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## Coercion used on patient, family says

Doctor "wouldn't accept the answer" until man gave in, daughter said

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ALBANY -- Charles and Bertha Merritt were on their way to visit her parents' graves in April 1999 when they stopped by Stratton Veterans Affairs Medical Center in Albany.

The day before, Charles Merritt, a retired mechanic who had been a sergeant in the Army during World War II, had left behind his VA identification card after undergoing a chest X-ray as doctors tried to pinpoint the cause of some pain in his side.

As his wife waited in the car outside, Merritt was stopped by a nurse who said a doctor wanted to see him.

"When he came back out again, he had tears in his eyes and he told me that this doctor said he had cancer," Bertha Merritt said during a recent interview. "It was the first time I'd ever seen him cry."

Four months later, Merritt was dead.

But over that last summer of his life, his relatives said, Merritt, who lived in Selkirk, suffered considerably from his cancer and the experimental drugs that were pumped into his system.

The family claims a former research physician at Stratton hospital, Dr. James A. Holland, "coerced" Merritt into joining a drug study against his will.

Their account is supported by Holland's former staffers, who testified that Holland encouraged research assistants to enroll as many veterans as possible in drug experiments.

Holland's attorney, Gaspar Castillo, could not be reached for comment.

A week after Merritt was diagnosed with cancer, the couple and their daughter, Karen Sutton, who is an aide at an area hospice program, went back to the VA to learn more about his condition, according to sworn testimony in federal court.

They met with Holland, and he allegedly encouraged Merritt to join an experiment that was testing the use of a drug called Taxol in combination with other drugs, records show.

It's undisputed that the powerful combination of drugs might have helped Merritt's cancer. But combining chemotherapy drugs increases a patient's odds of suffering toxicity, which can be fatal, and can cause significant discomfort and side effects, including neurological disorders.

Merritt told his family he wanted no part of the study, they said.

"I remember my father saying he understood the importance of experimental chemo but under the circumstances he didn't want to do it," Sutton said under questioning from a Justice Department attorney last March. "He was afraid and he just wanted the treatment that would give him the best chance to live as long as he could."

When they went back to meet with Holland, "he just wouldn't accept the answer," Sutton said. "He never said he agreed to go

on the study. He just was not feeling well and just tired of repeating himself that he didn't want to do it. And it was going on for quite awhile and my dad just wanted to go home.... He kept it up and kept it up until finally my father had had it and he wanted to go home and he signed the paper."

Sutton said she could not recall Holland discussing the benefits of standard chemotherapy, only the study's potential benefits.

On May 25, 1999, Merritt underwent his first chemotherapy at Stratton hospital.

Two months later, Merritt stopped going to Stratton as his condition worsened and his pain increased.

"There was a problem with his pain management and he was over-medicated and things got kind of out of control there for him," Sutton said. "And he never went back to the VA after that that I remember."

In court papers, attorneys for the Department of Veterans Affairs say Merritt was medically qualified for the study, and that he had been removed from the study when his cancer worsened and did not respond to the experimental treatment.

Merritt's pain would not subside, especially in his bones, where his cancer had spread. Sutton said she went to the VA for help.

A pharmacist there assessed the situation and told her the medication Merritt was on would not ease the pain in his bones. He wrote the name of a drug on a piece of paper and handed it to Sutton, she said.

Sutton took the paper to a former oncology nurse, Monica Velardi, whom Sutton alleges had grown impatient with her calls for help.

"She grabbed a prescription, she wrote out the prescription ... and flung it in my face," Sutton said.

Years later, Velardi was reprimanded by Stratton officials for filling out blank prescriptions. The forms had been pre-signed by Holland, according to federal court records and a deposition given by Velardi, who now works at a VA hospital in Florida.

Sutton said after she gave her father the pain pills he "started acting funny."

"He had been over-medicated and he was hallucinating," Sutton said.

She called a hospice unit at St. Peter's Hospital, which dispatched an ambulance. Merritt was 74 when he died a couple of weeks later.

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BERTHA MERRITT holds a photo of her husband, Charles Merritt Sr., who died at Stratton VA Medical center in an experimental drug program.