

The first order was based on the patients' right to protection from harm, under Constitutional guarantees of due process and equal protection. A claimed "right to treatment or habilitation" went to trial between last Oct. 1 and Jan. 6, with often harrowing testimony and with a state-produced expert reporting that improvements had only reduced "a major tragedy" to "a moderate tragedy."

650 Go Home

Nevertheless, Robert W. Hayes, deputy commissioner of mental hygiene in charge of mental retardation and children's services, said yesterday that in the three years the original Willowbrook population of more than 5,000 had been reduced.

He said 650 to 700 patients were back in their own homes or in small community facilities, with 1,400 transferred to other state centers, such as Creedmoor in Queens, Kings Park on Long Island and Harlem Valley in Wingale.

Mr. Hayes said that in addition to 20,000 patients in institutions, 700 were being cared for in hostels, 400 in halfway houses and 3,500 in group or family-care facilities. On any

day, he said, the state was also providing help for 2,000 living in their own homes.

The state has 35 active applications for new community facilities, including a dozen in New York, Mr. Hayes said. State Budget Director Peter Goldmark said the state hoped to rent needed places, observing that any new state construction would need four or five years.

Judge's Approval Needed

The agreement was announced at a news conference in Governor Carey's office at 1350 Avenue of the Americas, at 55th Street. It requires formal approval by Judge Judd as a consent judgment, over which the court would retain jurisdiction.

Under the agreement, no more than eight residents are to live in any one unit at Willowbrook. Residents are to be taught daily living skills, including how to feed themselves. Education is generally to be provided for six hours each weekday. Each resident is to get recreation for at least two hours a day.

Only designated professionals may order restraints on the

patients, with use to be checked every 30 minutes.

"Straitjackets shall never be used," the agreement says, "nor shall any resident be tied, spread-eagled to a bed or subjected to either corporal punishment, degradation or seclusion." No physically intrusive, chemical or biomedical research or experimentation shall be performed.

Health and safety hazards are to be corrected, with radiators and steam pipes covered to protect resident, windows repaired and screened, lead paint removed, buildings air-conditioned and "cockroaches and other insects and vermin" eradicated.

The agreement sets up a seven-member review panel—two members chosen by the state, three by the plaintiffs and two mutually agreed on—to oversee the programs. The panel is to have a seven-member "consumer advisory board" of relatives, community leaders and past and present residents, and a seven-member "professional advisory board."

Elliot L. Aronin, president of the State Association for Retarded Children, said his complainant group accepted the agreement "with reservation" and urged action to set up a separate office of mental retardation away from the Department of Mental Hygiene.

Governor Carey's office estimated that statewide implementation of the agreement would cost \$16-million in the first year, \$10-million in the second and \$14-million in the third.

At the news conference, the agreement was hailed as a landmark victory by Mr. Ennis,

counsel for the mental-health law project as well as the New York Civil Liberties Union, and Anita Fisher Barrett, of the Legal Aid Society, representing the plaintiffs.

Governor Carey said Attorney General Louis J. Lefkowitz had helped work out the pact. The Governor promised to visit Willowbrook to see that the new plan was being carried out.

Assistant United States Attorney General J. Stanley Pottinger, in charge of the civil-rights division, whose office had acted as a friend of the court, voiced "hope that other states will learn to do as well."