

**IN THE CIRCUIT COURT OF THE THIRD
JUDICIAL CIRCUIT IN AND FOR
SUWANNEE COUNTY, FLORIDA**

**STATE OF FLORIDA)
COUNTY OF SUWANNEE)**

AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT

Before me, _____ Judge of the Third Judicial Circuit of Florida, appeared Affiant, Investigator Amanda Huston, a Law Enforcement Officer of the Medicaid Fraud Control Unit of the Office of the Attorney General, who first being duly sworn, deposes and states that she has reason to believe that certain laws of the State of Florida have been violated, in particular: Neglect of Elderly Persons or Disabled Adults, Florida Statute 825.102 (3), and that the facts tending to establish probable cause for this affidavit are as follows:

Your affiant, a Law Enforcement Officer, has been employed with the Medicaid Fraud Control Unit (MFCU) since August of 2006. Prior to employment with MFCU, your affiant was a Financial Investigator with the Florida Department of Financial Services, Office of Fiscal Integrity, and was an Investigator with the State of Florida, Office of the Inspector General, for more than three years. Your affiant was also employed as an analyst with the Federal Bureau of Alcohol, Tobacco and Firearms for more than two years. Your affiant has also served as a Law Enforcement Officer with the Florida Supreme Court, Office of the Marshall, for nine months. During the affiant's tenure as an Investigator with these departments, I have personally conducted and coordinated numerous criminal investigations, the majority of which were criminal fraud investigations. In addition to receiving an excess of 350 hours of investigations training, I have also received specialized training in Health Care Fraud from the National Association of Medicaid Fraud Control Units (NAMFCU). Furthermore, your affiant matriculated at Florida State University, where I have earned a Bachelor of Arts and a Masters degree.

GENERAL ALLEGATIONS

BACKGROUND

The Medicaid Program is a jointly funded program between Federal and State governments that provides medical assistance and health coverage for categories of individuals whose income and resources are insufficient to meet the costs of medical services. The Medicaid Program is authorized by Title XIX of the Social Security Act. In Florida, the Medicaid Program is authorized by Chapter 409, Florida State Statutes and Chapter 59G, Florida Administrative Code.

The Medicaid Fraud Control Unit (hereinafter, "MFCU") exists to investigate fraud in the Medicaid Program in the State of Florida. MFCU also investigates the abuse, neglect and exploitation of elderly persons who reside in facilities in Florida that receive Medicaid Program funding. The MFCU is under the authority and supervision of the State of Florida, Office of the Attorney General.

INVESTIGATIVE SUMMARY

On or about October 31, 2006, your affiant was assigned to investigate a complaint of abuse (2006-480304) made to the Florida Department of Children and Families, Adult Protective Services. The complaint alleged that Melissa Elaine Bowen ("Bowen"), who was employed as a Florida Licensed Practical Nurse (LPN) at the Good Samaritan Center Nursing Facility, willfully failed to provide medication to her patients. The Good Samaritan Center Nursing Facility cares for elderly and disabled persons, and is located in Dowling Park, Suwannee County, Florida. Your affiant's investigation established the following facts:

On or about November 1, 2006, your affiant and MFCU Medical Investigator Catherine Cone, interviewed Linda Crider ("Crider"), Director of Nursing, Good Samaritan Center Nursing Facility.

Crider stated that on October 24, 2006, during a supervisor's meeting, several supervisors noted that Bowen and another LPN by the name of Ashley Dawn Fralick,

would routinely complete their patient's medication administrations (or "med passes") unusually quickly. Based upon the information given to Crider by these supervisors, she decided to conduct a medication cart count before and after Bowen's shift on October 30, 2006.

A medication cart is a standardized medication storage unit containing patient/resident specific prescription medications and over-the-counter (OTC) medications. The cart is equipped with locking mechanisms and is most often mobile. A medication cart count is a witnessed inventory of the medications contained in the cart.

Crider initiated the medication cart count as stated. According to Crider, the counts revealed that several medication amounts were lower than expected and some were higher than expected, indicating that some medications were not provided to the patients and some pills were missing. Furthermore, Crider also stated that Bowen signed the Medication Administration Records (MARs) for all of her patients, whereby Bowen verified and affirmed that she (Bowen) did in fact appropriately administered the medications to those patients.

Crider added that most of the residents whom she suspected did not receive medication lack the cognitive ability to know or recall if they were given their medications. Based upon the foregoing improprieties, Crider reported that on the morning of October 30, 2006, she suspended Bowen.

As part of the investigation, your affiant also interviewed the staff members who participated in the medication cart counts. Interviews with Crider, Rita Jerkins, LPN Supervisor, Patricia Glee, LPN Supervisor, Sara Henderson, Registered Nurse and Assistant Director of Nursing, and Melissa Driver, LPN Supervisor, revealed the following time line related to Fralick's medication cart:

Bowen's cart: Magnolia 300 wing

- 10/29/06, 11:00pm: LPN Tawnya Mullen receives medication carts (Magnolia 100, 200, 300 wings) and keys.
- 10/30/06, 5:30am: Medication cart (Magnolia 300 wing) counted by Glee.

- 10/30/06, 6:45am: Bowen arrives to work and receives keys to medication cart (Magnolia 300).
- 10/30/06, 9:30am: Medication cart (Magnolia 300) counted by Jerkins and Melissa Driver, LPN Supervisor. This count reveals that potentially 10 residents did not receive their medications properly from Bowen. Additionally, 15 doses of Lasix (diuretic) and 22 doses of Ultram (pain medication) were found missing.

Your affiant also interviewed Dr. Nasseer Masoodi, Medical Director, Good Samaritan Nursing Facility, as part of this investigation. He stated that all of the affected patients are over the age of 60 and suffer from the infirmities of aging. Dr. Masoodi further stated that in response to the medication counts, he conducted a face-to-face exam with each affected resident within 24-48 hours. During each exam, he took the patient's vital signs and reviewed their charts and what medication(s) they potentially did not receive. In some cases, he ordered lab work to review for possible adverse effects. Dr. Masoodi reported that in general, the patients' baseline status was good and he noted no major changes in Activities of Daily Living (ADLs). Dr. Masoodi stated that he also discussed the affected residents' status with the nurses and CNAs.

He stated that some employees noted changes in behavior and health conditions. However, these changes occurred in patients who all had previous instances of such symptoms, making it difficult to connect these changes directly to missing one or two doses of medication. Dr. Masoodi stated that given the types of medications that were withheld from the patients, adverse health effects could have easily resulted. He stated that "we are very lucky" that no serious adverse effects have been noted to date.

On November 28, 2006, your affiant and MFCU Lieutenant William Avery, interviewed Bowen at her residence located at 2396 NE Daylily Avenue, Madison, Florida. We identified ourselves, and Bowen invited us into her residence. Your affiant and Avery advised Bowen that we were conducting an investigation, and that she was not under arrest. Furthermore, your affiant advised her that she was free to ask us to leave. Bowen

stated that she understood, and volunteered to speak with us.

Bowen stated that her normal process for documenting the administration of a patient's medication includes completing the patient's MAR at the time she dispenses the medication to the resident. Bowen reviewed copies of the MARs for some of the residents who allegedly did not receive medications from her on the 30th of October. Bowen acknowledged that the initials that were reflected on the MARs are in fact hers, and when her initials are present, she is affirming or verifying that the medication had been given. Bowen added that she circles her initials to indicate medication was not given. Bowen stated that the morning medication pass for Magnolia 300 wing takes 60 minutes and that if there is a resident that she feels should not receive their medication for health reasons, she notifies her supervisor and leaves the box for that medication on the MAR blank. She added that there were no residents who fell into this category on October 30, 2006.

Initially, Bowen denied failing to administer medications to her patients or taking medication. However, Bowen soon admitted that she did fail to provide medication to some of her residents on the 30th of October. When asked as to why she did not provide the medication, Bowen explained that the previous evening her husband left her and she was very upset while at work on the 30th.

Bowen also freely admitted, after reviewing the chart of ten residents and their corresponding medications that were allegedly not provided, that she did sign the MARs for those residents thereby falsely verifying that she did administer the medications to these patients, when in fact, she did not.

When asked about the missing doses of Lasik and Ultram, Bowen denied any knowledge of the missing substances.

Bowen voluntarily added that LPN Ashley Fralick came to her, prior to the cart count, and told her that when she gets behind on her medication pass, Fralick intentionally fails to administer the medication to the residents.

Based on the aforementioned facts, statements and the totality of circumstances, Investigator Amanda Huston, who being duly sworn, deposes and says that she has reason to believe that probable cause does exist, in that Melissa Elaine Bowen, a white

female with a date of birth of 09-03-76, committed ten (10) separate felony counts of neglect of an elderly person or disabled adult, by failing to administer medication essential to the care and well being of nursing home residents, to-wit (*partial initials and date of birth): E.B. 11/23/16; E.C. 3/1/20; J.C. 9/11/32; M.Y. 6/28/23; V.B. 12/15/17; B.J. 8/12/11; H.E. 3/14/21; E.L. 12/29/09; A.S. 6/11/16; L.B. 3/10/13., under her care, and, or falsifying their Medication Administration Records, so it would appear that she provided the medications, in violation of Florida Statute 825.102(3), and against the peace and dignity of the State of Florida.

WHEREFORE, your Affiant prays that an Arrest Warrant be issued commanding the Sheriffs of the State of Florida, all and singular, their Deputies, the Commissioner of the Florida Department of Law Enforcement, any of his duly constituted agents, the Attorney General's Director of Medicaid Fraud and his duly appointed Law Enforcement Investigators and all Florida police officers with the proper and necessary assistance, to arrest MELISSA ELAINE BOWEN.

Affiant

Amanda R. Huston, Law Enforcement Officer
Medicaid Fraud Control Unit

Sworn and subscribed on this _____ day of _____, 2007.

County/Circuit Court Judge
Third Judicial Circuit of Florida

*The names of the Medicaid recipients have been reduced to initials to avoid the disclosure of confidential information pursuant to, inter alia, Federal HIPAA regulations and Section 409.920(8)(f) (2004), Florida Statutes.