

## Lawsuits demand answers by VA

Widows of veterans who died in drug study say men were guinea pigs

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By **BRENDAN LYONS**, Staff writer

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ALBANY -- The last of seven widows of veterans who died while enrolled in corrupted drug studies at Stratton VA Medical Center have filed lawsuits against the U.S. Department of Veterans Affairs.

For many of the widows, the litigation is not about money. They say it's about getting answers to why their husbands were used like guinea pigs and making sure it doesn't happen again.

"It was terrible," said Bertha G. Merritt, 74, who was one of two widows to file a lawsuit in the case last month. "We were married 51 years, and a month and a half later he passed away."

Charles G. Merritt, a World War II Army veteran from Selkirk who died in August 1999, was one of dozens of men whose medical histories were forged or manipulated to qualify them for cancer research studies. Once Merritt began taking the drugs, he became unable to swallow, talk, eat, breathe or walk without assistance, and his death was hastened by the experiment, according to court documents. He was 74.

Hospital officials have placed blame on a former research assistant, Paul H. Kornak, who was sentenced last November to nearly six years in prison for negligent homicide and falsifying medical records.

Kornak posed as a doctor at Stratton, including carrying the title "M.D." on his VA-issued business cards, even though he never finished medical school and had been convicted in Pennsylvania of trying to illegally obtain a medical license. Many of his supervisors allegedly knew about his troubled background and lack of credentials.

In all, Kornak is accused of undermining at least four major research studies involving dozens of veterans and hundreds of thousands of dollars. The hospital earned thousands of dollars for each patient enrolled in the programs, in which pharmaceutical companies tested new drugs on cancer patients to obtain approval for them from the Food and Drug Administration.

At his sentencing last November, Kornak apologized for his crimes but told a judge he was "used" by the hospital's former cancer research director, Dr. James A. Holland, who was fired along with Kornak shortly after the scandal broke more than three years ago.

No one else, including Holland, has been charged in the case.

But the widows' lawsuits will enable the families to delve deeper into the scandal, which they contend was larger than Kornak.

"They gave my husband experimental chemo(therapy) after they asked him if he wanted it and he said 'No,' " Merritt said. "They gave it to him anyway. The reason he did is because Dr. Holland kept after him and after him and kept coercing him."

Sixteen months ago, the Food and Drug Administration, which unearthed the corruption during an audit of the hospital's research program, took action seeking to disqualify Holland as a clinical investigator.

In a 12-page report that has been made part of the widows' litigation, the FDA said Holland "failed to protect the rights, safety and welfare of subjects ... repeatedly or deliberately submitted false information to the sponsor and repeatedly or deliberately failed to comply with the cited regulations, which placed unnecessary risks to human subjects and jeopardized the integrity of data."

Holland and his attorneys have declined comment. He now works for a cancer hospital in Thomasville, Ga.

FDA officials did not respond to repeated requests for comment on Holland's case during the past two weeks.

Alan C. Milstein, a Philadelphia attorney representing some of the widows, said he also has had difficulty finding out the status of the FDA action pending against Holland.

Meanwhile, a settlement conference is scheduled next month in federal court regarding the death of James J. DiGeorgio, a 71-year-old Air Force veteran from Brunswick who died at Stratton in June 2001. Attorneys for DiGeorgio's family recently filed a motion saying the case should be settled because there is no dispute that his death was caused by experimental drugs that he should never have been given.

"Our target is the VA," Milstein said. "This was an institution-wide problem that really extended beyond Albany. We're not aiming really at Holland or Kornak at this point because the VA is the one that really has to defend their actions."

Merritt and other widows said their goal now is not to have the VA pay for what went on.

"It's to make sure it doesn't happen again to some other poor guy," Merritt said.