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Tully Rinckey PLLC client Val Riviello and Cheri Cannon discuss the latest in her case with the Times Union.

Albany VA nurse blows whistle on unsafe practices

Albany nurse files complaint after freeing patient from restraints

By Claire Hughes

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Valerie Riviello could not imagine that the action she took to help a patient in November would land her at the center of a national story about whistle-blowing against deficient care at Veterans Health Administration facilities. Nor could the 55-year-old imagine that after 28 years as a nurse at the Albany Stratton VA Medical Center, with awards for patient safety and outstanding service, she'd be worried about being able to keep her job until her earliest retirement date in March 2016. Or that colleagues would secretly slip their own stories about improper care under her office door, hoping she would give their stories a voice. But that's exactly what Riviello's life is like now, after filing a whistle-blower complaint against the VA in May, just as the health system came under scrutiny following reports that patients had died while awaiting delayed appointments at the Phoenix VA facility. Hers is among more than 50 such complaints concerning patient health and safety at VA facilities being investigated by the U.S. Office of Special Counsel; about 60 more VA cases involve scheduling, understaffing and other concerns, according to a June release from OSC. "I just don't know how I got here," Riviello said Tuesday. "I took somebody out of restraints and gave them a shower. I don't know how I got here." The Albany VA would not comment on Riviello's story, citing the ongoing OSC investigation. "(We) take any allegations involving

patient care very seriously," the medical center said in an official statement. "We have an open environment for employees, one where we encourage them to come forward and utilize the venues available to raise issues and concerns. Upon invoking their right to go to the Office of Special Counsel, we feel it is important that the process be fully pursued and the claim reviewed." In November, Riviello, a nurse manager, and nurses on her team were advocating for removal of a patient's restraints, she said. The patient had been strapped down at 6:30 in the morning, and remained that way hours later. Riviello said it was her job as a nurse to continually evaluate the patient and get her out of restraints as soon as reasonable. VA policy calls for keeping people in the "least restrictive environment," she said. Patients should only be kept in restraints if they are an imminent threat to themselves or others, Riviello said. The patient in question had suffered sexual trauma during her military service, and was breathing with the assistance of a tracheostomy tube. Riviello believed being restrained and under the supervision of a male attendant, as the patient was, could be particularly damaging. But the patient's doctor decided she should remain restrained until after a staff meeting at noon to discuss her situation. The meeting didn't happen. The patient wet herself and began removing her clothes. The male attendant told Riviello he was uncomfortable with the situation. So Riviello made the call to remove the restraints. The patient was cooperative, she said. "We showered her, we lotioned her, we potioned her," Riviello said. "She tried to hug us." She reported the incident to her supervisor, who said not to worry. Riviello later complained to a patient safety officer. Within days, Riviello was told to step down as a nurse manager and to convince her staff it was her own idea, she said. Stepping down resulted in a loss of about \$6,000 a year in pay. She was put in an office and told to develop a new nurse educator program — something generally tackled by a team — by herself. "This is a physician-driven facility," Riviello said she was told. "Physicians don't want to work with you." The move stripped Riviello not only of her work but also of her lifelong identity as a nurse, she said. She contacted the law firm Tully Rinckey to represent her. After a letter from her lawyer, Cheri Cannon, Riviello got her "nurse manager" title and \$6,000 of pay back, but remained stuck in the office. The events of the next several months get complicated: Early this year, a supervisor again told Riviello she needed to "move on," she said. One day, her swipe card to enter the building was deactivated without her knowledge, along with her

phone. She was marked AWOL from the job for several days one week — and her paycheck was shorted \$700 — though she had provided supervisors with a note from doctors that she was getting treatment for back problems. "It got ugly," Riviello said. Facing disciplinary action, Riviello filed two complaints with the OSC. One claimed patient abuse for the excessive restraints; the other — the whistle-blower complaint — cited the retaliation she believes she has faced after advocating for better patient care, according to Cannon. The disciplinary action has been put on hold pending the OSC investigations. "I did nothing wrong. I gave the patient really good care," Riviello said. "I wasn't going to slink away to have this happen to me at the end of my career." Dying patients may have been denied pain meds

Among stories that nurse Valerie Riviello has heard from other employees at the Albany VA is one about dying patients who were supposed to receive morphine to alleviate pain, but instead got a salt-and-water mixture. A nurse treating hospice patients stole the vials of morphine, according to Riviello. She said managers delayed reporting the problem. Peter Potter, a spokesman for the Albany VA, would not comment on the incident or offer details, but confirmed that it is under investigation by the VA Office of Inspector General.