

100,000 KIDNEY FAILURE PATIENTS ARE HMO LAB RATS  
GOVERNMENT FUNDS 21<sup>ST</sup> CENTURY "TUSKEGEE EXPERIMENT"

INDEPENDENT INVESTIGATION by Robert and Jacquelyn Finney. Dr. Finney was Hewlett-Packard's corporate manager for Health Care Cost Containment. Jacquelyn Finney was a federal Medicare fraud investigator. Dr. Finney is the author of "HOW TO PLAY HMO HARDBALL: The Patient's Self-Protection Manual."

For decades, Kaiser Permanente doctors have conducted a medical "experiment" on unwitting patients to determine the cost and progression of kidney failure and its complications, when diagnosis and treatment are intentionally withheld. The U.S. Department of Justice and the U.S. Department of Health and Human Services have been funding and protecting Kaiser's 21<sup>st</sup> century Tuskegee Experiment.

Why would the government pay Kaiser Permanente one billion dollars (\$1,000,000,000) from the taxpayer-funded Medicare and Medicaid programs to deliberately withhold diagnosis and treatment from 100,000 kidney failure patients?

**FOLLOW THE MONEY**

The Kaiser kidney failure experiment is rooted in the HMO's experience with the Medicare Capitation Demonstration Project, in the early 1990s. Although kidney failure patients represented less than 1% of the Medicare population, their care accounted for more than 6% of Medicare costs.

"Progressively shifting costs to the private sector has long been a Medicare strategy..."<sup>1</sup> Medicare paid Kaiser only 95% of the average annual cost for treating a kidney failure patient. Kaiser was therefore "at risk" for keeping the cost of care below that average, or the HMO would lose money.

Dr. Finney is a kidney failure patient, who had been one of the HMO's experimental lab rats, since the early 1990s. His kidney failure diagnosis was not disclosed. His kidney failure was not treated. Kaiser made a financial killing by billing Medicare for treatment that was never provided to him.

Dr. and Mrs. Finney discovered Kaiser's experiment by systematically questioning his doctor, who admitted that he was one of "thousands" of patients that the HMO intentionally does not diagnose and treat to save money. This doctor was unapologetic that Kaiser would have to "spend a lot of money to do it right."

The Finneys filed a formal complaint with the U.S. Department of Justice. Neither Kaiser nor the government disputed or denied that at least 100,000 Kaiser kidney failure patients were deliberately not diagnosed and treated, while the HMO was able to research treatment costs.

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<sup>1</sup> "Optimal Renal Care," *The Permanente Journal*, Summer, 1999, Vol. 3, No. 2

**DOJ attorneys closed their complaint, concluding that taxpayers' one billion dollar (\$1,000,000,000) funding of Kaiser's experiment was money well spent, because "[the kidney failure patients] received care in accordance with the medical standards."**<sup>2</sup>

### **KAISER'S 21<sup>st</sup> CENTURY TUSKEGEE EXPERIMENT**

Both the Tuskegee [http://en.wikipedia.org/wiki/Tuskegee\\_syphilis\\_experiment](http://en.wikipedia.org/wiki/Tuskegee_syphilis_experiment) and Kaiser Experiments executed trusting patients in cold blood by sending them deceptive letters.

#### *The Tuskegee Experiment*

Doctors conducting the Tuskegee Experiment gained the "consent" of poor, African American men for spinal taps (to look for signs of syphilis) by depicting the diagnostic test as a "special free treatment."

To ensure that the men would show up for the possibly dangerous, painful, diagnostic and non-therapeutic spinal tap, the doctors sent the 400 patients a deceptive letter titled, "Last Chance for Special Free Treatment"

"REMEMBER THIS IS YOUR LAST CHANCE FOR SPECIAL  
FREE TREATMENT. BE SURE TO MEET THE NURSE."

To read the Tuskegee letter, [click here](#).

One warped Tuskegee doctor congratulated another for his "*flair for framing letters to Negroes.*"

#### *Investigating Kaiser's Experiment at the Lab-Interviews with Kaiser Employees*

Doctors conducting Kaiser's experiment gained the "consent" of kidney failure patients by sending them deceptive letters in both English and Spanish, to check their "cholesterol."

On April 23, 2009, Kaiser sent a form letter to Dr. Finney, both in English and in Spanish, instructing him to report to the lab to check his "cholesterol" and other labs. In fact, the letters instructed the lab to perform a test to measure kidney failure, not cholesterol.<sup>3</sup>

The letters stated:

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<sup>2</sup> Statement of Andrea Larry, Attorney, U.S. Department of Justice, April, 2009.

<sup>3</sup> Kaiser's instructions to the lab checked only one test (microalbumin-random), which is a **urine test that only detects kidney failure**. The instructions did not check "lipid profile," which is a **blood test that only detects cholesterol**. A microalbumin urine test is done to check for protein (albumin) in the urine. Early detection and treatment preserve kidney function.

**“Your doctor and healthcare team would like you to come in for some lab work that you're due for! Checking your cholesterol and other labs is an important part of how we care for the whole you.”**

For English letter, [click here](#).

**“A su Doctor y su equipo profesional de salud les gustaria que venga para hacerle una Prueba de Laboratorio que ya ha vencido. Analizando su colesterol y haciendole otros exámenes de laboratorio es una parte importante del tipo de atencion que le brindamos para ayudarle a mantenerse saludable.”<sup>4</sup>**

For Spanish letter, [click here](#).

It was obvious to Dr. Finney, Hewlett Packard's former Manager of Corporate Health Care Cost Containment, that Kaiser's letter was a fraud designed to collect medical information for its undisclosed kidney failure research experiment.

- The letter instructed the lab to perform only a urine test to measure kidney failure, not to perform a blood test to measure cholesterol.
- The letter was electronically signed by his former primary care physician, who had not treated Dr. Finney for the prior five years.
- Both the English and Spanish versions of the letter were specifically addressed to Dr. Finney, whose physicians know that he is not Latino and does not read or speak Spanish.
- The intake clerk attempted to hand a urine specimen container to Dr. Finney, stating that his primary care physician had ordered it.
- Dr. Finney refused to comply, stating that this test had not been ordered by his doctor and that the sample was being obtained under false pretenses. The clerk did not dispute him.
- Mrs. Finney, a Spanish-speaking former Medicare fraud investigator, questioned a lab technician about the test. He confirmed that numerous patients receive these letters to report to the lab.
- The tech admitted that this test is not ordered by the patients' doctors, but by a Kaiser entity unknown to him.
- The tech stated that order for these tests expires after 30 days. However, when the order expires after 30 days, the lab must obtain reauthorization of

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<sup>4</sup>**“Latinos are the largest ethnic group** in Kaiser Permanente's membership. Kaiser Permanente's **Latino members comprise 15.2% of membership**, which is more than 1 million members Program-wide.” *Hispanic PR Wire*, 9-8-05. **African Americans comprise nearly 12 percent of Kaiser Permanente's membership.** U.S. Fed News Service, 1-20-07

the test by the patients' primary attending doctors, who are angry that they must "reauthorize" tests that they had never authorized in the first place.

Kaiser's scheme is in fact an integrated illegal enterprise to test kidney failure patients without disclosing the purpose of the test, without providing diagnosis and treatment and without disclosing that minor deviations from the range mean major failure in kidney function.<sup>5</sup>

Kaiser's own documents admit that at least 100,000 patients have been studied to calculate the cost of providing their medical care without disclosing their diagnosis and providing treatment.<sup>6</sup>

### *Investigating Kaiser's Experiment- Personal Interviews with Kaiser Patients*

Dr. and Mrs. Finney's personal interviews with other Kaiser patients and their relatives confirm that numerous patients and their relatives have been tested for kidney failure for many years without their knowledge and informed consent.

Many of these patients suffered from kidney failure, but had never been diagnosed and treated by their doctors.

Not one of these patients had ever had a discussion with their primary care doctors about prevention and early detection of kidney failure or knew that their doctors had ordered lab tests to detect kidney failure for many years.

Their interviews focused on Kaiser's African-American, Latino, and Asian patients, whose risk of kidney failure is much greater than Caucasians' and who are at high risk of disparate treatment and racial health care inequality.

- A Latino patient's lab records showed that he suffers from stage 2 kidney failure, but his doctor has never disclosed his diagnosis and treated him.
- An African-American patient stated that, based on these interviews, she made an appointment with her Kaiser primary care physician specifically to

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<sup>5</sup> "[E]ven a slightly elevated serum creatinine level can indicate presence of clinically significant kidney disease." *What To Do for the Patient with Minimally Elevated Creatinine Level?*, *Permanente Journal*, Winter, 2004.

<sup>6</sup> Kaiser's own studies document that at least 100,000 kidney failure patients have not been diagnosed and treated.

*"Implementing KDOQI CKD Definition and Staging Guidelines in Southern California Kaiser Permanente," American Journal of Kidney Diseases*, March, 2009.

*"Low Documentation of Chronic Kidney Disease Among High-risk Patients in a Managed Care Population: a Retrospective Cohort Study," BMC Nephrology*, 2009.

*"Predicting Costs Of Care In Chronic Kidney Disease: The Role Of Comorbid Conditions," The Internet Journal of Nephrology* 2007: Volume 4 Number 1.

discuss kidney failure testing. Her physician stated that she had been tested for many years and was "fine." The physician wanted to know how this patient had learned of Kaiser's kidney testing practice, but did not discuss her actual test results, diagnosis, and risk of disease and prevention.

- An African-American patient stated that her sister, a Kaiser patient had gone to the emergency department and was placed on dialysis for kidney failure. She had a leg amputated. She could not withstand the horror of dialysis, refused further treatment, and died.
- An Asian patient stated that he was first diagnosed with kidney failure in the emergency room, was put on dialysis, and is enduring unspeakable agony waiting for a kidney transplant.

In a subsequent interview with one of these patients, she thanked Dr. and Mrs. Finney for alerting her to Kaiser's Experiment. She had her husband and children tested for kidney failure, adding that:

**"I'm glad you made me do it. I don't trust my Kaiser doctor to tell me the truth."**

### **PRESIDENT OBAMA OWES AN APOLOGY TO THE KAISER PATIENTS**

One of the most chilling aspects of the Tuskegee and Kaiser Experiments is how zealously the federal government kept patients from enforcing their rights to informed consent, to control their treatment options, to obtain second opinions, and to protection by government regulators.

Kaiser's kidney failure patients believed they had found hope when they were offered medical care funded by United States taxpayers. They have been betrayed.

President Obama should apologize to Kaiser's kidney failure patients and terminate Attorney General Holder's protection of the Kaiser Experiment. Rather, his administration has made a mockery of President Clinton's apology to the Tuskegee survivors:

*"No power on Earth can give you back the lives lost, the pain suffered, the years of internal torment and anguish. What was done cannot be undone. But we can end the silence. We can stop turning our heads away. We can look at you in the eye and finally say on behalf of the American people, what the United States government did was shameful, and I am sorry."*