

Woman's death raises questions about nursing home medical records

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THE SERIES

Sunday: *The practice of nursing homes altering patients' medical records masks serious conditions and covers up care not given. A Bee review of nearly 150 cases of alleged chart falsification in California reveals how the practice puts patients at risk and sometimes leads to death.*

Today: *Don Esco sought skilled nursing care at a Placerville facility for Johnnie, his wife of nearly 61 years, when she was recuperating from a bout with pneumonia. She died 13 days later. Esco sued, alleging that the medical charts lied about Johnnie's treatment.*

Don Esco first laid eyes on his future bride, Johnnie, when they were both 14, a chance meeting aboard a streetcar bound for Santa Monica beach.

It was the summer of 1944, and Esco was about to fall hard for the spirited, 5-foot-4-inch girl with blond hair and blue eyes, the youngest of 15 kids.

"The minute I saw her, I said to myself, 'That's the gal for me,' " said Esco, now 81.

"I've never looked at another woman."

After nearly 61 years of marriage, Esco's Texas-born dream girl – nicknamed "Sunshine" – died after a 13-day stay at the El Dorado Care Center in Placerville. Recuperating from a bout with pneumonia, Johnnie Esco, 77, was expected to return home with her husband after some rest and skilled-nursing care.

Don Esco buried his wife instead.

The nursing home and its former owner, Horizon West Healthcare Inc. – a Rocklin-based company with a history of licensing violations and run-ins with regulators – would soon be at the center of another legal storm.

Johnnie Esco's death on March 7, 2008, led to a contentious civil lawsuit, investigations by California's Department of Justice and Department of Public Health – and the exhumation of her body from Arlington National Cemetery.

Last week, amid inquiries from The Bee, the state Department of Justice reopened its criminal investigation into Johnnie Esco's treatment at the facility.

The case also raised questions about an aspect of nursing home care that many patients and families take for granted: the integrity of medical records.

"They were just penciling in what they wanted to," said Esco, who obtained his wife's medical

records after her death.

He summed up his findings during the lawsuit in one word: "Fabrications."

Esco's suspicions about his wife's care at El Dorado Care Center mushroomed into a broad lawsuit filed in 2009 against the facility and its owner, alleging elder abuse, wrongful death and fraud. An integral aspect of the suit, filed by Esco and his three grown children, accused the facility of falsifying, altering and improperly handling the woman's medical charts as far back as her day of admission.

"It's really one of the most egregious cases I've ever handled," said the family's Sacramento attorney, Lesley Ann Clement.

"It's one of the worst types of elder abuse cases because it's not so obvious on its face," she said. "You really had to dig down."

For Clement, digging down meant digging through records, which she says revealed "a high degree of deception" at the Placerville facility.

Clement and other attorneys who sue nursing homes say that falsifying patient records is remarkably common, yet rarely punished by licensing authorities or state and local prosecutors.

Industry representatives say these allegations of fraud are unwarranted and unfair, given the reams of paperwork facilities churn out to meet Medicare and other regulatory demands.

Michael J. LeVangie, the attorney who represented El Dorado Care Center, maintained in court papers that there was "simply no evidence that EDCC did or failed to do anything that caused or contributed to any injury to Mrs. Esco."

Horizon West Healthcare Inc. settled the lawsuit in March 2010 for a confidential amount, then sold its 27 nursing homes this year to a San Marcos-based chain. LeVangie told The Bee he could not comment on specific cases, but said falsification is an "exaggerated issue" among plaintiffs' attorneys.

"It's a normal manner of attack," he said.

Don Esco knew nothing about the El Dorado Care Center or its owner when he agreed in early 2008 to place his wife, Johnnie, in temporary care.

On Feb. 22, 2008, Esco and his daughter, Judy Eyolfson, a registered nurse, took Johnnie to the nursing home. According to the short-term plan, she would recuperate at the Placerville nursing home for about a month, then return to the couple's three-bedroom home near the Cameron Park Country Club.

"If I'd taken her home and taken care of her myself, I think she would still be here," Esco would say later.

"That woman I loved dearly."

Trusting their care

Before its sale this year, the El Dorado Care Center billed itself as having "some of the finest health care services available" in the county, according to a consumer website of nursing homes.

"All (staff) are committed to providing compassionate, respectful care and service to our patients and their families," the facility's self-description read.

Staff members told a different story in recorded depositions for the lawsuit.

For one thing, "charting" was not always done with precision or care, several staff members conceded.

Naomi Williams, a certified nurse assistant who helped care for Johnnie, admitted in a deposition that she was so busy she sometimes didn't have time to fill in patients' charts. Williams testified that she suspected at least one CNA of routinely "rote charting"—hurriedly filling in boxes identical to the previous day's shift, according to a transcript of Williams' interview.

Another CNA who had helped care for Johnnie Esco, Christina Ferris, said she became concerned that workers were rote charting "because they're lazy," according to her deposition. She said she shared her concerns with a supervisor.

Both Ferris and Williams, along with a third nurse assistant, testified that someone else's handwriting appeared on their paperwork during shifts when they were assigned to Johnnie Esco as she lay critically ill.

Williams agreed to to be interviewed by The Bee but then could not be reached; Ferris could not be reached.

Don Esco said he had no reason to poke through the medical charts as he visited his wife daily, doting on her.

Diagnosed with Alzheimer's disease, Johnnie Esco had been declining in recent years and experienced a number of other medical setbacks, including lung cancer.

Don Esco was used to the rigors of providing around-the-clock care. A retired Air Force veteran who enlisted in the Army Air Corps at age 15, he quit a successful job in the hotel business in 1977 to care for his wife after she suffered a massive heart attack.

She eventually rebounded. But her dementia diagnosis later signaled a new round of intensive home care.

Seated at his dining room table in Cameron Park, where he completes a daily crossword puzzle, Don Esco's eyes moistened as he recalled his "storybook marriage." Despite his own diagnosis of Parkinson's disease, which causes his hands to tremble, he still moves assuredly about his house and yard with a cane gripped in his left hand.

For 22 years, the Escos and their three children had bounced around the world, living on various military bases. Johnnie was a stay-at-home mom who enjoyed bowling, gardening and crafts.

In 1986, they bought a new home, where Johnnie coaxed her husband into building her a wishing well in the spacious backyard, and planting redwood trees to remind her of Lake Tahoe.

By February 2008, she was not the same vivacious woman who had skipped off to Arizona at age 16 to marry the lanky kid she'd met on a Los Angeles streetcar.

As her full-time caregiver, Don Esco had devised intricate cardboard charts to keep track of her medications.

Esco knew the panoply of drugs caused debilitating side effects in Johnnie, particularly constipation, which – left unmanaged – can result in fecal impaction. The condition is life-threatening in elderly or bedridden patients as fecal matter backs up, threatening bowel obstruction or a ruptured colon and infection.

Johnnie Esco's chronic constipation flared again while she was hospitalized in Placerville in February 2008 for pneumonia, and a resulting fecal impaction there was successfully managed, court records show.

This time, though, the couple's mutual doctor advised that Johnnie should not go home immediately after discharge from Marshall Medical Center. The family physician recommended a respite for both of them, Don Esco recalled.

El Dorado Care Center, which has been renamed Western Slope Health Center since its sale, was a short walk from the hilltop hospital where Johnnie had been treated. A white, low-slung facility

tucked among pine trees, it was only about a 20-minute drive from the Escos' home.

Don Esco agreed to the temporary arrangement.

A document scribbled on the first day would soon come under intense scrutiny.

Her condition declines

With her soft Southern drawl and winning smile, Johnnie Esco settled into Room 320B at the nursing home on Feb. 22, 2008, a Friday afternoon. A grandmother and great-grandmother to 14 children, her 78th birthday was four weeks away.

Christina Ferris, the CNA who expressed concerns over sloppy charting practices, found her new patient to be "just enjoyable," according to her deposition.

"I remember she liked her (country) music, and she would dance with me," Ferris testified, recalling how Johnnie was "always smiling."

Over the next 13 days, though, Johnnie Esco's demeanor and condition declined, according to the lawsuit.

Clement, the family's attorney, said she traced suspicious and irregular charting back to Johnnie's admission. The lawsuit and supporting court documents describe the following scenario:

The hospital sent the nursing home its records of Johnnie's weeklong stay at Marshall Medical Center, including a notation of the fecal impaction that required intervention. A physician ordered that Johnnie be checked on every shift for possible constipation, and that she receive milk of magnesia daily, as needed.

The family supplied its own typewritten list of medications, which included a laxative and stool softener.

Inexplicably, Clement told The Bee, the nurse who assessed Johnnie Esco upon admission that Friday indicated: No history of constipation or laxative use.

"That (nursing) assessment just never occurred," Clement said in an interview, repeating the allegations in the lawsuit. "They didn't talk to the family, they didn't get her history."

"It's just paper compliance. ... They were checking these boxes and going on."

The nursing home argued in court papers that Johnnie Esco arrived at the facility with numerous ailments, and that the facility received "only routine bowel care orders."

LeVangie, the facility's attorney, asserted in court papers that El Dorado Care Center "created appropriate care plans regarding Mrs. Esco and her various serious underlying medical conditions."

"There is simply no evidence of egregious behavior," LeVangie stated in a 2010 filing, before the company agreed to settle. "She was being regularly monitored and assessed by the EDCC staff as well as her physician, and her husband and family were regularly present."

Even without an accurate assessment that first day, Don Esco made sure that the nursing home knew his concerns. Esco said he visited his wife daily for four to five hours, constantly quizzing the workers on duty.

Every day, he said, he asked if his wife had had a bowel movement. And every day, he said, they assured him that "everything was fine."

"They always gave me the answer I wanted to hear," he said.

Things weren't fine, according to the lawsuit.

Johnnie's chart revealed she did not have a bowel movement for five consecutive days, yet the chart also indicated a "zero" for constipation on those same days, the facility's records show.

On Feb. 28, her attending physician, Dr. Bradley Barnhill, visited the care facility and found Johnnie to be constipated and her abdomen "protuberant," or abnormally distended, according to the records. He wrote orders for a "bowel program," including laxatives and other treatments, and went to the nurses station to flag the new orders, records show.

When Clement examined the daily nursing notes for the lawsuit, she said, the section prompting nurses to evaluate a patient's "abdominal distention" was blank on the very shift after Barnhill's departure.

Clement said she also found that the laxative was given sporadically, or so the records reflected.

The facility's staff had trouble explaining their own records.

For instance, on the day before Johnnie Esco's death, the charting on the morning shift reflected an "Xlg," or extra large, bowel movement, the facility's records show.

Yet the nursing home's own workers, along with other medical experts, would later testify that having normal bowel movements was highly unlikely given the severity of Johnnie's condition, the depositions reveal.

Clement also alleged critical notations in several places in the charts were overwritten – without any explanation for why the entry was changed. On one document, two days before Johnnie's death, a temperature reading that appears to be 102 is scribbled out and replaced with the number 98.8.

That was the day a doctor ordered Johnnie Esco sent to a hospital. The nursing home did not send her until the following evening.

"These people, day after day, checking their friggin' boxes. Nobody looked at her," said Clement.

On Johnnie's last two days at El Dorado Care Center, family members recall that she was bedridden and unresponsive. Ferris, the CNA, described her patient as being "out of it," according to her videotaped deposition.

In that time period, El Dorado Care Center billed Medicare for 170 minutes of physical therapy for Johnnie Esco, plus 65 minutes of occupational therapy.

Investigation is reopened

Johnnie Esco died on March 7, 2008, at Marshall Medical Center. She was 16 days shy of her 78th birthday.

Paramedics, summoned the night before at Don Esco's insistence, found Johnnie's abdomen distended and "rigid," with pain upon touch, according to the paramedics' report.

But the nursing home's pain charting told a different story. According to the lawsuit, the staff initially failed to document pain at all. In the last week, it documented her pain daily as zero – which Clement contends "was almost certainly false."

At the hospital, emergency workers determined that Johnnie had a bowel obstruction as well as a blood clot in her left leg. The fecal impaction was so severe her rectum had dilated to 10 centimeters, or about 4 inches. A CT scan revealed undigested pills in her colon.

Hospital staff also documented injuries that Don Esco had found two days earlier: bruises along his wife's chin, jaw line and chest; bruising around the circumference of her right wrist; and a wound on her right pinkie finger.

By the time Johnnie reached the hospital on the evening of March 6, her condition was dire.

Doctors told family members that surgery was the only recourse for a severe bowel obstruction but, in her weakened state, the risk of complications was high, court records show.

If she survived, Don Esco said, Johnnie stood little chance of having a decent quality of life.

The family decided to give her comfort care only. She died less than 17 hours later at 11:04 a.m. on March 7, 2008.

Dr. Barnhill, who did not perform an autopsy, surmised that the cause of death was a pulmonary embolism, or blood clot in the lung, a known complication for immobile or bedridden patients. In his opinion, the bowel problem was a "major contributing factor" in her precipitous decline.

The exhumation of Johnnie Esco's body from Arlington National Cemetery in September 2009 confirmed Barnhill's findings.

In 2009, the California Department of Public Health fined the El Dorado Care Center \$1,000 for failing to investigate or report suspected elder abuse, and issued the nursing home a Class B citation. The department also fined the facility \$18,000 for violating federal standards of patient care.

The state Department of Justice, through the Bureau of Medi-Cal Fraud and Elder Abuse, conducted its own criminal investigation in 2008. Lynda Gledhill, spokeswoman for the attorney general, said the case was referred to the El Dorado County district attorney. No charges were filed.

Gledhill told The Bee last week that the Department of Justice was reopening its investigation.

Horizon West Healthcare Inc. remains under criminal investigation by the state after the Justice Department and the El Dorado County Sheriff's Department raided its headquarters in Rocklin last May. Gledhill said she could not provide any details about the nature of that probe.

Don Esco said he finds little peace in the court settlement. (Although confidential, a document on the Superior Court's website revealed the amount to be \$2.9 million.)

Today, Esco volunteers to help Carole Herman and her Sacramento-based Foundation Aiding the Elderly, which advocates nationwide for elderly patients' rights. Earlier this year, he went to Washington, D.C., to lobby for nursing home reform.

"I've got one purpose in life, and that's to do what I can to eliminate the pain and suffering in nursing homes and make sure the guilty parties are punished," he said.

More than three years after Johnnie's death, he cannot bring himself to move back into the master bedroom he shared with her. He sleeps alone in the study.

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