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SPECIAL REPORT: Mother's Day Bus Crash

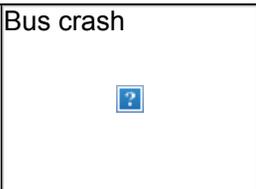
Loopholes let sick man drive, safety board says

Bedell was certified despite heart, kidney disease, report says

08/29/01

By Bruce Alpert

Washington bureau/The Times-Picayune



Mother's Day horror

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WASHINGTON -- A loophole-filled federal certification process allowed a seriously ill driver to get behind the wheel of a tour bus that crashed in New Orleans on Mother's Day 1999, killing 22 people and injuring 20 others, the National Transportation Safety Board said Tuesday.

The board said Frank Bedell, 46, the driver of the Custom Bus Charters bus that veered off Interstate 610 and slammed into an embankment near City Park, had been treated at least 20 times in the 21 months before the accident for various ailments, 10 which involved hospitalization for "life-threatening" heart and kidney disease.

The last reported medical problem listed by the safety board occurred the night before the May 9 accident, when he was treated for "nausea and weakness," given fluids and sent home at 11 p.m. -- just 10 hours before taking the assignment to drive 43 passengers from LaPlace for a Mother's Day outing at Casino Magic in Bay St. Louis, Miss. A witness said Bedell suddenly slumped in his seat just before the bus began drifting across lanes of traffic and off the highway at a high rate of speed.

The probable cause of the accident, the safety board concluded, "was the driver's incapacitation due to his severe medical conditions and the failure of the medical certification process to detect and remove the driver from service. Other factors that may have had a role in the accident were the driver's fatigue and the driver's use of marijuana and a sedating antihistamine."

Bedell, who died three months after the accident of an apparent heart-related ailment, had a history of drug use, including two failed drug tests that led to his termination from two previous bus driver jobs, the safety board said.

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In its final report on the bus accident, the nation's fourth-deadliest, the board said the federal government should make sure that doctors who perform biannual examinations are aware of medical conditions that can impair a person's ability to safely drive a bus or truck, and should develop a system so employers and state regulators can learn about any previous failed medical exams or drug tests.

The current medical evaluation system is rife with "enormous loopholes," said Carol Carmody, the safety board's acting chairwoman, a New Orleans native who was in the city on the day of the accident.

"I found it amazing that he (Bedell) had so many different medical exams, but nobody was getting the information," Carmody said. "None of the evaluations were passed down to people in any position to do anything about it. It is very, very disturbing that the only way an employer would have known about his past record of drug abuse and his past record of medical problems was if he told them. And he didn't."

Stephen Barber, associate administrator for enforcement and program delivery for the Motor Carrier Safety Administration, said that since the New Orleans accident, the agency has sent medical personnel who test truck and bus drivers better guidelines on what to look for in their exams. He promised a thorough review of all the safety board's recommendations.

Carmody said one key recommendation is for states to follow the lead of Louisiana and several others that have enacted legislation giving doctors who report medical problems to employers and regulators immunity from being sued by their patients. It's also important, Carmody said, that states with such immunity laws do a better job of letting doctors know about the protection.

Safety board investigators said steps should also be taken to ensure that commercial driver applicants can't shop around to find a doctor willing to certify them as medically able to drive a bus or truck.

But the investigators conceded that this isn't any easy problem to solve -- that doctors see their major responsibility as treating their patients, not taking action that could result in their patients losing their livelihoods.

In its report, the safety board reproduced medical records showing that doctors and other medical personnel were aware that Bedell drove a bus for a living and that his congestive heart failure was at "Stage Four," or so acute that he faced a strong likelihood of sudden death from heart failure.

Yet, the safety board said, it found only one person, an unidentified student nurse, who made any effort to keep Bedell from returning to work. The nurse, in notes provided to the safety board, said Bedell was sweating and had a heart rate of 112 beats per minute when she saw him Feb. 8, 1999, three months before the accident. She left "no work" instructions on his medical record and made an appointment for him with a cardiologist, who cleared him to return to work four days later.

NTSB investigators and board members said it was hard to determine whether Bedell was aware of the risks associated with continuing to drive a bus with his medical problems, or whether he, like some others suffering from serious disease, deluded himself into thinking he really wasn't so sick so he could continue to earn a living.

"He certainly had a strong work ethic," board member George Black said.

The safety board produced a computerized re-enactment of the accident, which showed occupants being violently ejected from their seats and then thrown outside the bus. It concluded that passengers who used lap and shoulder belts generally suffered the least serious injuries, and those not restrained were more likely to suffer the worst injuries.

According to investigators, the bus swerved off the right side of I-610, crossed the shoulder and went onto the grassy side slope along the shoulder before striking the guardrail, traveling through a chain link fence, vaulting over a paved golf cart path and crashing in a dirt embankment.

Among the safety board's findings:

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-- Bedell's post-accident blood and urine tests were consistent with recent marijuana use, but at low levels. The tests also showed low levels of an antihistamine that may have impaired his driving. Still, the safety board concluded that neither the marijuana nor antihistamine were likely to have caused him to become so incapacitated as to crash the vehicle.

-- The New Orleans bus accident isn't the only case related to medical problems of the driver, though it is the probably the worst, the safety board said. Among the other incidents: A driver returning from a Mississippi casino in May drove his bus off an Interstate 10 ramp, injuring 27 people. The driver who had diabetes, was in hypoglycemic shock when taken to a hospital.

-- The wooden guardrail posts on I-610 aren't designed to prevent a vehicle as large as a passenger bus from departing the roadway, but a check by safety board inspectors revealed that three sections out of 16 examined along I-610 were damaged by termite infestation and might not even keep an ordinary car on the road. It urged the state Department of Transportation and Development to inspect all wooden guardrail posts and replace any that don't meet current standards.

The crash spawned several lawsuits. In March, Custom Bus and its insurer, Reliance Insurance Co., reached a settlement with the injured passengers and survivors of those who were killed for \$5 million -- the policy limit. Reliance Group Holdings of New York, parent of Reliance Insurance Co., filed for Chapter 11 bankruptcy protection in June.

In all, 81 people, including spouses and children of those killed in the crash, received money. At the time, Gerald Meunier, an attorney appointed by U.S. District Judge Mary Ann Vial Lemmon to supervise the settlement, devised a complex formula to determine the percentage each litigant would receive. Meunier conceded that Reliance's \$5 million insurance cap fell far short of the damages suffered.

Cases against other defendants are pending, attorneys said Tuesday. The plaintiffs also sued Casino Magic and Motor Coach International, the bus manufacturer, and that trial is scheduled to start Oct. 9 before Lemmon in federal court. In state civil court in Orleans Parish, plaintiffs' claims that the state of Louisiana is liable for not properly maintaining guardrails also remain open.

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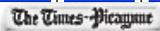
Bruce Alpert can be reached at bruce.alpert@newhouse.com or (202) 383-7861.

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