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Queens Home for Mentally Ill Settles Lawsuit for \$7 Million

By CLIFFORD J. LEVY

Six years ago, 24 mentally ill residents of a Queens adult home were coerced into having prostate surgery in a medical scheme that generated tens of thousands of dollars in government fees and proved emblematic of New York's troubled system of adult homes.

No one was ever held criminally responsible, but yesterday, lawyers announced that most of the men would receive a total of nearly \$7.4 million in a settlement with the adult home, as well as a hospital and two doctors, of a lawsuit over the surgery.

The settlement is a milestone in the system's decades-old history, representing one of the few times that mentally ill residents of the adult homes have been compensated for being mistreated.

Seventeen men took part in the case - the others declined to do so - and each is to receive \$432,653.

The lawsuit, which was filed in 2001, drew an unusual degree of attention to the adult home system, which shelters 15,000 mentally ill people in New York yet had until then received little scrutiny by government or the news media. The case eventually helped spur Albany to make its first serious efforts at overhauling and more closely supervising the system.

The settlement resolves a federal lawsuit brought against the 361-bed Leben Home for Adults, a notorious facility in Elmhurst that like many adult homes, has long been something of a dumping ground for people discharged from psychiatric wards.

Also agreeing to the settlement were Leben's former operator, Jacob Rubin; two urologists involved in the surgery; and Parkway Hospital in Forest Hills, where the surgery took place. As is customary in such settlements, the defendants did not acknowledge wrongdoing.

"This lawsuit, which became a catalyst for adult home reform, is important because it illustrates how individuals without a voice and little power can assert their rights and obtain positive changes in their lives in the face of daunting obstacles," said Jeanette Zelhof, managing lawyer for MFY Legal Services, a nonprofit legal group.

Ms. Zelhof brought the lawsuit along with Timothy Clune of Disability Advocates, another nonprofit group, and Lisa E. Cleary of the law firm of Patterson, Belknap, Webb & Tyler, which handled the case pro bono. The lawyers have set up trust accounts for the men to ensure that the money is properly spent. Three of the 17 have died since the suit was filed, and their estates are to receive the money.

The 24 Leben residents, who were generally so ill with schizophrenia that they had little understanding of what was happening to them, were herded into ambulettes outside Leben in early 1998 and driven to Parkway Hospital. Unsupervised and confused, some wandered the hospital and had to be calmed by guards and nurses before the surgery, according to a state inquiry.

The State Health Department eventually revoked the license of one urologist who had arranged for the surgery, suspended the license of another who conducted it, and fined Parkway. The state inquiry determined that the Leben residents had endured "assembly-line techniques to mass-produce surgery," and that the procedures generated tens of thousands of dollars in Medicaid and Medicare fees.

At first, the department did not remove Leben's operator, Mr. Rubin, prompting advocates for residents to criticize what they said was lax regulation typical of the state's oversight of the homes.

Mr. Rubin had long had a poor inspection record. At one point, officials ordered the evacuation of Leben's first floor after finding badly damaged walls and ceilings, vermin infestation and soiled linen. Many of the residents were filthy.

Only after the lawsuit was filed on behalf of the residents who had the prostate surgery did the Health Department move to revoke Mr. Rubin's license. The home is now called Queens Adult Care, and is run by an operator who is well regarded.

Marcy Sheinwold, a lawyer who represented Mr. Rubin and Leben in the lawsuit, did not respond to two messages seeking comment yesterday.

The case is not over. A group of defendants connected to Americare, a home-health agency that had workers at Leben, has declined to settle.

The award for the Leben residents comes as the case against another adult home that has long had a checkered record, the 125-bed Ocean House in Far Rockaway, Queens, has also concluded.

Last month, Ocean House's operator, Sherman Taub, and his son, Judah Taub, pleaded guilty in State Supreme Court to engaging in a mortgage fraud scheme to steal more than \$2 million from the home. Sherman Taub faces a prison term of one to three years, while Judah Taub is to receive three years of probation, officials said.

Sherman Taub was accused of taking control of Ocean House, which is nominally nonprofit, and making it heavily indebted to a mortgage company that he owned.