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25th Street Station project will move on without Lowe's as an anchor, developer says. **3A**

**Disorganization defense**  
Hoyer on Currie: Decent, honest but not one for details. **12A**

# THE DAILY RECORD

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MAXIMILIAN FRANZ

A spokeswoman for Kernan Hospital denied that the facility fraudulently billed Medicare for malnutrition cases.

## Push for jobs bill begins

Administration laying the groundwork for higher taxes and fees

By **NICHOLAS SOHR**  
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ANNAPOLIS — Gov. Martin O'Malley's administration began its push Tuesday for higher transportation spending and job creation efforts with local Democratic officials, cabinet secretaries, business leaders and others making the case to lawmakers.

"Maryland's infrastructure needs are critical," said Lt. Gov. Anthony G. Brown, a former majority whip in the **House of Delegates**. "Our jobs needs are critical as well."

Brown and the others addressed nearly 60 members from three House committees that oversee taxes, spending and business regulation.

"I think what we're going to see in January ... is not just a package of infrastructure investments, but the governor has indicated we will look at the full range of options to create jobs, as we have in the past," said Brown.

The hearing gave the administration a chance to frame the debate on proposals for higher taxes and fees that will likely accompany the call from O'Malley, a Democrat, for more spending on highways, bridges, mass transit,

## Kernan sued for Medicare fraud

U.S. claims \$1.6 million in false billings for malnutrition

By **BEN MOOK**  
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The U.S. Attorney's Office is claiming that a Baltimore hospital fraudulently rang up \$1.6 million in billings to Medicare and other health programs by falsely diagnosing people with life-threatening cases of malnutrition.

**Kernan Hospital** is accused in a federal lawsuit with fraudulently billing Medicare, Medicaid and Tricare programs for incidences of

kwashiorkor — a rare, life-threatening form of malnutrition caused by lack of protein in the diet. The lawsuit claims that since 2005 the hospital has been taking advantage of a state incentive program that rewards hospitals that deal with complex and challenging cases.

Kernan is accused of putting the diagnosis code for kwashiorkor on patients' records to make their cases more complex than they should have been.

U.S. Attorney Rod J. Rosenstein's office filed the lawsuit in the **U.S. District Court** in Baltimore on Monday. The government is seeking \$1.6 million in actual damages, treble damages and an \$11,000 fine for each false claim.

The hospital, part of the **University of Maryland Medical System**, said Tuesday that it had not been served with the lawsuit but was familiar with the government's allegations.

See **KERNAN 7A**

See **JOBS 10A**

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#### Md. Senate approves redistricting proposal

Democrats said the plan reflects necessary demographic changes, while Republicans said it favors party politics over the people.

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#### Real estate world seeks 'new normal'

The housing market isn't getting drastically better or any worse as the general economy slumps, write Bob and Donna McWilliams.

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**MORE LEGAL COVERAGE BEGINS ON PAGE 12A**  
Good for UB,  
good for UB Law

The budget agreement reached by the University of Baltimore and its law school is the best possible, writes the Editorial Advisory Board.

12A

## 2 city police officers sued for Taser use

66-year-old seeks \$7.5M, alleges he was twice shocked

By **ANDY MARSO**  
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A 66-year-old Baltimore man filed suit Monday against two Baltimore police officers, saying one of them used a Taser twice without cause after responding to a domestic dispute in June at his home on Elmora Avenue.

According to the complaint, which was filed in

**Baltimore City Circuit Court** and seeks more than \$7.5 million, plaintiff Leon Coley was hospitalized after Officer Paul Markowski used his Taser on Coley.

"The guy has some serious medical issues," Coley's attorney, solo practitioner Paul M. Polansky, said. "Heart [condition], diabetes, that kind of thing."

The **Baltimore Police Department** does not comment on pending litigation, but the department's policies on use of "Electronic Shock Devices" are contained in

General Order G-19, which Det. Kevin Brown emailed to The Daily Record.

According to the order, effective May 21, 2007, ESDs are "designed to incapacitate actively resisting subjects, aggressive non-compliant subjects and/or violent or potentially violent subjects."

Polansky said none of those descriptions fit his client.

"He didn't fight with anybody; he did not resist," Polansky said. "At [nearly] 67

See **TASER 11A**

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# Kernan >> Extreme malnutrition claims followed incentive program, U.S. says

Continued from 1A

"Kernan Hospital has been in discussions with the U.S. Attorney's office for some time regarding how patients with malnutrition were coded in the hospital's billing system several years ago," Mary Lynn Carver, senior vice president for communications, University of Maryland Medical System, said in a statement. "There are a variety of reasons why patients at Kernan may be classified with malnutrition."

According to the U.S. National Library of Medicine, kwashiorkor is a very rare form of malnutrition that occurs when there is not enough protein in the diet. The disease is most common in "very poor" countries or in areas hit by famine or nat-

ural disasters.

The government claims that a high number of claims of extreme malnutrition started to appear after 2005 when the incentive program was implemented. Rosenstein's office pointed out that in 2004 there were zero cases of kwashiorkor and in 2007 there were 287. The government also claims that its investigators found that 23 percent of the malnutrition cases were miscoded and the disease was not present or was not as severe as coded.

In the lawsuit, multiple examples of patients admitted to Kernan who were given a secondary diagnosis of kwashiorkor were not treated for it, or it was not listed as an associated condition. According to court records, in

“

[W]ithout knowing the specifics, it's possible someone might have been gaming the system.

**DR. STUART CHALEW**  
Louisiana State University  
School of Medicine

one case, kwashiorkor was listed as a secondary diagnosis for one patient in 2007 who was listed at 5-foot-2 and 207 pounds. The patient was put on a

restricted calorie diet after his discharge, and malnutrition was not treated.

In another case, a patient was diagnosed primarily with seizures, colitis and diabetes and depression. Kwashiorkor was listed as a secondary diagnosis, but the person was not treated for the disease.

Dr. Stuart Chalew, professor of pediatrics and head of the endocrinology division at the Louisiana State University School of Medicine, co-wrote a paper on kwashiorkor in 1984 while he was on the faculty at the **University of Maryland School of Medicine**. He said that while the disease does appear in some instances with the homeless and during heavy drug use, it is not a common disease in the U.S.

"It's a very severe protein and caloric malnutrition," Chalew said. "It's a very rare disease, and, on the face of things, without knowing the specifics, it's possible someone might have been gaming the system."

Chalew said it is possible that more-sensitive tests are catching the disease in its early stages, which could be triggering the diagnoses.

Carver said the diagnosis is used for low weight and for nutritional deficiencies including protein malnutrition that are determined by blood work.

"The hospital conducted an evaluation of all our malnutrition cases which resulted in a substantially different conclusion than the U.S. Attorney's office," Carver said in the statement. "We look forward to working constructively with the U.S. Attorney's office to resolve this case."

# Inn at Government House sold to local investor group

By MELODY SIMMONS

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The ornate and historic **Inn at Government House** was sold by Baltimore to a group of local investors who hope to redevelop the city's official guest house and two adjoining rowhouses into a 17-room boutique hotel and restaurant.

The city's **Board of Estimates** approved the sale last week to **Mount Vernon Mansion LLC** for \$750,000.

The group is a partnership between Eddie Brown, of **Brown Capital Management**, and Martin P. Azola, president of **Azola & Associates Inc.**, a local firm dedicat-

ed to renovating historic buildings such as the Bromo-Seltzer Tower and the Old Jail in Towson.

"For some time, the city has sought to identify a viable reuse for this property," M.J. "Jay" Brodie, president of **Baltimore Development Corp.**, said in a statement. "We are confident that this experienced development team will rehabilitate these buildings, creating a fine asset in the heart of the Mount Vernon community."

Government House is at 1125 N. Calvert St., near a rowhouse at 34 E. Preston St. where socialite Wallis Warfield Simpson once lived as a child.

The four-story structure was built

in 1890 and has oak and mahogany paneling, stately parlor doors and ornate glass windows. It recently was declared surplus by the city's **Space Utilization Committee** and put up for sale by the **City Council**.

The mansion's previous inhabitants have included the man who invented the bottle cap, William Painter, and the city's **Department of Recreation and Parks**.

The inn was last renovated in 1985.

Officials at the BDC said they had issued a request for proposals for the purchase, lease or operation of the Inn at Government House, and had received only the bid from Mount Vernon Mansion.



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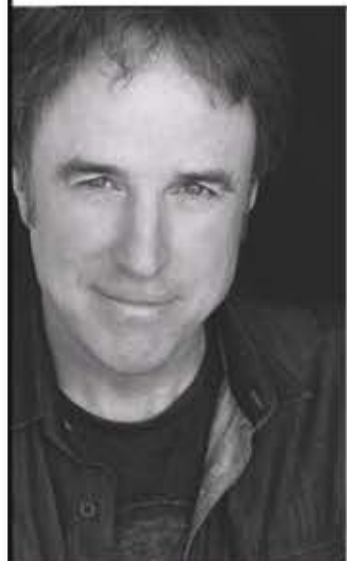
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