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L.A. SUPERIOR COURT
NORTHEAST DISTRICT
2015 AUG 14 PM 2:41

8
9 **SUPERIOR COURT OF LOS ANGELES COUNTY**
10 **NORTHEAST DISTRICT, STATE OF CALIFORNIA**

11 THE PEOPLE OF THE STATE OF CALIFORNIA,

12 Plaintiff,

13 -versus-

- 14 1. VERDUGO VALLEY SKILLED NURSING &
WELLNESS CENTRE LLC,
15 2. ALEXIUSE PEARL GARCIA SAN MATEO,
16 3. CONSUELO LACSON POLICARPIO,

17 Defendants.

Case No. GA097020

**DECLARATION IN SUPPORT
OF ARREST WARRANT**

18
19 The undersigned declares upon information and belief:

20 **SUMMARY**

21 Verdugo Valley Skilled Nursing & Wellness Centre, owned and operated by Verdugo
22 Valley Skilled Nursing & Wellness Centre LLC, is a 138-bed skilled nursing facility in the
23 Montrose area of Glendale. Resident James Populus was a 58-year-old male with burns on 90
24 percent of his body suffered in an arson fire two decades earlier. On the morning of August 24,
25 2014, after a delay, he was transported by ambulance to a local hospital in respiratory distress,
26 where he died six days later of acute respiratory failure. Populus's condition upon admission to
27 the hospital was so dire that his symptoms would have been present for several days.

28 The accompanying complaint charges Verdugo Valley Skilled Nursing & Wellness Centre

1 LLC with involuntary manslaughter for its grossly negligent care of Populus over several months.
2 It also charges the facility's director of nursing, Alexiuse San Mateo, who was responsible for
3 Populus's care at the facility, with dependent-adult abuse causing death. And the complaint
4 charges a supervising nurse, Consuelo Policarpio, who delayed calling 911, with dependent-adult
5 abuse causing great bodily injury.

6 **DECLARANT'S EXPERIENCE AND TRAINING**

7 I, Anthony Baumgart, am a special agent with the California Dept. of Justice (DOJ). I
8 have been a peace officer in California for 27 years, since 1987. I started as a police office and
9 detective with the San Gabriel Police Dept. for 14+ years, then became a special agent with DOJ
10 in 2002. I spent 7 years at DOJ in narcotics and 3 years in firearms. After layoffs, I worked
11 insurance fraud at the California Dept. of Insurance for nearly two years, before returning to DOJ
12 in March 2014, where I am assigned to the Bureau of Medi-Cal Fraud and Elder Abuse.

13 I have received informal training about the Medi-Cal program, health care fraud, and elder
14 abuse from supervisors and co-workers, who include special agents, attorneys, auditors and
15 nurses.

16 **SKILLED NURSING FACILITIES**

17 Skilled nursing facilities (SNFs) are health facilities that provide skilled nursing and
18 supportive care to persons who need this type of care on an extended basis. SNFs are licensed by
19 the California Dept. of Public Health (DPH), with the governing statutes in the Health & Safety
20 Code and the governing regulations in Title 22 of the California Code of Regulations.

21 SNFs are required to have an administrator, a medical director, and a director of nursing.
22 The administrator is responsible for the overall operation of the facility. The medical director is
23 responsible for the facility's policies and procedures for patient care and administration, and also
24 responsible for acting as a consultant to the director of nursing. The director of nursing is
25 responsible for seeing that the residents get the medical care ordered by each resident's physician.
26 42 CFR sec. 483.75 provides: "A facility must be administered in a manner that enables it to use
27 its resources effectively and efficiently to attain or maintain the highest practicable physical,
28 mental, and psychosocial well-being of each resident."

1 SNF residents are required to be under the care of a physician of their choice. The
2 physician must examine the resident within 72 hours of the resident's admission and prepare a
3 written report of the examination. The physician must sign written orders for care and diet, and
4 for any diagnostic tests and treatment by others. The physician must evaluate the resident as
5 needed, at least every 30 days unless there is an alternate schedule, and the visits must be
6 documented in the resident's health record.

7 INITIAL COMPLAINT

8 On Sep. 3, 2014, DOJ's Bureau of Medi-Cal Fraud and Elder Abuse received a written
9 complaint from the Long Term Care Ombudsman concerning the care given by Verdugo Valley
10 Skilled Nursing & Wellness Centre to recently-deceased resident James Populus. The complaint
11 summarized the care issues as "medical neglect; failure to provide adequate physician services;
12 failure to promptly respond to a resident's change in condition; failure to provide timely
13 emergency services; willful material falsification; failure to adequately verify resident's end of
14 life wishes and possible misrepresentation of a physician order to another medical institution."
15

16 INVESTIGATION

17 The facts set forth below were determined through an investigation I conducted with the
18 assistance of other peace officers.

19 Cal. Dept. of Public Health Records

20 According to DPH records, a licensed skilled nursing facility has been at 2635 Honolulu
21 Ave., Montrose, CA 91020, which is within Glendale's city limits, since 1966. The licensee since
22 2007 has been Verdugo Valley Skilled Nursing & Wellness Centre LLC ("the LLC"), 102 N. Alta
23 Vista Blvd., Los Angeles, CA 90036. The facility currently operates under the name Verdugo
24 Valley Skilled Nursing & Wellness Centre (Verdugo Valley), and is licensed for 138 beds under
25 SNF license no. 920000044.

26 DPH records show that Verdugo Valley's administrator since Dec. 2011 is Yitzchok
27 Yenowitz (although I know that he very recently left), and the director of nursing since May 2013
28 is Alexiuse Pearl Garcia San Mateo. The parent company of the LLC is listed in DPH records as
Brius Management Co., at the same address as the LLC, since 2007, and the indirect owner is

1 listed as Tamar Belsky, 5967 W. 3rd St., Suite 200, Los Angeles, CA 90036, since 2008. Those
2 operating the LLC are listed in DPH records as officer Shlomo Rechnitz at the W. 3rd St. address,
3 since 2007, and board member Guy Reggev at an El Cajon address, since 2008.

4 **Secretary of State Records**

5 According to records of the California Secretary of State, Verdugo Valley Skilled Nursing
6 & Wellness Centre LLC was incorporated in California as a limited liability company on 7/16/07,
7 entity no. 200719710126, and is currently active. The LLC's agent for service of process is Steven
8 Stroll at 5900 Wilshire Blvd., Suite 1600, Los Angeles, CA 90036.

9 **Nursing Board Records**

10 According to records of the Board of Registered Nursing, Alexiuse San Mateo has been
11 licensed as a registered nurse in California, license no. 497203, since 1993. Consuelo Policarpio
12 has been licensed as a registered nurse in California, license no. 792058, since 2011.

13 **James Populus**

14 James Lorenzo Populus was born Aug. 1, 1956. Verdugo Valley records show that
15 Populus was admitted to Verdugo Valley on June 3, 2013, discharged to a hospital on April 6,
16 2014, for a laceration to the head due to a fall, then re-admitted to Verdugo Valley on April 8,
17 2014. On Aug. 24, 2014, Verdugo Valley called 911 and Populus was taken to USC Verdugo
18 Hills Hospital a few miles away.

19 **Burns**

20 I spoke with Carl Populus, the brother of James Populus, who told me James had been
21 badly burned in an arson fire many years ago, but he didn't know the date. Online, I found a story
22 in the Los Angeles Times from Sep. 1991 reporting that James, then 35, received 2nd and 3rd
23 degree burns over 96 percent of his body when a transient poured gasoline in the hallway of an
24 apartment building in South Los Angeles around 6 am, apparently in a narcotics-related dispute
25 with someone who had moved out of the building days earlier. Official records show that the
26 arsonist, Donald Washington, was convicted of attempted murder and sentenced to prison.

27 **Interview of Burn Nurse**

28 I interviewed Debra Gaytan-Wallace, a nurse practitioner at Los Angeles County-USC

1 Medical Center, who has worked in the burn unit for nearly 20 years. Gaytan-Wallace is also an
2 associate clinical professor at UCLA's division of nursing, responsible for clinical performance of
3 acute care nurse practitioners.

4 Gaytan-Wallace said that thermal burn patients are more susceptible to pneumonia
5 because smoke damages the lungs, and the burns cause contracture of the skin, making deep
6 breathing painful, so those with burns on the torso tend to take shallower breaths, and the deeper,
7 unused, areas of the lungs can more readily incubate infection. Therefore, it is important to
8 provide a high level of care and monitoring to a burn patient, and to be swift to take action when
9 breathing becomes abnormal. Burn patients exhibit the same symptoms of pneumonia as anyone
10 else. Pneumonia is probably the greatest cause of death for burn survivors.

11 Gaytan-Wallace said Verdugo Valley should have recognized that Populus would require
12 a high level of care and monitoring, and evaluated whether they were equipped to provide that
13 level of care and monitoring. They then should have prepared a comprehensive assessment and
14 plan of care, with input from the entire health care team.

15 Gaytan-Wallace reviewed Verdugo Valley's records of the care it provided to James
16 Populus. She was concerned that Verdugo Valley had done nothing about Populus's refusals of
17 meals, and his refusals to be weighed. Populus was 6'1" and his weight at the emergency room
18 was only 125 lbs. Populus's refusals should have prompted discussion with his immediate family,
19 and the options would include evaluation for a feeding tube or intravenous solution.

20 Gaytan-Wallace also noted that the director of nursing had made the decision not to have
21 Populous go to the hospital to be seen by a lung specialist, as requested by Populus's brother,
22 without having consulted a physician. A physician might have ordered diagnostic work-ups such
23 as chest x-rays, blood cultures and sputum cultures. Populus's refusal to go to a hospital could
24 also have been signs of hypoxia, a condition where tissue is not property oxygenated.

25 Gaytan-Wallace noted that Populus received Ativan for anxiety and Norco for pain, and a
26 common adverse effect of these medications is respiratory depression, which can lead to
27 inadequate oxygenation and inability to clear the airways of secretions, leading to pneumonia.
28 Gaytan-Wallace thought evaluation and treatment by a psychiatrist, which did not occur, might

1 have reduced Populus's need for these medications, thus reducing his susceptibility to pneumonia.

2 Overall, Gaytan-Wallace thought Verdugo Valley was deficient in the level of care it
3 provided, and in identifying changes in Populus's health, throughout Populus's stay at the facility.
4 The lack of recognition and early intervention of declining health led to malnutrition,
5 advancement of pressure ulcers, contractures, sepsis and pneumonia, all contributing to his death.

6 **Hospital Records**

7 Records of USC Verdugo Hills Hospital show that James Populus was brought by
8 paramedics to its emergency room on Aug. 24, 2014. Populus was awake, not oriented and non-
9 verbal. He had a very elevated white blood cell count, indicative of infection, and copious
10 secretions. Populus was admitted to the Intensive Care Unit, intubated, and placed on a ventilator.
11 His admitting diagnoses were sepsis, acute respiratory failure, extensive pneumonia and acute
12 renal failure. Populus's brother reported to the hospital that Populus had been coughing with
13 congestion and shortness of breath for several days.

14 Populus passed away at USC Verdugo Hills Hospital six days later, on Aug. 30, 2014.

15 **Interview of Admitting Physician at Hospital**

16 Populus's admitting physician at USC Verdugo Hills Hospital was Devinder Ghandi, MD.
17 Dr. Ghandi said Populus was in "very bad shape" when he arrived, and he did not expect Populus
18 to survive the day. Dr. Ghandi said Populus's condition could not have come on suddenly, that
19 Populus had to have been very sick for "at least a couple days."

20 **Coroner's Autopsy**

21 Upon being assigned this case, I obtained the permission of James Populus's brother to
22 place a hold on the removal of James Populus's body from the hospital, then requested an autopsy
23 by the Coroner. The autopsy was conducted in part in my presence on Sep. 16, 2014, by Deputy
24 Medical Examiner (DME) J. Daniel Augustine, MD. The DME was aware that Populus had been
25 the victim of an arson fire decades earlier.

26 The DME attributed the cause of death to complications of bronchopneumonia, with
27 contributing conditions including atherosclerosis, history of hypertension, remote cerebral
28 infarcts, myocardial fibrosis, pulmonary fibrosis, diabetes mellitus, pressure sores, urinary tract

1 infection (clinical), Clostridium difficile colitis (clinical), history of tobacco use, and history of
2 illicit drug use.

3 The DME concluded that the manner of death was homicide since the cause of death
4 could be causally linked to the arson fire that burned Populus and resulted in contracture and
5 immobility. The DME noted that the quality of care provided to Populus was not under his
6 purview.

7 **Glendale Fire Dept. Records re 911 Call**

8 Verdugo Valley's 911 call on Aug. 24, 2014, was made at 7:42 am by "Maria" who
9 reported that a patient at Verdugo Valley was tachy, had a level of consciousness decrease, was
10 hyperventilating, and was conscious and not talking.

11 Emergency Medical Services personnel from Glendale Fire Dept. (GFD) arrived at
12 Verdugo Valley at 7:46 am. (Verdugo Valley's security cameras show the paramedics arriving
13 around 7:46 am.) A comment was entered in the GFD log at 7:50 am saying "person unconscious
14 and unresponsive." Populus left Verdugo Valley at 8:01 am, and arrived at USC Verdugo Hills
15 Hospital at 8:06 am.

16 **Interview of GFD Firefighter**

17 I interviewed Glendale Fire Dept. Firefighter Kevin Stockton. He said he was among the
18 personnel who transported James Populus to USC Verdugo Hills Hospital on Aug. 24, 2014.
19 Upon arrival, a Verdugo Valley staffer told them Populus was found with shortness of breath and
20 an altered level of consciousness around 6 am, and that Populus was normally a 4-6-4 on the
21 Glasgow Coma Scale. (Eye response from 1-4, verbal response from 1-5, motor response from 1-
22 6.) But when Stockton checked Populus, he was a 4-4-1. Populus had fast shallow breaths and
23 was having difficulty breathing, he was unable to speak and was totally focused on breathing.
24 When they moved Populus to the gurney, Stockton could hear rales in Populus's lungs (abnormal
25 crackling sounds), indicating there was fluid in the lungs. Populus's skin was cold and sweaty.
26 There was no change in Populus's condition during transportation to the hospital.

27 **Verdugo Valley Records re 911 Call**

28 Verdugo Valley's records show that those caring for James Populus on Aug. 24, 2014,

1 were: on the 11 pm to 7:30 am shift the nurse supervisor was Connie Policarpio and the charge
2 nurse was Kristy Sung; on the 7:00 am to 3:30 pm shift the nurse supervisor was Maria Bautista.

3 A nurses note dated Aug. 24, 2014, at 6:20 am that says the charge nurse reports Populus
4 is "non-responsive verbally." Symptoms are "verbally unresponsive, lethargic, labored breathing,
5 increased heart rate, weak pulse, and congested."

6 A nurses note at 6:30 am says Dr. Ladines called back at 6:30 am and amended his order
7 to now transfer by 911.

8 A nurses note at 7:00 am says Populus was "picked up in fair condition" but was still
9 "verbally unresponsive."

10 There is a telephonic doctor order dated Aug. 24, 2014, at 6:30 am from Dr. Ladines to
11 transfer Populus to East Valley Hospital "for medical eval due to acute change in LOC [level of
12 consciousness] and congestion." The words "acute change in LOC" are crossed out and there is a
13 line across the entire order with the word "Error" written on it.

14 A second doctor order from Dr. Ladines is dated the same date and time as the first, only
15 this one says to transport via 911.

16 **Ambuserve Ambulance Records**

17 According to records of Ambuserve Ambulance, they got a call from Connie Policarpio at
18 Verdugo Valley on Aug. 24, 2014, at 7:03 am, asking them to transport James Populus to East
19 Valley Hospital. When the dispatcher asked what the chief complaint was, Policarpio said
20 "congestion." Policarpio asked for an estimated time of arrival, and when told about an hour, she
21 said that was fine.

22 At 7:09 am Ambuserve called Shoreline Ambulance to see if they could transport
23 Populus.

24 At 7:42 am Kristy Sung at Verdugo Valley called Ambuserve to cancel the ambulance for
25 Populus, as they were going to call 911 instead.

26 **Shoreline Ambulance Records**

27 According to the records of Shoreline Ambulance, they received a call from Ambuserve
28 Ambulance on Aug. 24, 2014, at 7:09 am, asking them to transport James Populus from Verdugo

1 Valley to East Valley Hospital. Shoreline's dispatcher asked what the chief complaint was, and
2 was told an altered level of consciousness, but "per Connie" 911 was not needed. Shoreline told
3 Ambuserve that it would provide the transportation.

4 At 7:32 am Shoreline called Connie Policarpio at Verdugo Valley, and asked her if the
5 altered level of consciousness was onset. She replied, "yes, no, no, he is better now." Shoreline
6 asked if this was normal for the patient, and Policarpio said, "before now, yeah, no, it's not his
7 baseline." Shoreline told Policarpio that their protocol for an onset of a decreased level of
8 consciousness did not allow them to transport the patient, and she should call 911.

9 Interview of Verdugo Valley's Medical Director

10 I interviewed Robert Ladines, M.D., the medical director at Verdugo Valley, on two
11 occasions. The first was at his medical offices in Pomona when I was executing a search warrant,
12 and the second was at my office with his attorney, with a written use immunity agreement.

13 According to Dr. Ladines, he did the intake exam of James Populus on April 22, 2014, at
14 the request of Verdugo Valley, who said they were having trouble getting Populus's primary care
15 physician, Dr. Bansal, to come in for the exam. He later was asked by Verdugo Valley to take
16 over as Populus's primary care physician due to the non-responsiveness of Populus's primary care
17 physician, Dr. Bansal, but Dr. Ladines felt uncomfortable doing so since Populus wasn't his
18 patient. Eventually he visited Populus on June 3, 2014, and Aug. 12, 2014, but did not document
19 the visits in Verdugo Valley's records, and did not bill for the visits, due to his discomfort with
20 Populus being another doctor's patient.

21 In Verdugo Valley's records there was a nurses note for June 3, 2014, saying that Dr.
22 Ladines had visited Populus, but the note was crossed out with the word "error" written on it. Dr.
23 Ladines could not explain why someone had crossed it out as an error.

24 On Aug. 24, 2014, he received a call from RN Connie Policarpio early in the morning in
25 which she described the condition of Populus, and based on her description he directed that
26 Populus be moved to East Valley Hospital via non-emergency ambulance. Policarpio did not tell
27 him that Populus had a changed level of consciousness or any other serious condition, and if she
28 had he would have told her to call 911. The conditions Policarpio described were not life-

1 threatening and his direction to transfer him to East Valley Hospital were appropriate given the
2 conditions she told him.

3 **Interview of Nurse Supervisor Policarpio re 911 Call**

4 I interviewed nurse supervisor Consuelo "Connie" Policarpio about calling 911 for James
5 Populus on Aug. 24, 2014. She said that near the end of her shift, around 6:20 am, she was told by
6 charge nurse Kristi Sung that Populus was not okay. Policarpio checked Populus and observed
7 that he was drowsy, semi-conscious and verbally unresponsive. When she called Populus by
8 name he looked at her with his eyes but did not speak. Policarpio had Sung take vitals and all
9 were normal except a high pulse rate.

10 Around 6:30 am Policarpio called Dr. Ladines and told him Populus had shortness of
11 breath, was lethargic, but responding by name, and that Sung had given Populus his breathing
12 treatment. Dr. Ladines told her to contact Dr. Solomon at East Valley Hospital and arrange for
13 Populus to be transported there. Policarpio asked if the transport was to be by 911 or regular
14 ambulance, and Dr. Ladines said regular ambulance.

15 Policarpio then called Dr. Solomon at East Valley Hospital, and Shoreline Ambulance to
16 arrange transportation. Shoreline said it would be about an hour before they arrived.

17 Policarpio updated the next shift's nurse supervisor, Maria Bautista, at about 7:05 am. But
18 when Populus's pulse rate climbed to 120, Policarpio decided to call 911, at about 7:25 am. All of
19 the other vitals were good and Populus was doing well. When paramedics took Populus he was in
20 fair condition and able to breath fine.

21 When I asked Policarpio how Populus could be considered doing well except for a high
22 pulse when he was verbally unresponsive. Policarpio said he wasn't actually verbally responsive,
23 but he just had a sore throat and talked very low so it was hard to hear him. She reaffirmed that
24 Populus's condition was fine.

25 I showed Policarpio the two doctor orders from Dr. Ladines, both dated Aug. 24, 2014, at
26 6:30 am. Policarpio said she wrote and signed both, but had inaccurately written the time. They
27 should have said 7:05 am, not 6:30 am. Even though the second doctor order was saying Dr.
28 Ladines had ordered 911 transport, Policarpio said it was she who decided to call 911. Policarpio

1 had no explanation why she filled out the second doctor order when it was she who decided to
2 call 911, not Dr. Ladines.

3 I asked Policarpio why she wrote on the doctor order "acute change in LOC" when
4 Populus only had an increased pulse rate. Policarpio said Populus was fine, was not in distress,
5 but only had some congestion and a high pulse rate, and the "acute change in LOC" referred only
6 to Populus being drowsy.

7 Policarpio acknowledged that she had authority to call 911 without a doctor's order. She
8 initially didn't call 911 because Dr. Ladines told her to transport via regular ambulance, and she
9 decided later to call 911 because of the increased pulse rate, not because Populus was in
10 respiratory distress.

11 I showed Policarpio the nurses notes dated Aug. 24, 2014. She acknowledged writing and
12 signing them. Policarpio said the time was correct on the 6:20 am note, but the other two times
13 were mistakes. I asked her why her notes describe Populus as "verbally unresponsive" when she
14 is now telling me he was only speaking softly, but she didn't have an explanation. I asked her why
15 the notes describe Populus as having "labored breathing" and a "weak pulse" when she is now
16 telling me he was okay except for an increased pulse rate, and she said he was only short of
17 breath and they just had trouble finding his pulse at first.

18 **Interview of Nurse Supervisor Bautista re 911 Call**

19 I interviewed nurse supervisor Maria Bautista about the morning of Aug. 24, 2014. She
20 worked the 7:00 am to 3:30 pm shift and first spoke to the previous shift's nurse supervisor,
21 Connie Policarpio, at 7:05 am. Policarpio was getting the paperwork ready to send Populus to
22 East Valley Hospital. Charge nurse Kristi Sung was in Populus's room monitoring him. Policarpio
23 told Bautista that Populus had an increased shortness of breath and Policarpio had given his
24 breathing treatment, put him on oxygen and elevated the bed. Bautista observed that Populus was
25 having a hard time talking due to shortness of breath, had an elevated heart rate, but his eyes were
26 open and responsive. About five minutes later Policarpio decided to call 911.

27 **Interview of CNA Ng**

28 I interviewed certified nurse assistant Pak Ng with the assistance of a Cantonese

1 interpreter. He said that at the end of his shift on Aug. 24, 2014, around 6:15-6:35 am, he went to
2 check on Populus. He tried to talk to Populus to see if his diaper needed changing, but Populus
3 did not answer. Populus's eyes were open, but he did not appear to be able to speak. Populus was
4 breathing very fast.

5 Ng told charge nurse Kristy Sung that Populus had been able to speak earlier in the shift
6 but was now unable to speak. Sung went and told nurse supervisor Connie Policarpio about
7 Populus. When Ng got off work around 7 am Populus, Sung and Policarpio were still at Verdugo
8 Valley.

9 Five days later, on Aug. 29, Ng was suspended and told not to come back to work by
10 "DSD Laurie." On Sep. 3 he was fired. Ng asked why he was fired and which resident was it
11 regarding, and Laurie would not tell him. She said it was a secret.

12 **Interview of Charge Nurse Sung**

13 I interviewed charge nurse Kristy Sung. She said that at 5:00 am on Aug. 24, 2014,
14 Populus was sleeping and wearing his nasal oxygen cannula. Around 6:20 am CNA Ng told her
15 that Populus could not talk well so she went to check on Populus. Populus had shortness of
16 breath, which was normal for him. When she spoke to him he looked at her, but did not talk. Sung
17 checked his vitals, which were normal except he was congested. Sung asked Populus if he wanted
18 his breathing treatment and he responded by nodding his head affirmatively. She gave him his
19 breathing treatment, which took 5-10 minutes. After the treatment, Sung told nurse supervisor
20 Policarpio that Populus was congested and asked if the previous shift had reported anything about
21 Populus.

22 Around 6:30 am Policarpio called Dr. Ladines and left a message. Dr. Ladines called back
23 and spoke with Policarpio. Policarpio said Dr. Ladines ordered Populus transported via
24 ambulance to the hospital. Sung didn't know when Policarpio actually called for an ambulance,
25 but Sung observed Policarpio doing the paperwork before the new shift arrived.

26 Around 7:15-7:20 am, Populus became more congested and anxious and his vital changed.
27 His pulse was weak and he had a high heart rate. The next shift's supervising nurse, Maria
28 Bautista, took Populus's vitals and decided to call 911. Bautista told Policarpio to call 911.

1 Sung did not write any nurses notes about Populus on Aug. 24, 2014. She said it was
2 standard practice for only one person to write nurses notes, and Policarpio had written all the
3 nurses notes.

4 When questioned why 911 wasn't called at 6:20 am when Sung first learned that Populus
5 was short of breath and unable to talk. Sung said Populus was always short of breath, and in the
6 past he had been unable to talk yet recovered. She admitted that she had never documented any
7 previous times Populus had been unable to talk, although such a change of condition would be
8 something she should document.

9 **Interview of Director of Nursing San Mateo re 911 Call**

10 I interviewed Verdugo Valley's director of nursing, Alexiuse "Alex" San Mateo, about the
11 911 call for James Populus. San Mateo was not at Verdugo Valley that morning. She received a
12 call from nurse supervisor Connie Policarpio saying that Populus had congestion, and Policarpio
13 had called Dr. Ladines, Verdugo Valley's medical director, who ordered a transfer to East Valley
14 Hospital. Policarpio told San Mateo that Populus was alert and talking. San Mateo did not recall
15 what time she spoke with Policarpio.

16 I later asked San Mateo to provide me with any notes that were not in Verdugo Valley's
17 files. San Mateo said supervising nurse Policarpio had made some mistakes in her initial nurses
18 notes and had prepared an addendum. The addendum is dated Sep. 4, 2014, at 11:30 pm, and says
19 that after Populus was ordered transported to East Valley Hospital, 911 was called at 7:35 am due
20 to "increased tachycardia and level of consciousness decline," and paramedics left Verdugo
21 Valley at 7:50 am. The addendum further states that the prior notes reported Populus was picked
22 up at 7:00 am. The addendum includes no explanation for the inaccuracies in the initial nurses
23 notes dated Aug. 24, 2014.

24 **Detention of Nurse Supervisor Policarpio**

25 On Sep. 18, 2014, I arrested nurse supervisor Connie Policarpio at Verdugo Valley on
26 charges of dependent-adult abuse for her delay in calling 911 and making false entries in medical
27 records. I booked her at the Century Regional Detention Facility in Lynwood. She was released
28 from custody the next day pursuant to Penal Code sec. 849(b)(1), which made the arrest a

1 detention.

2 **Verdugo Valley Records re Populus's Care at Verdugo Valley**

3 Verdugo Valley's records show that Populus's primary care physician was Dr. Maneesh
4 Bansal. But Dr. Bansal never visited Populus. Populus's intake exam was conducted by Verdugo
5 Valley's medical director, Dr. Ladines, on April 8, 2014. The next time was seen by a doctor,
6 according to Verdugo Valley's records, was Aug. 18, 2014, by Dr. Ladines. That was also the last
7 time Populus was seen by a doctor at Verdugo Valley.

8 Verdugo Valley's records for Populus have many red tabs attached to the pages, indicating
9 a missing physician signature that is required by law. For the 4.5 months Populus was at Verdugo
10 Valley from April 8 to Aug. 24, 2014, there are 26 red tabs. (For Populus's previous stay at
11 Verdugo Valley from June 3, 2013, to April 5, 2014, there are 54 red tabs.)

12 **Interview of Director of Nursing San Mateo re Populus's Care at Verdugo Valley**

13 I interviewed Verdugo Valley's director of nursing Alex San Mateo about the care given
14 to James Populus. She said she had had numerous conversations with Populus's brother, Carl
15 Populus, in which Carl repeatedly told her his brother needed a doctor and should go to the
16 hospital for a lung specialist. San Mateo said Populus was sent to the hospital on several
17 occasions but he always came back within a couple of days.

18 On July 10, 2014, Carl wanted his brother transferred to the hospital to see a specialist, but
19 when San Mateo conducted an assessment of Populus, who was on constant oxygen, she found he
20 had no congestion, no respiratory distress, no cough and no chest pain, and Populus told her he
21 did not want to go to the hospital. San Mateo told Populus that if he changed his mind to let staff
22 know.

23 I asked San Mateo about Populus's lack of a primary care physician. She said Dr. Bansal
24 was Populus's doctor of record when he was admitted to Verdugo Valley on April 8, 2014, and
25 even though he never showed up Populus's brother, Carl Populus, did not want Populus seen by
26 any other physician. When Dr. Bansal never came to Verdugo Valley, the medical director, Dr.
27 Ladines, did the intake exam. Later, when Dr. Bansal was still not visiting Populus, they switched
28 his primary care physician to Dr. Ladines, in June.

1 When I pointed out there was no record of Dr. Ladines seeing Populus in June, and in fact
2 the first records of Dr. Ladines seeing Populus after the April intake exam wasn't until Aug. 18,
3 so according to Verdugo Valley's records Populus was not seen by a doctor for nearly four
4 months. San Mateo acknowledged the lack of any record, but said maybe the doctor kept the
5 doctor notes for the June visit and didn't leave them in Verdugo Valley's file.

6 Interview of Dr. Bansal

7 I interviewed Maneesh Bansal, MD, about James Populus. Dr. Bansal said he did not have
8 any patients at Verdugo Valley. He said when Populus was at Los Angeles Community Hospital
9 for a few days in April 2014 for a head wound, he may have been listed on paper as Populus's
10 primary care physician, but it was another doctor who actually treated Populus, and Dr. Bansal
11 only consulted by phone.

12 Had Dr. Bansal been Populus's primary care physician at Los Angeles Community
13 Hospital he would have continued as his primary care physician at Verdugo Valley. But he was
14 not Populus's primary care physician at the hospital, and no one ever asked him to be Populus's
15 primary care physician at Verdugo Valley. No request ever came from Populus or his family or
16 Verdugo Valley. No one from Verdugo Valley ever called him about Populus after Populus was
17 discharged to Verdugo Valley.

18 I also asked Dr. Bansal about a period before April 2014. Populus had been at Los
19 Angeles Community Hospital in May and June 2013, then was transferred to Verdugo Valley
20 where he stayed until his head wound in April 2014. In Verdugo Valley's records, the June 2013
21 intake exam for Populus had Dr. Bansal's name on it, but when I showed it to him he said he had
22 not done the exam and it was not his writing or signature on the form.

23 Verdugo Valley also had notes dated June through Sept. 2013 documenting attempts to
24 get ahold of Dr. Bansal, but when I showed those to Dr. Bansal he said the notes were suspicious
25 as they appeared to be written in the same sitting by the same person, and the person named as
26 taking the calls at his office does not answer the phone. If Dr. Bansal had actually been called
27 about Populus during this period, he would have told him that Populus was not his patient.

28 Verdugo Valley's records also had four pages of doctor orders allegedly made by Dr.

1 Bansal, all unsigned. Dr. Bansal said he had nothing to do with any of the orders. He surmised
2 that some of them were automated orders that are attributed to the doctor of record, and for some
3 reason Verdugo Valley had him listed as Populus's primary care physician. However, one order
4 was for transporting Populus to East Valley Hospital under the care of Dr. Solomon on April 5,
5 2014. Dr. Bansal said he had nothing to do with that hospital and would have no reason to order a
6 patient to go there.

7 In response to my pointing out that Verdugo Valley had listed Dr. Bansal as James
8 Populus's primary care physician from June 2013 until June 2014, Dr. Bansal said it was strange
9 that Verdugo Valley could go a year without a resident's primary care physician ever visiting, yet
10 continue that physician as the resident's primary care physician.

11 **Billing Records**

12 A physician visiting a SNF will typically, as a matter of efficiency, see multiple residents
13 during the visit, not just one. To see whether Dr. Ladines had visited Verdugo Valley on the two
14 dates he says he saw Populus but did not bill, and did not record the visit in Verdugo Valley's
15 records, I obtained by search warrant records of Dr. Ladines's work schedule and billing and any
16 other documentation showing his whereabouts on those days.

17 At Dr. Ladines's medical offices in Pomona, I obtained Dr. Ladines's appointment
18 schedule for April 22, 2014, June 3, 2014, and the entire month of August 2014.

19 **Medi-Cal Billing**

20 I reviewed the Medi-Cal claims submitted for services rendered to James Populus during
21 2014 and found:

22 Dr. Bansal submitted no claims.

23 Dr. Ladines submitted on one claim, for the intake exam conducted April 8, 2014.

24 No other physicians submitted claims for the period April 8, 2014, to Aug. 24, 2014.

25 Verdugo Valley's claims for the period April 8, 2014, to May 31, 2014, listed Dr. Bansal
26 as the referring provider.

27 Verdugo Valley's claims for the period June 1, 2014, to Aug. 24, 2014, listed Dr. Ladines
28 as the referring provider.

1 **Interview of Brother Carl Populus**

2 I interviewed James Populus's brother, Carl Populus. He said he was always telling
3 Verdugo Valley his brother needed to see a doctor and a lung specialist, but the facility ignored
4 his request. I asked Carl about Dr. Bansal, but Carl did not recognize the name. I told him that Dr.
5 Bansal may have treated James in April 2014 at Los Angeles Community Hospital for a head
6 wound, that Verdugo Valley told me he (Carl) had insisted that Dr. Bansal be James's primary
7 care physician at Verdugo Valley, and that Verdugo Valley told me he (Carl) had refused to allow
8 any other physician. Carl said he never told anyone at Verdugo Valley what doctor to use, or
9 express any preference as to doctors. Carl only told them his brother needed to see a doctor and a
10 lung specialist, and he repeated that many times.

11 **Expert Opinion re Populus's Care at Verdugo Valley**

12 An expert on medical care in SNFs was retained and asked to review the results of my
13 investigation and give an opinion about the quality of care provided to James Populus at Verdugo
14 Valley. The documents he reviewed included Verdugo Valley's records for Populus, and records
15 from USC Verdugo Hills Hospital and the Glendale Fire Dept.

16 Loren G. Lipson, MD, is board-certified in internal medicine and geriatric medicine. He
17 has been a professor of medicine at the Keck School of Medicine at USC, for more than 29 years,
18 currently emeritus. He was chief of USC's Section of Geriatric Medicine, and is past director of
19 the USC Teaching Nursing Home Program, and past co-director of the Los Angeles County-USC
20 Medical Center Adult Protection Team - Geriatric. He is a consultant to the California DOJ and
21 the United States DOJ in areas of geriatric care and elder abuse. Dr. Lipson has extensive
22 personal experience in primary medical care and in subspecialty consultation and long-term care.
23 He is familiar with the standard of care in skilled nursing facilities, the state and federal
24 regulations pertaining to skilled nursing facilities, and the standard of care for the evaluation and
25 treatment of the physical conditions presented by James Populus.

26 Dr. Lipson concluded in a written report that Populus "died prematurely and needlessly on
27 8/30/14 due to the woefully substandard monitoring, assessments, care, and treatment he received
28 while a resident at Verdugo Valley, in all reasonable medical probability. Had he received the

1 monitoring and care he required and was guaranteed to him, he would not have died when he did
2 and would have lived longer."

3 According to Dr. Lipson, Populus should have been transferred to a hospital days earlier
4 as there would have been observable symptoms at Verdugo Valley given Populus's multiple acute
5 problems when paramedics transported him to the emergency room on Aug. 24. Yet,
6 unbelievably, Verdugo Valley's records are silent during that period, with the last nurses progress
7 note on Aug. 18, and the last multidisciplinary note on Aug. 12. "[I]t is obvious that these
8 conditions did not just appear on 8/24/14 but they had been ongoing for multiple days, yet went
9 unobserved, undocumented, and unreported by the staff of Verdugo Valley."

10 Dr. Lipson also found fault in many other aspects of Verdugo Valley's care of Populus,
11 including: they did not make sure Populus was under the care of a primary care physician and
12 receiving the medical care required by law; the frequency of multidisciplinary progress notes was
13 deficient; they did nothing about Populus's refusing meals, which he was doing with greater
14 frequency; and they did nothing about his weight loss.

15 Dr. Lipson noted that upon admission Verdugo Valley recorded Populus's condition and
16 prognosis to be worse than they actually were, presumably so they couldn't be blamed for later
17 deterioration. He noted that inaccurate entries in the records made on the date of the 911 call were
18 "corrected" days later, consistent with the initial entry being fraudulent and the later entry
19 covering it up. Finally, Dr. Lipson noted that he had received two versions of a handwritten
20 change-of-condition form, one that came from seized records, and the other submitted by an
21 attorney for Verdugo Valley.

22 CONCLUSION

23 Based upon my training and experience, and the facts set forth in this declaration, I
24 believe there is probable cause to show that Verdugo Valley Skilled Nursing & Wellness Centre
25 LLC, Alexiuse San Mateo and Consuelo Policarpio committed the crimes charged in the
26 accompanying complaint.

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DEFENDANTS FOR WHOM ARREST WARRANTS ARE REQUESTED

NAME: Alexiuse Pearl Garcia SAN MATEO
DOB: 06/26/1962
CII: M09631783
CDL: A77662895
DESCRIPTION: F, Fil, 5'01", 120 lbs., brn hair, brn eyes
RESIDENCE: 7320 Balboa Blvd., # 118
Lake Balboa, CA 91406
ALIASES: Alex San Mateo
Alexiuse San Mateo
Pearl Aquino Garcia
Pearlita Aquino Garcia
Pearl Garcia
Pearlita Garcia
Pearl San Mateo
Pearlita San Mateo

NAME: Consuelo Lacson POLICARPIO
DOB: 12/21/1973
CII: A28311528
CDL: F2634732
DESCRIPTION: F, Fil, 5'04", 130 lbs., blk hair, blk eyes
RESIDENCE: 345 E. Tujunga Ave., # I
Burbank, CA 91502
ALIASES: Connie Policarpio, Consuelo Policarpio

DECLARATION

I declare under penalty of perjury under the laws of California that the foregoing is true and correct. Signed on the 14TH day of August, 2015.



ANTHONY BAUMGART
Special Agent
Bureau of Medi-Cal Fraud & Elder Abuse
California Department of Justice