

Nursing home, LCC to pay \$1.9M settlement

By Barbara LaBoe

A Longview nursing home and Lower Columbia College agreed to pay nearly \$1.9 million to the family of a Longview woman who died in their care, according to a lawyer for the woman's family.

Evergreen Frontier Rehabilitation and Extended Care Facility and LCC will pay \$1.89 million to settle the case just weeks before the matter went to a jury, said Robert Gellatly of Seattle's Luvera Law Firm.

LCC is involved because one of its certified nursing assistant students -- a different program than the school's nursing degree -- helped treat 76-year-old Gertrude Wart. The college's portion of the settlement will be \$392,000, with Evergreen paying \$1.5 million, according to a press release from Evergreen Healthcare, the Vancouver company that owns the Longview nursing home.

The company said in its statement that it settled to "bring finality to the matter and avoid significant legal defense costs," adding the company "deeply regrets the traumatic experiences" of Wart and her family.

LCC referred calls to the Attorney General's office, which represents state agencies in lawsuits. Attempts to reach the AG's office late Wednesday were unsuccessful.

Wart suffered a devastating stroke in January 2004 and had undergone a "miraculous recovery," starting to walk and speak again, Gellatly said.

Partial paralysis left her unable to balance or brace herself, so doctors ordered Wart not be left alone unless her bed's safety rails were up, he said. On April 2, 2004, a LCC nursing assistant student left Wart alone while she was sitting on the edge of the bed.

Wart fell and struck her head, and the nursing home failed to diagnose internal bleeding in Wart's brain, telling her children there was nothing to worry about, Gellatly said. Two days later Wart was in a coma and was transferred to St. John Medical Center, where she died April 6.

Medical experts testified Wart would have lived if she'd been taken to the hospital even just a few hours sooner, Gellatly said, making the death particularly heartbreaking for her seven children.

"They were really worried and did everything they could to monitor her care and then to have the nursing home drop the ball ... was devastating," he said. "There were so many violations of good care over the course of 48 hours by so many people. Up and down the chain, every nurse and nursing supervisor on shift, they all dropped the ball."

The civil lawsuit was filed in King County in 2004 because it was more convenient for the lawyers involved and because Evergreen has facilities in Seattle, Gellatly said.

In what he termed a highly unusual step, Gellatly said a King County Superior Court Judge found the evidence against the nursing home overwhelming and declared it negligent. A jury was going to determine damages and how the costs should be split between Evergreen and LCC.

The state Department of Social and Health Services investigated the death, issuing an immediate jeopardy finding April 9, 2004, and ordering the facility to stop accepting new patients, said Nancy Tyson, regional administrator for residential care services.



The immediate jeopardy finding is the highest available to the state short of the long, drawn-out process of shutting a facility down. After the nursing home stated how it would change its policies to avoid similar injuries -- and a follow up inspection -- the nursing home was deemed back in compliance. The restrictions on new patients lasted only a few days, Tyson said. Gellatly said the nursing home pledged to transfer all head injuries to the hospital and also suspended or reassigned nurses directly involved in the case.

He wouldn't disclose how much of the settlement will go to attorney's costs, saying only that the family was pleased "accountability and responsibility was imposed" on the nursing home. He said Wart's family -- and his law firm -- also refused Evergreen's request for a confidentiality agreement as part of the settlement.

"What the community needs to take away from this is that nursing homes need to be closely monitored and that they need to be held accountable," he said.

