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# Doctor alleges VA vindictive

By JILL BRYCE  
Gazette Reporter

ALBANY — The former chief of gastroenterology at Stratton VA Medical Center said that after he disclosed to hospital administrators that illegal tissue sampling was being done on veterans, he was suspended, his clinical privileges were taken away and he was forced to retire.

Now, nearly a year after resigning from the Veterans Administration hospital, Dr. Fathali Borhan-Manesh remains unemployed, and continues to seek compensation for his personal belongings, which he said were taken from his office at the Stratton VA by hospital administrators without his authorization.

And last month, his request for compensation was denied by the Office of General Counsel of the Department of Veterans Affairs.

Borhan-Manesh is the fourth VA hospital employee to claim harassment after whistleblowing about conditions at the VA.

VA Director Mary-Ellen Piche said last week that she could not discuss personnel matters, including Borhan-Manesh's employment at the VA, without a signed authorization from the individual in question.

Piche would not comment on the result of an investigation into Borhan-Manesh's claims

that tissue sampling was being done on veterans without their consent. "This is an active personnel issue," she said.

Borhan-Manesh said he had signed an agreement in October 2002 with the VA concerning his employment, but VA officials failed to live up to their end of it. He said he does not want to be deceived again into signing an authorization form in regard to his employment at the VA hospital.

Borhan-Manesh is the latest VA employee to come forward and describe problems at the hospital they say are affecting patients.

Several weeks ago, Dr. Roberta Miller, who was director of the Stratton's home care patient program, and who had written a so-called crisis paper in August to the central office of Department of Veterans Affairs in Washington D.C., was removed from her position. She is restricted to the hospital and can no longer visit veterans at home to provide medical care. She said patients will suffer.

VA administrators said she failed to make a choice about a position.

Two pharmacists, Dr. Jeffrey Fudin and Anthony Mariano, Stratton's former pharmacy director, say they suffered years of retaliation after they reported corruption at Stratton VA.

They went to the FBI in Al-

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# Doctor claims VA took his personal belongings

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bany in 1999 to report that patients with cancer and other illnesses were placed at risk because of how experimental drugs were used.

Their allegations included corruption in the cancer research program, including patients being given experimental drugs outside medical protocol.

They said that as early as 1995 they warned that patients were being placed at risk because of how experimental drugs were used.

They said that instead of an investigation they were retaliated against by hospital administrators.

Piche and the VA's Office of Inspector General have declined comment on the pharmacists' allegations.

In November 2003, a federal grand jury handed up a 48-count federal indictment against Paul Kornak, a former cancer researcher, that included charges of manslaughter, criminally negligent homicide, mail fraud and wire fraud.

## Reputation at stake

Borhan-Manesh, of Delmar, who began working at the Stratton VA in 1984, said he's trying to restore his professional reputation and piece back his life.

He said his marriage, social life and professional life have suffered.

He's been on numerous job interviews within the VA network.

When a potential employer calls Stratton VA, he said he gets blacklisted.

"They are vindictive, they want control, if anyone raises a voice they [administrators] will bang on their head," said Borhan-Manesh.

"Medical care is constantly changing and improving and we've had many opportunities to lead the nation in initiatives," Piche said, when asked about Borhan-Manesh's allegations. "It's difficult for some practitioners to accept the changes."

VA officials said Borhan-Manesh willingly signed an agreement in October 2002 with VA officials detailing the terms of his employment at and resignation from Stratton VA.

Borhan-Manesh said VA officials were given ample opportunity to respond to his allegations, but have clearly refused.

Borhan-Manesh, 71, said he saw illegal tissue samples being taken during an upper GI endoscopy in March 2001 at the hospital and intervened.

He said he asked why it was being done, said the practice was not permitted, and said that "anything beyond patient care needed patient consent".

He asked whose research it was and was told, "No one you are dealing with."

He reported the situation to the chairman of the Institution Review Board. As a result, he said, "baseless allegations of patient verbal abuse" were brought against him. He was suspended of clinical privileges for 27 days in April 2001.

According to the Department of Veterans Affairs, the policy is to remove clinicians from patient care settings while accusations are investigated.

The allegations against Borhan-Manesh were never substantiated, according to Laura Miller, deputy undersecretary for health operations and management.

The Department of Veterans Affairs said it investigated his claim in May 2001. "The investigation found that the tissue sampling at issue was a quality assurance activity relating to an FDA approved standard treatment process and that the sampling was done consistent with approved standard operating procedures for quality assurance activities," according to A letter dated April 2003 from Miller to Congressman Michael McNulty, D-Green Island.

McNulty had requested an investigation into Borhan-Manesh's concerns.

Borhan-Manesh, as Fudin and Marinello allege, said he be-

lieves veterans at Stratton VA were subjected to unauthorized medical research.

"The problem is that the deputy undersecretary, instead of launching her own objective and thorough independent investigation, is basing her judgment on the statement and explanation by local officials..." Borhan-Manesh said.

Borhan-Manesh's clinical privileges were restored when he was cleared. Yet the situation led to a "deterioration of the relationship between Dr. Borhan-Manesh and the VAMC clinical leadership," according to the letter Miller wrote to McNulty.

Borhan-Manesh was accused of "conduct unbecoming a physician" in May 2001. While this was being investigated, he learned the complaint of patient verbal abuse against him was filed by the same endoscopy nurse who he said was involved in subjecting the patient to unconsented biopsies.

"Sadly my reporting of an ethical illegal tissue sampling from non consented Veterans undergoing upper GI endoscopy (a genuine case of patient abuse) to IRB and Hospital director resulted in a perfunctory investigation," he wrote in a January 2003 letter to McNulty. "Finally, the chief of staff in her letter of July 5, 2001 announced the issue closed — an obvious attempt to cover up a major systematic patient abuse."

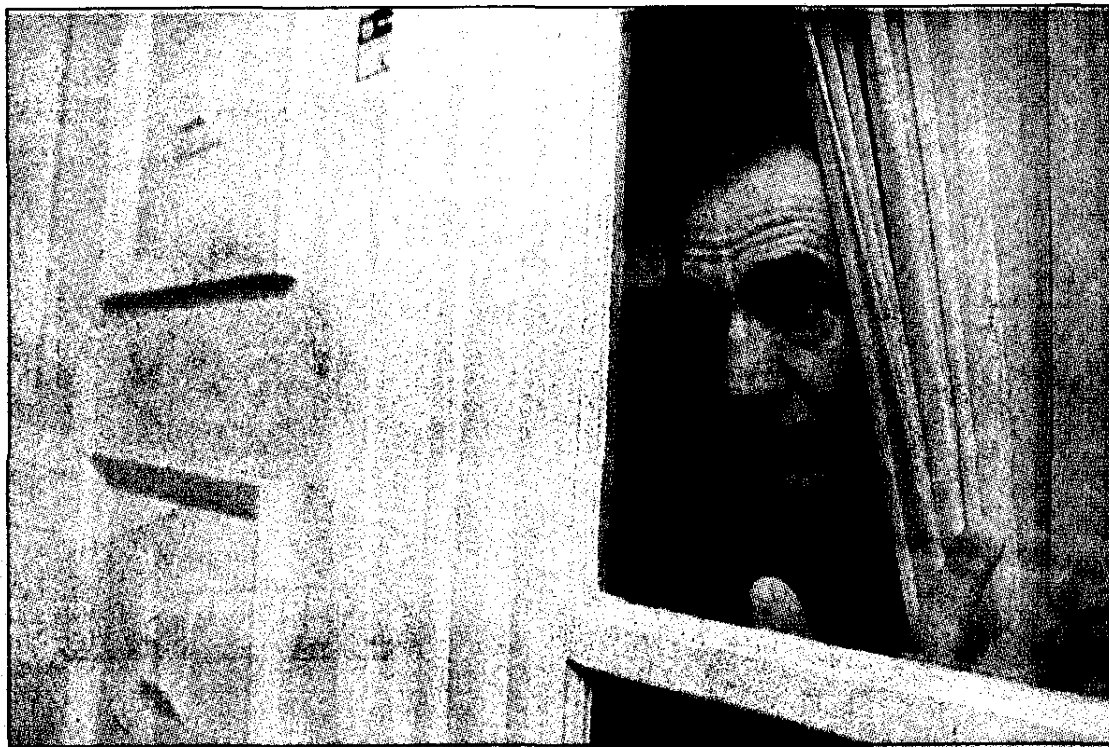
Borhan-Manesh said the pressure for him to step down as chief of gastroenterology increased as time went on.

He refused.

A new chief of the GI section was appointed July 16, 2001.

New allegations were raised against Borhan-Manesh in January 2002 and he said they were made hours after he had filed complaints with the EEOC.

The VA said Borhan-Manesh refused to see a patient with inflammatory bowel disease because he was uncomfortable seeing patients with this diagnosis; that he interfered with the care of another patient who Bor-



**Dr. Fathali Borhan-Manesh poses as he peers out a front door window to observe the snows outside last week. Borhan-Manesh, the former chief of**

**gastroenterology at Stratton VA Medical Center, says he was forced out of the hospital in retaliation for being a whistleblower.**

MARC SCHULTZ *Gazette Photographer*

han-Manesh felt was his patient and pulled the patient away from another provider; and that he saw patients but never documented them in the electronic medical record, according to a VA memorandum detailing the allegations.

Borhan-Manesh denied all the allegations.

He was placed on leave March 12, 2002, for not putting patient records in electronic database. His clinical privileges were suspended and he said he was advised "the status of his employment will be determined within two weeks."

Borhan-Manesh said he left extensive written notes in patients' charts.

Piche would not discuss the reasons Borhan-Manesh was put on leave on March 12, 2002.

### Office raided

Borhan-Manesh said several days after he was put on leave his office at the Stratton VA was raided. He said locked file cabinets were broken into and his personal belongings were searched.

"My personal belongings, financial records and patient documents were misplaced and lost."

To this day, his personal belongings, including a silver dollar and a collection of saffron from Iran, have never been returned.

Pressure grew as he was being kept on administrative leave. To remove himself from Stratton VA and improve his chances of finding a job elsewhere at another VA hospital, he signed an agreement with VA officials concerning his employment.

The agreement said the hospital administration would drop the charges against him and he would be reinstated, with his clinical privileges restored. He had to agree that by July 13, 2003 he'd transfer from Stratton VA or retire.

He could do nine to 12 endoscopy procedures a week, it said. He returned to work Oct. 15, 2002, but said his duties were restricted and he could do no biopsy or polyp removal.

"Not only is this limitation a violation of our signed agreement, it points to the fact that the administrations's agenda is focused at discrediting and antagonizing me rather than patient care," he said in a letter to administration.

Borhan-Manesh said when he signed the agreement on Oct. 4, 2002, the administrators should have helped facilitate a transfer to another VA hospital. "They blocked it, they blocked my chance of finding a job anywhere."

### Iran native

Like Fudin and Marinello,

Borhan-Manesh said his life was derailed by the way he was treated by the VA administration.

A native of Tehran, Iran, and a U.S. citizen, Borhan-Manesh is married and has two children, who are both doctors. He graduated from Tehran University School of Medicine in October 1959 and is a board certified gastroenterologist.

He left Iran with his family because of war and dangers it posed to his family.

He joined the VA hospital in Albany in July 1989 as chief of gastroenterology. Prior to that he had been employed at two other VA hospitals in the U.S.

Borhan-Manesh said he became a doctor because he found it stimulating. "Medicine is a most revered job. It is humane and intellectual. You can be humane like a social worker or a member of the clergy. It is also a puzzle."

In the end, the patient matters most, he said. "Keep me for the sake of patients; it should not be your private business; if you don't like me keep me for the sake of patients."

Reach *Gazette* reporter Jill Bryce at 432-4391 or [jbryce@dailygazette.net](mailto:jbryce@dailygazette.net).