FOIA Number: 2007-0143-F

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Florida Details Wide Abuse At Agency for the Retarded

By PAMELA MERCER

MIAMI, March 30 — A state report has documented widespread neglect of patients and misuse of funds at an agency for the mentally retarded that was put under state supervision earlier this month.

The report, obtained today by The New York Times and other news organizations, was conducted by the Florida Department of Children and Families after a former employee of the agency made accusations that clients were abused and neglected and that senior staff members routinely took the center's money for their own use.

The center's executive director, Maureen Robinson, was fired earlier this month after state investigators determined that she had used money from several grants to pay herself a yearly salary of $180,000, and that she was driving a 1997 Jaguar that may have been insured with the agency's money. Such practices contributed to a cash shortage that, according to the state's investigation, has pushed the agency, Metatherapy Institute Inc. of Homestead, Fla., close to insolvency.

'There's very little accountability,' a state supervisor says.

Ms. Robinson could not be reached for comment.

The acting district administrator for the department, Sara Herald, said the state was still investigating many of these accusations. No charges have been filed against any individual, Ms. Herald added.

The state-appointed receiver, Kenneth Marlin, is expected to give a report to the state next week on the agency's finances.

Metatherapy, one of the largest agencies of its kind in this area, runs rehabilitation and therapy programs for 63 mentally retarded adults. It also provides temporary housing, job training and counseling for about 100 homeless men and has a substance abuse program.

The problems facing the agency exemplify what critics call the lack of accountability and oversight that have plagued such institutions here. Metatherapy is the fourth nonprofit agency serving the developmentally disabled to be put under receivership in Miami-Dade and Monroe Counties in the last five years.

Anita Bock, who until February served as the district administrator for the department, is temporarily supervising Metatherapy. The problems there, Ms. Bock said, reflect much of what she has encountered at other agencies over the years.

"It was initially very shocking for me," said Ms. Bock, who had been district administrator since 1992. "But I became used to encountering these problems in the nonprofit arena. There's very little accountability."

"On a scale of 1 to 10, this situation is a 5," she said. "I have seen 1's in my tenure with the department."

In the report filed on Feb. 2, officials from the Florida Department of Children and Families concluded that Metatherapy had suffered from ineffective management by a board of directors plagued with conflicts of interest, and that the state attorney's office should investigate the claims of client abuse. The report also recommended an overhaul of staff supervision, scheduling and incident reporting, and urged Metatherapy to hire a chief financial officer to develop a system of "checks and balances."

The investigation stemmed from statements by Tracy Collier, a former care giver at the agency who cited several instances in which, Mr. Collier said, clients were put at risk and not medicated appropriately.

Mr. Collier told investigators that records were falsified to show that clients had taken part in fire drills or that medications had been dispensed. He also accused a staff member of giving patients their daily medications in a single dosage so that they would go to bed early and she could leave work early.

Mr. Collier said that the agency's accounting procedures were inadequate and that staff members used money belonging to the clients and to the agency for items like Christmas gifts and, in one case, a trip to Washington to attend a festival.

Like other centers of its kind, Metatherapy is financed by the Federal Government and state and local governments and is run by a board made up of community leaders, who are rarely held accountable for their oversight of an agency, Ms. Bock said.

Lanedra Carroll, a spokeswoman for the Florida Department of Children and Families, said, "The state is already trying to address the issues that have come up with this probe in a general manner, and we hope that the Legislature will fully address the problem we have."

Ms. Carroll added that earlier this month the Governor's office had asked the Legislature for $2 million in additional funds for the oversight of such agencies and to approve the hiring of 27 people to improve the state's capacity to regulate such agencies.

The New York Times

WEDNESDAY, MARCH 31, 1999

Jury Awards $81 Million To Oregon Smoker's Family

Amount Is Largest in Smoking-Related Suit

By BARRY MEIER

A state jury in Portland, Ore., yesterday ordered the largest award in a smoking-related lawsuit, deciding that the Philip Morris Companies must pay $81 million to the family of a man who smoked Marlboro cigarettes for four decades before he died.

The verdict, coming just a month after a San Francisco jury awarded $51 million in another case brought by an individual smoker against Philip Morris, could indicate that the tobacco industry's legal fortunes may have shifted, analysts said. In recent years, the public has witnessed a constant drumbeat of documents damaging to cigarette makers, which industry analysts say may be a factor in the jury decisions.

For example, in both cases involving Philip Morris, the juries called for large punitive damages, which are meant to punish a company for its behavior. In yesterday's decision, the jury awarded $79.5 million in punitive damages and $1.6 million in compensatory damages to the family of Jesse Williams, who died in 1997, five months after lung cancer was diagnosed. In the San Francisco case, the jury awarded $50 million in punitive damages.

Yesterday Mr. Williams's wife, Mayola, said he had had a dying wish. "He wanted to make cigarette companies stop lying about the health problems of smokers," she told The Associated Press. "This jury agreed with his goals."

Philip Morris, which is appealing the California verdict, said yesterday that it would also appeal the Oregon verdict. Higher courts have thrown out the few previous victories by smokers in cigarette-related lawsuits, often on procedural grounds.

"No verdict has ever withstood an appeal, and we don't believe this will be a first one," said Gregory Little, the associate general counsel for Philip Morris, which is the country's biggest cigarette maker.

But tobacco industry analysts said yesterday's decision was a particular setback for cigarette makers because state product liability laws in Oregon are far tougher than those in California or Florida, the other states in which producers have suffered legal losses.

In Oregon, a smoker is barred from receiving an award if a jury determines that he or she bore more than 50 percent liability for the problem over which a suit was brought.

Cigarette company lawyers argued that Mr. Williams was aware of the health risk when he decided to continue smoking. The jury determined that Mr. Williams and Philip Morris equally shared liability.

William A. Gaylord, a lawyer for the Williams family, said they had acknowledged that Mr. Williams was partly responsible for his death.

"The problem has been that Philip Morris and other cigarette companies have never accepted an ounce of responsibility," Mr. Gaylord said. "They deny everything. They essentially say to their very best customers that you get what's coming to you for believing us."

Gary Black, a tobacco industry analyst with Sanford C. Bernstein & Company in New York, said that added to the California decision, yesterday's verdict suggested that the industry's $206 billion settlement last year with 46 states had failed to put its legal troubles to rest.

Under that agreement, which resolved lawsuits brought by the states to recover health care expenses related to smoking, individual smokers and groups of them can still sue. Four states had earlier settled their claims in deals with the industry.

"I think the industry has got to get its head out of the sand and stop believing that the settlement got them closure," Mr. Black said. "With all the documents and whistle-blowers out there, juries are increasingly going to award damages."

In trading after the verdict, Philip Morris stock fell $3.4375 a share to close at $37.75 a share.

In the California case last month, the jury ordered Philip Morris to pay $51.5 million to Patricia Henley, who said her lung cancer had been caused by more than 35 years of smoking. That verdict was the largest award of its kind until yesterday.

Cigarette industry officials have portrayed that case as an aberration, pointing to a number of recent legal victories. Earlier this month, a Federal jury in Akron, Ohio, ruled that tobacco companies did not have to repay the costs of treating smoking-related illnesses to dozens of union health and benefit plans in Ohio.

But analysts said the back-to-back losses by Philip Morris in individual cases suggested that cigarette makers were likely to see more defeats and escalating awards.

"It does seem to appear in the last two cases that the juries wanted to punish Philip Morris and the industry," said Bonnie Zoller, an analyst with Credit Suisse First Boston Corporation in New York.

The Oregon lawsuit was brought by the wife and children of Mr. Williams, a former janitor in the Portland school system who was 67 when he died. It charged that Philip Morris knew cigarettes caused cancer and misrepresented that information.

In making its finding, the Oregon jury also had to conclude that the misrepresentations took place over the past decade because state law limits the time in which plaintiffs can seek damages.

There are more than 500 smoking-related lawsuits pending against Philip Morris. President Clinton also announced this year that he had directed the Justice Department to begin preparing a lawsuit against cigarette makers to recover Medicare and other Federal money spent treating illnesses related to smoking.

Mr. Black said a Federal lawsuit could be in the industry's interest because it might provide a way to resolve individual cases as well.

"The industry has got to make a decision," he said. "They have to recognize that the tide has turned and decide they have to get some type of settlement. Either that or they have to build in the anticipated price of litigation in the cost of cigarettes."

The New York Times
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