Veterans home in Paramus pays $1.4M in resident's death compensation

The New Jersey Veterans Memorial Home in Paramus has agreed to pay $1.4 million to settle a lawsuit in the death of one of two patients who choked to death at the facility within two weeks.

Russell Lazzaro was 85 when he choked on his breakfast before being left alone to eat at his room on the nursing home's in-town unit in 2012, according to court documents. His family claimed in their suit that the home failed to provide adequate nursing staff for the Nvy veteran, who had a swallowing disorder and was supposed to be watched carefully whenever he ate.

Just two weeks later, another patient also choked to death, records show. A nurse found the patient choking in the day room on May 28, 2012, and performed the Heimlich maneuver on the resident, who died soon after, according to a state report.

The home's administrators and director of nursing would later tell a state health inspector that they thought the resident died of heart failure — even though the patient's medical certificate stated the cause of death was “acute airway obstruction with food,” according to the inspector's report.

Advisory deaths in the nursing home must be reported to the state Department of Health, but that notification did not occur in either incident. The 139-bed state-operated nursing home was later cited for a “deficiency” for failing to report properly the death of the second patient, identified only as Resident No. 29.

The nursing home, operated by the New Jersey Department of Military and Veterans Affairs, is open to all federal and state veterans as well as all state military members, spouses of eligible veterans as well as Gold Star parents — people whose children were killed in action while serving in the military.

“The department and the Paramus Veterans Memorial Home are deeply saddened by the loss of Mr. Russell Lazzaro,” said Vye Kent Westhen, a spokesman for the state veterans affairs department, and an email attachment to the nurse handling Mr. Lazzaro's case that stated he was choking.

“The department strives for the highest quality of care and continuously seeks to improve to ensure residents’ safety,” Westhen wrote. “The department acts with high prudence, adheres to the highest professional standards and takes necessary steps to ensure our residents receive the top-notch care they deserve.”

Source: VOA

The Paramus facility is one of three nursing homes operated by the state veterans affairs department. The federally run Veterans Health Administration has an extensive system of clinics and hospitals that have been identified in recent cases of nurse staffing and a critical investigation into reports that employees complied to hide evidence that veterans were subject to such long wait times that some died before being able to see doctors.

The settlement with Lazzaro's family in Malwath was reached in March and recently became official. The state veterans department will pay $1.4 million to the family but did not admit liability in the settlement.

Before the case settled, the Lazzaro's attorney, Barry Sugarman, had gotten depositions from several workers and conducted scouting kitchen records and more details about the other choking death at the facility, which he argued in court papers would demonstrate a “pattern of misconduct.”

The veterans department told The Record that there was no evidence of a pattern of choking at the nursing home.

"Elderly residents periodically choke on food for various reasons," the state said. "However, after reviewing incident reports and focusing on recent choking incidents resulting in significant injury on death, the Lazzaro case was brought to the department's attention.

Russell Lazzaro, who served in the Navy from April 8, 1944, to January 20, 1948, lived at the home since August 2010.

The lawsuit accused the veterans home of “failing to provide sufficient nursing staff to carry out Lazzaro's care plan, which called for him to receive assistance six times a day because of a swallowing disorder known as laryngeal dysphagia, which made him susceptible to choking. He also suffered from depression."

"For these reasons, he was completely dependent on the nursing home's monitor, supervise and provide him with assistance while eating and drinking to avoid the risk of injury and death associated with choking, aspiration, apathy and death," the lawsuit said.

The lawsuit claimed that a staff member brought Lazzaro's bread to his room at 8 a.m. then left the room.

Twenty minutes later, a nurse who went to his room to give him medicine found him "blue and cyanotic," the lawsuit said. The nurse performed the Heimlich maneuver and tried to clear his airway from his food. He died 10 minutes later.

Patricia Lazzaro, Russell Lazzaro's daughter and the executor of his estate, declined to comment, as did her attorney. Sugarman said his client did not want to discuss the settlement or the case because “despite closure on the incident.”

Like that of Patient No. 29, the lawsuit also alleged that Lazzaro's death had not been reported to the Department of Health.

In a statement, the veterans affairs department said Russell's death did not meet the criteria for the type of accidental death that must be reported.

Deficiency citation

While he was issued a deficiency citation over the failure to report the second death, the state did not fine the nursing home and instead allowed the facility to file by submitting an “acceptable plan of correction” that offer a plan to prevent the deficiency.

The two deaths are not listed in inspection data included on a federal Centers for Medicare and Medicaid Services, which includes the New Jersey Nursing Home Corporate, which is what a way for consumers to help choose a facility for a loved one. Thomas said the citation issued to the nursing home for failing to report the second choking death was a "state deficiency," and thus would appear on the state's CMS website. Consumers have filed more than 30 complaints over alleged state violations.

On the federal website, the Paramus home has an overall rating of four stars, meaning an "above average" rating. In the category of "Health Inspections," however, the ranking drops to three stars, or "average." Three deficiencies met the last three months found five or more deficiencies.

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