force included the Criminal, Civil, and Antitrust Divisions of the Department of Justice, U.S. Attorneys' Offices, the FBI, the Postal Inspection Service, the U.S. Secret Service, the Federal Trade Commission, the Securities and Exchange Commission, federal inspectors general, and various representatives of state and local law enforcement. This Hurricane Katrina Fraud Task Force has brought federal charges against 907 individuals in 43 federal judicial districts across the country.

Over the years it has become clear that national disasters not only spawn frauds and scams but also can lead to devastating health consequences for older adults in our nation's nursing homes who face the need to immediately evacuate their nursing homes. We saw this occur with Hurricane Irma in Florida in 2017, Hurricane Harvey in Texas also in 2017, and most recently with Hurricane Ida in Louisiana in 2021.

Many of you have probably seen the horrific news clips of nursing home residents being evacuated to a pesticide warehouse during Hurricane Ida, and have heard the chilling stories of residents and family members who suffered through this ordeal. In January of this year, the United States filed a complaint under the National Housing Act of 1934 (NHA) against Bob Dean Jr. and several affiliated corporate

entities for misappropriating and misusing the assets and income of four nursing homes in Louisiana before and after Hurricane Ida's landfall in August 2021. The four nursing homes, all of which were owned and operated by Dean and his companies, had loans insured by the Federal Housing Administration (FHA).

The United States' complaint, filed in U.S. District Court for the Middle District of Louisiana, alleges that, from 2016 to 2021, Dean required the nursing homes to pay "rent" on an industrial warehouse he had acquired supposedly to serve as a hurricane evacuation center. The rent, which totaled more than \$1 million, was paid to one of his corporate entities. Rather than using the funds to prepare the warehouse for a hurricane, he funneled much of that money to his personal bank accounts. In the days leading up to Hurricane Ida's expected landfall in August 2021, Dean evacuated the residents of the four nursing homes to the warehouse. After residents arrived, sanitation was not maintained, and the nursing homes' staff did not prepare sufficient food, provide wound care, or ensure adequate medical care and support for the residents. As a result, on September 2, 2021, the Louisiana Department of Health removed the residents from the evacuation center and revoked Dean's nursing home licenses.

The United States complaint further alleges that after the residents had been evacuated and the licenses revoked, Dean and his corporate entities continued to misdirect and misspend the nursing homes' assets and income. Specifically, Dean allegedly directed his bookkeeper to sweep all of the nursing homes' bank accounts and transfer the millions of dollars of funds to his personal accounts. The United States alleges that Dean did not use these funds to operate or maintain the nursing homes, which at this point were not operating because of the hurricane, and instead used this money to purchase personal goods and services, including antiques, firearms, and cars, and to fund allowances for his family members. The complaint alleges that, in total, Dean misspent and misallocated more than \$4 million of the nursing homes' assets and income.

Notably, in President Biden's February 2022 Fact Sheet related to the nursing home quality initiative, there is a specific focus on ensuring pandemic emergency preparedness in nursing homes. Likewise, the National Academy of Sciences in their 2022 Quality of Care in Nursing Home Report also supported robust emergency preparedness recommendations for the long-term care sector.

Sadly, while natural disasters like Hurricane Katrina or public health emergencies like the COVID-19 pandemic bring to light some of most horrific problems in nursing homes, oftentimes these disasters merely highlight problems that already existed in the nursing homes for some time, like insufficient number and skill level of staff, severe physical plant problems, and care process failures. That is why the Department, through its National Nursing Home Initiative, is dedicated to preventing fraud and abuse in our nation's nursing homes. For over two decades, the Department of Justice has brought civil and criminal cases against the nation's largest nursing home chains, small regional chains, single facilities, and against nursing home CEOs and executives who provide grossly substandard care to their residents and commit criminal financial fraud. The Department has brought these entities and individuals to justice through its National Nursing Home Initiative, announced in March of 2020, and through the ongoing work of the Department's Elder Justice Initiative. We have done this important work with the help of and in partnership with many federal, state, local, tribal, and non-governmental partners and through the dedicated work of the ninety-four Elder Justice Coordinators at the Department who are focused on the work of elder justice.

I will now share with this Council two cases which highlight the important nursing home enforcement work that we are doing across the nation. In February of this year, a federal grand jury in the Western District of Wisconsin returned an indictment charging Kevin Breslin of Hoboken, New Jersey, and KBWB Operations, LLC, doing business as Atrium Health and Senior Living (Atrium) in Park Ridge, New Jersey, with a scheme to defraud Medicare and Medicaid in connection with the delivery of or payment for health care benefits, items, or services. These entities operated 24 skilled nursing facilities and 9 assisted living facilities.

The indictment charged the defendants with health care fraud, six counts of wire fraud, three counts of mail fraud, conspiracy to commit tax fraud, and conspiracy to commit money laundering. The indictment further alleged that this diversion of funds caused inadequate care of residents, including a shortage of clean diapers, inadequate wound care supplies, inadequate cleaning supplies, and a lack of durable medical equipment and respiratory supplies. In addition, the diversion of funds caused non-payment to vendors, which caused numerous services to be cut off, including physical therapy for residents, fire alarm monitoring services, phone

and internet services preventing staff from obtaining prescription orders and accessing electronic medical records systems, and necessary repairs and maintenance of the physical plant facilities.

If convicted, Breslin and Atrium face penalties of five years in federal prison on the conspiracy to commit tax fraud charge, and 20 years on each health care fraud, wire fraud, mail fraud, and conspiracy to commit money laundering charge.

Also in February of this year, the Justice Department, together with the New York State Office of the Attorney General, entered into settlement agreements with the landlord and several individuals and entities involved in the operation of Saratoga Center for Rehabilitation and Skilled Nursing Care (Saratoga Center), a nursing facility in Ballston Spa, New York and several owners, who collectively agreed to pay \$7.17 to resolve allegations that they violated the False Claims Act by causing the submission of false claims to the Medicaid program for worthless services provided to residents. Saratoga Center closed in February 2021, after this investigation was initiated.

From February 2017 until it closed in February 2021, the United States contends that Saratoga Center delivered worthless services to residents, and its physical conditions deteriorated to such a degree that it violated federal and state regulations. Specifically, the operators failed to adequately staff the home, and residents suffered medication errors, unnecessary falls, and the development of pressure ulcers. Additionally, Saratoga Center did not consistently maintain hot water throughout the facility, have an adequate linen inventory, and dispose of solid waste. In connection with the settlement, the United States Department of Health and Human Services, Office of Inspector General (HHS OIG), negotiated voluntary exclusions of the individuals and entities.

Finally, as we approach WEAAD, I wanted to highlight some of the work of the Department's Elder Justice Initiative in combatting elder abuse, neglect, and exploitation. The Department is supporting the National Elder Abuse Victim Services Needs Assessment to understand the needs of older victims of crime and elder justice professionals and how existing support shapes victim experiences and ongoing service needs. This study is nationwide, including all 50 states and U.S. territories.

The Department, in consultation with the FBI and Modell Consulting Group, developed the first forensic interviewer training for use with older adults. Safe Accessible Forensic Interviewing for Elders (SAFE) was developed to meet the growing need for victim-centered, trauma-informed interview techniques for use with older adults in criminal contexts. SAFE is grounded in forensic interviewing best practices with considerations and adaptations to account for age-related changes. EJI will arrange for training for 14 communities and we are currently identifying those communities.

Finally, the Department released a solicitation to fund 10 new elder justice Multidisciplinary Teams (MDTs). Those proposals are going through the review process now.

In closing, we look forward to working with our federal partners to bring to justice those who seek to benefit from natural disasters and to continue to work together with our partners to support our collective elder justice mission.