

Apologies and excuses at VA case sentencing

Man who admitted guilt in Stratton hospital scandal claims he was used by boss

<http://timesunion.com/AspStories/story.asp?storyID=422212&category=REGIONOTHER&BCCCode=HOME&newsdate=11/22/2005&TextPage=3>

By **BRENDAN LYONS**, Staff writer

First published: Tuesday, November 22, 2005

ALBANY -- A former cancer research specialist at Stratton VA Medical Center cast himself as a pawn who followed orders before a federal judge sentenced him on Monday to nearly six years in prison for falsifying records to push dozens of patients into experimental drug programs.

At least one veteran died and 64 others suffered unduly or were harmed by the forgeries, which involved manipulating their medical backgrounds so they would qualify for drug studies that were lucrative for the hospital and which furthered the researchers' careers.

Paul H. Kornak, 54, who posed as a doctor at Stratton even though he never finished medical school, apologized for his crimes but told a judge he was "used" by the hospital's former cancer research director, Dr. James A. Holland, who was fired along with Kornak shortly after the scandal broke three years ago.

In January, Kornak, of Clifton Park, pleaded guilty to one count each of mail fraud and criminally negligent homicide. He cooperated with investigators and offered to testify before a grand jury, but there is no indication from federal authorities the probe will be widened.

In court Monday afternoon, as the widow of one veteran sat 20 feet behind him, Kornak spoke publicly for the first time, apologizing and calling himself "a figuratively and literally broken man."

"I do, however, wish to state for the record, that every action and decision in this case was ordered and prescribed by the program director (Holland)," Kornak said, without naming his former boss. "It was his decision that all patients should fit into his study; and that without any consequence to those affected. I wish to further state that even though I accept all the responsibility, I was used and not even given a full opportunity to express myself to him at that time."

U.S. District Court Judge Frederick J. Scullin Jr., who is a veteran, told Kornak that his criminal history -- a felony conviction in Pennsylvania in 1992 for forging a medical license application -- undercut his credibility. Scullin sentenced him to 71 months, which the judge said is the maximum allowed under federal sentencing guidelines. He also ordered Kornak to pay more than \$638,000 to several drug companies whose studies were undermined by the scandal.

Kornak was whisked quickly from the court by U.S. marshals after shaking the hand of his attorney, E. Stewart Jones.

"All I can say is, it's the beginning of accountability for this travesty, and I'm glad that it's over, but it's only the beginning," said Jayne Steubing, whose husband, Carl, a decorated World War II Army veteran, died at Stratton VA in 2002, two weeks after being given an experimental breast cancer drug to treat his esophageal cancer.

The death of Steubing, who was a widely known music conductor and a former director of fine arts in the Scotia-Glenville School District, led to the mail fraud charge against Kornak because he falsified records that he mailed to a drug company regarding Steubing's treatment.

Jayne Steubing, who attended Monday's sentencing, is one of several widows suing the Department of Veterans Affairs, Kornak and Holland, who was identified by federal authorities last year as a target in the criminal investigation.

The criminally negligent homicide charge against Kornak was filed in connection with the death of James J. DiGeorgio, a 71-year-old Air Force veteran from Brunswick who died at the hospital in June 2001 while being infused with experimental drugs.

Stratton officials have said they were victimized by Kornak and they contend he was never authorized to treat patients. However, Kornak openly served in a doctor's role, including treating patients and advising their families about research alternatives. Several widows of veterans said Kornak was introduced to them as "Dr. Kornak," and that he gave them VA-issued business cards that indicated he had a medical license, which he does not.

A Times Union investigation found that Stratton's cancer research program was the target of internal complaints dating to the mid-1990s. Hospital staffers said they were retaliated

against for warning hospital administrators as early as 1994 that cancer patients were being placed at risk and being enrolled in drug studies without signing consent forms indicating they knew the risks.

Kornak's case triggered nationwide reforms in hiring practices at Department of Veterans Affairs hospitals.

Despite his criminal record, Kornak was hired at Stratton in 1999 despite having never finished medical school. He was dismissed from St. George's University School of Medicine in Grenada in 1984 for falsifying transcripts. And on his federal employment application, Kornak also allegedly lied about his undergraduate performance at The College of Saint Rose in Albany and stated he had never been convicted of a crime.

At Stratton, Kornak was eventually put in charge of research duties that included recruiting veterans for drug studies. At the time he was hired, the VA not require background checks for jobs such as Kornak's.

Dr. William H. Hrushesky, who headed the research program and agreed to hire Kornak, admitted in an interview two years ago that some hospital officials knew about Kornak's troubles.

Hrushesky told BNA Inc., a health care publication, that he and two other physicians agreed to give Kornak a job because he "presented himself as someone with significant medical experience and with a wife and two kids and no obvious way of making a living. He gave us a resume with an 'M.D.' on it and a lot of gaps. We decided to give him a chance."

Kornak allegedly told Hrushesky he had been unable to get a license because he couldn't document having attended his first year of medical school in Poland. Federal authorities have said there is no proof Kornak ever attended medical school there.

In all, Kornak victimized 27 veterans who were afflicted with cancer, and 38 others who were enrolled in drug experiments for hardening of the arteries.

"The 65 patients were completely unable to avoid or protect themselves from the defendant's crimes, because they were unaware that he was altering or falsifying their medical records," said a memorandum filed by Assistant U.S. Attorney Grant C. Jaquith.

Still, authorities have never offered a clear motive for Kornak's crimes. In court Monday, Jaquith suggested Kornak's motivation was to advance his career.

Anthony Mariano, Stratton's former pharmacy director, said he and Jeffrey Fudin, another Stratton pharmacist, went to the FBI six years ago to report allegations of widespread corruption at the embattled hospital.

As early as 1995, they had warned that patients with cancer and other illnesses were being placed at risk -- or had died -- because of the way experimental drugs were being used. Patients also were enrolled in drug studies without signing consent forms indicating they had been informed about the risk, they said.

Instead of investigating the allegations, hospital administrators allegedly retaliated against the men and ended the pharmacy's role in monitoring research drugs, according to court records. Mariano eventually was forced out of his job and Fudin was fired, but later had his job reinstated by a federal court.

But an outside audit of Stratton in 1998 showed the program was indeed in turmoil.

A copy of the audit obtained by the Times Union earlier this year shows that VA cancer experts told Stratton officials their cancer program was in disarray, morale was low, there was widespread infighting among staffers and doctors were spending more time on research than with patients. An attorney representing widows of veterans who died or suffered as a result of the fraud said the report could support their assertion that the U.S. Department of Veterans Affairs bears much responsibility for what occurred.

The report, which said doctors were more invested in research than patient care, was delivered to top Stratton officials. Lyons can be reached at 454-5547 or by e-mail at blyons@timesunion.com.