

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Appeal)
of Lydia Mann from the)
Hearings Officer's Order) ORDER
Revoking Appellant's Adult) 94-233
Care Home License)

On November 22, 1994, the Board of County Commissioners completed its review of the evidence and argument regarding the appeal of Lydia Mann from a determination of the Hearings Officer that Ms. Mann violated the following administrative rules: MCAR 890-020-505(c); MCAR 890-020-505(d); MCAR 890-020-415(l); and MCAR 890-020-410(f). The Hearings Officer's decision was to sustain the Administrator's sanction of license revocation.

Based on the findings contained in the Hearings Officers Order on the Appeal of Lydia Mann, Hearing No. 143037 dated September 9, 1994 and the County Counsel's rebuttal to appellant's exceptions, the Board denies the appeal and accepts the decision of the Hearings officer.

The Board finds that the following circumstances are sufficient to warrant the sanction of license revocation:

1. The hearings officer found that Ms. Mann committed the administrative rule violations deliberately and intentionally, knowing that her use of the restraint without physician approval was a rule violation. This finding is supported by substantial evidence in the record.

2. The hearings officer found that the use of the non-physician approved restraint was the direct cause of Mr. Geren's death. Further, that had Ms. Mann complied with the rules that were specifically intended to prevent such a tragedy, Mr. Geren's death would almost certainly have been avoided. This finding is supported by substantial evidence in the record.

3. The sanction of license revocation in response to Ms. Mann's knowing use of the non-physician approved restraint and the resultant death of mr. Geren is neither arbitrary nor excessive. It is the mandate of the Multnomah County Adult Care Home Program to protect the health, safety and welfare of frail, elderly and dependent people. The public looks to Multnomah County to protect these people from precisely the type of tragedy which occurred as a result of Ms. Mann's rule violations.

It is hereby Ordered that the decision of the Hearings Officer on the Appeal of Lydia Mann (Hearing No. 143037, dated 9/9/94) is accepted.

Review of this Final Order may be taken solely and exclusively by writ of review in the manner set forth in ORS 34.020 to ORS 34.100.

Approved this 8th day of December, 1994.



MULTNOMAH COUNTY, OREGON

By *Beverly Stein*
Beverly Stein
Multnomah County Chair

REVIEWED:
PETER KASTING, SPECIAL COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By *Pete Kasting*
Peter Kasting