STATE OF MICHIGAN

RICK SNYDER
GOVERNOR

DEPARTMENT OF HUMAN SERVICES
LANSING

NICK LYON
INTERIM DIRECTOR

February 11, 2015

Mr. Imran Khan
Pioneer Rehabilitation Specialist, Inc.
6372 Tulbury Lane
Troy, MI 48098

Re: **License AS630311899**

Dear Mr. Khan:

On or about January 26, 2015 you were certified mailed a copy of the Final Decision and Order upholding the Department of Human Services' intention to revoke your license to operate an adult foster care small group home. In accordance with that Final Decision and Order, your license is revoked and is now no longer in effect as of February 6, 2015. It is further understood that you will not receive adults for care now, or in the future, without being legally licensed to do so.

Sincerely,

Jerry Hendrick, Acting Director
Adult Foster Care/Homes for the Aged Licensing Division
Bureau of Children & Adult Licensing

JH:kam

cc: Denise Nunn, Licensing Supervisor
Stephanie A. Williams, Licensing Consultant

CERTIFIED MAIL- Return Receipt Requested

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:	Docket No.: 14-025302-DHS
Imran Khan/Pioneer Rehabilitation Specialists, Inc.,	Case No.: AS 630311899
Petitioner	Agency: Department of Human Services
v	Case Type: DHS BCAL
Bureau of Children and Adult Licensing,	Filing Type: Sanction
Respondent	

_____/

RECEIVED
JAN 30 2015
BUREAU OF CHILDREN AND ADULT LICENSING

Issued and entered
this 26th day of January, 2015
by
Nick Lyon, Interim Director
Department of Human Services

FINAL DECISION AND ORDER

This matter began on October 7, 2014 with Respondent's Order of Summary Suspension and Notice of Intent to Revoke License (notice of intent) regarding Petitioner Imran Khan/Pioneer Rehabilitation Specialists, Inc.'s license to operate an adult foster care small group home pursuant to the Adult Foster Care Facility Licensing Act, 1979 PA 218, as amended, MCL 400.701 *et seq.* A properly noticed hearing was held by Administrative Law Judge Eric J. Feldman (ALJ) on December 4, 2014. Assistant Attorney General Chantal B. Fennessey appeared on behalf of Respondent. Neither Petitioner nor an attorney appeared on her behalf.

Upon Petitioner's failure to appear and at the request of Respondent, the ALJ entered a Default Judgment against Petitioner pursuant to Sections 72(1) and 78(2) of

the Administrative Procedures Act of 1969, as amended, MCL 24.201 *et seq.* (APA). The notice of intent being incorporated into the hearing as a part of Respondent's pleadings and as a result of Petitioner's failure to appear at the hearing to contest the facts placed on the record as presented in the notice of intent, the ALJ found the facts as alleged by Respondent to be true and accurate. Therefore, the ALJ properly concluded that Petitioner violated the rules as alleged by Respondent.

On December 12, 2014, the ALJ issued and entered a Proposal for Decision (PFD) concluding that Petitioner willfully and substantially violated Rule 400.14201 (9)(a); Rule 400.14311 (1)(a); Rule 400.14312 (1); Rule 400.14312 (6); Rule 400.14301 (10); Rule 400.14316 (1)(d)(iv); Rule 400.734(b)(2), (2) & (18)(a); and Rule 400.14313 (4). No exceptions were filed.

I concur in the ALJ's findings of fact and conclusions of law.

ORDER

NOW THEREFORE, IT IS ORDERED:

1. That the ALJ's Proposal for Decision (PFD) is adopted in its entirety and is incorporated by reference and made a part of this Final Decision and Order (see attached PFD).
2. That the actions of the Bureau of Children and Adult Licensing in this matter are AFFIRMED.
3. That Petitioner's license is REVOKED, effective on the date this Final Decision and Order is issued and entered.

Nick Lyon

Nick Lyon, Interim 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 below this 27th day of January, 2015.

Nancy E. Ridley
Nancy E. Ridley
Michigan Administrative Hearing System

Joshua Hargrove
Bureau of Children & Adult Licensing
201 N. Washington Square
P.O. Box 30650
Lansing, Michigan 48909

Jason Scheeneman
Bureau of Children & Adult Licensing
201 N. Washington Square
P.O. Box 30650
Lansing, Michigan 48909

Denise Nunn
Bureau of Children & Adult Licensing
51111 Woodward Ave., 4th Fl., Ste. 4B
Pontiac, MI 48342

Stephanie A. Williams
Bureau of Children & Adult Licensing
19700 Hall Road, Suite B
Clinton Township, MI 48038

Chantal B. Fennessey
Michigan Attorney General's Office
Cadillac Place
3030 West Grand Blvd.
Detroit, MI 48202

Imran Khan/Pioneer Rehabilitation
Specialist, Inc.
6372 Tulbury Lane
Troy, MI 48098

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:	Docket No.: 14-025302-DHS
Imran Khan/Pioneer Rehabilitation Specialists, Inc., Petitioner	Case No.: AS 630311899
	Agency: Department of Human Services
v	
Bureau of Children and Adult Licensing, Respondent	Case Type: DHS BCAL
	Filing Type: Summary Suspension

Issued and entered
this 12th day of December, 2014
by: Eric J Feldman
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

This matter commenced on December 4, 2014, with the Bureau of Children and Adult Licensing (BCAL or Respondent) issuing an Order of Summary Suspension and Notice of Intent to Revoke License of Licensee, Pioneer Rehabilitation Specialist Inc. (Petitioner) to operate an adult foster care small group home pursuant to the authority of the Adult Foster Care Facility Licensing Act, 1979 PA 218, as amended, MCL 400.701 et seq., and the Child Care Organizations Act, 1973 PA 116 (Act), as amended, MCL 722.111 *et seq.*

On October 9, 2014, the Michigan Administrative Hearing System (MAHS) issued a Notice of Hearing, scheduling a hearing for December 4, 2014.

The hearing proceeded as scheduled on December 4, 2014 and Administrative Law Judge Eric Feldman presided. Licensing Consultant Stephanie Williams appeared for BCAL. Assistant Attorney General Chantal B. Fennessey appeared for BCAL. There was no appearance on behalf of the Petitioner. Further, there was no request for adjournment by Petitioner and no good cause was presented for the failure to appear at the hearing.

Pursuant to Section 72 of the Administrative Procedures Act of 1969 (APA), 1969 PA 306, as amended, MCL 24.201 *et.seq.*, the hearing proceeded in the Petitioner's absence. Additionally, BCAL requested a default judgment and this was entered against Petitioner pursuant to Section 78 of the APA.

Section 72(1) of the APA provides:

> If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

Section 78(2) of the APA provides:

> Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

As a result of the default, the factual allegations contained in Respondent's Order of Summary Suspension and Notice of Intent to Revoke License are deemed true.

SUMMARY OF EXHIBITS

Respondent Exhibits:

Exhibit A – A November 17, 2011, Adult Foster Care License Limited Liability Company, Governmental Organization and Corporate Application.

Exhibit B – A January 31, 2014, Adult Foster Care License Limited Liability Company, Governmental Organization and Corporate Application.

Exhibit C – A Special Investigation Report dated October 6, 2014.

ISSUES and APPLICABLE LAW

The general issue presented is whether the Respondent acted in a legally appropriate manner in its summary suspension and intent to revoke the license against Petitioner.

The specific issues concern alleged violations of Rules 400.14201(9)(a); 400.14311(1)(a); 400.14312(1); 400.14312(6); 400.14301(10); 400.14316(1)(d)(iv); 400.734(b)(2)(18)(a); and 400.14313(4), which provide, in pertinent part:

> **R 400.14201**
> **Qualifications of administrator, direct care staff, licensee, and members of the household; provision of names of employee, volunteer, or member of the household on parole or probation or convicted of felony; food service staff.**
>
> **(9) A licensee and the administrator shall possess all of the following qualifications:**

(a) Be suitable to meet the physical, emotional, social, and intellectual needs of each resident.

R 400.14311
Investigation and reporting of incidents, accidents, illnesses, absences, and death.

(1) A licensee shall make a reasonable attempt to contact the resident's designated representative and responsible agency by telephone and shall follow the attempt with a written report to the resident's designated representative, responsible agency, and the adult foster care licensing division within 48 hours of any of the following:

(a) The death of a resident.

R 400.14312
Resident medications.

(1) Prescription medication, including dietary supplements, or individual special medical procedures shall be given, taken, or applied only as prescribed by a licensed physician or dentist. Prescription medication shall be kept in the original pharmacy-supplied container, which shall be labeled for the specified resident in accordance with the requirements of Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws, kept with the equipment to administer it in a locked cabinet or drawer, and refrigerated if required.

* * *

(6) A licensee shall take reasonable precautions to insure that prescription medication is not used by a person other than the resident for whom the medication was prescribed.

R 400.14301
Resident admission criteria; resident assessment plan; emergency admission; resident care agreement; physician's instructions; healthcare appraisal.

(10) At the time of the resident's admission to the home, a licensee shall require that the resident or the resident's designated representative provide a written health care appraisal that is completed within the 90-day period before the resident's admission to the home. A written health care appraisal shall be

completed at least annually. If a written health care appraisal is not available at the time of an emergency admission, a licensee shall require that the appraisal be obtained not later than 30 days after admission. A department health care appraisal form shall be used unless prior authorization for a substitute form has been granted, in writing, by the department.

R 400.14316
Resident records.

(1) A licensee shall complete, and maintain in the home, a separate record for each resident and shall provide record information as required by the department. A resident record shall include, at a minimum, all of the following information:

* * *

(d) Health care information, including all of the following:

* * *

(iv) A record of physician contacts.

R 400.734(b)(2)
Employing or contracting with certain employees providing direct services to residents; prohibitions; criminal history check; exemptions; written consent and identification; conditional employment; use of criminal history record information; disclosure; failure to conduct criminal history check; automated fingerprint identification system database; report to legislature; costs; definitions.

* * *

(2) Except as otherwise provided in subsection (6), an adult foster care facility shall not employ or independently contract with an individual who has direct access to residents after April 1, 2006 until the adult foster care facility conducts a criminal history check in compliance with subsections (4) and (5). This subsection and subsection (1) do not apply to an individual who is employed by or under contract to an adult foster care facility before April 1, 2006. Beginning April 1, 2009, an individual who is exempt under this subsection shall provide the department of state police a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (12). An individual who is exempt under this subsection is not limited to working within the adult foster care facility with which he or she is employed by or under independent contract with on April 1, 2006. That individual may

transfer to another adult foster care facility that is under the same ownership with which he or she was employed or under contract. If that individual wishes to transfer to an adult foster care facility that is not under the same ownership, he or she may do so provided that a criminal history check is conducted by the new facility in accordance with subsection (4). If an individual who is exempt under this subsection is subsequently convicted of a crime or offense described under subsection (1)(a) to (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), he or she is no longer exempt and shall be terminated from employment or denied employment.

* * *

(18) as used in this section:

(a) "Direct access" means access to a resident or resident's property, financial information, medical records, treatment information, or any other identifying information.

R 400.14313
Resident nutrition.

(4) Menus of regular diets shall be written at least 1 week in advance and posted. Any change or substitution shall be noted and considered as part of the original menu.

FINDING OF FACTS

Based upon the default granted on December 4, 2014, and the entire record in this matter, the following findings of facts were established:

1. On or about August 9, 2011, Licensee was issued a license to operate an adult foster care small group home with a licensed capacity of 6 at 6372 Tutbury Ln., Troy, MI 48098.

2. On October 1, 2014, Licensing Consultant Stephanie Williams received the following complaint allegations: Licensee Designee Imran Khan and Administrator Zubair Ahmed were no longer operating Troy Hills; there is not enough appropriate food in the home to make full meals for the residents and medication errors have occurred without any consequences.

3. On October 2, 2014, Ms. Williams interviewed the complainant by telephone. During this conversation the complainant stated the following:

a. Tijana Tomic is the owner of Troy Hills but Ms. Tomic only comes to the home a couple of times during the week;

b. The medication cabinet in the home is never locked and is always kept open;

c. Residents do not always get their medications as prescribed and there are numerous medications that do not have prescriptions;

d. There are medications for deceased residents that are still being kept in the home;

e. Residents were being "tied down" with "belts;"

   i. Resident C is made to sleep in a recliner or couch during the night and a belt is used to keep her from moving out of the chair;

   ii. Resident E is kept in her wheelchair "all the time" with a belt;

f. Resident F died on September 6, 2014, but no incident report was completed to document the death;

g. Complainant has been working at Troy Hills for the last three to four weeks but she has not completed a background check, including fingerprints; Ms. Tomic has not provided her with the information to complete the required background check.

4. On October 2, 2014, Ms. Williams made an unannounced onsite investigation of Troy Hills. When she arrived, John Nikolich, Staff Member Olta Cumani, Resident A, Resident B, Resident C, Resident D and Resident E were present. Ms. Williams conducted her investigation and identified the following licensing rule violations:

   a. Mr. Nikolich identified himself as the president of JSN Services, Inc. and he confirmed that he assisted his daughter, Tijana Tomic, with the purchase of Troy Hills from Mr. Ahmed and Mr. Khan;

   b. Mr. Nikolich further stated that he and his wife were assisting Ms. Tomic with operating Troy Hills;

   c. Ms. Cumani has been working at Troy Hills for approximately three months, but has not completed the necessary employee background checks;

   d. Ms. Williams observed the following medication errors:

i. Resident B was not prescribed stool softener but was receiving Resident A's prescribed stool softener, per the medication log, "every other day at 9:00 p.m.;"

ii. Resident C was given Cranberry Supplement and Digestive Probiotic/50 vegetable capsules daily, but Ms. Cumani could not locate a prescription for these supplemental medications;

iii. Resident D's dosage of Zoloft 100 mg, two tablets once daily, was not initialed for the 12:00 p.m. dosage on October 2, 2014;

iv. The label for Resident E's Lorazepam medication stated to discard after September 25, 2014, but Resident E was administered the Lorazepam on September 30,2014; and again on October 1,2014;

v. Resident F's nasal solution medication was in the refrigerator door in the butter section with several bottles of nail polish;

vi. Ms. Williams observed Ms. Cumani leave the medication cabinet unlocked after she had finished administering medications to the residents;

e. Ms. Williams observed Resident C, Resident D and Resident E eating lunch which consisted of turkey patties, mixed vegetables, salad and flour tortillas. When Ms. Williams reviewed the October menu it stated that for lunch residents would be served a ham sandwich, soup, vegetable salad and 8 ounces of juice/water. The changes to the lunch menu were not posted, as required.

f. Ms. Williams reviewed the resident files for Resident A, Resident B, Resident C, Resident D and Resident E and observed the following:

i. Resident A and Resident B's Resident Care Agreements were last completed on April 23, 2013, but were not signed by the licensee designee, both Health Care Appraisals were completed on April 4, 2013, and Assessment Plans were last completed on April 23, 2013;

ii. Resident C's Resident Care Agreement was last completed on July 21, 2013, and the Assessment Plan was last completed on August 13, 2014, but was not signed by the licensee designee;

iii. Resident D's Assessment Plan and Health Care Appraisal were last completed on November 26, 2012;

iv. Resident E was admitted on September 29, 2014, but her Resident Care Agreement was not signed by her licensee designee/guardian and her Assessment Plan and Health Care Appraisal were not completed upon or prior to admission;

v. Resident A, Resident B and Resident C's resident files were observed and Ms. Williams noticed that their weight had not been recorded since July 1, 2014;

vi. Resident A, Resident B, Resident C, Resident D and Resident E's resident files were observed and none of the residents had record of physician contacts and statements for supervising the residents' care. Ms. Cumani informed Ms. Williams that they only had staff notes detailing the residents' daily activities;

vii. Resident F's nasal medication was stored in the refrigerator;

viii. Ms. Cumani stated that residents had recently passed away, but failed to identify Resident F, who passed away on September 6, 2014;

g. Resident C and Resident E's resident files were reviewed and Ms. Williams did not find authorization for the use of a safety belt/gait belt for either resident.

5. On October 3, 2014, Ms. Williams received an email from Mr. Ahmed. In this email Mr. Ahmed confirmed that Troy Hills had been sold to JSN Services, Inc. The sale of Troy Hills by Mr. Ahmed and Mr. Khan was never reported to the Bureau of Children and Adult Licensing (BCAL), nor did they report to the BCAL that they were no longer involved in the day-to-day operations and care of the residents of Troy Hills. JSN Services, Inc. submitted an application for an adult foster care small group home license on April 2, 2014, but an application incomplete letter was forwarded to JSN Services, Inc. on April 18, 2014, by the BCAL. As of this date, their license to operate an adult foster care small group home has not been issued.

6. On October 3, 2014, Ms. Williams received small correspondence from Ms. Tomic. In this email Ms. Tomic confirmed that she purchased Troy Hills from Mr. Ahmed and Mr. Khan on February 19, 2014.

7. On October 3, 2014, Ms. Williams interviewed Ms. Tomic over the telephone. During this interview Ms. Tomic stated that she was unaware that a doctor needed to provide authorization to use gait belts, safety belts and other assistive devices.

8. On October 3, 2014, Ms. Williams received an email from Erin Dittmer of the AFC/HFA Workforce Background Check Unit confirming that Ms. Cumani and another staff member, Ashley White, have not completed employee background checks.

9. On October 6, 2014, Ms. Williams reviewed the Troy Hills field file and noticed that there was no incident report regarding the death of Resident F on September 6, 2014.

CONCLUSIONS OF LAW

In 1973, the State Legislature enacted the "Child Care Organization Act" to provide for the licensing and regulation of child care organizations and to provide standards of care for these organizations and penalties for violations of the Act, Act 116 of the Public Acts of 1973; MCL 722.111, et seq. The Department of Human Services Bureau of Children and Adult licensing (BCAL) now has the authority to license and evaluate child care organizations, including foster family homes, pursuant to the Act.

MCL 722.121 provides:

> (2) The department may deny, revoke, or refuse to renew a license or certificate of registration of a child care organization when the licensee, registrant, or applicant falsifies information on the application or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license or certificate of registration.

The principles that govern judicial proceedings also apply to administrative hearings. The burden of proof is upon Respondent to prove, by a preponderance of the evidence that grounds exists for the summary suspension and intent to revoke the license against Petitioner. The Administrative Law Judge (ALJ) evaluates the testimony and the evidence elicited at the hearing and renders a proposed decision setting forth an opinion as to whether the Petitioner in fact committed a willful and substantial violation of the Act, rules or terms of the license. If a willful and substantial violation is determined, the Director of the Department is statutorily empowered to take appropriate adverse action against the license. Thus, the words "willful and substantial" must be evaluated.

The words "willful and substantial" as used in the Act are defined in the applicable Administrative Rule as follows:

> R 400.16001
> (c) "Noncompliance" means a violation of the act or act 218, an administrative rule promulgated under the act or act 218, or the terms of a license or a certificate of registration.

> (d) "Substantial noncompliance" means repeated violations of the act or act 218 or an administrative rule promulgated under the act or act 218, or noncompliance with the act or act 218, or a rule promulgated under the act or act 218, or the terms of a license or a certificate of registration that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.
>
> (e) "Willful noncompliance" means, after receiving a copy of the act or act 218, the rules promulgated under the act or act 218 and, for a license, a copy of the terms of a license or a certificate of registration, an applicant or licensee knew or had reason to know that his or her conduct was a violation of the act or act 218, rules promulgated under the act or act 218, or the terms of a license or a certificate of registration.

In the present case, though, under § 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. See Smith v Lansing School Dist., 428 Mich. 248 (1987). Based upon a default being granted in this matter, the allegations cited in the Order of Summary Suspension and Notice of Intent to Revoke License are deemed true. Accordingly, Respondent has proven, by a preponderance of the evidence, that Petitioner willfully and substantially violated Rules 400.14201(9)(a); 400.14311(1)(a); 400.14312(1); 400.14312(6); 400.14301(10); 400.14316(1)(d)(iv); 400.734(b)(2)(18)(a); and 400.14313(4).

PROPOSED DECISION

The Administrative Law Judge proposes that the Director conclude that there were willful and substantial violations of 400.14201(9)(a); 400.14311(1)(a); 400.14312(1); 400.14312(6); 400.14301(10); 400.14316(1)(d)(iv); 400.734(b)(2)(18)(a); and 400.14313(4).

EXCEPTIONS

If any party chooses to file Exceptions to this Proposal for Decision, the Exceptions filed within fourteen (14) days after the Proposal for Decision is issued and entered. If an opposing party chooses to file a Response to the Exceptions, it must be filed within fourteen (14) days after Exceptions are filed.

All Exceptions and Responses to Exceptions must be served on all parties to the proceeding and filed with the:

Michigan Administrative Hearing System
Cadillac Place
3026 West Grand Blvd, Suite 2-700
Detroit, Michigan 48202
Fax: (313) 456-3681

Eric Feldman
Administrative Law Judge

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 below this 12th day of December, 2014.

Maria Ardelean
Michigan Administrative Hearing System

Denise Nunn
Bureau of Children and Adult Licensing
51111 Woodward Ave., 4th Floor, Ste 4B
Pontiac, MI 48342

Jason Scheeneman
Bureau of Children and Adult Licensing
201 N. Washington Square, 4th Floor
P.O. Box 30650
Lansing, MI 48909

Stephanie A. Williams
Bureau of Children and Adult Licensing
19700 Hall Road, Suite B
Clinton Township, MI 48038

Joshua Hargrove
Bureau of Children and Adult Licensing
201 N. Washington Square, 4th Floor
P.O. Box 30650
Lansing, MI 48909

Chantal B. Fennessey
Michigan Attorney General
Cadillac Place
3030 West Grand Boulevard
Detroit, MI 48202

Imran Khan/Pioneer Rehabilitation
Specialists, Inc.
6372 Tulbury Lane
Troy, MI 48098