

What did it take to jail the Claywest (American Healthcare Management) NH owners? 2-28-07

In a nutshell: 10 years of effort and personal sacrifice by individuals who refused to look the other way and in so doing, have brought about events that will have a great impact on shaping the future face of Long Term Care.

- 10 employees, led by CNA Sam Brady, risked jobs/futures to go public with torturous conditions in April, 1996
- Grass roots advocates risked personal harm to gather evidence, support families/workers & keep the stories going
- Exposure of corrupt State practices by grassroots advocates
- A MO Div on Aging Director, albeit under duress, ordered an inspection at night (12:31 AM)
- An out of the area surveyor team who did their job as it should be done, complete with photographic evidence.
- A brave, conscientious funeral home director reported suspicious injuries
- Dogged determination of James G. Gregory, St. Charles County prosecutor and County Prosecuting Attorney Jack Banas
- Incredible editorials by the St. Louis Post Dispatch challenging judges and legislators to do the right thing.
- Great effort, cost and dedication by the Office of the Inspector General, FBI, US Attorney.
- two brave judges who stood up to the nursing home industry.
- Attorneys not willing to settle cases for little or nothing
- Families who filed complaints and lawsuits

The previous jailing of Charles Kaiser III for 12 months and now of Robert Wachter, two powerful men, may very well be the most important development in NH oversight since the Nursing Home Care Act

By [Robert Patrick](#)

ST. LOUIS POST-DISPATCH

Thursday, Mar. 01 2007

Federal officials said patients in Missouri nursing homes run by American Healthcare Management suffered years of dehydration, malnutrition, bed sores, lack of cleanliness and even abuse, while executives collected millions and ordered cost cuts.

One 78-year-old patient was beaten by an employee and later died. Others were found covered in insects.

On Wednesday, AHM's chief executive officer, Robert D. Wachter was sentenced to 18 months in federal prison. He, AHM and three associated nursing homes were also fined a total of \$750,000.

Civil fines already levied bring the total to \$2 million, and civil lawsuits by patients or their relatives cost the company millions more.

Prosecutors said that nursing homes owned or operated by AHM provided so little care that Wachter, 59, and his enterprise committed fraud by billing Medicare and Medicaid for "worthless services."

Lawyers on both sides said it was either the first or second case of its kind in the country, and has been grabbing attention from owners and operators of health care facilities.

Violette King, executive director of Nursing Home Monitors, a watchdog group based locally in Godfrey, said it may be the biggest development in the industry's oversight in the past 20 years.

Harvey Tettlebaum, one of AHM's lawyers, has been warning clients that the Justice Department is "actively encouraging" U.S. attorneys to prosecute under the worthless services theory, according to the Long Term Care Wire, a health care publication.

He has warned them to delay or cancel billing for services if a patient dies or suffers another "bad" outcome, thereby eliminating a key element necessary for civil or criminal action.

Tettlebaum and J. Richard Kiefer, Wachter's lawyer, confirmed the advice and said it came from a recent conference in Florida.

Responded King: "If that's your business, he gave them excellent advice. I mean that's his job." But, she added, "I think it's terrible."

Wachter, AHM and the three nursing homes pleaded guilty in October of one count of conspiracy to defraud Medicare and Medicaid.

The case started more than nine years ago, when families and activists sought increased scrutiny on Claywest House Healthcare, in St. Charles.

Inspectors repeatedly cited Claywest for having too few staffers, and the home "falsely and fraudulently" said it would fix the problems, according to court documents. The state alerted the U.S. Department of Health and Human Services.

AHM owned or managed 11 homes in Missouri. The ones named in the case, Claywest, Lutheran Care Center, in St. Louis, and Oak Forest North, in St. Louis County, now operate under different names and owners.

AHM and the three named nursing homes each were fined \$180,250 and put on probation for two years. Wachter, of Jackson, Wyo., was fined \$29,000. As half owner of AHM, Wachter would end up paying half of its fine, too.

Wachter apologized in court, saying, "Mistakes were made." The company is now in the process of shutting down.

Joyce Thiele and her sister, Gloria Stringer, said they picked ants off their mother at Claywest. After Wednesday's hearing, Thiele said Wachter didn't get enough prison time, but said the case should serve as a warning to other operators.

"We're out here and we're coming to get you," she said of nursing home operators who abuse patients. "It's not if you're going to get caught — it's when."

U.S. District Judge Stephen N. Limbaugh seemed to suggest that if he'd had more information — particularly allegations in a presentence report and letters from residents' relatives — he might not have accepted Wachter's plea.

"Had I had it earlier on, I'm not sure I would have agreed to this," he said at the end of the hearing.