

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of the Appeal)	
of Greg Durham from the)	
Hearings Officer's Order)	ORDER
Revoking Appellant's Adult)	
Care Home License)	94-58

On March 3, 1994, at 11:00 a.m., the Board of County Commissioners heard testimony and considered evidence and arguments regarding the appeal of Greg Durham from a determination of the Hearings Officer that Mr. Durham had violated the provisions of MCAR 890-020-120(c) by having more than five residents in the home and had violated a condition of the license by admitting non-DD and non-DSO residents to the home. The appellant admits that the violations occurred, but argued that the sanction of license revocation is more severe than is warranted given all the surrounding circumstances.

Based on findings contained in the Hearings Officer's Order on the Appeal of Greg Durham, Hearing No. 134022 dated 12/28/93, by this reference made a part of this Order, the Board denies the appeal and accepts the decision of the Hearings Officer.

The following additional considerations persuade the Board that license revocation is an appropriate sanction in this case:

1. Mr. Durham's original application for a license was denied by the agency.

The Adult Care Home Program (ACH) investigated Mr. Durham and discovered that he had a prior drug conviction. It also discovered that, while in the employ of a care home in another county, Mr. Durham had engaged in consensual sex with a patient in his care. Due to the particular disability involved (close-in head injury) this constituted abuse under state care regulations despite its consensual nature.

2. Mr. Durham was finally issued a license with several restrictions after much negotiation.

After persisting with the agency, the manager of the Adult Care Home Program and Mr. Durham reached an understanding. Mr. Durham was granted a license on condition that he never be left alone with residents. To accomplish this, Mr. Durham persuaded the agency to issue a joint license to himself and a woman acquaintance. It was understood that her presence was a key factor in the issuance of the license. Mr.

Durham was also restricted as to the number and type of resident that could be admitted under this joint license. He was limited to a maximum of five residents and was not authorized to take any elderly residents.

3. Mr. Durham violated the express terms of his license.

At one time six residents were living in the home. In addition Mr. Durham accepted three elderly persons as residents. These violations are sufficient to merit revocation.

4. When the necessary conditions changed, Mr. Durham tried to conceal these facts from the agency.

Mr. Durham accepted elderly residents in the home at the same time his request for a change of status had been denied by the agency. When agency staff asked whether his co-licensee still lived at the home, he represented that the co-licensee still lived there while knowing the representation to be untrue.

It is hereby Ordered that the decision of the Hearings Officer's Order on the Appeal of Greg Durham, Hearing No. 134022 dated 12/28/93, 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 31st day of March, 1994.

MULTNOMAH COUNTY, OREGON

By


Beverly Stein
Multnomah County Chair

REVIEWED

PETER KASTING, SPECIAL COUNSEL
for MULTNOMAH COUNTY, OREGON

By:


Pete Kasting