

From: Roy S Shelburne

It is with great sadness that I am writing to inform the dental community that I was convicted of Medicaid Fraud and 9 other related counts on Thursday, March 6, 2008; 3 days before my 53<sup>rd</sup> birthday and after 26 and a half years of practicing dentistry in a small town in southwest Virginia called Pennington Gap. I am writing to alert you as to what's going on in the state and to warn you! This situation has devastated my life and my family. The guilty verdict carries with it a possible sentence of 120 years in prison and a monetary fine of 1.5 million dollars. I don't mean to alarm you; however, I don't want any of you to suffer the same consequence either!

You may have read about this case in your local newspapers or have seen it on the news. There were many allegations regarding up coding, unnecessary treatment, multiple billings, and miscoding of treatment provided. There was also suggestion of physical abuse and cruelty of my patients, although there was no testimony to that effect. The truth is that I would never do anything to hurt a child or anyone else for that matter. None of the allegations are true! The government provided expert testimony that supported their position and we provided expert testimony that supported our position regarding the charges of Medicaid fraud and the related treatment provided. Of course there are two sides to every story and I don't want to mislead you. We did make errors. Everything we did was not perfect. I admit to you now and admitted to the court that I made mistakes and my staff made errors. Nothing that was done by intension or could it be remotely labeled as fraud. I admit that we made errors; however, it is my belief that the decision made by the jury was not based on the facts; however, the verdict was made based on lifestyle. (How can a lay person sitting on a jury make a determination as to the appropriateness of treatment when the profession as a whole has great difficulty agreeing on what is appropriate when it comes to treatment?) The bulk of the government's case was based on the fact that I operated my practice like a business. The government made their case based on the house I live in and the cars I owned. (During the course of the trial prosecution showed the jury pictures of my home on more than one occasion. They even showed a picture of my daughter's car.) Scary, huh? Prosecution by lifestyle: as the government presented the jury with what was described as a "lavish" lifestyle.

The result of this case could have a profound effect on you and your practice of dentistry especially if you are now accepting or plan to accept Virginia Medicaid. This decision has set a precedent. From what I understand the government has used this as a test case. With their success, it is my belief that they will now take their efforts state wide. If you now take Medicaid or plan to take Medicaid in the future, you are now a target.

Because this case involved Medicaid Fraud, there were additional counts of Racketeering, Structuring, Mail Fraud, and Wire Fraud. These additional counts pertain

to the alleged receipt of fraudulent monies from the act of Medicaid Fraud and this allowed the government to confiscate everything I owned and to place it under a protective order prior to being convicted of any wrong doing. On October 27, 2006, federal agents came to my home, arrested me, confiscated my vehicles, seized all my bank accounts and took control of everything I owned. Agents, at the same time, located my children in Charlottesville and Blacksburg and confiscated their vehicles as well. (I have a son graduating from dental school at VCU in May, a daughter in medical school at VA tech, and a Daughter at ETSU in the doctorate program in audiology.) I was transported by agents to Bristol Virginia in handcuffs and leg chains, spent the night in jail and was arraigned in federal court the next day. I entered a plea of not guilty and bail was arranged. My assets were placed under a protective order and only those things that I absolutely needed to live were made available to me a month later. Two vehicles were sold by order of the government and the proceeds were put in a trust account. I had to pay for the transport of the vehicles and for the storage of the vehicles while confiscated, over \$ 5,500.

We have requested that the conviction be set aside and are awaiting that decision. I have very little hope that Judge Jones will grant our request. We also hope to mount an appeal of the conviction; however, the appeals process must wait to be initiated until after sentencing. I will be in prison during the appeals process. This is where I am. Unless a miracle happens, I will be sentenced June 9, 2008. As mentioned before, the conviction carries with it the possibility of 120 years in prison and can carry a fine of up to 1.5 million dollars. Please pray for me and especially my wife and children who have been devastated in the process. Your letters could help in the sentencing process if received before June 1, 2008. (See below for the details if you are inclined to provide a letter.)

In the meantime, I want to make myself available to you to answer any questions you might have or to further explain the situation as I understand it. Don't hesitate to call 276-346-3863. If you get the machine, please leave a message. My email address is: roy\_shelburne@yahoo.com. Contact me at your convenience and I will get back in touch with you. Everyone in the dental community needs to know what happened and that the same could easily happen to you.

In addition to putting the word out I need to ask for other help as well! I have had the pleasure of going to dental school with many of you; I have met many of you through the MOM projects in Wise and Grundy over the years, and some of you I have met in other ways. If you would be willing to write a letter of support of me to the court that could be helpful during the sentencing phase in June. I would deeply appreciate your help in this area. Furthermore, I ask that you talk to your colleagues and alert them as to what's happened. You may direct your letters of support to:

Judge James P. Jones  
Chief U.S. District Judge  
180 West Main Street  
Room 104  
Abingdon, VA 24210

Please mail the letter directed to Judge James P. Jones to:

Dennis E. Jones & Associates  
Attorneys at Law  
P.O. Box 1237  
1 Flannagan Ave.  
Lebanon, VA 24266

Or you can attach your letter via email to: [dejones@bvunet.net](mailto:dejones@bvunet.net)

To be completely open with you, because of the enormous financial burden to defend this case I have nothing left to use in order to mount an appeal. My credit cards are maxed, my property has been mortgaged, my credit has been tapped out and I have nothing left in reserve; therefore, my fate has been secured. The inevitable result will be: I will be in prison and my wife and children will be left to fend for themselves.

As I have said, I do not want this to happen to anyone else! It will be my pleasure to answer any questions you may have regarding what has happened as well as suggestions as to how to best prevent it from happening to you. Beware! It is very possible that any one of you could be next! It is my understanding by comments made by the government during this proceeding that this case is just the first of many in the government's effort to "clean up the Medicaid system".

Thank you so much for your time taken to read this letter and for your concern.

Again, should you have questions or would like to talk, please call: 276-346-3863. My email address is [roy\\_shelburne@yahoo.com](mailto:roy_shelburne@yahoo.com).

Sincerely yours,

Roy Shelburne