

State of New York
Office of the Workers' Compensation Fraud
Inspector General



2017 Annual Report

Andrew M. Cuomo
Governor

Catherine Leahy Scott
Inspector General

EXECUTIVE SUMMARY

The mission of the New York State Office of the Workers' Compensation Fraud Inspector General (WCFIG) is to conduct and supervise investigations within and without New York State of possible fraud and other violations of laws, rules and regulations pertaining to the operation of the New York State workers' compensation system. Through its investigations, audits and reports, the Inspector General focuses on reducing costs to the workers' compensation system by eliminating fraud and improving the efficiency and effectiveness of the system. The Inspector General's investigations are complex and often involve detailed analysis of records and the taking of sworn testimony. These fraud investigations result in the review of professional licenses and certifications as well as criminal arrests and prosecutions. Restitution for the fraud identified is always requested in appropriate cases.

On February 4, 2015, Governor Andrew M. Cuomo appointed Catherine Leahy Scott as the New York State Workers' Compensation Fraud Inspector General. Inspector General Leahy Scott also serves as the New York State Inspector General and the acting New York State Welfare Inspector General. Since her appointment, Inspector General Leahy Scott has implemented enhanced procedures to strengthen the Inspector General's investigative capacity. Additionally, the Inspector General has since implemented a streamlined process for triaging the large number of complaints received.

In 2017, the Inspector General conducted investigations that found more than \$1,043,000 in fraud and resulted in 23 arrests and 38 criminal prosecutions. Also in 2017, Inspector General Leahy Scott continued her extensive training and outreach for the numerous stakeholders in the workers' compensation system. The goal of these efforts is to raise awareness and generate increased detection and reporting of fraud by the public at large, protect the integrity of the system for those entitled to workers' compensation benefits, and minimize undue cost to the workers' compensation system.

PURPOSE AND SCOPE OF ANNUAL REPORT

New York State Workers' Compensation Law section 136 mandates that the workers' compensation fraud inspector general submit a report to the governor and the chair of the Workers' Compensation Board that summarizes the activities of the office for each calendar

year. Consistent with this statutory mandate, this report outlines the successful execution of the mission of the Inspector General, including the operational and administrative actions implemented by the office, an overview and summary of significant investigations, and the continued and strengthened partnerships with, and outreach to, stakeholders in the workers' compensation system.

INTRODUCTION AND BACKGROUND

The Inspector General is responsible for protecting and promoting the integrity of the New York State workers' compensation system, which provides cash benefits, medical care, and/or compensation for permanent disability damages for workers who are injured or become ill as a direct result of their employment. Claims for compensation are adjudicated by the New York State Workers' Compensation Board.

Pursuant to New York State Workers' Compensation Law section 136, the Inspector General is invested with the authority to investigate fraud and other violations of the laws, rules, and regulations relating to the workers' compensation system, and to refer matters to federal, state and local prosecutors or other appropriate law enforcement agencies for further investigation and criminal prosecution. In addition, the Inspector General may refer matters to administrative entities, the New York State Insurance Fund and other insurance carriers for investigation and/or audit.

OVERVIEW AND SUMMARY

Investigations in Response to Complaints

Following Inspector General Leahy Scott's 2015 appointment as the New York State workers' compensation fraud inspector general, she implemented significant procedural reforms to ensure a robust process for identifying, investigating, and deterring fraud. These actions carried through to 2017 and resulted in a number of arrests; cases referred to prosecutors, insurance carriers, and administrative agencies; and successful dispositions.

Investigations may be commenced upon the receipt of a complaint or other information alleging workers' compensation fraud or by proactive initiative. Allegations received by the Inspector General are generally of three types: (1) fraud by medical providers and/or other professionals, including but not limited to physicians, physician assistants, attorneys, and

insurance brokers; (2) fraud by employers who are required to maintain workers' compensation insurance coverage for their employees but either fail to maintain insurance coverage, have inadequate coverage or misclassify their employees, and; (3) fraud involving claimants receiving benefits to which they are not entitled. Additionally, the Inspector General may open investigations based on the Inspector General's own initiative.

The Workers' Compensation Fraud Inspector General's complaint review process is consistent with those of the Office of the State Inspector General and Office of the Welfare Inspector General. Every telephone, online, email, mail, and personally delivered complaint is initially received and reviewed by the Case Management Unit. The Case Management Unit, in consultation with executive and senior management, assesses the complaint and either assigns it for investigation or refers it to the appropriate agency or insurance carrier for further action, with monitoring and assistance by the Inspector General.

In 2017, the Inspector General received 2,369 complaints, a more than 50 percent increase from 2016.¹ Upon receipt of each complaint, the Inspector General performed an initial analysis. Following this analysis, the Inspector General opened 208 investigations and closed 433 complaints for their failure to allege actionable wrongdoing or where the Inspector General lacked jurisdiction to investigate. The Inspector General referred 703 complaints for further action to the appropriate agency or insurance carrier, including the New York State Insurance Fund, the New York State Workers' Compensation Board, or its Advocate for Injured Workers, among others. Of the remaining 1,025 complaints, preliminary investigations were opened of which 667 were subsequently closed as unsubstantiated.

Complaints investigated by the Inspector General are assigned to multi-disciplinary teams led by an investigative counsel and assisted by staff including investigators, investigative auditors and computer forensic specialists. The Inspector General may refer its investigative findings for criminal prosecution to the United States Department of Justice, the New York State Attorney General's Office, or local district attorney offices. In cases where criminal prosecution is not warranted, findings may be referred for civil litigation and/or administrative action, including the revocation by the Workers' Compensation Board of a medical provider's

¹ In 2017, WCFIG formed a partnership with the National Insurance Crime Bureau (NICB), which referred a large number of historic workers' compensation fraud complaints at one time. The Inspector General and NICB have since implemented systems for monthly referrals.

authorization to treat workers' compensation patients and/or the issuing of "stop work" orders against non-compliant businesses for failure to secure appropriate workers' compensation insurance. Findings against physicians, physician assistants and specialist assistants may also be referred to the New York State Department of Health's Office of Professional Medical Conduct (OPMC) for its review, and findings of attorney wrongdoing may be referred to the New York State Unified Court System's Attorney Grievance Committees.

Cases Resulting in Criminal Prosecutions

The Inspector General's investigations in 2017 uncovered more than \$1,043,000 in fraud and led to 23 arrests² and 38 criminal prosecutions, which are summarized below. All defendants are innocent until proven guilty in a court of law.

Cases Involving Fraud by Medical Providers and Other Professionals

1. On April 7, 2017, Mihir Bhatt, of Edison, New Jersey, a former pain management doctor, was sentenced to serve six months in prison and five years of probation. Bhatt previously forfeited \$2 million dollars as part of his guilty plea in October 2016 to felony counts of Insurance Fraud in the Second Degree, Conspiracy in the Fourth Degree and Offering a False Instrument for Filing in the First Degree, in connection with his involvement in a long-term insurance billing scheme wherein he, along with eight others, including a chiropractor, several longshoremen and a pharmacist, were indicted by a Richmond County grand jury in December 2013. A joint investigation conducted by the Richmond County District Attorney's Office, Waterfront Commission of New York Harbor, United States Drug Enforcement Administration, New York City Police Department, New York State Department of Financial Services, New York State Department of Health Bureau of Narcotics Enforcement, and the Inspector General found that Bhatt dispensed prescriptions for oxycodone and directed patients for return office visits to receive unneeded chiropractic treatment, nerve conduction tests, and electromyography tests in order to fraudulently bill insurance companies, including workers' compensation insurance carriers. Bhatt's medical license was officially surrendered, effective May 23, 2017.

² This number includes a WCFIG investigation involving claimant fraud, which was referred to a local prosecutor's office, presented to a grand jury, and subsequently not indicted.

2. On August 15, 2017, Dr. Gregory B. Shankman, a central New York orthopedic surgeon, was arrested on charges he was involved in an ongoing scheme to defraud the workers' compensation system. Shankman was charged with Scheme to Defraud in the First Degree, two counts of Grand Larceny in the Third Degree, and two counts of the Workers' Compensation Law crime of Fraudulent Practices, all felonies, and Petit Larceny, a misdemeanor. The Inspector General's investigation found Shankman allegedly defrauded the workers' compensation system of more than \$14,000 by certifying that he was overseeing claimant medical examinations conducted at his Utica office on nearly 100 days between March 2015 and March 2017 when he was actually traveling in western New York, out of state and even out of the country. Indeed, on multiple occasions, Shankman claimed to have performed workers' compensation medical examinations simultaneously at his offices in Utica and outside Buffalo. Additionally, patients at Shankman's office were often seen exclusively by a physician's assistant who was not authorized to examine and treat workers' compensation patients without Shankman's direct supervision. As such, Shankman systematically submitted false bills for medical services allegedly rendered by a workers' compensation medical provider to the New York State Insurance Fund, the Special Funds Conservation Committee, the County of Oneida and other insurances carriers, third-party administrators, and self-insured entities. The matter is being prosecuted by the Oneida County District Attorney's Office.³

3. On November 8, 2017, Dr. Eugene Gosy was charged with a 166-count superseding indictment which included charges for causing the death of six of his patients through prescription medication abuse. Following a joint investigation by the Inspector General and the New York State Department of Financial Services, on April 26, 2016, Gosy was indicted by a federal grand jury on 114 counts, including conspiracy to distribute controlled substances, unlawful distribution of narcotics, conspiracy to commit health care fraud, and health care fraud, among other charges. The investigation found that Gosy supplied his patients with controlled substances—addictive prescription opioids—without legitimate medical purposes, falsified required medical training records and wrongfully directed staff to authorize prescriptions, among other things. The Inspector General found that Gosy

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defrauded insurance companies, including the New York State Insurance Fund, which paid approximately \$223,310 in workers' compensation claims for treatment Gosy claimed to administer but, in fact, did not. This matter is pending and being prosecuted by the United States Attorney, Western District of New York.⁴

Cases Involving Fraud by Employers

1. On January 24, 2017, Thomas J. Kelly, an Amsterdam-based residential roofing contractor, pled guilty to the Workers' Compensation Law crime of Effect of Failure to Secure Compensation and was sentenced to a conditional discharge and \$1,450 in fines and surcharges. The Inspector General found that Kelly certified in building permit applications he filed with the City of Amsterdam that he had no employees and was therefore exempt from obtaining workers' compensation insurance. Nonetheless, the Inspector General and Amsterdam city officials observed at least four workers on Kelly's job site. The matter was prosecuted by the Montgomery County District Attorney's Office.
2. On January 24, 2017, Kurt B. LaFata, an Amsterdam-based contractor, pled guilty to the Workers' Compensation Law crime of Effect of Failure to Secure Compensation and was sentenced to a conditional discharge and \$1,400 in fines and surcharges. The Inspector General found that LaFata utilized at least three workers on a job site in the City of Amsterdam during July 2016, yet had earlier certified in building permit applications filed with the City that he had no employees and was therefore exempt from obtaining workers' compensation insurance coverage. The matter was prosecuted by the Montgomery County District Attorney's Office.
3. On April 6, 2017, attorney Kathleen Bradshaw was indicted by a Bronx County grand jury on charges of Repeated Failure to File Personal Income and Earnings Taxes, Offering a False Instrument for Filing in the First Degree, three felony counts of the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, and one misdemeanor count of Effect of Failure to Secure Compensation. The Inspector General's investigation revealed that Bradshaw failed to provide workers' compensation insurance coverage for her

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employees from 2012 to 2015. A further investigation conducted by the Bronx County District Attorney's Office and the New York State Department of Taxation and Finance found that Bradshaw allegedly failed to file New York State taxes from 2009 to 2011. Bradshaw is also alleged to have falsely reported wage information to the New York State Department of Labor. The matter is being prosecuted by the Bronx County District Attorney's Office.⁵

4. On April 24, 2017, Joseph Kellogg Sr., an Amsterdam-based residential roofing contractor, pled guilty to Offering a False Instrument for Filing and the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, both felonies. The Inspector General found that Kellogg filed four separate building permit applications with the City of Amsterdam that included fraudulent certifications that he had no employees, and as such, was exempt from obtaining workers' compensation insurance. However, the investigation found that Kellogg employed several individuals and admitted in a civil trial where Kellogg was sued by a homeowner that he had at least ten employees working for him on the project. Notably, in 2013, Kellogg pled guilty to misdemeanor Offering a False Instrument for Filing in the Second Degree for filing a similar fraudulent certification. Kellogg's sentencing is pending. The matter is being prosecuted by the Montgomery County District Attorney's Office.
5. On August 17, 2017, David C. Sigl, an Auburn-based owner of a logging company, pled guilty to Grand Larceny in the Second Degree, Insurance Fraud in the Second Degree and Offering a False Instrument for Filing in the First Degree, all felonies, and the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, a misdemeanor. On November 28, 2017, Sigl was sentenced to one-to-three years in state prison and ordered to pay full restitution in the amount of \$83,478. The Inspector General found that Sigl had been collecting workers' compensation benefits since sustaining an injury in early 2013, while working as a heavy equipment operator for a Syracuse construction and engineering firm. In the years since, Sigl repeatedly filed paperwork with the New York State Workers' Compensation Board indicating he was not working in any capacity and was totally disabled,

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when in fact he was operating and working for his own logging business, where he climbed trees and wielded chainsaws. During this period, Sigl earned more than \$150,000 working as a logger. Sigl collected \$83,478 in workers' compensation insurance benefits to which he was not entitled. The investigation also found that Sigl's company employed two people but did not provide workers' compensation insurance for those individuals as required by law. The matter was prosecuted by the Cayuga County District Attorney's Office.

6. In September 2017, a Rockland County grand jury indicted Angel Henriquez, owner of Nyack Taxi and A-One Transportation taxi companies, with Offering a False Instrument for Filing, the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, both felonies, and a misdemeanor New York State Labor Law violation. A joint investigation by the Rockland County District Attorney's Office and the Inspector General found that Henriquez did not secure the required workers' compensation insurance coverage for his employees, including drivers and dispatchers. Additionally, he submitted a written form to the Workers' Compensation Board falsely claiming that A-One Transportation did not have employees. Henriquez was previously arrested on March 18, 2017, after an investigation conducted by the Rockland County District Attorney's Office found that he underreported income of his employees allowing them to reap public assistance benefits from the Rockland County Department of Social Services to which they were not entitled. Henriquez was subsequently indicted by a Rockland County grand jury on tax fraud and welfare charges related to that investigation. The matter is being prosecuted by the Rockland County District Attorney's Office.⁶
7. On November 6, 2017, Robert Moore, a Morrisville business owner, was arrested on a felony charge that he failed to provide required workers' compensation insurance coverage for the employees of the food truck catering service he owns. The Inspector General's investigation found that Moore, owner of Stockyard BBQ and Catering, a food truck business that primarily operates at fairs and festivals, submitted a mobile food service permit application to the Schoharie County Health Department on May 8, 2017, and certified in the application that his business is exempt from workers' compensation insurance because it has no

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employees. However, multiple employees were observed working in the truck. Moore's company has not had workers' compensation insurance since late 2015. On December 18, 2017, Moore pled guilty to the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, a misdemeanor. Concurrent with the plea, the Schoharie Village Court sentenced Moore to a fine. The matter was prosecuted by the Schoharie County District Attorney's Office.

8. On November 9, 2017, Gerardo Marino, owner of GMCM Contracting Corp. in Astoria, Queens, was arrested and charged with Grand Larceny in the Second Degree, Falsifying Business Records in the First Degree, Criminal Possession of a Forged Instrument in the Second Degree and the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, all felonies. The Inspector General's investigation revealed that Marino provided falsified insurance certificates to a construction company on building façade renovation projects at New York University in 2014 and 2015. To be eligible for the construction job, Marino was required to provide documentation to the primary contractor that he carried workers' compensation insurance coverage for his employees. The investigation found that workers' compensation insurance coverage for Marino's company was cancelled in late 2013, more than a year before the building facade project contracts were entered into, and the documentation Marino provided was falsified and fraudulent. As a result of the alleged fraud, the prime contractor on the project was required to pay \$56,409.58 for the workers' compensation insurance premiums for Marino's employees at GMCM Contracting Corp. The matter is being prosecuted by the Queens District Attorney's Office.⁷
9. On November 14, 2017, Steven Pollot, owner of D&S Home Improvements-Property Maintenance, was arrested and charged with the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, a felony. The Inspector General's investigation found that Pollot never obtained workers' compensation insurance for employees of his business. The investigation also found that during a 2015 siding and roof repair project at a Cayuga County home, he employed seven individuals. Additionally, Pollot previously

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confirmed in a sworn written statement that he had seven individuals working on the project. The matter is being prosecuted by the Cayuga County District Attorney's Office.⁸

10. On November 15, 2017, Kenneth Cohn and Sharon Cohn, the husband and wife owners of Binghamton's Yellow Medi-Van and Taxi, Inc., were sentenced for failing to provide workers' compensation insurance coverage for their employees, misleading regulators about their business's qualifications, and receiving Medicaid funds to which they were not entitled. As part of a plea agreement in July 2017, Kenneth Cohn, and Yellow Medi-Van and Taxi, Inc., of Binghamton, pled guilty to Grand Larceny in the Second Degree and the Workers' Compensation Law crime of Effect of Failure to Secure Compensation, both felonies. Kenneth Cohn was sentenced to five years of probation. Sharon Cohn previously pled guilty to Offering a False Instrument for Filing in the Second Degree, a misdemeanor, for which she was sentenced to a conditional discharge. As part of their plea, the Cohns agreed to forfeit \$455,604.39 received from Medicaid to the New York State Medicaid Fraud Control Unit and entered into an additional settlement agreement totaling \$100,000. The matter was prosecuted by the New York State Office of the Attorney General.

Cases Involving Fraud by Claimants

1. On January 3, 2017, Valerie Everett pled guilty to Grand Larceny in the Fourth Degree, and on March 7, 2017, Everett was sentenced to five years of probation, eight weekends in county jail, and was ordered to pay full restitution in the amount of \$34,604. Everett, who was arrested on October 21, 2016, received workers' compensation benefits since 2002 when she claimed knee and leg injuries after she slipped and fell off a curb in the parking lot of the fast-food restaurant where she worked. The Inspector General's investigation found that between June 2008 and November 2014, Everett worked for a company in Rochester. In November 2014, Everett left that company and began working at a second company. Between 2009 and 2015, Everett falsely represented in writing to her workers' compensation insurance carrier on four separate occasions that she was not working in any capacity. She also verbally told the insurance company that she was not working in any capacity during that same period. Between May 2009 and September 2015, Everett received \$34,604 in

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workers' compensation benefits to which she was not entitled. The matter was prosecuted by the Monroe County District Attorney's Office.

2. On January 27, 2017, Sheryl A. Colson (also known as Sheryl McClure) was arraigned on an indictment by an Orange County grand jury on the charge of Grand Larceny in the Third Degree, a felony. She was previously arrested on unrelated charges in Kentucky on January 13, 2017, and subsequently extradited to New York for stealing workers' compensation benefits meant for Colson's long-deceased mother. The Inspector General's investigation found that Colson's mother, a former nurse at Orange-Ulster Board of Cooperative Educational Services (BOCES) in Goshen, New York, was injured on the job in 1997 and began receiving workers' compensation benefits from the school. Colson's mother moved to Kentucky in 2007 and passed away in 2011, but the \$400-per-week checks continued to be sent from Orange-Ulster BOCES, which is self-insured. Colson, who had access to her mother's financial affairs, never notified BOCES of her mother's death. She signed and deposited the checks into her mother's bank account and used the account's debit card to make purchases for more than two years after her mother passed away. The investigation found that Colson received \$39,850 in benefits to which she was not entitled between January 2011 and January 2013. On May 5, 2017, Colson pled guilty to Grand Larceny in the Third Degree. On July 24, 2017, after serving six-and-a-half months in jail on this matter, Colson was sentenced to 5 years of probation and ordered to pay restitution of \$39,850. This matter was prosecuted by the Orange County District Attorney's Office.
3. On February 8, 2017, Yomaria Rosado, a cleaner employed by the State University of New York (SUNY) at Buffalo, pled guilty to two counts of Criminal Possession of a Forged Instrument in the Third Degree, misdemeanors, and was sentenced to concurrent one-year conditional discharges for each charge and ordered to pay a fine. Rosado was arrested on February 8, 2017, after a joint investigation by the Inspector General and the New York State Department of Financial Services found she submitted an altered medical evaluation to her insurance carrier in support of a claim for lost wages due to an automobile accident. The investigation found that Rosado fraudulently altered the medical evaluation to indicate she was "unfit" to perform her full duties as a cleaner, when, in fact, the physician who

completed the evaluation found her “fit” to perform full duties. Rosado then sent the fraudulent evaluation to her insurance carrier in a letter dated August 6, 2015. The investigation also found that on July 20, 2016, Rosado sent a letter to SUNY, which was purportedly issued by a medical care provider in Buffalo for a workers’ compensation claim for lost wages. The letter falsely indicated that Rosado was examined at the medical care provider’s offices on July 4, 2016 and was found “unable” to perform any work at that time. The investigation found that the medical care provider was closed on July 4, 2016, a holiday, and no medical evaluations had been conducted. The matter was prosecuted by the Erie County District Attorney’s Office.

4. On February 23, 2017, James Reagle, of Niagara Falls, was sentenced to three years of probation and ordered to pay restitution of \$74,126.56. On December 15, 2016, Reagle pled guilty to the Workers’ Compensation Law crime of Attempted Fraudulent Practices, a misdemeanor, and was ordered to pay \$8,000 of more than \$82,000 in restitution. A joint investigation by the New York State Department of Financial Services and the Inspector General found that Reagle began receiving workers’ compensation benefits in 1990 after he sustained an injury while employed at a Lockport plastics company. The investigation further found that Reagle, while earning a total of \$369,513 as a self-employed recycler of wooden pallets from 2001 through 2014, repeatedly represented to the New York State Workers’ Compensation Board that he was not employed in any capacity. During the same period, Reagle received more than \$82,000 in workers’ compensation benefits to which he was not entitled. This matter was prosecuted by the Niagara County District Attorney’s Office.
5. On March 31, 2017, Marlene Ayen, of Antwerp, pled guilty to Grand Larceny in the Fourth Degree for her theft of workers’ compensation benefits. On May 31, 2017, Ayen was sentenced to three years of probation, paid \$3,232.80 in ordered restitution, and executed a waiver of future medical and indemnity benefits. Ayen was previously indicted on November 15, 2016, along with Anthony Hull, who Ayen described as her fiancé and who lives at the same address. The Inspector General’s investigation found Ayen received workers’ compensation benefits since claiming a work-related injury in 2004. In 2015, she

attested to her insurance company that she had not been working in any capacity. However, the investigation found that she was indeed working at Anthony Hull's hardware store and received nearly \$3,200 in benefits to which she was not entitled. Additionally, it was found that Hull had no workers' compensation insurance coverage for his employees, and claimed he had no employees, when, in fact, he did. On March 31, 2017, Hull pled guilty to Attempted Offering a False Instrument for Filing in the First Degree, a misdemeanor. On May 31, 2017, Hull was sentenced to a one-year conditional discharge. The matter was prosecuted by the Jefferson County District Attorney's Office.

6. On April 12, 2017, William Forte, of Amsterdam, pled guilty to the Workers' Compensation Law crime of Attempted Fraudulent Practices and was sentenced on May 31, 2017, to three years of probation and ordered to pay restitution and a fine totaling \$15,750. The Inspector General's investigation found that Forte repeatedly asserted to his doctors and his insurance company since 2014 that he was not working in any capacity, after claiming he had injured his arm and hands while working as a truck driver in 2012. However, the investigation revealed that Forte was employed as a seasonal maintenance worker by the City of Amsterdam and was observed using his purportedly injured arm lifting tools, painting and climbing ladders. The matter was prosecuted by the Montgomery County District Attorney's Office.
7. On April 14, 2017, JoAnne Cardona, of Geneseo, pled guilty to the Workers' Compensation Law crime of Fraudulent Practices, a felony. She was sentenced to a three-year conditional discharge and paid full restitution in the amount of \$7,880.82. The Inspector General's investigation found that Cardona received workers' compensation benefits since 2003 after claiming injuries to her neck, shoulder and back when a resident fell on her during her employment at an Amsterdam home for the elderly. In October 2013, Cardona began working at an advocacy and service organization for people with disabilities in Rochester. In the subsequent months, Cardona repeatedly submitted documentation to the New York State Insurance Fund asserting she was not working in any capacity, and in September 2014, Cardona falsely testified at a New York State Workers' Compensation Board hearing that she was not working. During this time, Cardona received workers' compensation benefits to

which she was not entitled. This matter was prosecuted by the Albany County District Attorney's Office.

8. On April 18, 2017, Alan Jon Squires, of Gloversville, pled guilty to Criminal Possession of a Forged Instrument in the Third Degree, a misdemeanor, and was sentenced to a one-year conditional discharge and ordered to pay fines and surcharges. Squires, owner of AB Construction and Environmental, LLC, was previously indicted and arraigned on November 30, 2016, for defrauding the workers' compensation system in a bid to rehabilitate buildings in the City of Amsterdam. The Inspector General's investigation found that in 2013, Squires submitted a successful \$341,400 bid to the City of Amsterdam Industrial Development Agency (IDA) to rehabilitate mixed-use commercial and residential buildings in the City. Squires then applied for building permits for the work and filed altered paperwork with the City of Amsterdam and the IDA falsely attesting that AB Construction and Environmental was exempt from having workers' compensation insurance coverage for the project. This matter was prosecuted by the Montgomery County District Attorney's Office.
9. On May 25, 2017, Shana Klouda (also known as Shana Perry), of Liverpool, an Oneida City School District employee, was arrested on charges she received workers' compensation benefits to which she was not entitled. The Inspector General's investigation found that shortly after claiming an injury related to her work for the Oneida City School District in July 2015, Klouda began receiving workers' compensation wage replacement benefits. During related medical examinations, Klouda fraudulently told medical providers that she was not working in any capacity when, in fact, she had a job at a day-care center and a moving and storage rental company during each of those appointments. Separately, in April 2016, Klouda falsely testified before the New York State Workers' Compensation Board that she had not worked in any capacity since her injury the previous July. She subsequently also filed paperwork with the Oneida City School District's insurance company indicating she had not been employed. The investigation found that between November 2015 and August 2016, Klouda received \$6,150 in workers' compensation benefits to which she was not entitled. On December 7, 2017, Klouda pled guilty to the Workers' Compensation Law crime of

Fraudulent Practices, a felony. Klouda's sentencing is pending. This matter is being prosecuted by the Oneida County District Attorney's Office.

10. On June 14, 2017, Greg A. Sweet, a retired City of Ogdensburg police officer, was arrested on workers' compensation fraud charges for denying he was performing any work activities while receiving benefits when he was indeed working at a North Country racetrack. Sweet was charged with two counts of the Workers' Compensation Law crime of Fraudulent Practices, and one count each of Grand Larceny in the Third Degree and Insurance Fraud in the Third Degree, all felonies. The Inspector General's investigation found that Sweet sustained a work-related wrist injury in 1998, after which he stopped working and began receiving workers' compensation benefits at full pay. Sweet retired in 2007 and continued to receive workers' compensation benefits from the St. Lawrence County Self Insurance Plan, which provided coverage for Ogdensburg Police Department's employees. In August and September 2012, Sweet completed work activity questionnaires for the insurance plan in which he stated he was not engaged in any type of employment or volunteer activities. Contrary to Sweet's statements, the investigation revealed that Sweet was working at the time at a racetrack in LaFargeville, performing various tasks including track maintenance and acting as a flagman during races. Because of his misrepresentations, Sweet obtained \$15,007 in workers' compensation benefits to which he was not entitled. The matter, which is being prosecuted by the St. Lawrence County District Attorney's Office, has been adjourned until April 4, 2018.⁹

11. On June 20, 2017, Lisa Whyte, of Auburn, was charged with four counts of Offering a False Instrument for Filing in the First Degree and one count of the Workers' Compensation Law crime of Fraudulent Practices, all felonies, as well as Welfare Fraud in the Fifth Degree, Misuse of Food Stamps and Petit Larceny, misdemeanors. An investigation conducted by the Workers' Compensation Fraud Inspector General and the New York State Welfare Fraud Inspector General found that Whyte defrauded the workers' compensation system and obtained Supplemental Nutrition Assistance Program (SNAP) benefits to which she was not entitled by hiding her employment and the wages she was making. The investigation found

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that Whyte injured her shoulder in the summer of 2013 while working at a grocery store. Following the injury, Whyte stopped working and began receiving weekly workers' compensation wage replacement benefits. From the time of her injury through spring 2015, Whyte repeatedly indicated on insurance claim forms and at medical examinations that she was not employed in any capacity while receiving the benefits. The investigation found, however, that Whyte was employed with her own cleaning business from the time of her injury through at least the summer of 2014. During this period, Whyte received workers' compensation benefits to which she was not entitled. Separately, at certain times in 2013 and 2014, Whyte received more than \$200 worth of SNAP benefits to which she was not entitled by not properly disclosing her cleaning business income to the Cayuga County Department of Social Services, which administers welfare benefits such as SNAP in the county. The matter is being prosecuted by the Cayuga County District Attorney's Office.¹⁰

12. On July 12, 2017, Michael Barton, a Buffalo resident, pled guilty to Petit Larceny, a misdemeanor, and was ordered to pay \$3,529 in restitution for his theft of workers' compensation benefits. The Inspector General's investigation found that Barton and an accomplice regularly cashed workers' compensation benefit checks belonging to a woman he previously lived with and cared for but who had actually passed away two years earlier in July 2012. Nonetheless, Barton and his accomplice continued cashing her checks through January 2014 as if she were still alive and collected \$7,058 in benefits to which they were not entitled. Workers' compensation benefits are meant to cease upon the death of a recipient. The matter is being prosecuted by the Erie County District Attorney's Office.¹¹

13. On July 18, 2017, Charles Brownell, formerly of Little Falls, was arrested and charged with Grand Larceny in the Third Degree and Insurance Fraud in the Third Degree, both felonies. The Inspector General's investigation found that Brownell collected workers' compensation benefits since sustaining an injury in 2013 as a truck driver for a trucking and hauling company. In the years since, he repeatedly reported to medical examiners and the workers' compensation insurer that he was not working in any capacity and was unable to drive more than short distances when, in fact, he was working as a long-haul truck driver for a Little

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Falls business. As a result of Brownell's misrepresentations, he collected \$20,887 in workers' compensation benefits to which he was not entitled. The matter is being prosecuted by the Herkimer County District Attorney's Office.¹²

14. On July 19, 2017, Sergio Recine pled guilty to Grand Larceny in the Third Degree, a felony, and Petit Larceny, a misdemeanor. As part of his plea, Recine paid full restitution in the amount of \$17,005 to the New York State Insurance Fund. A joint investigation by the Inspector General and the New York State Insurance Fund found that Recine was injured in December 2011 as a result of being struck by a truck while working for a construction company. He thereafter requested and received wage replacement and medical benefits while repeatedly testifying and submitting documentation to the New York State Insurance Fund representing that he was not working in any capacity. The investigation, however, revealed that from November 2013 to May 2015, Recine was, in fact, employed by his own construction company and engaged in concrete and roofing work. The matter was prosecuted by the Westchester County District Attorney's Office.

15. On August 7, 2017, Ryan P. Haley, a security hospital treatment assistant at the Central New York Psychiatric Center in Marcy, was charged with Grand Larceny in the Fourth Degree, Falsifying Business Records in the First Degree, Insurance Fraud in the Fourth Degree, Endangering the Welfare of an Incompetent or Physically Disabled Person in the First Degree, and two counts of the Workers' Compensation Law crime of Fraudulent Practices, all felonies. The Inspector General's investigation revealed that on two separate occasions in 2016, Haley applied for workers' compensation benefits and claimed he was unable to work based on an October 2015 work-related back injury. However, the investigation found that during these periods, Haley participated in a kayak excursion vacation in Puerto Rico and traveled to California. Notably, both vacations were planned and paid for before Haley requested the time off from the psychiatric center and sought workers' compensation benefits. In addition, while in Puerto Rico, Haley signed a medical release form for the kayak excursion certifying that he was physically fit and had no back injury. Because of the alleged fraud, Haley received \$2,693.85 in benefits to which he was not entitled while in

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Puerto Rico and California. Separately, the investigation also found that Haley, on May 28, 2017, was engaged in a verbal argument with a patient at the Central New York Psychiatric Center when he initiated a physical confrontation, put his arms around the patient's shoulders and neck, and forced the patient to the ground. The matter is being prosecuted by the Oneida County District Attorney's Office.¹³

16. On August 7, 2017, Joseph Chessare, of Bayshore, was arrested on a charge of Grand Larceny in the Fourth Degree. The Inspector General's investigation found that between September 4, 2015 and February 25, 2016, Chessare collected \$8,480 in workers' compensation benefits to which he was not entitled. During this period, Chessare advised his medical providers that he had not returned to work when, in fact, the investigation found he was actively employed as the president of Shady Brook Designs, a florist in West Islip. The investigation further revealed that Chessare participated in the day-to-day operation of the company, including conducting sales, making deliveries and performing landscaping for customers. The matter is being prosecuted by the Suffolk County District Attorney's Office.¹⁴

17. On August 22, 2017, Christine Weipert, of Mount Morris, pled guilty to the Workers' Compensation Law crime of Fraudulent Practices, a felony, and was sentenced to five years of probation and ordered to pay \$6,500 in restitution. The Inspector General's investigation found that Weipert reported she was injured in August 2013, while unpacking a printer at the Wayne-Finger Lakes BOCES where she worked as a computer service assistant. Since then, Weipert received weekly workers' compensation benefits while repeatedly asserting to medical examiners that she was unable to work, sit or stand for prolonged periods, and that she needs a cane to walk. However, the investigation found that Weipert used a cane while attending medical examinations or a hearing before the New York State Workers' Compensation Board, but at other times, Weipert was regularly observed engaging in activities without a cane or any apparent impairment. Weipert, in the fall of 2015, filed documents with her employer's workers' compensation administrator attesting that she was unable to work and had difficulty driving and walking because of her injury and received

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workers' compensation benefits to which she was not entitled. This matter was prosecuted by the Livingston County District Attorney's Office.

18. On August 25, 2017, William C. Svida, a Capital Region construction worker, pled guilty to Grand Larceny in the Fourth Degree and Attempted Perjury in the First Degree, both felonies, and agreed to pay \$5,526.75 in restitution. The Inspector General's investigation found that Svida unlawfully collected workers' compensation benefits while working construction jobs and falsely testified about his employment status, collecting more than \$5,526.75 in workers' compensation benefits to which he was not entitled. Specifically, in late October 2012, while working as a mechanic and operator at a paving company, Svida sustained a work-related injury to his shoulder. He began receiving workers' compensation payments in May 2013 when he stopped working. While collecting wage replacement benefits, Svida worked for a Latham building contracting company from August to October 2014. Soon after leaving his job with that company, he began working for another Capital Region contractor. At no time while employed by those two construction companies did Svida inform his workers' compensation insurance carrier that he was working. When confronted at a Workers' Compensation Board hearing, Svida falsely testified that he informed the insurance carrier about his employment and that he never worked for the Latham building contractor. Svida's sentencing is pending. The matter is being prosecuted by the Columbia County District Attorney's Office.

19. On September 6, 2017, Virginia Donohue, of Niagara Falls, pled guilty to Attempted Petit Larceny and paid full restitution of \$1,113.80. The Inspector General's investigation found that Donahue's mother began receiving her deceased husband's workers' compensation benefits after his death in 1997, following a work-related illness. In October 2014, Donahue's mother passed away, but the workers' compensation benefits checks the mother had been receiving continued to be mailed to her address. Between December 2014 and January 2015, Donahue forged her deceased mother's name on the biweekly workers' compensation checks and deposited them into her own account for her own use. The matter was prosecuted by Niagara County District Attorney's Office.

20. On September 18, 2017, Duane C. Hayes, of Utica, who was employed as a security hospital treatment assistant at the Central New York Psychiatric Center, was charged with Falsifying Business Records in the First Degree and Criminal Possession of a Forged Instrument in the Second Degree, felonies, and Attempted Petit Larceny, a misdemeanor. The Inspector General's investigation found that Hayes submitted a false claim to his personal supplemental insurance carrier alleging he was absent from work due to a workers' compensation injury from February 10, 2016 through June 15, 2016. The Inspector General's investigation, however, found that Hayes was at work on full-duty status during at least four of the dates he claimed to be absent from work. The matter is being prosecuted by the Oneida County District Attorney's Office.¹⁵
21. On October 11, 2017, Arnold Fassbinder, of Buffalo, was charged with and pled guilty to one count of Grand Larceny in the Third Degree, a felony. The Inspector General's investigation found that Fassbinder began receiving workers' compensation benefits in July 2015 when he suffered multiple work-related injuries. By November 2015, Fassbinder represented to his employer that he was medically cleared to resume work and returned to his employment doing home improvements in Cheektowaga. After returning to his job, however, he repeatedly submitted paperwork to the New York State Insurance Fund asserting he was not working in any capacity. These falsifications enabled him to continue to receive workers' compensation benefits to which he was not entitled totaling \$9,436.24, while simultaneously earning pay at his employment. As part of his guilty plea, Fassbinder executed a confession of judgment in the amount of \$9,436.24. His sentencing is pending. The matter is being prosecuted by the Erie County District Attorney's Office.
22. On October 31, 2017, Andrew Williams, a Queens ambulette driver, pled guilty to Petit Larceny and executed a confession of judgment in the amount of \$6,275.43 to the workers' compensation insurer and was sentenced to a conditional discharge. The Inspector General's investigation found that after Williams claimed work-related injuries in 2010 while working for a Queens ambulette company, he stopped working and began receiving weekly workers' compensation payments that continued through the beginning of 2012. While receiving

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those benefits, however, he obtained employment at two other ambulette companies, but falsely testified in early and mid-2012 hearings before the New York State Workers' Compensation Board that he was not employed in any capacity since the 2010 injuries. The investigation found that Williams received \$6,275.43 in workers' compensation benefits to which he was not entitled. The matter was prosecuted by the Queens District Attorney's Office.

23. On November 22, 2017, Kristopher Cowan, of Valatie, a correction officer employed by the New York State Department of Corrections and Community Supervision (DOCCS) at Cossackie Correctional Facility, was arrested and charged with 69 felony counts, including Grand Larceny in the Third Degree and 34 counts each of Offering a False Instrument for Filing in the First Degree and Criminal Possession of a Forged Instrument in the Second Degree. The Inspector General's investigation found that Cowan, while employed at the Cossackie prison, filed a workers' compensation claim for a work-related injury in May 2015. Following the incident, he remained absent from work for less than one week. Between August 2015 and November 2017, however, Cowan repeatedly submitted medical documentation for paid leave based on his workers' compensation injury. On one occasion, he remained on leave for 13 continuous months. The investigation found that 34 of the documents Cowan submitted, purportedly from medical providers certifying Cowan was too incapacitated to work, were fraudulent. Moreover, most of the medical examinations reflected in the documentation never took place. In total, Cowan received at least \$38,689 in workers' compensation benefits to which he was not entitled. On November 30, 2017, Cowan was administratively suspended from DOCCS. The matter is being prosecuted by the Greene County District Attorney's Office.¹⁶

24. On November 28, 2017, Erika Maymi, a bus driver employed in Mount Vernon, was charged with Grand Larceny in the Fourth Degree, a felony, and five counts of Criminal Possession of Stolen Property in the Fifth Degree and Petit Larceny, misdemeanors. The investigation revealed that Maymi sustained an occupational injury on November 17, 2014, in the course of her employment as a bus driver. Maymi then began receiving workers' compensation

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indemnity payments related to this injury. The Inspector General's investigation found that Maymi fraudulently re-negotiated \$2,151.03 in workers' compensation benefits checks by first submitting a photograph of the check to her bank and electronically depositing the checks into her checking account, and then by presenting and cashing the same checks at check cashing facilities. The matter is being prosecuted by the Bronx County District Attorney's Office.¹⁷

25. On December 11, 2017, Samuel Spina, of Rome, was sentenced to serve 100 hours of community service and paid \$12,110.88 in restitution to the New York State Insurance Fund, after pleading guilty on November 8, 2017 to Insurance Fraud in the Fifth Degree, a misdemeanor. The Inspector General's investigation found that Spina, a youth division aide for the New York State Office of Children and Family Service's secure Taberg Residential Center for Girls, reported a debilitating knee injury at work in September 2015, and that the injury prevented him from working. Over the next three months, Spina represented to physicians examining him on three separate occasions that the injury prevented him from returning to work, enabling him to receive worker's compensation benefit payments. However, within two weeks of the purported injury, and for months after, Spina was observed engaging in strenuous activity, including playing ice hockey as a goalie in numerous games for an amateur hockey team in Central New York. During this time, he collected over \$12,000 in workers' compensation benefits to which he was not entitled. On the same date of his guilty plea, Spina resigned from his position at the New York State Office of Children and Family Services. The matter was prosecuted by the Oneida County District Attorney's Office.

Initiatives and Task Force Actions

In 2017, the Workers' Compensation Fraud Inspector General continued its participation in the Workers' Compensation Task Force, which Governor Andrew M. Cuomo created in 2015 to reduce workers' compensation costs in New York State as well as prevent and mitigate accidents, create efficient and effective claims management, and reduce fraud and abuse in the workers' compensation system. The Inspector General has been an active participant in this task

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force since its inception. The Inspector General also met regularly with the Albany, Buffalo and Syracuse chapters of the Joint Healthcare Task Force.

Additionally, the Inspector General participated in the Joint Task Force on Employee Misclassification and Worker Exploitation (JTF), which was established by executive order by Governor Andrew M. Cuomo in July 2016. Employee misclassification adversely impacts the residents, businesses, and the economy of New York State by denying employees of the protections of workers' compensation and unemployment compensation and placing honest employers in a disparate position with those competitors who do not provide their employees with legally required benefits. Therefore, the JTF was charged with coordinating the work of state agencies to ensure the enforcement of laws violated when employers misclassify workers and developing legislative proposals and other tools to combat this problem, among others. The Inspector General currently is investigating several cases involving employee misclassification.

The Inspector General continued its collaboration in 2017 with the New York State Workers' Compensation Board's Bureau of Compliance and Litigation, which monitors the workers' compensation insurance coverage of businesses and employers in New York State to ensure coverage for all New York workers in the event of a work-related injury. The Inspector General and the Workers' Compensation Board's Bureau of Compliance and Litigation met regularly in 2017 to combine resources in investigating matters involving fraud perpetrated by employers in New York State. In cases where a criminal prosecution was not warranted, the Inspector General referred matters to the Workers' Compensation Board's Bureau of Compliance and Litigation for administrative or civil action, such as a "stop work" order against a non-compliant business and/or civil penalties for failure to secure appropriate workers' compensation insurance.

Additionally, the Inspector General continued its collaboration with the Workers' Compensation Board to combat fraud committed by healthcare providers complicit in enabling fraud against the workers' compensation system. Throughout 2017, the Inspector General coordinated efforts with the Workers' Compensation Board's Office of General Counsel, which oversees healthcare provider discipline, in conjunction with the Office of the Medical Director within the Workers' Compensation Board. Healthcare providers and physicians must be authorized by the Workers' Compensation Board to treat workers' compensation patients.

Similar to the Inspector General's endeavors with the Workers' Compensation Board's Bureau of Compliance and Litigation, if an investigation involving a medical provider revealed misconduct that did not rise to the level of criminality sufficient for a referral to a prosecutor, the Inspector General referred the matters to the Workers' Compensation Board for appropriate administrative action and to OPMC for its review of the medical provider's license.

Training and Outreach

During 2017, the Inspector General continued outreach efforts and provided training and information related to the Workers' Compensation Fraud Inspector General's statutory mission to stakeholders across the state. The Inspector General provided training at numerous state agencies as well. As part of this initiative, the Inspector General provided training to every recruit enrolled in the DOCCS Training Academy regarding the Inspector General's jurisdiction and issues relating to workers' compensation fraud and abuse. Since the inception of this initiative, the Inspector General has trained more than a thousand correction officer recruits on these matters.

In February 2017, the Inspector General addressed members of the New York State Chapter of Special Investigation Units, Inc., at its conference in Saratoga. The Inspector General also provided a presentation on workers' compensation fraud at the New York Alliance Against Insurance Fraud's annual meeting in March 2017, in New York City. Additionally, in March 2017, the Inspector General provided training regarding workers' compensation fraud at the Hamberger & Weiss Annual Workers' Compensation seminars in Buffalo and Syracuse. The Inspector General also conducted a comprehensive roundtable case study presentation at the National Insurance Crime Bureau's Workers' Compensation Medical Fraud Seminar, which was held in April 2017, in Plainview, New York. In November 2017, the Inspector General presented before the Albany Chapter of the Institute of Internal Auditors.

The Inspector General also maintained key partnerships in her efforts to combat workers' compensation fraud. The Inspector General regularly met with representatives of the New York State Insurance Fund and the New York State Department of Financial Services to share information and coordinate resources to combat fraud and to improve the efficiency and effectiveness of the workers' compensation system. The Inspector General also met with many of the state's district attorneys, the New York State Office of the Attorney General, Offices of

the United States Attorneys, and the Federal Bureau of Investigation to discuss the Inspector General's enhanced oversight and enforcement efforts, as well as case referrals.

CONCLUSION

This 2017 Workers' Compensation Fraud Inspector General Annual Report summarizes the office's anti-fraud activities during the past year. In 2018, the Inspector General will continue to promote and protect the integrity of the New York State workers' compensation system through its investigations, collaborative efforts with local, state and federal agencies, as well as training and outreach. Additionally, the Inspector General will commence proactive initiatives that will strengthen the workers' compensation system and increase the detection, prevention, and prosecution of claimant, employer, and provider/professional fraud. As a result of successfully executing the Workers' Compensation Fraud Inspector General's statutory mission, such efforts will protect vulnerable workers, prevent fraud, and yield significant savings for New York State.