



C A L I F O R N I A

DEPARTMENT OF JUSTICE

ELDER ABUSE PROSECUTIONS

CALIFORNIA MEDI-CAL STATISTICS

FISCAL YEAR 2022 – 2023

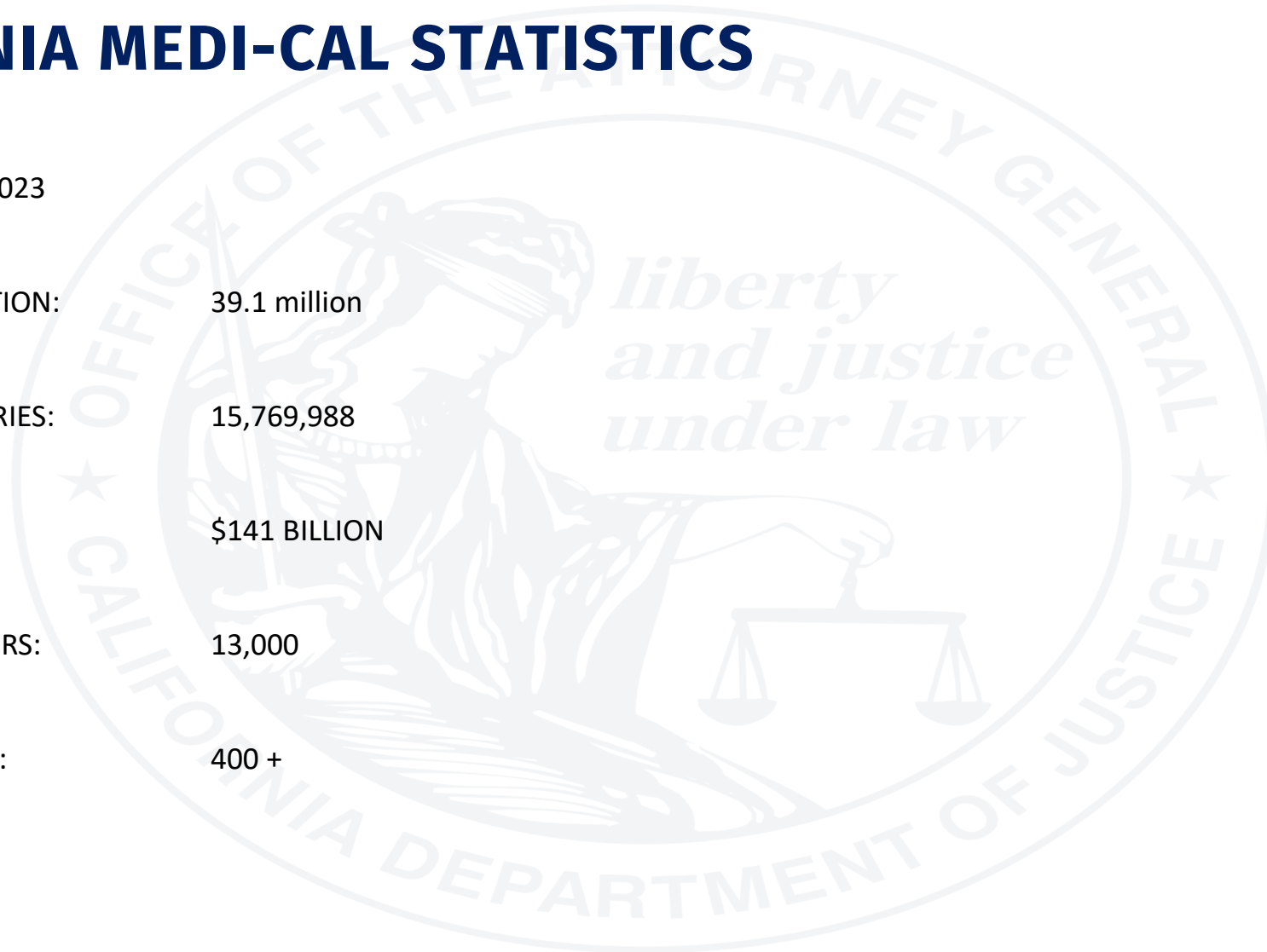
CALIFORNIA POPULATION: 39.1 million

MEDI-CAL BENEFICIARIES: 15,769,988

MEDI-CAL SPENDING: \$141 BILLION

HEALTH CARE WORKERS: 13,000

HOSPITAL PROVIDERS: 400 +



STATE & FEDERAL INVESTIGATION & PROSECUTION AUTHORITY

Abuse or Neglect

HEALTH CARE FACILITIES:

LONG-TERM HEALTH CARE FACILITIES THAT ACCEPT MEDICAL PATIENTS

BOARD AND CARE FACILITIES:

TWO OR MORE UNRELATED ELDERS/DEPENDENT ADULTS RECEIVING SUBSTANTIAL ADL ASSISTANCE

NON-INSTITUTIONAL SETTINGS:

MEDICAL RECIPIENTS IN A NON-INSTITUTIONAL OR OTHER SETTING PROVIDED THE ALLEGATION OCCURRED IN CONNECTION WITH THE PROVISION OF MEDICAL SERVICES

- PEDIATRIC DENTISTRY
- MEDICAL TRANSPORTATION SERVICES



OUR POPULATION IS AGING

- MORE PEOPLE REQUIRE GOVERNMENT ASSISTANCE FOR THEIR ACTIVITIES OF DAILY LIVING
- UNSCRUPULOUS PEOPLE ARE EXPLOITING GOVERNMENT PROGRAMS AT AN UNPRECEDENTED RATE
- THEIR VICTIMS ARE PEOPLE WHO CANNOT DEFEND THEMSELVES



CASE STUDIES....THIS IMPACTS ALL OF YOU

THE KEY TO A SUCCESSFUL PROSECUTION...

TEAM WORK

PROSECUTORS RELY UPON ASSISTANCE FROM OUR ALLIED AGENCIES. WE ARE ALL MEMBERS OF THE SAME PROSECUTION TEAM

- UNDERSTAND YOUR ROLE IN THE CASE
- UNDERSTAND THE “BIG PICTURE” AND THE IMPORTANCE OF YOUR ROLE



PEOPLE V. ANTHONY AKINSETE

DOES RUNNING A “ROOM AND BOARD” HOME ESTABLISH A DUTY OF CARE OVER ELDERLY TENANTS?

WHAT AGENCY REGULATES “ROOM AND BOARD” HOMES?

WHERE DO DISADVANTAGED ELDERLY AND DEPENDENT ADULTS LIVE WHEN THEY LACK FINANCIAL RESOURCES?





CRIME SCENE PHOTOS



CRIME SCENE PHOTOS



TENANTS AKA VICTIMS

- 6 Victims, all classified as elders and “gravely disabled”
- *HOW DO WE MAKE THE JURY CARE ABOUT PEOPLE WHO FELL OFF THE GRID?*
- *HOW DO WE LOCATE HEALTHCARE AND SOCIAL SERVICES PERSONNEL WHO MAY NOT REALIZE THEY ARE WITNESSES TO CRIMINAL ACTIVITY?*
- *DOES OUR SOCIETY VALUE GRAVELY DISABLED PERSONS WHO LACK SUPPORT SYSTEMS SUCH AS FAMILY, FRIENDS, CLERGY GROUPS, ETC.?*
- **WILL THE JURY CARE IF ALL SIX VICTIMS CHOSE TO STAY WITH DEFENDANT DESPITE THE HORRIFIC LIVING CONDITIONS THEY WERE EXPOSED TO?**



DOES IT HURT YOUR CASE THAT SOME GOVERNMENT AGENCIES APPEAR TO NOT HAVE RECOGNIZED CRIMINAL ACTIVITY?

- All 6 victims had Adult Protective Services agents assigned to them. (social workers)
- How do you approach the social service agents who the defense will claim took no action to pull their clients out of the homes operated by defendant which arguably minimizes defendant's conduct?
- How do you approach the police officers who the defense will claim took no action to immediately remove the victims from the homes which arguably demonstrates no crime was committed?
- How do you approach the defense of no affordable alternative existed for the victims?



TEAM WORK

- Social workers, who the defense attempted to place blame on, became our partners. The social workers gave us their activity logs which are written summaries of client contact. Some require motivation....
- Sacramento Fire Department personnel, who responded to multiple calls for service to the three homes over a two-year period became our partners.
- Sacramento Police Officers, who responded to multiple calls for service to the three homes, became our partners.



JURY VERDICTS

- DEFENDANT WAS CONVICTED BY A SACRAMENTO JURY OF ALL SIX COUNTS OF FELONY ELDER ABUSE LIKELY TO CAUSE GREAT BODILY INJURY OR DEATH.
- ***WHAT DOES THE CALIFORNIA LEGISLATURE THINK ABOUT FELONY ELDER ABUSE?
- ****THE CHARGE IS EXEMPT FROM THE REALIGNMENT LAW!
- ****63-YEAR-OLD DEFENDANT WITH NO CRIMINAL HISTORY IS SENTENCED TO THE AGGRAVATED TERM OF 7 YEARS IN STATE PRISON



PEOPLE V. NATALIE BRINDOS -WATTERS

- She was a Registered Dental Hygienist in Alternative Practice who targeted elderly dementia patients living in skilled nursing facilities throughout Northern California
- NONE of her victims were capable of complaining about their dental service, *or lack thereof.*



GREAT EVIDENCE FOR THE PROSECUTION.....

- Defendant bills 20 *periodontal maintenance procedures* (invasive and time consuming) in one facility – which is itself an extraordinary feat, followed by another 20 *periodontal maintenance procedures* in the same day at a different facility 200 miles away.
- Defendant bills for more *periodontal maintenance procedures AND scaling and root planning procedures than are humanly possible to perform in one continuous day.*



GPS WARRANT

DOJ AGENTS PLACE A GPS DEVICE ON DEFENDANT'S WORK CAR IN THE DARK OF NIGHT

DOJ AGENTS MONITOR THE GPS DATA AND COMPARE THE DATA TO DEFENDANT'S BILLING STATEMENTS ACROSS NORTHERN CALIFORNIA

THE AMOUNT OF "GHOST BILLING" IS STAGGERING



AGGRAVATING FACTORS: CA RULE OF COURT 4.421

- (a)(3) The *multiple* victims were particularly vulnerable.
- (a)(4) Defendant induced others to participate in the crimes.
- (a)(6) Defendant illegally interfered with the judicial process (money laundering discovered during trial)
- (a)(8) The crimes indicate planning, sophistication, or professionalism
- (a)(9) The crimes involve the actual taking of great monetary value
- (a)(11) Defendant took advantage of a position of trust or confidence

PC 1170.85(b) “Upon conviction of any felony it **shall** be considered a circumstance in aggravation in imposing a term under subdivision (b) of Section 1170 if the victim of an offense is particularly vulnerable...due to age or significant disability.”



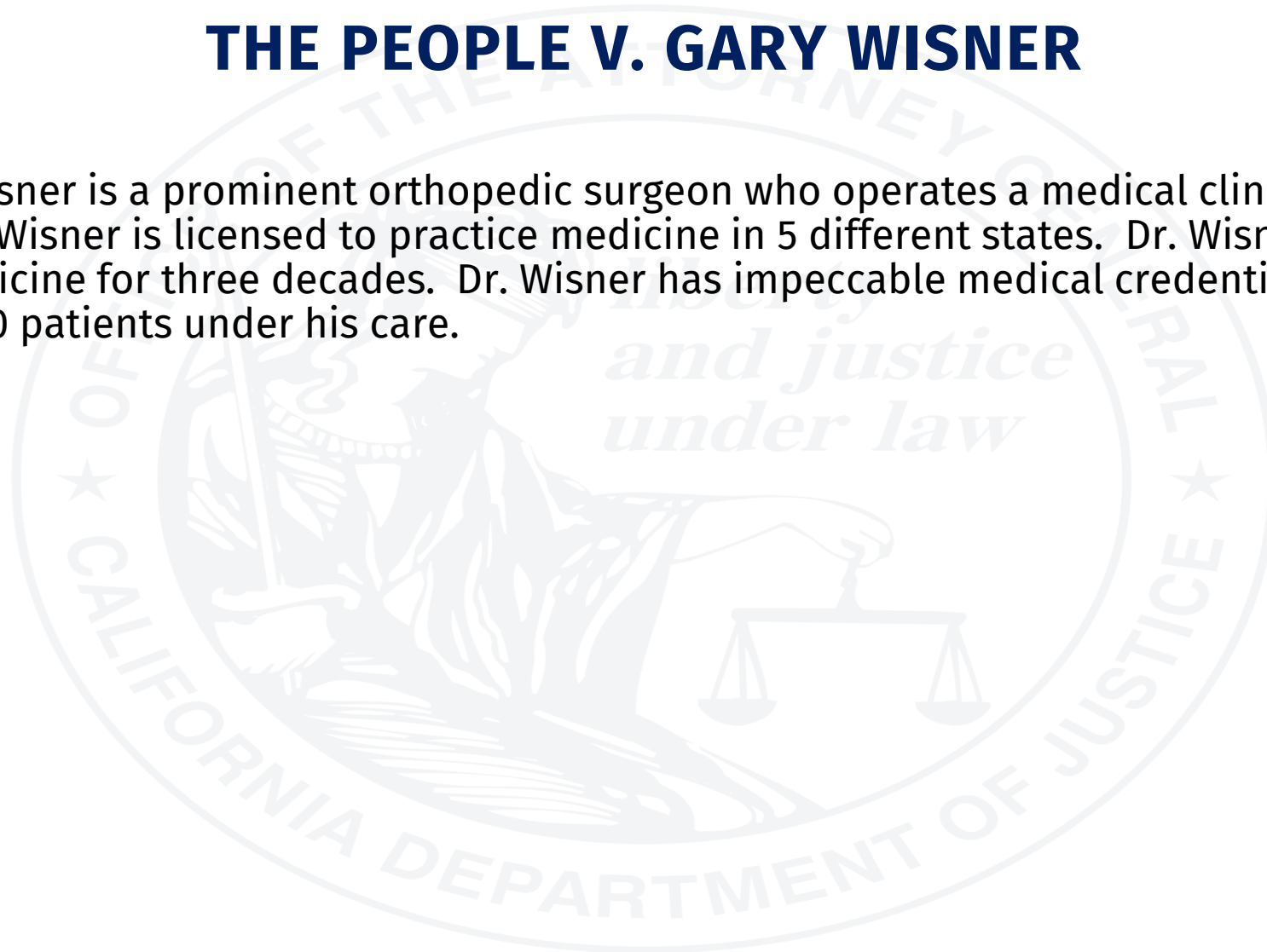
BIG SENTENCING ISSUE: DIRECT HARM TO VULNERABLE SENIORS

- Trial testimony from defendant's not so loyal independent contractors reveal seniors in the facilities targeted by defendant often times suffer from major complications of neglect including bleeding gums and exposed nerves.
- When defendant “ghost bills” or “up-codes” a service call, the seniors are not eligible for dental hygiene services for one quarter of a year, which often times leaves them in constant pain and discomfort.
- NOTE: not one single senior testified
- DEFENDANT WAS SENTENCED TO THE AGGRAVATED TERM OF 5 YEARS PRISON



THE PEOPLE V. GARY WISNER

Doctor Gary Wisner is a prominent orthopedic surgeon who operates a medical clinic in Lodi, California. Dr. Wisner is licensed to practice medicine in 5 different states. Dr. Wisner has been practicing medicine for three decades. Dr. Wisner has impeccable medical credentials. Dr. Wisner has over 26,000 patients under his care.



Doctors are the gatekeepers of health care – what happens when one becomes a cause of its problems?

Trust is the cornerstone of the doctor patient relationship.

Patients who trust their doctor are more likely to follow treatment plans



THE HIPPOCRATIC OATH
DO NO HARM



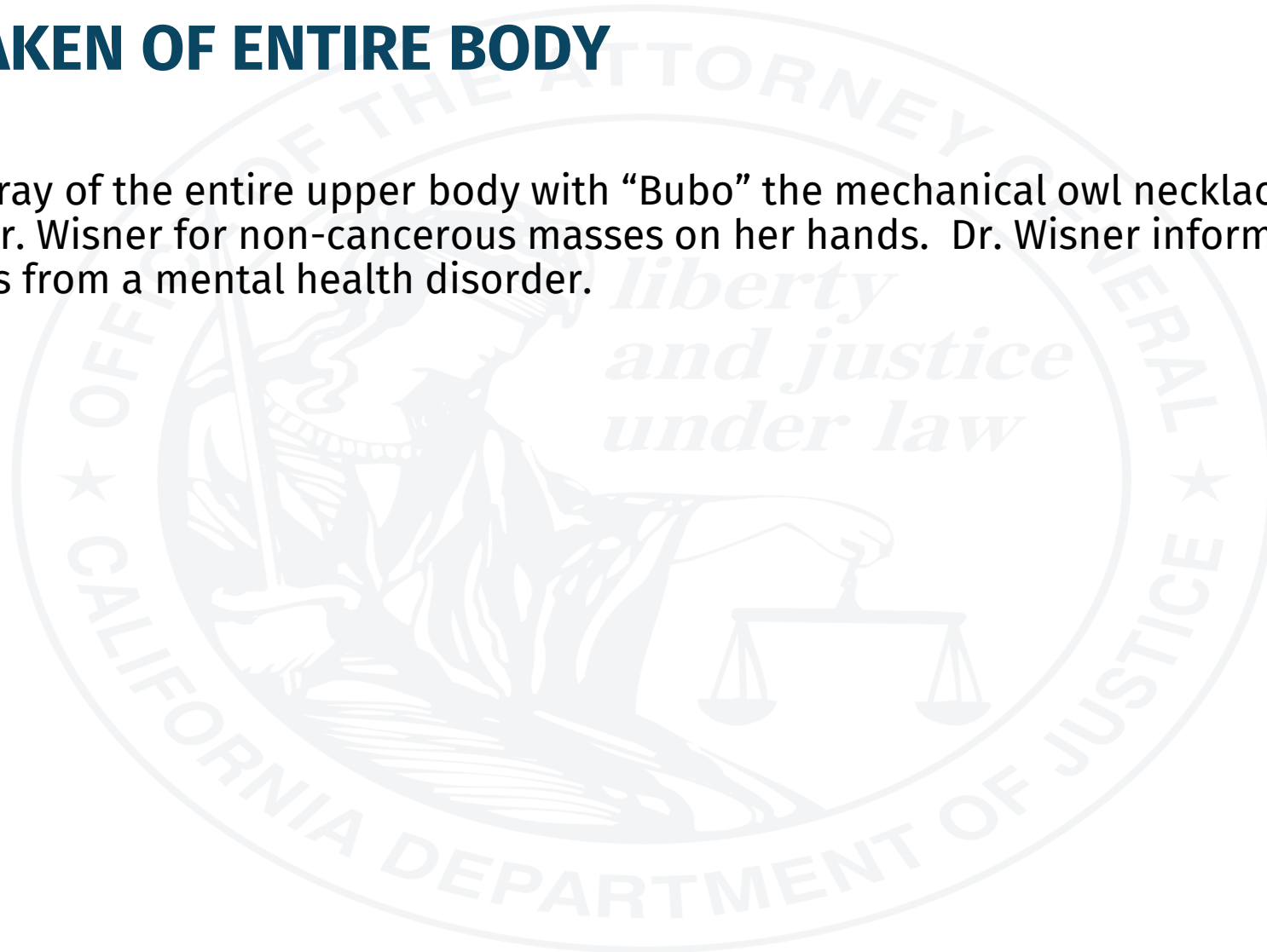
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Gary R. Winer, M.D.
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X RAYS TAKEN OF ENTIRE BODY

- The above X ray of the entire upper body with “Bubo” the mechanical owl necklace. The victim is referred to Dr. Wisner for non-cancerous masses on her hands. Dr. Wisner informs the jury the victim suffers from a mental health disorder.

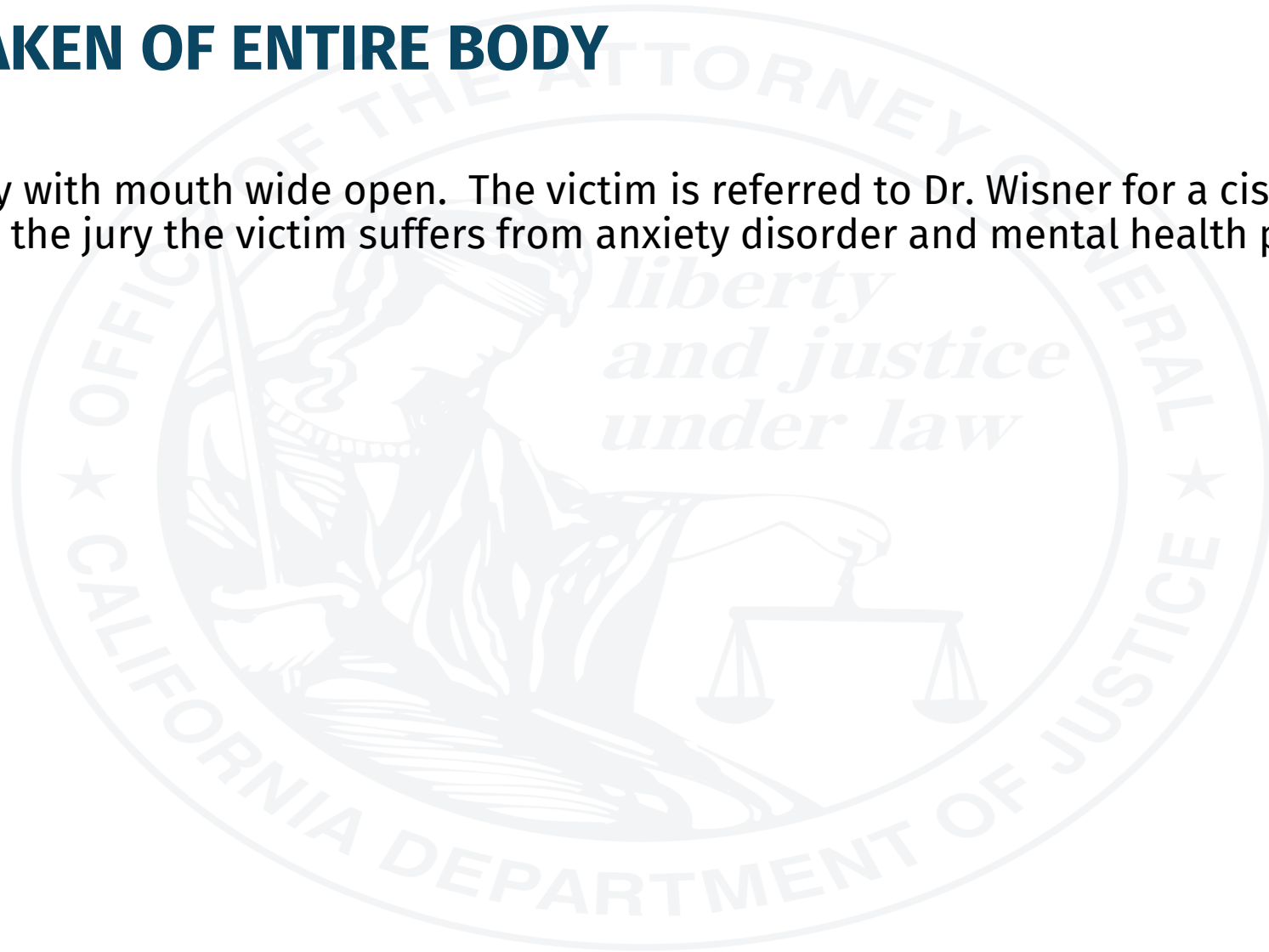


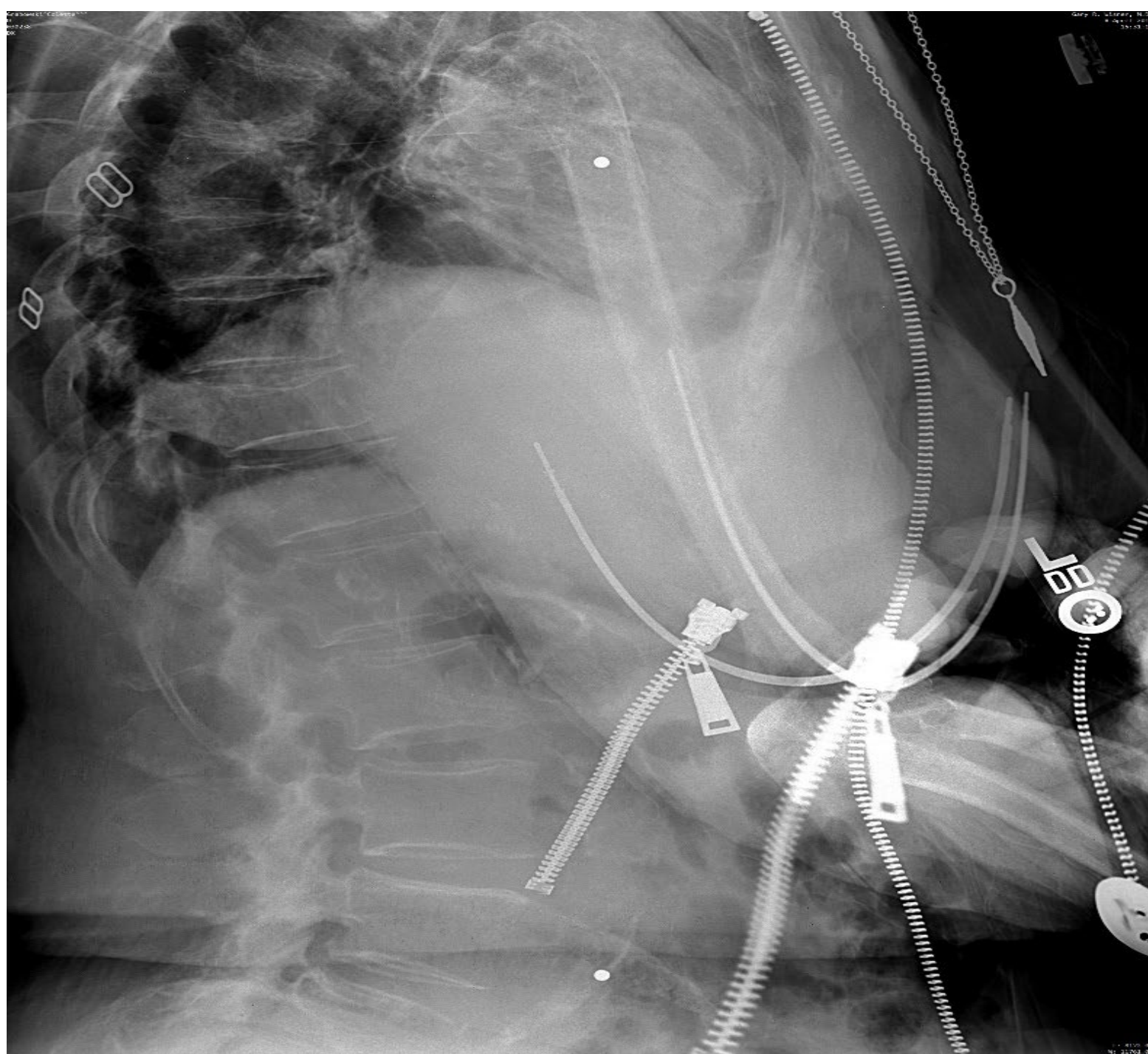
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X RAYS TAKEN OF ENTIRE BODY

The above X ray with mouth wide open. The victim is referred to Dr. Wisner for a cist on her finger. Dr. Wisner tells the jury the victim suffers from anxiety disorder and mental health problems.





X RAYS TAKEN OF ENTIRE BODY

- The victim in the above image is 80 years old, suffering from dementia. She is referred to Dr. Wisner based on complaints of left ankle, left knee, and left hip pain. 1000 X rays are billed to Medicare.

The victim dies before trial. We do not dismiss this count.



COMMON ISSUES WITH EVERY PATIENT

- PATIENT IS FULLY CLOTHED
- PATIENT IS WEARING JEWELRY
- PATIENT IS NOT COVERED WITH PROTECTIVE SHIELD
- PATIENT RECEIVES 20 X RAYS ON THE FIRST DAY
- PATIENT RECEIVES ANOTHER SET OF MULTIPLE IMAGES 7 DAYS LATER
- PATIENT RECEIVES ANOTHER SET OF MULTIPLE IMAGES 7 DAYS LATER
- PATIENT TRANSITIONS TO MONTHLY VISITS – ENTIRE BODY IS X RAYED



MY OPENING AND CLOSING ARGUMENT CHART

MEDICARE VICTIMS

- Colette (80 years old) 67 visits, 1000 X rays 980 unnecessary
- Barbara (74 years old) 96 visits, 1,252 X rays 1100 unnecessary
- Gail (53 years old) 11 visits, 170 X rays 160 unnecessary
- Mollie (71 years old) 12 visits, 199 X rays 185 unnecessary
- Kim (53 years old) 11 visits, 164 X rays 161 unnecessary



DR. WISNER MASTERFULLY AVOIDS DETECTION FOR DECADES

Dr. Wisner is a Medi-Cal and Medicare provider. According to the *fiscal intermediary, Health Plan of San Joaquin*, X RAYS are the only reimbursable services NOT checked by human eyes. A computer receives the bill and automatically pays it.

THE FRAUD AND ABUSE COMMENCED DECADES AGO AND CONTINUES UNCHECKED UNTIL MY DOJ AGENT REVIEWS A YELP ARTICLE



THE BEST OF DAVID DOYLE – X Ray Tech

- *3 to 5 hour wait in the lobby before X rays*
- *Well, he's a great surgeon, but I think, you know, he pushes the envelope, lets put it that way*
- *Well he tries to , you know, get anything that he can out of something*
- *We see patients outside of medical necessity*
- *The Dr. spends about 5 minutes with patients, if they are lucky*
- *His protocol is pretty odd*
- *He bills for services that are not necessary*



THE BEST OF DAVID DOYLE

- *He goes off the reservation, he orders unnecessary x rays going to different body parts*
- *He orders so many X rays for revenue*
- *The X Ray part of the business is a cash cow, basically*
- *He is exposing patients to unnecessary radiation*
- *On a good day I can take 800 X Rays*

DAVID lies something fierce on direct examination. I make him read all of the above statements to the jury. Audible gasps are heard from the jury.



CROSS EXAMINATION OF DR. WISNER...

- *How long have you practiced orthopedic medicine at your Lodi Clinic?* “approximately 30 years”
- *How many patients have you treated in the Lodi Clinic?*
“over 26,000”

DO YOU PRACTICE THE EXACT SAME X RAY PROTOCOL ON EVERY SINGLE PATIENT?

“Yes”





9/5/16

Coyle: Don't forget
anything happens to
me, you immediately

① Get all golden rods
with sticky notes
to a private place
(office + storage)

② Get All Ray
golden rods to a
private place (office
+ storage)

③ Consider destroying
most charts & 7 years

④ Remove both AC's
towers to private
place (x2)

⑤ Remove David's CPU (x2)
from west + east sheds

⑥ Go above golden rods
with a massive employee party

Dr. Wisner is currently serving
A seven year prison sentence after
Exposing thousands of patients to
Unnecessary levels of X –Ray radiation



QUESTIONS?

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