



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS

MIKE ZIMMER
DIRECTOR

November 12, 2015

Dawn Ketvirtis
336 Burr Oak St.
Mendon, MI 49072

Re: DG750293740
Docket No. 15-016848

Dear Ms. Ketvirtis:

On or about October 12, 2015 you were certified mailed a copy of the Final Decision and Order upholding the Department of Licensing and Regulatory Affairs' intention to revoke your license to operate a group child care home. In accordance with that Final Decision and Order, your license is revoked and is now no longer in effect as of October 19, 2015. It is further understood that you will not receive children for care now, or in the future, without being legally licensed to do so.

Sincerely,

A handwritten signature in black ink that reads "Mark Jansen".

Mark Jansen, Director
Child Care Licensing Division
Bureau of Community and Health Systems

MJ: sb
cc: Yolanda Sims, Area Manager

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

IN THE MATTER OF:

Docket No.: 15-016848

Dawn Ketvirtis,
Petitioner

Case No.: DG 750293740

v

Agency: Department of
Health and Human
Services

Bureau of Children and Adult Licensing,
Respondent

Case Type: DHHS OCAL

Filing Type: Sanction/
Revocation

Issued and entered
this 12th day of October, 2015
by Michael Zimmer, Department Director

FINAL DECISION AND ORDER

This matter began with a Notice of Intent to Revoke License (hereafter "Notice of Intent") issued on December 22, 2014, by the Bureau of Children and Adult Licensing¹, Respondent, concerning the license held by Dawn Ketvirtis, Petitioner, to operate a group child care home under the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111 *et seq.* (hereafter "Act"). A properly noticed hearing regarding the matter at issue was held by Administrative Law Judge Renee A. Ozburn (ALJ) on May 14, 2015. Neither Petitioner, nor an attorney or authorized representative for Petitioner, appeared at the scheduled hearing and it proceeded in Petitioner's absence under Section 72(1) of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq.* (hereafter "APA"). Respondent requested that a default be entered against Petitioner in accordance with Section 78(2) of the APA. The ALJ granted a default against Petitioner.

On July 8, 2015, the ALJ issued a Proposal for Decision that contained findings of fact and conclusions of law regarding Respondent's Notice of Intent. The parties were notified of the right to file Exceptions to the Proposal for Decision. On July 28, 2015, Petitioner filed a letter during the exceptions period, in which she took issue with the findings of fact but did not move to have the default ruling set aside.

¹ At the time of the issuance of the Notice of Intent, the Bureau of Children and Adult Licensing (Respondent) was a part of Department of Human Services (DHS), and is now under the Department of Licensing and Regulatory Affairs (LARA), in accordance with Executive Order 2015-4.

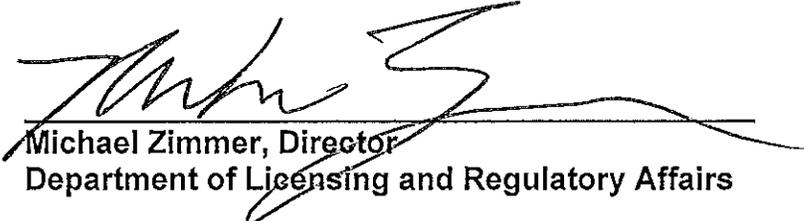
The ALJ's Proposal for Decision recommended that the Department Director adopt the findings of fact and conclusions of law, including that Petitioner willfully and substantially violated R400.1902(1)(c), R400.1902(2), R400.1908(2), R400.1913(2) and (3)(c)&(e), R400.1903(1)(h)(i),(ii),(iii)&(iv), R400.1903(1)(i), R400.1903(4)(b), R400.1903(7), R400.1904(1)(c), R400.1905(3), R400.1906(1)(a),(b)(ii),(c)(ii),(d),(e)(i)&(ii),(f) and g((i),(ii)&(iii) of the Licensing Rules for Family and Group Child Care Homes, 2005 and 2009 AACS, R 400.1901 *et seq.* and MCL 722.115d(1) as alleged in the Notice of Intent.

Now therefore, after review of the hearing record and the ALJ's Proposal for Decision, the following Order is entered:

ORDER

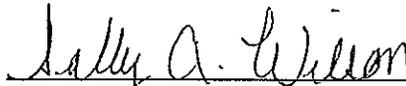
NOW THEREFORE, IT IS ORDERED that:

1. The ALJ's Proposal for Decision issued on July 8, 2015, is hereby adopted in its entirety and incorporated by reference, and made a part of this Final Decision and Order (see attached Proposal for Decision); and
2. The action of Respondent to REVOKE Petitioner's license to operate a group child care home is hereby AFFIRMED.


Michael Zimmer, Director
Department of Licensing and Regulatory Affairs

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 first class mail at their respective addresses as disclosed below or electronic delivery as specified this 12th day of October, 2015.



Sally A. Wilson

Department of Licensing and Regulatory Affairs

Via First Class Mail

Dawn Ketvirtis
336 Burr Oak Street
Mendon, MI 49072

Via Electronic Delivery

Jerry Hendrick
DHS Bureau of Children & Adult Licensing
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Kelly Maltby
BCAL Investigation & Disciplinary Action
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Rebecca Wagster
Bureau of Children and Adult Licensing
322 East Stockbridge Avenue
Kalamazoo, MI 49001

Yolanda Sims
Bureau of Children and Adult Licensing
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Kalamazoo, MI 49001

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Dawn Ketvirtis,
Petitioner

v

Bureau of Children and Adult Licensing,
Respondent

Docket No.: 15-016848-DHS

Case No.: DG 750293740

Agency: Department of
Health and Human
Services

Case Type: DHHS OCAL

Filing Type: Sanction

Issued and entered
this 8th day of July 2015
by Renee A. Ozburn
Administrative Law Judge

PROPOSAL FOR DECISION

On December 22, 2014, the Bureau of Children and Adult Licensing (BCAL/Respondent) issued a Notice of Intent to Revoke License alleging that Dawn Ketvirtis (Petitioner) was in violation of the Child Care Organization Act, 1973 PA 116, as amended, MCL 722.111 *et seq.*

On March 19, 2015, a Notice of Hearing was issued scheduling a hearing for Thursday, May 14, 2015 at 9 a.m. in Lansing, Michigan. The Notice was mailed to Petitioner at her last known address of record. On May 14, 2015, at the time scheduled for hearing, BCAL representative Kelly Maltby was present and ready to proceed. Petitioner did not appear at the May 14, 2015 hearing and no representative appeared on her behalf. The undersigned Administrative Law Judge deemed that Petitioner had been duly served with notice and the hearing could proceed in her absence pursuant to Section 72 of the Administrative Procedures Act, (APA), 1969 PA 306, as amended, MCL 24.201 *et seq.* Ms. Maltby requested a default decision. A default was granted pursuant to Section 78 of the APA. A default results in a decision that all allegations in the December 22, 2014 Notice of Intent to Revoke License are true as alleged.

ISSUES AND APPLICABLE LAW

The issue in this matter is whether Petitioner is in violation of the following rules and statutory provisions as cited in the Notice of Intent to Revoke License:

R 400.1902 Caregiver and child care home family.

Rule 2.

(1) An applicant shall meet all of the following provisions:

(c) Reside in the child care home.

(2) 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.

R 400.1903 Caregiver responsibilities.

Rule 3.

(1) A caregiver shall be responsible for all of the following provisions:

(h) Report to the department, within 7 working days, any changes in the household composition or when any new or existing member of the household has any of the following:

(i) Arrests or convictions.

(ii) Involvement in substantiated abuse or neglect of children.

(iii) Court-supervised parole or probation of the caregiver or any member of the household.

(iv) Been admitted to, or released from, a correctional facility, or hospital, institution, or facility for the treatment of an emotional, mental, or substance abuse problem.

(i) Provide the department with a written statement verifying a person's personal fitness to care for, or to be associated with, children for any person who lives in a home or who cares for children and who has been treated on an inpatient or outpatient basis for an emotional, mental, or substance abuse problem during the last 2 years. Such statement shall be obtained from the medical or mental health professional who is directly

involved in the treatment plan or the administrative director of the mental hospital or mental institution.

- (4) The caregiver shall cooperate with the department in connection with an inspection or investigation. Cooperation shall include, but not be limited to, both of the following:

(b) Information provided to the department shall be accurate and truthful.

- (7) The caregiver shall authorize the department to conduct a criminal history and protective service background check to assess the good moral character and suitability of the child care home family.

R 400.1904 Assistant caregivers.

Rule 4.

- (1) An assistant caregiver shall meet all of the following requirements:
- (c) Have proof of valid infant/child/adult CPR, first aid, and blood-borne pathogen training within 90 days of hire.

R 400.1905 Training.

Rule 5.

- (3) 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.

R 400.1906 Records of caregiving staff and child care home family; record maintenance.

Rule 6.

- (1) The caregiver shall maintain a file for the caregiver and each assistant caregiver including all of the following:
- (a) The name, address, and telephone number.
- (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.
- (d) Training records, as defined in R 400.1905(5).
- (e) A statement signed by each assistant caregiver that he or she has not been convicted of either of the following:
 - (i) Child abuse or child neglect.
 - (ii) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.
- (f) Documentation from the department of human services that the assistant caregiver has not been involved in substantiated child abuse or neglect.
- (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.

R 400.1908 Capacity.

Rule 8.

- (2) 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.

R 400.1913 Discipline and child handling.

Rule 13.

- (2) Developmentally appropriate positive methods of discipline which encourage self-control, self-direction, self-esteem, and cooperation shall be used.
- (3) Caregiving staff shall not do any of the following:

- (c) Inflict mental or emotional stress, such as humiliating, shaming, threatening a child, or using derogatory remarks.
- (e) Confine a child in an enclosed area such as a closet, locked room, box, or similar cubicle.

MCL 722.115d

Offer of employment to person at child care organization; criminal history check; current employees; cost.

Sec. 5d.

- (1) 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 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.

FINDINGS OF FACT

1. On or about June 18, 2008, Dawn Ketvirtis (Licensee) was issued a license to operate a group child care home, with a current licensed capacity of 12, at 336 Burr Oak Street, Mendon, Michigan 49072.
2. On one occasion during the summer or fall months of 2013, the Licensee got into a verbal altercation with her adult daughter, Brittani Davis. This altercation occurred while in the presence of children at the child care home. During the argument, the Licensee and Ms. Davis yelled and cursed at each other.
3. The Licensee does not reside in the child care home. In approximately September 2013, the Licensee moved out of the child care home and began living with her boyfriend at another residence. During this same time period, the Licensee's husband moved out of the child care home. The Licensee failed to disclose this change in household composition to the Bureau of Children and Adult Licensing (BCAL).
4. In approximately September 2013, after the Licensee moved into her boyfriend's residence, assistant caregiver Kimberly Johnson, Ms. Johnson's husband, and her two children moved into the child care home.

The Licensee failed to disclose this change in household composition to BCAL. The Licensee also failed to submit the following household member records to BCAL:

- a. A medical statement for Mr. Johnson
 - b. Tuberculosis test results for Mr. Johnson; and
 - c. Criminal history clearances for Mr. and Mrs. Johnson.
5. In approximately April 2014, assistant caregiver Samantha Mumbower moved into the Licensee's child care home. The Licensee failed to report this change in household composition to BCAL. The Licensee also failed to submit the following household member records to BCAL:
- a. A medical statement for Ms. Mumbower ;
 - b. Tuberculosis test results for Ms. Mumbower ;
 - c. A criminal history clearance for Ms. Mumbower.
6. On one occasion during the summer months of 2014, the Licensee got into a verbal altercation with Ms. Johnson while in the presence of children at the child care home. During the argument, the Licensee yelled and cursed at Ms. Johnson.
7. On more than one occasion during the summer months of 2014, the Licensee failed to use appropriate methods of discipline with children in care, as evidenced by the following:
- a. On multiple occasions, the Licensee grabbed children by the upper arm and pulled them into the area designated for time outs.
 - b. On multiple occasions, the Licensee yelled at children in care and called them derogatory names.
 - c. On one occasion, the Licensee told Child C (Male, Age 4) that he was "retarded" and that he didn't have a brain.
 - d. On more than one occasion, the Licensee told Child C he was naughty.
 - e. On one occasion, the Licensee called Child F (Female, Age 9) "stupid".
 - f. On multiple occasions, the Licensee placed crying children unattended in the bathroom, with the door closed, for a time out. Children were made to stay in the bathroom for as long as 15 minutes.
8. On September 3, 2014, Licensing Consultant Rebecca Wagster conducted an unannounced inspection of the Licensee's child care home. With the exception of a crib in one of the rooms, all of the bedrooms in the home were vacant. During the inspection, the Licensee denied that she

was living elsewhere and maintained that she slept on a pull-out couch in the living room. The Licensee reported to Ms. Wagster that she had been living in the child care home for over 20 years.

9. On September 3, 2014, Ms. Wagster observed 15 children present in the Licensee's child care home. The Licensee exceeded her licensed capacity of 12 children. 13 of the 15 children were not related to the Licensee or her assistant caregiver.
10. On September 3, 2014, Ms. Wagster reviewed the Licensee's attendance records for children in care. Between August 4, 2014 and August 26, 2014, the Licensee exceeded her licensed capacity on a daily basis, caring for between 18 and 26 children at one time.
11. On September 3, 2014, Ms. Wagster reviewed the Licensee's records for assistant caregivers and found the following violations:
 - a. Ms. Johnson lacked valid CPR certification. Ms. Johnson's CPR certification expired on March 13, 2014. This is a repeat violation.
 - b. The Licensee failed to have CPR certification on file for Ms. Mumbower and assistant caregiver Devin Abnet.
 - c. The Licensee failed to have verification on file that Ms. Mumbower and Ms. Abnet had completed first aid and blood borne pathogen training.
 - d. The Licensee failed to have verification on file that Ms. Mumbower and Ms. Abnet had completed safe sleep and shaken baby training. This is a repeat violation.
 - e. The Licensee failed to have written contact information on file for Ms. Mumbower and Ms. Abnet.
 - f. The Licensee failed to have physician's statements on file attesting to the mental and physical health of Ms. Mumbower and Ms. Abnet.
 - g. The Licensee failed to have tuberculosis tests on file for Ms. Mumbower and Ms. Abnet.
 - h. The Licensee failed to have child abuse and neglect clearances on file for Ms. Mumbower and Ms. Abnet. This is a repeat violation.

- i. The Licensee failed to have written statements on file for Ms. Mumbower and Ms. Abnet verifying that they were aware of the child care discipline policy and child abuse/neglect laws. This is a repeat violation.
 - j. The Licensee failed to conduct criminal history clearances on Ms. Mumbower and Ms. Abnet. This is a repeat violation.
12. On September 3, 2014, the Licensee reported to Ms. Wagster that Devin Abnet only worked as a volunteer at her child care home and that she cared for related children only. The Licensee was not truthful with Ms. Wagster, as Ms. Abnet works for the Licensee as a paid employee and functions as an assistant caregiver in the child care home.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings, 8 Callaghan's Michigan Pleadings and Practice, §60.48 at 239 (2d ed. 1994). The burden of proof is on Respondent BCAL to prove by a preponderance of the evidence that Petitioner Dawn Kevirtis violated the Child Care Organization Act, 1973 PA 116 as alleged in the December 22, 2014, Notice of Intent to Revoke.

The above Findings of Fact established as a result of the default granted to Respondent, constitute violations of R400.1902(1)(c), R400.1902(2), R400.1908(2), R400.1913(2),(3)(c) &(e), R400.1903(1)(h)(i)(ii)(iii) &(iv) and (i), R400.1903(4), R400.1903(7), R400.1904(1)(c), R400.1905(3), R400.1906(1)(a),(b)(ii),(c)(ii),(d),(e)(i) &(ii),(f) &(g)(i)(ii) &(iii) and MCL 722.115d(1) as alleged in the December 22, 2014 Notice of Intent to Revoke.

PROPOSED DECISION

The undersigned Administrative Law Judge proposes that the Director issue a Final Decision consistent with the above Findings of Fact and Conclusions of Law.

EXCEPTIONS

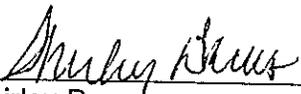
The parties may file Exceptions to this Proposal for Decision within twenty-one (21) days after it is issued and entered. An opposing party may file a response within fourteen (14) days after initial Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the Michigan Administrative Hearing System, Ottawa State Office Building, 2nd Floor, 611 West Ottawa Street, Lansing, Michigan 48909, and served on all parties to the proceeding.



Renee A. Ozburn
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 8th day of July 2015.



Shirley Dacus
Michigan Administrative Hearing System

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