

TwinCities.com

Minnesota agrees to pay \$3M to patients abused in treatment program

By David Hanners
dhanners@pioneerpress.com

Updated: 12/02/2011 12:04:41 AM CST

On Halloween night 1949, Minnesota Gov. Luther Youngdahl stood aside a bonfire outside Anoka State Hospital and, with fanfare, burned 359 straitjackets and hundreds of other restraints he said were sinister relics of a more barbarous time.

"By this action we say that we have liberated ourselves from witchcraft - that in taking off mechanical restraints from the patients, we are taking off intellectual restraints from ourselves," the governor said.

Apparently, we forgot.

A federal judge Thursday approved a landmark \$2.9 million settlement in a class-action lawsuit that ends the use of certain restraint devices and techniques in state facilities and closes a scandalous treatment program for people with developmental disabilities.

Investigators found that scores of residents in the Minnesota Extended Treatment Options (METO) program at Cambridge were routinely handcuffed and placed in leg irons or locked alone in rooms, sometimes for behavior as innocent as bumping into someone.

U.S. District Judge Donovan Frank said the settlement would help people with disabilities "enjoy the promise of the Constitution, the promise of America."

During the 2-1/2-hour hearing in federal court in St. Paul, Frank heard from several people who voiced support for the agreement, which settles a lawsuit filed in July 2009.

A couple of the speakers were directly affected by the state's practices.

"I came because I believe the future shouldn't follow

the past,"

Heidi Myhre of West St. Paul told Frank. She has cerebral palsy, hearing and vision impairments, dyslexia and other conditions.

She recounted her months at Anoka State Hospital in 1988, where she said she was forcibly stripped to her underwear and locked in a room because she argued with someone over a television.

"I thought the state hospital was supposed to help me, not abuse me," she said.

Kurt Rutzen of Minneapolis also told the judge he favored the settlement and said that developmentally disabled people like him "need everything that everyone else deserves" but that too often, society "shoves it under the rug, out of mind, out of sight."

Even the lawyer representing the Minnesota Department of Human Services, which had denied allegations of mistreatment in court filings, heralded the accord as a milestone.

"This is an important settlement. It will make a huge difference to a lot of people," Minnesota Assistant Attorney General Steven Albert told the judge.

Lawyers for both sides worked for months to settle the case, and part of the settlement included closing METO in June. Residents were transferred to other facilities.

After their lawyers are paid, the plaintiffs will split \$1.9 million. The three named plaintiffs will get

FREE

Home Security System!





Protect Your Home

\$850 Value!

Call Today, Protect Tomorrow!

1-888-472-8414

* With \$99 Customer Installation charge and purchase of alarm monitoring services.

Print Powered By  FormatDynamics™

TwinCities.com

\$75,000 each, and the rest will get money based on how many documented incidents of abuse they suffered, at \$200 per incident.

Legislators established METO in 1995, and it was licensed to treat up to 48 people at the state hospital in Cambridge, 43 miles north of St. Paul.

The lead plaintiffs in the class-action suit are parents of three men who had been in the METO program. They claimed that "as a means of behavior modification, coercion, discipline, convenience and retaliation, METO staff restrained plaintiffs using law enforcement-type metal handcuffs and leg hobbles for conduct as benign as spitting, laughing or hand-washing."

In their legal complaint, they said they were suing over the "cruel and improper use of aversive and deprivation procedures."

Many procedures had been detailed in a September 2008 report by the office of Roberta Opheim, state ombudsman for mental health and developmental disabilities.

Opheim's office began investigating the program in 2007 after getting two complaints that "we thought were a minor reflection of the system," she told Frank. Those complaints turned into an 18-month investigation that disclosed that six of every 10 residents in the program had been restrained or locked away alone.

"One of the most egregious of the cases revealed a client who had been restrained 299 times in 2006 and 230 times in 2007," the ombudsman's report said. "One example of reason to place a resident in restraints included 'touching the pizza box.'"

At one time, use of restraints had been considered a last resort when dealing with residents, but the ombudsman found that over time, staffers began to rely on arm and leg restraints and seldom tried other methods.

Opheim's investigators also found that the state agencies that should've monitored METO and caught the abuses "failed to protect the clients...or turned a blind eye to the problem."

When the Minnesota Office of Health Facility Complaints finally got around to looking into the matter, its report of problems and citations ran 99

pages.

Minneapolis attorney Shamus O'Meara, who represented the plaintiffs, said the settlement "will benefit hundreds of thousands of residents of the state" because it closes METO and bars the use of certain restraint devices and techniques at the state's other facilities.

Some restraint techniques will still be allowed, but their use will be limited, monitored and reviewed. Staff will be trained in alternatives to restraint, visitation policies will be changed (parents complained they were denied visits with their children), and there will be other changes.

David Hanners can be reached at 612-338-6516.



HEARTLAND QUALITY
OMAHA STEAKS
SINCE 1917

SAVE
up to **64%**

Plus, get
3 FREE Gifts

Special Code: **45069ZWN**

To order: www.OmahaSteaks.com/print71
or call 1-877-605-0496