

BEFORE THE
DEPARTMENT OF SOCIAL SERVICES
STATE OF CALIFORNIA

In the Matter of:)	DSS No. 6696248001-B
)	OAH No. L-9701109
ROGELIO ADDUN BACUD)	
dba A and C Guest Home)	99 CDSS 01
12411 Magnolia Street)	
Garden Grove, CA 92641)	
("facility #1"))	
)	
dba Gary Guest Home)	
11892 Gary Street)	
Garden Grove, CA 92640)	
("facility #2"))	
)	
<u>Respondent.</u>)	

PROPOSED DECISION

On February 24, 1997, in Orange, California, Greer D. Knopf, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Daniel S. Cohen, Staff Counsel, appeared on behalf of complainant.

Respondent Rogelio Addun Bacud appeared on his own behalf.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The Accusation dated December 26, 1996, is brought by Martha Lopez in her official capacity as Deputy Director, Community Care Licensing Division of the Department of Social Services (hereinafter referred to as "complainant") against respondent Rogelio Addun Bacud, doing business as A and C Guest Home, located at 12411 Magnolia Street, Garden Grove, California (facility #1) and doing business as Gary Guest Home, located at 11892 Gary Street, Garden Grove, California (facility #2).

Respondent filed a Notice of Defense on January 8, 1997 requesting a hearing in this matter.

II

Respondent holds a license to operate adult residential facility #1 known as A and C Guest Home first issued by the Department of Social Services, State of California (hereinafter referred to as "the Department") on March 14, 1995. Facility #1 is licensed to care for up to 18 mentally ill adults ages 18 through 59. Respondent also holds a license to operate adult residential facility #2 known as Gary Guest Home issued by the Department on April 14, 1993. Facility #2 is licensed to care for up to 6 mentally ill adults ages 18 through 59.

III

In July, 1996, client #1 was a resident at facility #1. Client #1 was a 29 year old woman suffering from a mental illness. Respondent began a friendship with client #1 and she would confide in respondent about her personal love life. Respondent allowed the relationship to become very personal. He told client #1 he loved her and encouraged her to consider having a sexual relationship with him. Sometime during July, 1996, respondent had sexual intercourse with client #1. This conduct is a breach of the fiduciary relationship between respondent as a caregiver and client #1 as a resident of his facility. Such conduct is inimical to the health and welfare of client #1 and to the people of the State of California.

IV

On February 22, 1994, the medication log maintained in facility #2 was not kept current for all the clients. Then on May 9, 1995, the medication log in facility #1 was not properly signed. Thereafter, on November 14, 1995, a staff member in facility #2 gave the wrong prescription drug to a client at the facility. The client had not been prescribed the medication that the client was given. Subsequently, on or about February 8, 1996, the medication log at facility #2 for one of the residents was missing.

On November 14, 1995, one client at facility #2 was not given appropriate medical or dental care for a problem with a tooth. On December 12, 1995, there was no regular schedule for the client's dental care in place at facility #2.

V

On January 23, 1996, respondent failed to keep toilet paper available for the residents in the bathroom at facility #1. Respondent would only distribute toilet paper upon request from the clients on an as needed basis. Respondent also did not furnish towels to the clients at facility #1. Respondent now provides toilet paper and towels in the bathroom at facility #1.

On February 22, 1994, the hot water temperature at facility #1 exceeded 120 degrees. On May 9, 1995, the hot water temperature at facility #1 exceeded 120 degrees. On January 23, 1996, the hot water temperature still exceeded 120 degrees. Respondent eventually corrected this problem.

VI

On May 9, 1995, there were no screens on the bedroom windows at facility #1 and there were flying insects present in the facility. On January 23, 1996, there were no screens on the windows and doors of facility #1 and there were flying insects present in the facility. On February 8, 1996, toxics were not locked up and were accessible to the clients in facility #2. Respondent has since corrected these problems at both facilities.

VII

On January 23, 1996, respondent failed to properly maintain the necessary records for clients #1, #2, #3, #4, #5 and #6 at facility #1.

VIII

Respondent likes being a care provider and would like to continue providing a home for his residents. He is worried about where his residents will go if his facilities are closed. Client #1 left respondent's facility and died two months later in a fire. Respondent feels great remorse over this episode with client #1. However, given the aggregious nature of his actions with client #1, remorse is not enough to assure the administrative law judge that something similar would not happen again with another client. Such a relationship can be extremely destructive to a resident and cannot be allowed to happen again. Respondent is married and has children. Neither his family nor his fiduciary duty to his clients stopped him from acting on his emotions with client #1.

There is no evidence to indicate that he would not act on his emotions again if presented the opportunity. It would be against the interest of the public to allow respondent to continue to hold the trusted position of a licensee.

DETERMINATION OF ISSUES

I

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550(c) in that respondent engaged in conduct which is inimical to the health, welfare or safety of the people receiving services from the facility and the people of the State of California by having sexual intercourse with client #1, as set forth in Findings II, III and VIII.

II

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550 (a) and (b) and Title 22 California Code of Regulations sections 80065 and 85065 in that respondent violated regulations regarding personnel requirements by hiring a staff member who was not competent enough to properly administer prescribed medication to the clients, as set forth in Finding IV.

III

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550 (a) and (b) and Title 22 California Code of Regulations sections 80075 and 85075 in that respondent repeatedly violated or allowed the violation of regulations regarding health related services for the clients, as set forth in Finding IV.

IV

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550 (a) and (b) and Title 22 California Code of Regulations sections 80088 and 85088 in that respondent violated or allowed the violation of regulations regarding fixtures and furniture by failing to provide toilet paper, towels and safe hot water, as set forth in Finding V.

V

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550 (a) and (b) and Title 22 California Code of Regulations sections 80087 and 85087 in that respondent violated the regulations regarding buildings and grounds, set forth in Finding VI.

VI

Cause exists to discipline respondent's license pursuant to Health and Safety Code section 1550 (a) and (b) and Title 22 California Code of Regulations sections 80070 and 85070 in that respondent violated the regulations regarding client records, set forth in Finding VII.

ORDER

I

Respondent Rogelio Addun Bacud's license number 306000166 to operate an adult residential home at 12411 Magnolia Street, Garden Grove, California, issued by the Department of Social Services, State of California, is hereby revoked.

II

Respondent Rogelio Addun Bacud's license number 300613158 to operate an adult residential home at 11892 Gary Street, Garden Grove, California, issued by the Department of Social Services, State of California, is hereby revoked.