Adult-Care Home Sued

Residents allege unneeded surgeries

By Joshua Robin

After being forced to undergo prostate surgery their lawyers say was unnecessary, 21 mentally disabled residents of an Elmhurst adult-care facility are suing the home, the owner, two physicians and a case worker alleged to have duped the men.

The lawsuit, filed last week in federal court by a Manhattan nonprofit firm acting on behalf of the men, also demands that the state Health Department remove the owner of the Leben Home for Adults at 80-08 45th Ave.

Jeanette Zelhoff, managing attorney of MFY Legal Services, said it was not clear whether the owner of the home, Jacob Rubin, arranged the residents' surgeries in return for a cut of the doctors' fees. But, she asserted, he is responsible nevertheless. "He is supposed to know the whereabouts of all the residents. He is supposed to know when they are receiving medical treatment," Zelhoff said.

Rubin's attorney, Jay Breckstone, called the charges "scurrilous." "I think it's presumptuous to think, and indeed it's probably a violation of the right of privacy of the residents, to have the administrator, the owner of an adult home, to determine whether they need to see a doctor," Breckstone said. "It is surely a stretch."

The physicians, Jamie Perress of Great Neck, who referred the patients, and Harry Josifidis, who did the surgeries and has offices in Forest Hills and Astoria, already have been punished by the Health Department.

In January, the department revoked the medical license of Perress, who was a part owner of Parkway Hospital in Forest Hills when the surgeries were performed there.

Perress, who retired in 1996, said in a telephone interview yesterday that he never received money for referrals or examinations. He called the Health Department's Board for Professional Medical Conduct "a kangaroo court" that has "a quota of taking away medical licenses each year."

Josifidis could not be reached for comment yesterday. The Board for Professional Medical Conduct allowed him to continue practicing as a surgeon, but only when monitored.

The lawsuit alleges that, over several weeks in January 1998, the residents were taken by ambulance to the hospital, where they underwent one of two kinds of outpatient prostate operations. The surgeries stopped, and the Health Department began its investigation, after an anonymous caller alerted the department, Zelhoff said.

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According to a Health Department report, Perress had previously done a brief, verbal examination of some of the men in the home. After the examinations, he arranged for a case manager at the home, Diane Ahearn, to assist the patients to agree to the surgeries.

The reason he asked for Ahearn's help, he later told Health Department investigators, was that they respected her. "I needed somebody they trusted," he told investigators. "The only one they trust is Diane Ahearn."

Ahearn could not be reached yesterday for comment.

One of the patients, who was in the hospital for surgery, told a Parkway nurse he did not know why he was in the hospital, the Health Department report says. Another told a nurse he had no urinary problems. Another had previously undergone the same procedure that Josifidis performed, the report says.

According to Zelhoff, the doctors were compensated for the surgeries by the residents' Medicare or Medicaid funds. She did not know how much the operations cost or how much the physicians eventually were paid under the federal health programs.

"This home has a long history of violations," Zelhoff said. "What we hope to accomplish is to have the Office of Continuing Care remove [Rubin] from operating this home."