

EXHIBIT 3

BREAKING NEWS
4 ARMY AVIATORS DEAD AS CHOPPERS CRASH

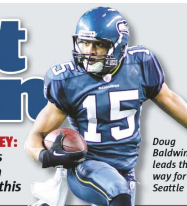
Training accident near Lewis-McChord
 NWTUESDAY > B1



Beat down

Hawks pound Rams under Monday night lights for a 30-13 win
 SPORTS > C1, C4-5

STEVE KELLEY:
 Good teams need to win games like this



Doug Baldwin leads the way for Seattle

TUESDAY, DECEMBER 13, 2011

The Seattle Times

WINNER OF EIGHT PULITZER PRIZES

INCREASING CLOUDS
 High, 39, Low, 34, > 88
 seattletimes.com/weather

75¢ \$1.00 outside King, Pierce, Snohomish, Kitsap counties



Independent and locally owned since 1896 | seattletimes.com
 1.8 million readers in Western Washington, in print and online

METHADONE and the politics of pain | SEATTLE TIMES SPECIAL REPORT

In pain clinic's wake: doubts, chaos, deaths



MIKE SIEGEL / THE SEATTLE TIMES

Alina Heywood, of the Portland area, reads from a journal kept by her mother, Eileen Crothers. "I lost my mom way too soon," Heywood says. Crothers overdosed on methadone, a potent and unforgiving painkiller.



A clinic's high doses — 'Take 10 every 6 hours,' one painkiller prescription said — reveal murky regulations and state's anemic response.

Third of three parts

BY MICHAEL J. BERENS AND KEN ARMSTRONG
 Seattle Times staff reporters

The first time Alina Heywood accompanied her mother to the Payette Clinic in Vancouver, she didn't see anything amiss. The place was quiet, her mom the only patient there. The woman treating Heywood's mom wore a lab coat. Heywood assumed she was a doctor.

But as the months passed, Heywood witnessed a dramatic change. By the summer of 2007, so many pain patients packed Payette's waiting room that the crowd overflowed into the parking lot. Some patients were slumped over, looking ready to pass out. Others appeared glassy-eyed and jumpy.

"I started thinking, 'Why do all these people in here look high?'" Heywood says.

Heywood's mother, Eileen Crothers, had endured pain for almost 20 years. She'd lost an arm after a traffic

See > **CLINIC, A16**

ABOUT THE SERIES |

SUNDAY, PART 1: Washington state's preferred painkiller saves money, costs lives

MONDAY, PART 2: New state law leaves patients in pain

SEATTLETIMES.COM

More on methadone deaths: video and interactive graphics
 seattletimes.com/methadone

3 FORMER WAMU EXECS REPORTEDLY REACH DEAL

SOURCES: FDIC AGREES TO MUCH-REDUCED PENALTY

Bankrupt firm also ends fight with creditors, shareholders

BY DREW DESILVER
 Seattle Times Business reporter

The long, tortuous afterlife of Washington Mutual seemed close to its final chapter Monday night, as the bankrupt firm announced a settlement with all its feuding groups of creditors and shareholders, and its erstwhile leaders reportedly settled a civil lawsuit brought against them by federal regulators.

Former CEO Kerry Killinger, former chief operating officer Stephen Rotella and former home-loans chief David Schneider had been accused of "gross mismanagement" of WaMu's mortgage business that ultimately led to the failure of the lender in September 2008.

The Federal Deposit Insurance Corp. (FDIC) will settle with the five defendants, including two of the former executives' wives, for less than \$75 million. The Wall Street Journal reported late Monday, citing unnamed sources. The agency had sought more than \$900 million from the executives in private negotiations preceding the lawsuit's filing in March, a source familiar with the matter told The Seattle Times at the time.

Barry Kaplan, the Killingers' attorney, declined to comment on the settlement reports. Barry Ostrager, the Rotellas' attorney, could not be reached for comment. Most, if not all, of any settlement likely would be paid by WaMu's

See > **WAMU, A14**

Immigration law adds to justices' list of volatile cases

BY ADAM LIPTAK
 The New York Times

WASHINGTON — In the space of a month, the Supreme Court has thrust itself into the center of American political life, agreeing to hear three major cases that could help determine which party controls the House and whether President Obama wins a second term.

The court Monday announced it would decide whether Arizona was entitled to impose tough anti-immigration measures over the Obama administration's objections. The case joined a crowded docket that already included challenges to Obama's signature legislative achievement, the 2010 health-care law, and a momentous case on how Texas will conduct elections.

The Texas case, which the court on Friday agreed to hear, could cause as many as four seats in the House to change party control.

"It's not just that these are big cases, but these are big cases that echo in the political arena," said

See > **COURT, A3**

ILLEGAL IMMIGRANTS, under siege in many states, receive rights in others > Close-up A3

Schools face 'glass palace' debt burden of \$50M

HEADQUARTERS BUILDING LONG A TARGET OF CRITICS

Tens of millions needed; promised savings unclear

BY BRIAN M. ROSENTHAL
 Seattle Times education reporter

A decade after Seattle Public Schools administrators built a central headquarters with a promise it would pay for itself, the district acknowledged Monday it still owes nearly \$50 million on the building and has no serious plan for how to pay for it.

The district has until 2027 to pay off the debt. But the amount is so large that it will necessitate some hard choices for a school district al-

ready struggling with twin financial crises of state budget cuts and serious overcrowding at some schools.

The John Stanford Center for Educational Excellence, a sprawling, three-story building in an industrial area south of the stadium district, raised eyebrows when it was built in 2001. No specific plan has been advanced for repaying its \$34.5 million price tag (plus an additional \$52.7 million in interest on bond payments), and for years some community activists have been demanding an accounting of just how the district has been paying for the building.

Duggan Harman, the district's executive director of finance, deli-

See > **HQ DEBT, A6**



MIKE SIEGEL / THE SEATTLE TIMES

The John Stanford Center, the Seattle Public Schools headquarters, was built in 2001 without a clear plan for paying off its debt.

© 2011 Seattle Times Co.
 All rights reserved. No part of this publication may be reproduced without the prior written permission of Seattle Times Company.



METHADONE and the politics of pain

A SEATTLE TIMES SPECIAL REPORT

< Clinic
FROM A1

Pain treatment spurs bitter debate

accident — caused by a drunken motorcyclist — and a botched surgery. When her family doctor retired, Crothers had gone to Payette in hopes of being tapered off methadone, a potent painkiller.

Instead, Heywood says, Payette increased Crothers' dosage. On Sept. 11, 2007, Crothers, 48, was found dead in her Vancouver apartment. An autopsy determined that she had overdosed on methadone. She was the fourth patient treated at Payette to fatally overdose that year — and the third death linked to methadone, a long-acting narcotic.

By then, state health regulators had received more than a dozen complaints against Payette's practitioners, some involving allegations of dangerous over-prescribing.

In time, the Washington State Department of Health would become aware of at least six overdose deaths of women and men prescribed painkillers at Payette. All but one had taken methadone, a drug the state steers Medicaid patients toward because of its low cost.

Records gathered by the Health Department and others would show that Payette had been prescribing painkillers and other drugs in often extraordinary amounts.

One patient's pharmacy bill — had he paid full price — exceeded \$209,000 in one year, with more than 100 prescriptions for OxyContin and other drugs, according to pharmacy documents.

But despite the six deaths — and despite receiving more than 100 complaints about Payette from pharmacies, medical providers, patients, the county sheriff, the U.S. Drug Enforcement Administration and others — state regulators have, to date, taken action against only one of the clinic's practitioners. And even that sanction took nothing away that she hadn't in effect already surrendered.

At its pinnacle, Payette prescribed more narcotics to Medicaid patients than any other private clinic in Washington, state records show.

The clinic's extraordinary rise, coupled with the state's anemic response, highlights one of medicine's most bitterly debated specialties, one centered on an ailment — pain — that defies measurement. That Payette stayed open for years speaks to the murky landscape that regulators encounter when confronting painkiller prescriptions.

The clinic's story also reveals the dangers of the state's insistence on directing prescribers and patients to methadone, an unpredictable painkiller that can become lethal if used with anything other than the utmost care.

"Too unpredictable and dangerous"

The driving force behind the Payette Clinic was Kelly Bell, an advanced registered nurse practitioner with boundless confidence and a checked employment history.

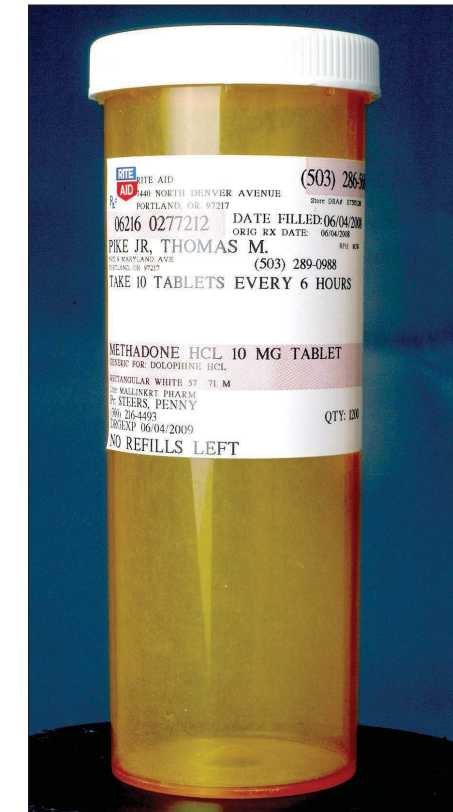
Bell, 53, has a master's degree in nursing from Washington State University and a résumé that includes stints as a nursing supervisor and pharmacology lecturer. She holds strong views on treating pain — "it is my passion," she once wrote — traceable to her six years as a nurse at the Oregon Burn Center in Portland.

"Nurses are the silent witness at the bedside oftentimes to the callous indifference of a physician," Bell has written. She described how one patient, with burns on 70 percent of her body, had been denied pain relief despite obvious suffering. "She finally died, horribly disfigured and without any pain medication with a silent scream permanently etched on her face," Bell wrote, adding: "There should be penalties for the lack of treatment of pain. They should be swift and severe."

In 2001 Bell went to work at the Clark County Jail in southwestern Washington, helping treat hundreds of adults and juveniles. But she lost that job in 2004 when a dispute with a supervisor resulted in her jail security clearance being pulled.

A month later, in April 2004, Bell went to work at Fisher's Landing Urgent & Family Care in Vancouver. Within months she started a pain-management program at the clinic. Bell says she was authorized to do so. The clinic's owner says she was not. Either way, Bell's practice took off, growing to 40 pain patients.

As a provider of pain treatment, Bell could be both combative and self-assured.



A nurse practitioner at the Payette Clinic prescribed Thomas Pike Jr. a combined daily dosage of painkillers that was 18 times higher than the state's cautionary threshold, according to court records. Pike, 40, overdosed on methadone in September 2009.

In December 2004, she wrote a letter chastising a health plan that refused to cover a prescription she'd written for an increased dosage of OxyContin, an expensive painkiller. Bell acknowledged that an alternative painkiller, methadone, was cheaper, and that Washington and Oregon encouraged its use in cases where a patient's care was publicly subsidized. But Bell said she wanted nothing to do with the drug.

"I absolutely will not prescribe methadone for pain. It's too unpredictable and dangerous and has caused many deaths in both the states of Washington and Oregon," Bell wrote.

At Fisher's Landing, Bell had her first run-in with state regulators. In February 2005 a pharmacy manager at Walgreens filed a complaint against Bell for prescribing 2,216 oxycodone pills to a patient in about two months. "I cannot believe this could be for legitimate medical purposes," the manager wrote to the Health Department.

After receiving the complaint, the state examined Bell's overall prescribing practices. State officials cited 23 instances of "exorbitant amounts" of narcotics prescribed, but ultimately decided against disciplinary charges, saying there was insufficient evidence to show Bell had violated any specific rule governing patient care.

The clinic fired Bell in March 2005 for "unprofessional conduct," according to Health Department records. The clinic's owner told regulators that Bell had been reprimanded for using profanity or abusive language in front of patients.

After Bell's departure, a physician at Fisher's Landing re-examined Bell's pain patients. Many were tapered off pain drugs, which were

no longer deemed necessary.

6 deaths in 12 months

After losing her second job in about a year's time, Bell struck out on her own. In April 2005 she established the Payette Clinic with Scott Pecora, a fellow nurse practitioner whom Bell would marry three years later.

A job posting on Craigslist called Payette "a very unique and groundbreaking practice solely owned and staffed by nurse practitioners," adding: "This is not a practice for a timid, or lax practitioner..."

The absence of a physician did not preclude Payette from treating pain patients. Under Washington law, nurse practitioners can receive prescribing privileges, even for such narcotics as OxyContin.

The clinic, on the corner of a strip mall, began attracting more pain patients, reaching, at its peak, about 800. Bell told the Health Department that "probably 50 percent" were on methadone — a sur-

prisingly high figure, given what she'd written about the drug in 2004.

Bell would attribute her reluctance to seeing new patients who were already on methadone — and getting the relief they needed. From a practical standpoint, many patients, whether on Medicaid or private insurance, were more likely to be already on methadone than for other, more costly painkillers.

To the Health Department, Bell described methadone as a "fabulous drug" but one that was "extremely unforgiving" and "very deadly to work with."

On Jan. 12, 2007, a former Payette patient, Susan Nelson, died in Clark County after overdosing on methadone. Nelson, 51, had been prescribed the drug while at Payette.

Nelson had received treatment there for three months, starting in July 2006. At first, she had been reluctant to take methadone, her medical records show. In chart notes, Bell wrote of Nelson: "She shook her head when frightened about trying any methadone whatsoever." But on a subsequent visit Nelson "finally consented" to start methadone, at five milligrams every eight hours, the chart notes say. The notes added: "I warned her that if she decided to overtake this drug we would be reading about her in the paper because she could very easily die."

Bell also prescribed Nelson other painkillers, Health Department records show.

Under a pain-management law passed last year, the state calls for extra precautions once a patient's combined daily dosage of painkillers reaches the equivalent of 120 milligrams of morphine. In this case, Health Department records

show, Bell upped Nelson's daily morphine equivalent from 140 milligrams to 780 milligrams to 880 to 1,170 to 1,440 to 1,800 to 2,160 — all in two months.

Within nine days of Nelson's death, two other Payette patients also died from accidental overdoses linked to painkillers.

Eight months later, Eileen Crothers died, becoming patient No. 4. Crothers' daughter, Alma Heywood, says: "I lost my mom way too soon."

Crothers was treated by Penny Steers, a nurse practitioner who had been hired at Payette in 2006.

Within four months of Crothers' death, two other people who had been treated at Payette also fatally overdosed on methadone. One patient, Deborah Reid, 42, had been prescribed a combined daily morphine equivalent of 3,880 milligrams — a dosage 32 times higher than the cautionary threshold set by the state, records show.

Kafka or Schweitzer?

In April 2008, state health officials initiated their first large-scale investigation of Payette after being deluged with complaints of excessive prescriptions and suspicious deaths.

DEA agents said a family of three — all patients at the clinic — had received enormous amounts of narcotic medications and paid cash for the drugs at pharmacies, up to \$7,000 at a time.

Additionally, state officials from Medicaid and Labor & Industries forwarded "a large number of additional complaints" that led health investigators to the six overdose deaths involving Payette patients.

The 2008 complaints would be accompanied by a host of others against Payette's nurse practitioners. To date, Bell has been the subject of 69 complaints and Steers 35, according to state records.

Many accuse the two women of prescribing dangerous amounts of painkillers — an allegation that would seem straightforward, but can be difficult to prove. When it comes to prescribing painkillers — in Washington and nationally — there's no universally accepted standard of care.

Until this year, the state explicitly prohibited disciplining medical providers based solely on how many painkillers they prescribed.

With painkillers, two philosophies compete within medical circles. Bell represents one end of the spectrum. The other is represented by Gary Franklin, medical director for the state Department of Labor & Industries, the agency that handles workers' compensation claims.

Franklin urges caution and advocates limits. He quotes Franz Kafka from "A Country Doctor": "To write prescriptions is easy, but to come to an understanding with people is hard."

Bell, meanwhile, writes that she models her life after Albert Schweitzer, quoting him: "Pain is a more terrible lord of mankind than even death itself."

Bell's philosophy comes through in her extensive letters to the Health Department. "There is no ceiling on opioids. Period," she writes. She decries an "unparalleled and unjustified prejudice against pain sufferers."

"When you compare what I do to that of the 'regular' physicians in the community I look to be an outlier and 'out of control,'" she writes. With pain management, Bell describes herself as a largely self-taught — saying she reads voraciously about developments in the field — and as selfless, calling the practice "barely profitable."

Bell, Steers and Pecora declined through their attorney to speak with The Times because of pending Health Department complaints and civil cases. Their lawyer, Donna Lee of Portland, cautioned that state investigative records reveal an incomplete picture of the Payette Clinic and patient care.

The DEA steps in

On Dec. 9, 2008, the death of a teenage girl in a Portland suburb ratcheted up the scrutiny of the Payette Clinic.

Rachel Daggert, an 18-year-old high-school senior, died after crushing and smoking an oxycodone pill. Police discovered the oxycodone had originally been prescribed to a Payette patient.

The prior deaths of six adults on the economic margins hadn't captured the public's attention. But Daggert's death was different. Now, the Payette Clinic was being featured in news stories in Oregon and Washington, leading new urgency to the work of investigators.

By the time Daggert died, the Washington Health Department's investigation of Payette had been under way for about eight months. Despite dozens of open complaints against Bell and Steers, no disciplinary charges had been filed, nor had either practitioner been suspended

Continued on next page >



Kelly Bell was the driving force behind the clinic.

MIKE SIEGEL / THE SEATTLE TIMES

METHADONE and the politics of pain

A SEATTLE TIMES SPECIAL REPORT

Continued from previous page in the interim—a power the department possesses. At the request of the DEA, the state investigation was slowed to give federal officials more time to assemble their own case and to secure a warrant allowing them to gather records from the Payette Clinic, state officials told The Times.

Meanwhile, officials at several pharmacies filed complaints against Payette, including a Fred Meyer pharmacy manager who alleged Bell was engaging in experimental treatment, prescribing morphine for a patient to take home and crush and mix with cold cream and apply to painful extremities.

Some pharmacies began refusing to fill prescriptions written at Payette. On Dec. 29, 2008, three weeks after Daggett's death, the Payette Clinic sent written notification to its pain patients that Rite Aid and Kmart pharmacies would no longer serve them. The letter directed patients to an Oregon branch of Assured Pharmacy, which has heightened security measures and caters to pain patients.

But even Assured, at some point, appeared hesitant to deal with Payette. Law-enforcement officials rounded up two email messages left at an Assured branch—one by Bell, the other by Steers.

Bell's message referred to Payette patients being turned away and said: "Quite frankly, if this continues, I'm pulling all my business from Assured, and I'm sure that's worth about a million dollars."

Steers's message was even blunter: "If I want to order every two hours, I can order it every goddamn two hours. It doesn't make any difference."

On March 19, 2009, DEA agents raided the Payette Clinic and seized patient records. Soon after, Bell, Steers and Pecora agreed to surrender their DEA licenses to prescribe controlled narcotics. Unless those licenses were reinstated, the three could no longer write prescriptions for such drugs as OxyContin and methadone.

Eight days after the DEA raid—and nearly a year after the Health Department's investigation started in earnest—state regulators issued formal disciplinary charges against Bell.

In each of nine cases, the charges said, Bell prescribed "extremely high doses" of narcotic painkillers, placing patients "at risk of serious



MIKE SIGGEL / THE SEATTLE TIMES

Portland attorneys Greg Kafoury, left, and Jason Kafoury have filed lawsuits in Washington and Oregon faulting the Payette Clinic's prescribing practices in a series of overdoses. The notebooks hold documents detailing Payette's treatment of former-pain patients, including Thomas Pike Jr.

physical harm or death." By the time Bell was charged, the Payette Clinic had been open for nearly four years.

Washington health officials might have detected evidence of aberrant prescribing practices years earlier. In 2007, lawmakers approved a prescription-drug monitoring program, but didn't fund it.

Since the 1990s, a majority of Oregon health care providers to track the prescribing and dispensing of such narcotic drugs as oxycodone and methadone. But as of this year, Washington remained one of 13 states yet to establish a working program, according to the Alliance of States with Prescription Monitoring Programs.

Jump-started by two federal grants, Washington plans to begin using a monitoring program next year. For the first time health practitioners will be able to analyze patients' prescription histories, providing a warning of duplicate prescribing, possible misuse or harmful interactions.

"Take 10 every 6 hours"

In March 2009, the Payette Clinic decided to quit using narcotics to treat pain patients. "I declare Ukelei," Bell wrote to the Health Department. She recounted all the work she had done

on behalf of pain patients and wrote: "We are a 'pill mill.'" Hundreds of Payette's former patients turned to hospitals and other pain clinics for help, straining Clark County's medical resources.

Doctors and addiction specialists dealt with the chaos by forming a committee that alerted other medical providers of the need to wean patients of the painkillers. At least two former Payette patients took to robbing pharmacies, threatening to shoot employees unless given OxyContin.

A Portland law firm, Kafoury & McDougal, filed a string of lawsuits in Oregon and Washington against the clinic and its practitioners, alleging their prescribing practices had resulted in people being killed or hurt.

The lawyers turned up cases beyond those investigated by the Health Department, including that of Thomas Pike Jr., 40, who overdosed on methadone in September 2009. Although Pike had last visited Payette seven months earlier, investigators found pill bottles for morphine and methadone—prescribed by Steers—in Pike's house and garage. Several medications, including methadone, were discovered in a margarine tub next to the couch where Pike died.

Medical records showed Payette

had prescribed Pike a morphine daily equivalent that reached 2,160 milligrams—18 times the state of Washington's warning level. One of Pike's pill bottles, for 1,200 10-milligram pills of methadone, said: "Take 10 tablets every 6 hours."

The lawsuits against the clinic may go to trial next year. In December 2009, the Health Department and Bell reached a settlement on her disciplinary charges. Citing a lack of clear and convincing evidence, health officials agreed to drop the language about "extremely high doses," along with all references to patients being placed at risk of dying.

The new, softer language allowed for lighter punishment, which turned out to be a two-year suspension from prescribing narcotics such as OxyContin or methadone. Of course, Bell had already lost those prescribing privileges when she surrendered her DEA license, meaning the state didn't take away anything she hadn't already forfeited.

The case against Bell was complicated by a lack of definitive medical evidence that she failed to properly monitor her patients or document

their care. Steers has not been the subject of any disciplinary charges by the state. However, Health Department officials said last week that some investigations of Bell and Steers remain open.

Ten days after Bell's charges were settled, a Health Department lawyer wrote an email in which he expressed misgivings. "In retrospect," he wrote to colleagues, he was "afraid" the allegations against Bell had been handled "too narrowly."

Mark McDougal, the lead Portland attorney for the families suing the clinic, said of the state's handling of the charges: "I think it's nothing more than sheer incompetence."

This year, Bell and Pecora filed for bankruptcy, saying they were more than \$200,000 in the hole and facing foreclosure on their home.

After Payette closed, Bell and Steers both remained in the field of pain management. Steers went to work for a medical-marijuana authorization clinic. Bell and Pecora opened a new clinic in Vancouver that, according to its website, offers a pain-relief therapy using injections of blood platelets mixed with a numbing agent.

Michael J. Berens: 206-464-2288 or mberens@seattletimes.com; Ken Armstrong: 206-464-7230 or karmstrong@seattletimes.com

Recession crimps incomes of richest 1% of Americans

BY JASON DEPARLE The New York Times WASHINGTON—Hold the condolence cards, but the recession cost the rich.

The share of income received by the top 1 percent—that potent symbol of inequality—dropped to 17 percent in 2009 from 23 percent in 2007, according to federal tax data. Within the group, average income fell by about a third, to \$957,000 in 2009 from \$1.4 million in 2007.

Analysts say the drop largely reflects the stock-market plunge, and most think top incomes recovered somewhat in 2010, as Wall Street rebounded and corporate profits grew. Still, the drop alters a figure often emphasized by inequality critics, and it has gone largely unnoticed outside the blogosphere.

By focusing on the top 1 percent, the Occupy Wall Street movement has made economic fairness a subject of raucous street protest and ubiquitous political debate.

In 2009 the average income of the top 1 percent, adjusted for inflation, fell below its 1998 level but remained well above where it was in 1990: \$662,000.

While the protests follow the worst downturn since the Great Depression, inequality has been growing for three decades, driven by both economic and political forces. Globalization created large markets for those with scarce talents but hurt less educated workers by pitting them against cheap foreign labor. New technology also hurt unskilled workers, by replacing many with machines.

Unions declined, eroding blue-collar bargaining power. The financial industry grew, with payday heavily weighted toward the top. Corporate culture accepted the growing gap between the executive suite and the factory floor, and pay for chief executives

fell as a time machine. Occupy Wall Street "wrote James Pethokoukis, a blogger at the American Enterprise Institute.

But Jared Bernstein, a former Obama administration official, said that after previous market-related dips, income inequality only soared to new highs. "If you believed the inequality problem had been solved in the early 2000s, you would have been proven terribly wrong," said Bernstein, now of the Center on Budget and Policy Priorities.

about one-tenth of the nation's pretax income went to the top 1 percent. By 2000, that share had grown to about 22 percent.

It slumped to about 18 percent in 2003, after a market crash, only to rebound by 2007 to levels not achieved since the Roaring '20s.

Critics of the Occupy Wall Street movement say the falling incomes at the top show that concerns about inequality are outdated.

But Jared Bernstein, a former Obama administration official, said that after previous market-related dips, income inequality only soared to new highs. "If you believed the inequality problem had been solved in the early 2000s, you would have been proven terribly wrong," said Bernstein, now of the Center on Budget and Policy Priorities.

German official backs EU 'Robin Hood' tax just vetoed by Britain

BY RICK CLADSTONE The New York Times

Germany's foreign minister said Monday that he would like to see a new financial-transactions tax imposed on markets in the European Union despite objections from Britain's government, which vetoed changes in the EU treaty at the economic crisis summit meeting last week partly in an effort to protect the London-based financial-services industry from paying such a tax.

"A financial-transaction tax would be positive," said the foreign minister, Guido Westerwelle, emphasizing that if there were such a tax, "we would have to include all the European Union," and not just those members that use the single currency, the euro.

His remarks were implicitly directed at Prime Minister David Cameron of Britain, who irritated his EU colleagues at the summit meeting by vetoing proposed treaty changes in part because he felt they lacked safeguards for the future of the City of London, the historic area that makes up London's financial district and is a vital economic engine for Britain.

Cameron's actions left Britain isolated, and Westerwelle's remarks suggested that the veto still would not insulate London from changes undertaken by other EU members.

The idea of a financial-transactions tax, a tiny levy that would be collected on trades of stocks, bonds and other types of securities and then used to help the eco-

nomically disadvantaged, has attracted enormous interest in Europe. Nicknamed the "Robin Hood" tax, the proposal has been heralded as a novel approach for redistributing at least a small portion of the profits amassed by wealthy investors, a disparity that helped to energize the Occupy Wall Street movement.

The proposed tax has an array of influential advocates, including the leaders of France and Germany, and such philanthropists as George Soros and Bill Gates.

Westerville forcefully defended the outcome of the summit meeting in Brussels, which embraced Germany's recipe of austerity and discipline for combating the economic crisis afflicting the eurozone's troubled members—a crisis that has called into question the viability of the euro itself. Under the agreement, the eurozone's 17 member governments will accept more oversight and control of national budgets, at the expense of their own sovereignty.

WANTED GOLD • SILVER COINS • DIAMONDS Guaranteed Highest Prices Paid Grand Opening - Bellevue 1101 106th Ave NE Suite 15, 98004 425-455-0525 Celebrating our 9th Location! www.americangoldinc.com

Oreck Steam-It! \$30 OFF \$149.95 ALL PURPOSE STEAM WAND Clean virtually any surface with safe, fast, dry steam heat! Works upside down for above-the-floor cleaning without spilling! Approximately 40 minutes of cleaning time on a full tank! 6 specialized accessories

DONATE CARS FAST FREE PICK UP • RUNNING OR NOT 800 576-2956 Live Operators 7 Days! The Washington Council of the Blind support for independence and jobs since 1955

December 13, 2011

METHADONE and the politics of pain | A SEATTLE TIMES SPECIAL REPORT

In pain clinic's wake: doubts, chaos, deaths



MIKE SIEGEL / THE SEATTLE TIMES

Alina Heywood, of the Portland area, reads from a journal kept by her mother, Eileen Crothers. "I lost my mom way too soon," Heywood says. Crothers overdosed on methadone, a potent and unforgiving painkiller.

A clinic's high doses — 'Take 10 every 6 hours,' one painkiller prescription said — reveal murky regulations and state's anemic response.

Third of three parts

**BY MICHAEL J. BERENS
AND KEN ARMSTRONG**

Seattle Times staff reporters

The first time Alina Heywood accompanied her mother to the Payette Clinic in Vancouver, she didn't see anything amiss. The place was quiet, her mom the only patient there. The

woman treating Heywood's mom wore a lab coat. Heywood assumed she was a doctor.

But as the months passed, Heywood witnessed a dramatic change. By the summer of 2007, so many pain patients packed Payette's waiting room that the crowd overflowed into the parking lot. Some patients were slumped over, looking ready to pass out. Others

appeared glassy-eyed and jumpy.

“I started thinking, ‘Why do all these people in here look high?’” Heywood says.

Heywood’s mother, Eileen Crothers, had endured pain for almost 20 years. She’d lost an arm after a traffic accident — caused by a drunken motorcyclist — and a botched surgery. When her family doctor retired, Crothers had gone to Payette in hopes of being tapered off methadone, a potent painkiller.

Instead, Heywood says, Payette increased Crothers’ dosage.

On Sept. 11, 2007, Crothers, 48, was found dead in her Vancouver apartment. An autopsy determined that she had overdosed on methadone. She was the fourth patient treated at Payette to fatally overdose that year — and the third death linked to methadone, a long-acting narcotic.

By then, state health regulators had received more than a dozen complaints against Payette practitioners, some involving allegations of dangerous over-prescribing.

In time, the Washington State Department of Health would become aware of at least six overdose deaths of women and men prescribed painkillers at Payette. All but one had taken methadone, a drug the state steers Medicaid patients toward because of its low cost.

Records gathered by the Health Department and others would show that Payette had been prescribing painkillers and other drugs in often extraordinary amounts.

One patient’s pharmacy tab — had he paid full price — exceeded \$209,000 in one year, with more than 100 prescriptions for OxyContin and other drugs, according to



pharmacy documents.

But despite the six deaths — and despite receiving more than 100 complaints about Payette from pharmacies, medical providers, patients, the county sheriff, the U.S. Drug Enforcement Administration and others — state regulators have, to date, taken action against only one of the clinic’s practitioners. And even that sanction took nothing away that she hadn’t in effect already surrendered.

At its pinnacle, Payette prescribed more narcotics to Medicaid patients than any other private clinic in Washington, state records show.

The clinic’s extraordinary rise, coupled with the state’s anemic response, highlights one of medicine’s most bitterly debated specialties, one centered on an ailment — pain — that defies measurement. That Payette stayed open for years speaks to the murky landscape that regulators encounter when confronting painkiller prescriptions.

The clinic’s story also reveals the dangers of the state’s insistence on directing prescribers and patients to methadone, an unpredictable painkiller that can become lethal if used with anything other than the utmost care.

“Too unpredictable and dangerous”

The driving force behind the Payette Clinic was Kelly Bell, an advanced registered nurse practitioner with boundless confidence



Kelly Bell was the driving force behind the clinic.

and a checkered employment history.

Bell, 53, has a master's degree in nursing from Washington State University and a résumé that includes stints as a nursing supervisor and pharmacology lecturer. She holds strong views on treating pain — “it is my passion,” she once wrote — traceable to her six years as a nurse at the Oregon Burn Center in Portland.

Nurses “are the silent witness at the bedside oftentimes to the callous indifference of a physician,” Bell has written. She described how one patient, with burns on 70 percent of her body, had been denied pain relief despite obvious suffering. “She finally died, horribly disfigured and without any pain medication with a silent scream permanently etched on her face,” Bell wrote, adding: “There should be penalties for the lack of treatment of pain. They should be swift and severe.”

In 2001 Bell went to work at the Clark County Jail in southwestern Washington, helping treat hundreds of adults and juveniles. But she lost that job in 2004 when a dispute with a supervisor resulted in her jail security clearance being pulled.

A month later, in April 2004, Bell went to work at Fisher's Landing Urgent & Family Care in Vancou-

ver. Within months she started a pain-management program at the clinic. Bell says she was authorized to do so. The clinic's owner says she was not. Either way, Bell's practice took off, growing to 40 pain patients.

As a provider of pain treatment, Bell could be both combative and self-assured.

In December 2004, she wrote a letter chastising a health plan that refused to cover a prescription she'd written for an increased dosage of OxyContin, an expensive painkiller. Bell acknowledged that an alternative painkiller, methadone, was cheaper, and that Washington and Oregon encouraged its use in cases where a patient's care was publicly subsidized. But Bell said she wanted nothing to do with the drug.

“I absolutely will not prescribe methadone for pain. It's too unpredictable and dangerous and has caused many deaths in both the states of Washington and Oregon,” Bell wrote.

At Fisher's Landing, Bell had her first run-in with state regulators. In February 2005 a pharmacy manager at Walgreens filed a complaint against Bell for prescribing 2,216 oxycodone pills to a patient in about two months. “I cannot believe this could be for legitimate medical purposes,” the manager wrote to the Health Department.

After receiving the complaint, the state examined Bell's overall prescribing practices. State officials cited 23 instances of “exorbitant amounts” of narcotics prescribed, but ultimately decided against disciplinary charges, saying there was insufficient evidence to show Bell had violated any specific rule

governing patient care.

The clinic fired Bell in March 2005 for “unprofessional conduct,” according to Health Department records. The clinic’s owner told regulators that Bell had been reprimanded for using profanity or abusive language in front of patients.

After Bell’s departure, a physician at Fisher’s Landing re-examined Bell’s pain patients. Many were tapered off pain drugs, which were no longer deemed necessary.

6 deaths in 12 months

After losing her second job in about a year’s time, Bell struck out on her own. In April 2005 she established the Payette Clinic with Scott Pecora, a fellow nurse practitioner whom Bell would marry three years later.

A job posting on Craigslist called Payette “a very unique and groundbreaking practice solely owned and staffed by nurse practitioners,” adding: “This is not a practice for a timid, or lax practitioner ...”

The absence of a physician did not preclude Payette from treating pain patients. Under Washington law, nurse practitioners can receive prescribing privileges, even for such narcotics as OxyContin.

The clinic, on the corner of a strip mall, began attracting more pain patients, reaching, at its peak, about 800. Bell told the Health Department that “probably 50 percent” were on methadone — a surprisingly high figure, given what she’d written about the drug in 2004.

Bell would attribute her about-face to seeing new patients who were already on methadone — and getting the relief they needed. From a practical standpoint, many



MIKE SIEGEL / THE SEATTLE TIMES

A nurse practitioner at the Payette Clinic prescribed Thomas Pike Jr. a combined daily dosage of painkillers that was 18 times higher than the state’s cautionary threshold, according to court records. Pike, 40, overdosed on methadone in September 2009.

patients, whether on Medicaid or private insurance, were more likely to get coverage for methadone than for other, more costly painkillers.

To the Health Department, Bell described methadone as a “fabulous drug” but one that was “extremely unforgiving” and “very deadly to work with.”

On Jan. 12, 2007, a former Payette patient, Susan Nelson, died in Clark County, after overdosing on methadone. Nelson, 51, had been prescribed the drug while at Payette.

Nelson had received treatment there for three months, starting in July 2006. At first, she had been reluctant to take methadone, her medical records show. In chart notes, Bell wrote of Nelson: “She absolutely was frightened about trying any methadone whatsoever.” But on a subsequent visit Nelson “finally consented” to start methadone, at five milligrams every eight hours, the chart notes say. The notes added: “I warned her that if she decided to overtake this drug we would be reading about her in the paper because she could very easily die.”

Bell also prescribed Nelson other painkillers, Health Department records show.

Under a pain-management law passed last year, the state calls for extra precautions once a patient’s combined daily dosage of painkillers reaches the equivalent of 120 milligrams of morphine. In this case, Health Department records show, Bell upped Nelson’s daily morphine equivalent from 140 milligrams to 780 milligrams to 880 to 1,170 to 1,440 to 1,800 to 2,160 — all in two months.

Within nine days of Nelson’s death, two other Payette patients also died from accidental overdoses linked to painkillers.

Eight months later, Eileen Crothers died, becoming patient No. 4. Crothers’ daughter, Alina Heywood, says: “I lost my mom way too soon.”

Crothers was treated by Penny

Steers, a nurse practitioner who had been hired at Payette in 2006.

Within four months of Crothers’ death, two other people who had been treated at Payette also fatally overdosed on methadone. One patient, Deborah Reid, 42, had been prescribed a combined daily morphine equivalent of 3,880 milligrams — a dosage 32 times higher than the cautionary threshold set by the state, records show.

Kafka or Schweitzer?

In April 2008, state health officials initiated their first large-scale investigation of Payette after being deluged with complaints of excessive prescriptions and suspicious deaths.

DEA agents said a family of three — all patients at the clinic — had received enormous amounts of narcotic medications and paid cash for the drugs at pharmacies, up to \$7,000 at a time.

Additionally, state officials from Medicaid and Labor & Industries forwarded “a large number of additional complaints” that led health investigators to the six overdose deaths involving Payette patients.

The 2008 complaints would be accompanied by a host of others against Payette’s nurse practitioners. To date, Bell has been the subject of 69 complaints and Steers 35, according to state records.

Many accuse the two women of prescribing dangerous amounts of painkillers — an allegation that would seem straightforward, but can be difficult to prove. When it comes to prescribing painkillers — in Washington and nationally — there’s no universally accepted standard of care.

Until this year, the state explicitly

prohibited disciplining medical providers based solely on how many painkillers they prescribed.

With painkillers, two philosophies compete within medical circles. Bell represents one end of the spectrum. The other is represented by Gary Franklin, medical director for the state Department of Labor & Industries, the agency that handles workers' compensation claims.

Franklin urges caution and advocates limits. He quotes Franz Kafka from "A Country Doctor": "To write prescriptions is easy, but to come to an understanding with people is hard."

Bell, meanwhile, writes that she models her life after Albert Schweitzer, quoting him: "Pain is a more terrible lord of mankind than even death itself."

Bell's philosophy comes through in her extensive letters to the Health Department. "There is no ceiling on opioids. Period," she writes. She decries an "unparalleled and unjustified prejudice against pain sufferers."

"When you compare what I do to that of the 'regular' physicians in the community I look to be an 'outlier' and 'out of control,'" she writes.

With pain management, Bell describes herself as largely self-taught — saying she reads voraciously about developments in the field — and as selfless, calling the practice "barely profitable."

Bell, Steers and Pecora declined through their attorney to speak with The Times because of pending Health Department complaints and civil cases. Their lawyer, Donna Lee of Portland, cautioned that state investigative records reveal an incomplete picture of the Payette

Clinic and patient care.

The DEA steps in

On Dec. 9, 2008, the death of a teenage girl in a Portland suburb ratcheted up the scrutiny of the Payette Clinic.

Rachel Daggett, an 18-year-old high-school senior, died after crushing and smoking an oxycodone pill. Police discovered the oxycodone had originally been prescribed to a Payette patient.

The prior deaths of six adults on the economic margins hadn't captured the public's attention. But Daggett's death was different. Now, the Payette Clinic was being featured in news stories in Oregon and Washington, lending new urgency to the work of investigators.

By the time Daggett died, the Washington Health Department's investigation of Payette had been under way for about eight months. Despite dozens of open complaints against Bell and Steers, no disciplinary charges had been filed; nor had either practitioner been suspended in the interim — a power the department possesses.

At the request of the DEA, the state investigation was slowed to give federal officials more time to assemble their own case and to secure a warrant allowing them to gather records from the Payette Clinic, state officials told The Times.

Meanwhile, officials at several pharmacies filed complaints against Payette, including a Fred Meyer pharmacy manager who alleged Bell was engaging in experimental treatment, prescribing morphine for a patient to take home and crush and mix with cold cream and apply to painful extremities.



MIKE SIEGEL / THE SEATTLE TIMES

Portland attorneys Greg Kafoury, left, and Jason Kafoury have filed lawsuits in Washington and Oregon faulting the Payette Clinic's prescribing practices in a series of overdoses. The notebooks hold documents detailing Payette's treatment of former pain patients, including Thomas Pike Jr.

Some pharmacies began refusing to fill prescriptions written at Payette. On Dec. 29, 2008, three weeks after Daggett's death, the Payette Clinic sent written notification to its pain patients that Rite Aid and Kmart pharmacies would no longer serve them. The letter directed patients to an Oregon branch of Assured Pharmacy, which has heightened security measures and caters to pain patients.

But even Assured, at some point, appeared hesitant to deal with Payette. Law-enforcement officials rounded up two email messages left at an Assured branch — one by Bell, the other by Steers.

Bell's message referred to Payette patients being turned away and said: "Quite frankly, if this continues, I'm pulling all my business from Assured, and I'm sure that's worth about a million dollars ..."

Steers' message was even blunter: "If I want to order every two hours, I can order it every goddamn two hours. It doesn't make any difference."

On March 19, 2009, DEA agents raided the Payette Clinic and seized

patient records. Soon after, Bell, Steers and Pecora agreed to surrender their DEA licenses to prescribe controlled narcotics. Unless those licenses were reinstated, the three could no longer write prescriptions for such drugs as OxyContin and methadone.

Eight days after the DEA raid — and nearly a year after the Health Department's investigation started in earnest — state regulators issued formal disciplinary charges against Bell.

In each of nine cases, the charges said, Bell prescribed "extremely high doses" of narcotic painkillers, placing patients "at risk of serious physical harm or death."

By the time Bell was charged, the Payette Clinic had been open for nearly four years.

Washington health officials might have detected evidence of aberrant prescribing practices years earlier. In 2007, lawmakers approved a prescription-drug monitoring program, but didn't fund it.

Since the 1990s, a majority of states have launched programs to track the prescribing and dispens-

ing of such narcotic drugs as oxycodone and methadone. But as of this year, Washington remained one of 13 states yet to establish a working program, according to the Alliance of States with Prescription Monitoring Programs.

Jump-started by two federal grants, Washington plans to begin using a monitoring program next year. For the first time health practitioners will be able to analyze patients' prescription histories, providing a warning of duplicate prescribing, possible misuse or harmful interactions.

“Take 10 every 6 hours”

In March 2009, the Payette Clinic decided to quit using narcotics to treat pain patients.

“I declare Uncle!” Bell wrote to the Health Department. She recounted all the work she had done on behalf of pain patients and wrote: “We are not a ‘pill mill.’”

Hundreds of Payette's former patients turned to hospitals and other pain clinics for help, straining Clark County's medical resources. Doctors and addiction specialists dealt with the chaos by forming a committee that alerted other medical providers of the need to wean patients off the painkillers.

At least two former Payette patients took to robbing pharmacies, threatening to shoot employees unless given OxyContin.

A Portland law firm, Kafoury & McDougal, filed a string of lawsuits in Oregon and Washington against the clinic and its practitioners, alleging their prescribing practices had resulted in people being killed or hurt.

The lawyers turned up cases beyond those investigated by the

Health Department, including that of Thomas Pike Jr., 40, who overdosed on methadone in September 2009. Although Pike had last visited Payette seven months earlier, investigators found pill bottles for morphine and methadone — prescribed by Steers — in Pike's house and garage. Several medications, including methadone, were discovered in a margarine tub next to the couch where Pike died.

Medical records showed Payette had prescribed Pike a morphine daily equivalent that reached 2,160 milligrams — 18 times the state of Washington's warning level. One of Pike's pill bottles, for 1,200 10-milligram pills of methadone, said: “Take 10 tablets every 6 hours.”

The lawsuits against the clinic may go to trial next year.

In December 2009, the Health Department and Bell reached a settlement on her disciplinary charges. Citing a lack of clear and convincing evidence, health officials agreed to drop the language about “extremely high doses,” along with all references to patients being placed at risk of dying. The new, softer language allowed for lighter punishment, which turned out to be a two-year suspension from prescribing narcotics such as OxyContin or methadone.

Of course, Bell had already lost those prescribing privileges when she surrendered her DEA license, meaning the state didn't take away anything she hadn't already forfeited.

The case against Bell was complicated by a lack of definitive medical standards involving the treatment of pain patients, state officials said. As a result, investigators focused on

evidence that she failed to properly monitor her patients or document their care.

Steers has not been the subject of any disciplinary charges by the state. However, Health Department officials said last week that some investigations of Bell and Steers remain open.

Ten days after Bell's charges were settled, a Health Department lawyer wrote an email in which he expressed misgivings. "In retrospect," he wrote to colleagues, he was "afraid" the allegations against Bell had been handled "too narrowly."

Mark McDougal, the lead Portland attorney for the families suing the clinic, said of the state's handling of the charges: "I think it's nothing more than sheer incompe-

tence."

This year, Bell and Pecora filed for bankruptcy, saying they were more than \$200,000 in the hole and facing foreclosure on their home.

After Payette closed, Bell and Steers both remained in the field of pain management. Steers went to work for a medical-marijuana authorization clinic. Bell and Pecora opened a new clinic in Vancouver that, according to its website, offers a pain-relief therapy using injections of blood platelets mixed with a numbing agent.

*Michael J. Berens: 206-464-2288
or mberens@seattletimes.com;
Ken Armstrong: 206-464-3730
or karmstrong@seattletimes.com.*