

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR WALTON COUNTY, FLORIDA**

**STATE OF FLORIDA
COUNTY OF WALTON**

AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT

BEFORE ME, _____, a Judge of the Circuit Court of the First Judicial Circuit of Florida, personally appeared Wm. Taylor Wells, a law enforcement investigator with the Florida Attorney General's Medicaid Fraud Control Unit, who being by me first duly sworn, deposes and further states as follows:

I, Wm. Taylor Wells, have been employed as a law enforcement investigator with the Medicaid Fraud Control Unit (MFCU), a department within the Attorney General's Office, since October 06, 2006. Prior to that, your AFFIANT was employed by the Florida Department of Financial Services as an insurance analyst where your AFFIANT investigated numerous consumer complaints against insurance companies, insurance agents, and adjusters. Your AFFIANT has completed the 755 hour basic recruit Law Enforcement Academy at George Stone Criminal Justice Training Center. Furthermore, your AFFIANT graduated from Florida State University with a Bachelor of Science degree in Criminology. Your AFFIANT has received specialized training in the investigation of offenses of this nature.

The Medicaid Fraud Control Unit [hereinafter referred to as "MFCU"] exists to investigate Medicaid fraud occurring in the State of Florida. The MFCU operates under the authority and supervision of the Florida Attorney General's Office. The MFCU is authorized to investigate the alleged abuse or neglect of patients in health care facilities receiving payments under the Medicaid program, in coordination with the Agency for Health Care Administration, pursuant to 42 USCA §1395 and §409.920(7)(b), Florida Statutes. The MFCU may investigate any criminal violations discovered during the course of those investigations, as provided by §16.59, Florida Statutes .

Your AFFIANT further states that the facts and reliable evidence supporting this affidavit

and establishing probable cause to believe that beginning on or about April 21, 2006, and continuing through November 7, 2006, Debra Bivines, a black female, whose date of birth is August 27, 1953, whose current address is 536 Selina Street, Pensacola, Florida, 32503, did commit a violation of § 409.920(2)(a), F.S., (Medicaid Provider Fraud) within Escambia County, Florida, are as follows:

On November 27, 2006, your AFFIANT and Investigator Michael Buckley were directed to initiate an investigation to determine whether any laws pertaining to Medicaid fraud and/or patient neglect were violated. The MFCU regularly facilitates the review of facilities with other state and county agencies to ensure compliance with Florida law and to remain watchful over the care of Florida's senior citizens. These reviews are referred to within the Attorney General's Office as "spot checks." This investigation was predicated on information obtained during a spot check that occurred November 06, 2006.

On the above date, your AFFIANT assisted MFCU Investigator Mike Buckley and MFCU Medical Investigator Catherine Cone with a spot check at The Light House ALF on 536 Selina Street, Pensacola, FL. The Light House ALF was listed as an assisted living facility with limited mental health. By law, they are permitted up to 15 residents and, of the 15, one could be private pay. The owner/ administrator is Debra J. Bivines. The person in charge was Blanche Knight. Blanche Knight did not have a waiver for employment there and advised that she was in the process of obtaining one. She admitted to having a domestic violence charge in the past.

On November 07, 2006, at 8:30 a.m., the day after the subject spot check was conducted at this facility, your AFFIANT returned to obtain a census sheet which was unavailable the day before. When your AFFIANT arrived, he discovered Blanche Knight was there working and making breakfast. She was advised the day before not to come back to work unless she had her waiver processed. She told your AFFIANT the day before that she would be off work on the 7th and would attempt to take care of the waiver issue.

Your AFFIANT asked Ms. Knight during my follow up to obtain the census whether she obtained the waiver to allow her to work at the facility. She advised that she was going to get it today. She stated that she had just come in that morning to make breakfast and would be

leaving. Your AFFIANT told her that she needed to leave and that she could not work there without the waiver. She agreed to leave and said that she would check on the waiver today.

On December 04, 2006, your AFFIANT called the Agency for Healthcare Administration's background screening department at (850) 410-3400. Your AFFIANT spoke with Kelley Causseaux who is associated with their Bureau of Long Term Care Services. She advised that a background screening was done on Blanch Knight by The Light House in April 2006. She was not cleared to work without an exemption / waiver due to her 1993 arrest. They have no current record of any exemption or waiver. She advised that the CNA registry should be consulted through the Department of Health. When your AFFIANT attempted a search for Blanche Knight on the DOH website, nothing was found.

Your AFFIANT contacted the Department of Health at (850) 488-0595 and spoke with staff who verified that they did not show an exemption / waiver or application for Blanche Knight or Nell Knight or Shelton Knight. Further, staff at DOH could find no records listed under Knight's S.S. #264-86-8331 or S.S. #264-86-8334, as per the FCIC report.

On December 06, 2006, your AFFIANT contacted Ms. Causseaux with Long Term Care Services and asked her if a denial letter of employment was ever sent out for Blanche Knight, S.S. #264-86-8331. She said that a letter was sent out by AHCA verifying the background screening was not clear and that an exemption was needed. She stated that the letter went out to the Light House on April 18, 2006, and was signed for by them on April 21, 2006. She mailed your AFFIANT a copy of the letter and the signed form of receipt.

On February 06, 2007, your AFFIANT went to the Light House ALF and obtained a green folder containing documentation that your AFFIANT had requested from the facility. Debra Bivines provided your AFFIANT with the folder. She advised that everything requested was in the folder and there was nothing else. The folder included the following documents: job descriptions, the facility's elopement policy, employees' tax and wage records, applications for employment by staff, AHCA background screening results, a bill of sale, a handwritten work schedule, an employee list with their beginning and ending dates of employment and a census.

Upon reviewing these materials, your AFFIANT contacted Mrs. Bivines by her cell phone at (850) 982-3396 for further clarification. Asked if your AFFIANT had all the employees listed on the calendar and all the residents correctly listed on the census, she advised that all the employees and residents were accurately listed and that there was nothing or no one missing. Your AFFIANT then asked her to verify whose initials were on the work schedule / calendar. She verified that "E" was for Emma and "B" was for Blanche and "D" was for herself Debra. Your AFFIANT asked her to fax a legend or key verifying that information with her signature on it. She stated she would.

The background screening results in Blanche Knight's application showed that an FDLE record was found. There was a handwritten note on the letter that stated "gathering information for exemption."

Blanche Knight's employment was listed from February 2005 to June 2005 and from February 2006 to October 2006. However, your AFFIANT discovered her working at the facility on November 06 and November 07, 2006. Also the work schedule / calendar has her working into November 2006 as well. It appears that there are conflicts with the accuracy of the facility's employment records on Ms. Knight.

The resident census log reflected that there were at least 6 residents or more living at the facility from April 2006 through November 07, 2006. Staffing requirements for an ALF caring for residents numbering 6 to 15 provide that, collectively, employees must work at least 212 hours per week. Assuming all employees were fit for employment, the work schedule indicated that the facility met this requirement. However, since Blanche Knight did not have a clear background and was ineligible for employment, her hours cannot be credited toward that total.

Administrator Debra Bivines had full knowledge of this requirement and of the fact that Blanche Knight did not have a clear background as per the certified letter that was sent to her and signed by her on April 21, 2006. After taking Ms. Knight out of the work schedule from April 21, 2006, through November 21, 2006, the required hours for the assisted living facility were no longer met and were under the required 212 hours every week during that time frame.

The tax / wages reports show Blanch Knight as one of the top wage earners through most

of the time period from April 2006 to December 31, 2006.

On February 15, 2007, your AFFIANT asked Analyst Keith Davidson to provide a Freedom run for the Light House for the subject time frame. The total dollar amount paid by Medicaid to this facility during this time period for residents stay was \$20,295.36.

Debra Bivines, as administrator of the Light House, violated her Medicaid Provider Agreement under section (2) and section (3). Section (2) reads as follows:

“Quality of Service. The provider agrees that services or goods billed to the Medicaid program must be medically necessary, of a quality comparable to those furnished by the provider’s peers, and within the parameters permitted by the provider’s license or certification. The provider further agrees to bill only for the services performed within the speciality or specialities designated in the provider application on file with AHCA. The provider must deliver the services or goods to eligible Medicaid recipients to receive payment from AHCA.”

Section (3) reads as follows:

“Compliance. The provider agrees to comply with local, state, and federal laws, as well as rules, regulations, and statements of policy applicable to the Medicaid program, including the Medicaid Provider Handbooks issued by AHCA.”

Mrs. Bivines knowingly billed for services that were not performed from April 22, 2006, through November 06, 2006, and violated state laws and rules which are material to her contract. In the certified letter sent by AHCA to Mrs. Bivines, AHCA directed that in order to resolve the matter, Bivines would need to either terminate Ms. Knight or place Ms. Knight in a position for which background screening is not required unless Knight was granted an exemption from disqualification.

Mrs. Bivines flagrantly permitted Ms. Knight to continue her employment at the Light House, flouting AHCA’s official admonition. On several occasions, Ms. Knight worked the 24 hour shift and was there alone with residents. The facility, therefore, violated the provider agreement and delivered substandard care.

On February 27, 2007, Investigator Ruben Chavez and your AFFIANT interviewed Mrs. Bivines. Mr. Kenneth Bivines, her husband, was also in attendance. Your AFFIANT asked Mrs. Bivines to verify again on the work schedule / calendar what the initials stood for. She again stated that the B= Blanche Knight, D= Debra Bivines, and the E= Emma Coney. She said that the work schedule was accurate and that Blanche Knight did work 24 hours, at times, with no one else there. She was asked if she was aware of how many hours per week were required for the facility staff and she advised that it was 212 hours per week. She was also asked if she was aware that Blanche Knight did not have a clear background. She conceded that she was aware of that as well. She advised that Blanche Knight was still working on getting her exemption.

Your AFFIANT showed Mrs. Bivines the certified card with her signature on it reflecting receipt of the AHCA notification informing her of Knight's employment problem. She verified that the signature was indeed hers. She was then presented with the letter and read it in our presence. She said that she did not remember getting it. She stated that Blanche Knight was a care giver but she did not know that she had to terminate her or reduce her to a position where a background screening was not required.

Your AFFIANT provided Mrs. Bivines with the AHCA print out that she had placed in Blanche Knight's application package which was located in the green folder that she had previously provided. She indicated that she was aware of that print out and the record found on Blanche Knight's background screening. She said that she knew that an exemption was required. She then stated she remembered getting the certified letter from AHCA but did not see the wording regarding termination of employment. She advised initially that she did not speak with anyone at AHCA regarding this situation but later indicated that she did call and speak with someone at AHCA regarding the certified letter she received. She explained that she was told at that time about the exemption and they sent her out a package for Blanche Knight to complete to apply for it. Mrs. Bivines does not remember who she spoke with at AHCA. She still has the exemption package but it was never filled out and sent in. She will forward me a copy of the package.

Based on the aforementioned facts, statements, and the totality of circumstances, Investigator Taylor Wells, who being duly sworn, deposes and says that he has reason to believe that probable cause does exist, in that Debra Bivines, knowingly made a false statement or false

representation of a material fact, by allowing Blanche Knight to continue to be a care giver at the Light House ALF after being advised that Blanche Knight was not eligible without an exemption due to her background screening. Debra Bivines then submitted claims to Medicaid for payment under false pretense that her staffing hours were met when they were not, thereby committing a violation of § 409.920(2)(a), F.S., (Medicaid Provider Fraud), 1 count.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

Wm. Taylor Wells, AFFIANT
Law Enforcement Investigator
Medicaid Fraud Control Unit

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ OF MARCH, 2007.

Circuit Court Judge
First Judicial Circuit of Florida