



RICK SNYDER
GOVERNOR

State of Michigan
DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING



MAURA D. CORRIGAN
DIRECTOR

December 29, 2014

Ms. Grace Enea
50303 Cheltenham Drive
Macomb Twp., MI 48044

Re: License DG500293887; MAHS docket 13-008631-DHS

Dear Ms. Enea:

On or about December 10, 2014, you were mailed a copy of the Final Decision and Order upholding the Agency's Notice of Intent to revoke your license to operate a group child care home. In accordance with that Order, your license has been revoked effective December 19, 2014. It is further understood that you will not receive children for care now, or in the future, without being properly licensed.

Sincerely,

Jerry Hendrick, Acting Director
Child Care Licensing Division
Bureau of Children & Adult Licensing

JH:kam

cc: Jacquelin Sharkey, Area Manager
Juanita G. Velasquez, Licensing Consultant

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES

In the matter of

Grace Enea,
Petitioner,

v

Bureau of Children and Adult
Licensing,
Respondent.

Docket No. 13-008631-DHS

Agency No. DG 500293887

Agency: Department of
Human Services

Case Type: DHS BCAL

Filing Type: Sanction

Issued and entered
this 12 day of December, 2014
by
Maura D. Corrigan, Director
Department of Human Services

FINAL DECISION AND ORDER

RECEIVED
DEC 12 2014
BUREAU OF CHILDREN
AND ADULT LICENSING

This matter began with Respondent's August 19, 2013 Order of Summary Suspension and the Notice of Intent to Revoke (notice of intent) Petitioner's license to operate a group child care home under the Child Care Organizations Act (Act), 1973 PA 116, as amended, MCL 722.111 *et seq.* A properly noticed hearing regarding the matter at issue was held by Administrative Law Judge David M. Cohen (ALJ) on April 8, 2014 and April 9, 2014. Attorney Andrew Leone represented Petitioner. Assistant Attorney General Chantal B. Fennessey represented Respondent.

Respondent sought to revoke Petitioner's license based on allegations in the notice of intent that Petitioner violated the Act, as well as administrative rules promulgated under the Act. In Count I of the notice of intent, Respondent alleged that Petitioner violated MCL 722.115d, which states in relevant part:

Before a child care organization makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care organization, the child care organization, the child care organization shall perform a criminal history check on that person using the department of state police's internet criminal history access tool (ICHAT) or equivalent check on that person from the state or province of residence. [MCL 722.115d (1)]

The record demonstrated that Petitioner had employed assistant caregivers without conducting the required criminal history check. Petitioner had knowledge of the requirements to comply with MCL 722.115d and the testimony on the record indicated Petitioner had been previously cited for this violation that further evidenced her knowledge of the requirement to comply. Petitioner did not produce any evidence to show she performed said criminal history checks on the individuals she employed at her day care home. Therefore, the ALJ properly determined Petitioner willfully and substantially violated of MCL 722.115d (1).

In Count II of the notice of intent, Respondent alleged that Petitioner violated MCL 722.119, which states in pertinent part:

[REDACTED]

[REDACTED]

[REDACTED]

In Count III of the notice of intent, Respondent alleged that Petitioner violated R 400.1902, which states in pertinent part:

An applicant or the caregiver shall be of responsible character and shall be suitable and able to meet the needs of children and provide for their care, supervision, and protection. [Rule 400.1902 (2)]

During the July 10, 2013 inspection, Petitioner was unable to properly identify the number of children in her care. Petitioner was observed failing to comply with the safe sleep standards and practices. Petitioner admitted that children were left in their car seats or carriers if they were sleeping upon arrival. In addition, children were left in the nap room to eventually fall asleep and/or cry themselves to sleep. The record established that an excessive napping schedule took place at Petitioner's day care home. For the reasons as further described in the ALJ's PFD a preponderance of evidence has established Petitioner lacks the responsible character and suitability to the meet the needs of the children placed in her care. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1902 (2).

In Count IV of the notice of intent, Respondent alleged that Petitioner violated R 400.1904 and R 400.1905, which states in pertinent part:

An assistant caregiver shall meet all of the following requirements:

Have proof of valid infant/child/adult CPR, first aid, and blood-borne pathogen training within 90 days of hire. [Rule 400.1904 (1)(c)]

Infant, child, and adult CPR and first aid training shall be maintained in the following manner:

Each year for CPR. [Rule 400.1905 (7)(a)]

Petitioner failed to provide documentation verifying that her child care home's assistant caregivers had completed CPR, first aid, or blood-borne pathogen training within 90 days of being hired (Respondent's Exhibit 6, page 17). Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1904 (1)(c) and Rule 400.1905 (7)(a).

In Count V of the notice of intent, Respondent alleged that Petitioner violated R 400.1905, which states in pertinent part:

The caregiver shall assure that assistant caregivers have training that includes information regarding safe sleep practices (sudden infant death syndrome) and shaken baby syndrome prior to caring for children. [Rule 400.1905 (3)]

During the July 11, 2013 inspection, Petitioner was not able to provide documentation that assistant caregivers were trained in safe sleep practices and shaken baby syndrome. The practice of leaving children sleeping in their car seats further demonstrates Petitioner's failure to assure that assistant caregivers adhered to proper safe sleep practices. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1905 (3).

In Count VI of the notice of intent, Respondent alleged that Petitioner violated R 400.1906, which states in pertinent part:

The caregiver shall maintain a file for the caregiver and each assistant caregiver including all of the following:

(b) A statement signed by a licensed physician or his or her designee and which attests to the individual's mental and physical health.

(ii) For the assistant caregivers, within 1 year prior to caring for children and at the time of subsequent renewals.

(c) Written evidence of freedom from communicable tuberculosis (TB):

(ii) For the assistant caregivers, prior to caring for children.

(g) A written statement signed and dated by the assistant caregiver at the time of hiring indicating all of the following information:

(i) The individual is aware that abuse and neglect of children is unlawful.

(ii) The individual knows that he or she is mandated by law to report child abuse and neglect.

(iii) The individual has received a copy of the discipline policy. [Rule 400.1906 (1)(b)(ii); (c)(ii), (g)(i)-(iii)]

Petitioner failed to maintain the required files and records for each individual that provided care in her child care home. Specifically, Petitioner failed to ensure that the caregiver/assistant caregivers' files contained: a signed physician statement attesting to their mental and/or physical health; written documentation that they were free from communicable tuberculosis; statement indicating that they are mandated to report abuse and neglect; and that a copy of the childcare home's disciplinary policy had been provided. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1906 (1)(b)(ii); (c)(ii), (g)(i)-(iii).

In Count VII of the notice of intent, Respondent alleged that Petitioner violated R 400.1907, which states in pertinent part:

At the time of initial attendance, the caregiver shall obtain the following documents:

A completed child information card on a form provided by the department or a comparable substitute approved by the department.

A child in care statement/receipt using a form provided by the department and signed by the parent certifying the following:

- (i) Receipt of a written discipline policy.
- (ii) Condition of the child's health.
- (iii) Receipt of a copy of the family and group child care home rules.
- (iv) Agreement as to who will provide food for the child.
- (v) Acknowledgement that the assistant caregiver is 14 to 17 years of age, if applicable.
- (vi) Acknowledgement that firearms are on the premises, if applicable.
- (vii) If the child care home was built prior to 1978, then the caregiver shall inform the parents of each child in care and all assistant caregivers of the potential presence of lead-based paint or lead dust hazards, unless the caregiver maintains documentation from a lead testing professional that the home is lead safe. [Rule 400.1907 (1)(a), (b)(i)-(vii)]

Petitioner failed to properly maintain child information cards and the required statements signed by parents certifying their receipt of the child care home's written disciplinary policy and rules. In addition, Petitioner failed to maintain an agreement as to who would provide food, failed to maintain lead-based paint disclosures, and other pertinent information as required by this rule. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1907 (1)(a), (b)(i)-(vii).

In Count VIII of the notice of intent, Respondent alleged that Petitioner violated R 400.1907, which states in pertinent part:

Dated daily attendance records of children in care shall be maintained and shall include the child's first and last name and the time of arrival and departure. [Rule 400.1907 (3)]

Petitioner failed to properly maintain daily attendance records of the children in her care. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1907 (3).

In Count IX of the notice of intent, Respondent alleged that Petitioner violated R 400.1908, which states in pertinent part:

The group child care licensee shall assure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the home is licensed, not to exceed a total of 12. [Rule 400.1908 (2)]

During the July 2013 inspection, Petitioner failed to comply with the maximum requirement of children in care when her child care home exceeded the requirement by having 13 children in care. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1908 (2).

In Count X of the notice of intent, Respondent alleged that Petitioner violated R 400.1911, which states in pertinent part:

The caregiver shall assure appropriate care and supervision of children at all times. [Rule 400.1911(1)]

Petitioner repeatedly failed to assure the appropriate care and supervision of children as demonstrated by her disregard in complying with safe sleep practices. Petitioner permitted infants to sleep in car seats. Furthermore, Petitioner did not provide direct supervision of infants in pack-n-plays with blankets, thus creating a risk of harm to these children. Therefore, the ALJ properly determined Petitioner willfully and substantially violated Rule 400.1911 (1).

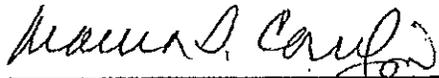
On October 7, 2014, the ALJ issued and entered a Proposal for Decision (PFD) that concluded Petitioner had willfully and substantially violated MCL 722.115d (1); MCL 722.119 (3); Rule 400.1902 (2); Rule 400.1904 (1)(c) & Rule 400.1905 (7)(a); Rule 400.1905 (3); Rule 400.1906 (1)(b)(ii), (c)(ii), (g)(i)-(iii); Rule 400.1907 (1)(a) & (b)(i)-(vii); Rule 400.1907 (3); Rule 400.1908 (2); Rule 400.1911 (1); and that the Order for Summary Suspension was proper. Parties had 14 days to file exceptions and 14 days to file responses to any exceptions. No exceptions were filed.

Upon review and to the extent not inconsistent with this Order, I agree with the ALJ's findings of fact and conclusions of law in this case.

ORDER

NOW THEREFORE, IT IS ORDERED that:

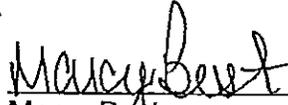
1. To the extent not inconsistent with this Order, the ALJ's Proposal for Decision (PFD) is adopted and is incorporated by reference, and made a part of this Final Decision and Order (see attached PFD).
2. The actions of the Bureau of Children and Adult Licensing in this matter are AFFIRMED.
3. Petitioner's license is REVOKED effective on the date this Final Decision and Order is issued and entered.



Maura D. Corrigan, Director
Department of Human Services

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 10th day of December, 2014.



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