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## Suit Says State Is Segregating Mentally Ill

By CLIFFORD J. LEVY

Lawyers for thousands of mentally ill residents of New York adult homes, many of which have long served as little more than psychiatric flophouses, plan to file a federal lawsuit today to force the state to make the kind of wide-ranging improvements in care that were won for the mentally retarded through the courts a generation ago.

The legal papers, to be filed in United States District Court in Brooklyn, assert that the state is violating the Americans with Disabilities Act by segregating the mentally ill in sprawling and poorly run adult homes, where they are essentially warehoused with few if any opportunities to rejoin society. Many residents can and should be moved to apartments in neighborhood settings that are no more costly to the government and far less isolating, the lawyers argue.

The lawyers for the adult home residents said their claims were inspired in part by litigation in the 1970's over sordid conditions at the huge Willowbrook institution for the retarded on Staten Island. The Willowbrook lawsuit led to a landmark legal settlement that required the state to move thousands of mentally retarded people to small community residences, some with 10 beds or less.

To this day, the Willowbrook settlement is considered a model for states trying to dismantle large-scale institutions for the disabled. The consensus among many experts and public officials is that New York's system for caring for the mentally retarded continues to function far better than the one for the mentally ill.

The promise of such an overhaul, though, has eluded residents of the state's adult homes, which were never intended to house the mentally ill, but which over the years have in some cases become larger than many of the nation's remaining psychiatric hospitals.

"We are suing because New York State has failed to correct this disgraceful situation," said Cliff Zucker, executive director of Disability Advocates, a nonprofit legal services group in Albany. "The state has known for 25 years that when it dumps seriously mentally ill individuals into adult homes they suffer abuse, neglect and unneeded segregation."

The lawyers acknowledge that in the last year the Pataki administration has announced measures to improve the adult home system, which houses roughly 15,000 mentally ill people, and that many of the problems have existed for years. But the lawyers say the measures do not go nearly far enough, and point out that legislative leaders of both major parties have shown little interest in sweeping change.

The administration allocated \$65 million for housing for the mentally ill this year, but the Legislature would not approve an additional \$8 million for increasing and improving the staffing at the homes, cutting the proposed staffing allocation to \$2 million.

Robert R. Hinckley, a senior aide to Gov. George E. Pataki, said the administration would review the specifics of the lawsuit when it was filed. He said that the administration had an exemplary mental health record and that Mr. Pataki had approved the creation of thousands of units of housing for the mentally ill since he took office in 1995.

"No administration has done more than this one to protect the mentally ill and provide the housing options and services they need," Mr. Hinckley said.

The adult home system arose in the 1960's and 1970's when New York, like almost every other state, was rapidly shutting its enormous psychiatric wards. While extolling the virtues of what became known as de-institutionalization, state officials did little to prepare for housing the discharged patients, and turned to the adult homes as something of a last resort.

Over the years, an array of state reports has repeatedly exposed widespread shortcomings in the system, to no avail.

The lawsuit names only state officials and agencies as defendants, and not the privately run, state-regulated adult homes themselves. It also focuses on the conditions of roughly 4,000 mentally ill residents who live in the larger adult homes in New York City, homes with more than 120 beds each.

The homes, while not named, would obviously be affected by any action resulting from the lawsuit, and the lawyers said any court-ordered changes would most likely affect mentally ill people in adult homes across the state.

In addition to Disability Advocates, the nonprofit groups filing the lawsuit are the Bazelon Center for Mental Health Law in Washington, MFY Legal Services, New York Lawyers for the Public Interest and the Urban Justice Center. Lawyers from the firm of Paul, Weiss, Rifkind, Wharton & Garrison helped prepare the lawsuit.

The lawyers said that under the Americans with Disabilities Act, as well as a 1999 United States Supreme Court ruling on the act known as the Olmstead decision, the state was required to ensure that the mentally ill live in the most integrated, least restrictive setting possible.

They said many mentally ill residents of adult homes would be able to thrive in housing that was rented for them in neighborhood buildings. In such situations, case managers would monitor the mentally ill tenants and help them obtain mental health and other services.

"The shameful fact in New York State is that adult homes are the dumping ground for a wide range of individuals whose real problem is lack of access to housing, not mental illness," said Jeanette Zelfhof, managing lawyer for MFY Legal Services.

Lisa Newcomb, executive director of Empire State Association of Adult Homes and Assisted Living Facilities, said many residents of adult homes were pleased with their living situations. She said that for many, the issue was not moving to a more integrated setting but fear that as they grew older, they might have to go to a more restrictive one, like a nursing home.

"Many of our residents have requested that we pursue their right to remain in the adult home as they age, rather than be forced to move to a more restrictive setting," she said.

