

October 17, 2012

MARION'S QUALITY SERVICES, INC.
d/b/a DEB'S LEARNING PLACE, INC.
3516 Madison Street
Omaha, NE 68107

Dear MARION'S QUALITY SERVICES INC.:

This letter is written to request that you submit to Marsha Wandersee in the Licensure Unit by return mail, within the next seven (7) days, your current License to operate as a Family Child Care Home II in the State of Nebraska. This request is being made since said License has been revoked, effective October 3, 2012 by the Findings of Fact, Conclusions of Law and Order issued on October 3, 2012 by Joann Schaefer, MD, Chief Medical Officer and Director, Division of Public Health, Department of Health and Human Services.

If you have any questions, please contact Child Care Licensing at (402) 471-9302.

Sincerely,



Helen L. Meeks, Administrator
Licensure Unit

HLM/dcp

cc: Child Care Licensing

3. All three proposed staff members, Carla Mason, Shantee Richardson and Shonae Doremus failed to fully and accurately disclose their entire criminal history.
4. Marion's has a history of non-compliance at other licensed locations.

(It's a Kids World)

1. The allegations concerning the staff/child ratio occurring at 8:00 a.m. on March 29, 2011 were not established by a preponderance of the evidence.
2. Two individuals, Shannon Tays and Greta Johnson, were current inmates at the Omaha Correctional Center and were participating in a work release program and employed by Marion's. Neither individual correctly or accurately completed their felony misdemeanor statements. Marion's was aware however, that both individuals had been convicted of theft by deception for which they had been and were currently incarcerated.
3. Ms. Tays' felony misdemeanor statement failed to indicate specifically that she had been convicted of five felony counts for forgery and one felony count for possession of a controlled substance (meth) in addition to numerous other law enforcement contacts.
4. Marion's failed to recognize that hiring these two felons was a clear violation of child care regulations.
5. Marion's violated terms and conditions of a preexisting probation which required the facility to maintain compliance with child care regulations.

GENERAL DISCUSSION

As to the charges against Deb's Learning Center concerning the child/staff ratio on the date and time at issue, the evidence in this record is unclear and contradictory. Therefore, it cannot be found that the department sustained its burden of proving a violation by a preponderance of the evidence. That allegation will be dismissed.

Concerning the employment of unqualified individuals. Mr. and Mrs. Marion contend they did not possess actual knowledge of the exact nature of the crimes committed by these two individuals and that they were unclear about whether what they did know would constitute a disqualification.

The fact that these two individual employees had to be picked up on work release, from a correctional facility where they were incarcerated, would lead a reasonable person to make further inquiry.

Claiming ignorance, under these circumstances, defies credulity and ignores the responsibilities taken on by a provider, once licensed, for the care and safety of the children left in their facility and cared for by their employees.

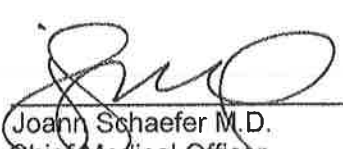
CONCLUSIONS OF LAW

1. The department may initiate a revocation proceeding where a licensee has a history of violations of the regulations. 391 NAC 4-001.04.
2. The department may take disciplinary action against a license issued under the Child Care Licensing Act for failure of the licensee to comply with requirements of the act or for violations of the rules and regulations. Neb. Rev. Stat. Section 71-1919.
3. The licensee and the director shall not allow any person where there is evidence that person has been convicted of crimes involving illegal use of controlled substances or crimes of moral turpitude to be on the premises. 391 NAC 8-002.
4. A licensee or director shall request additional information from law enforcement for candidates being considered for employment who have submitted the required felony misdemeanor statement and where circumstances dictate additional information is needed to determine eligibility. Child Care Standards.
5. A denial may be based on the applicant's unwillingness or inability to comply with regulations. 391 NAC 3-001.12
6. The department may take action against an applicant or licensee for the failure to meet any of the requirements of the act or the rules and regulations or for conduct or practices detrimental to the health and safety of any person served by the program. Neb. Rev. Stat. Sec. 71 1919(1)(4).

ORDER

1. The appeal filed by Marion's Quality Services Inc D/B/A as Deb's Learning Place, Case number Inc., is denied and this license now held by Marion's, but not in operation, is revoked effective on the date of this order.
2. The appeal filed by Marion's Quality Services Inc D/B/A It's a Kid's World Inc. Case number is granted to the extent the license will not be revoked but will have additional sanctions placed against it in the form of additional probation.. See Attachment A.
3. The allegations concerning the staff/child ratio on March 27, 2011 in case number 11-1699 are dismissed.

DATED this 3 day of October 2012.



Joann Schaefer M.D.
Chief Medical Officer
Director Division of Public Health
Dept. of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 5th day of October, 2012, a copy of the foregoing **FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER** was sent by certified United States mail, postage prepaid, to **James Place, Place Law Office, Montana Building, 2813 South 87th Avenue, Omaha, NE 68124** and interagency mail to Agency Counsel, **Teresa Hampton**, Department of Health and Human Services, Lincoln, Nebraska.

Bethan Hagan

DHHS Legal Services

P.O. Box 98914

Lincoln NE 68509-8914

(402) 471-7237 Fax (402) 742-2376

ATTACHMENT A
PROBATION AND CIVIL PENALTY
IT'S A KIDZ WORLD

1. A civil penalty of \$615.00 for the Staff Qualifications relating to the hiring of Ms. Johnson and Ms. Tays (\$5.00 X 123 license capacity for one day violation).
2. Two (2) years of probation with the following terms and conditions:
 - a. Licensee is required to provide Children's Services Licensing staff information about all proposed employees that have convictions prior to hiring any of these individuals as employees to determine if the criminal history is not acceptable for the individual(s) to work in a child care program.
 - b. Licensee must not hire any employee with an entry on either the Nebraska Child Abuse and Neglect Central Registry and/or Nebraska Adult Protective Services Central Registry.
 - c. Licensee must have a director and/or co-director/person in charge and on site during all licensed hours. Within 15 days of the effective date of the Order Licensee must submit or resubmit an application to the Department indicating the name of a director and co-director/person in charge who meet director qualifications. The Department will inform Licensee, in writing, when these individuals are approved.
 - d. Licensee must notify the Department, by telephone within 24 hours and in writing within 36 hours to the Department of any changes in the director and/or co-director/person in charge.
 - e. Licensee must maintain compliance with all Child Care Center regulations. Compliance will be monitored by Children's Services Licensing staff and may be monitored by other Department representatives (i.e., Fire Marshal or designated agent, Environmental Health Specialist or designated agent, Resource Development Worker, Children and Family Specialist, etc.). Licensee and any employees and/or agents must cooperate with the Department in these monitoring inspections.

- f. A copy of this Order must be posted with the current child care license so it is clearly visible to parents and agency representatives. Licensee must have all parents of children in care read this Order and sign an acknowledgment of such action. The Acknowledgment must be kept on site in the child's record and be immediately available for review upon the request of Department staff.
- g. Licensee must contact local law enforcement agencies and document how it can obtain publicly available information about the criminal history of individuals from those agencies. Licensee must develop and submit to the Department a written policy and procedure which sets out the steps it will take to use the information it can obtain from law enforcement agencies to ensure staff have adequate and appropriate criminal history checks, and how it will ensure that registry checks, and training prior to hiring are completed and how hiring decisions are made when an individual is found to have a conviction or convictions and or a registry entry, documentation of such, and that staff continue to meet requirements.

These policies/procedures must be submitted to the Department within 15 calendar days after the effective date of this Order. The Department agrees that after reviewing the policies/procedures, it will either approve it or require modifications thereto within ten calendar days. If modifications are required, Licensee must reply within 10 calendar days of notice by the Department by resubmitting the written policies/procedures to the Department for approval. The Department may make minor unilateral modifications to the written policies/procedures. Once approved by the Department, Licensee must implement the written policies/procedures as approved by the Department.

- h. Licensee must have signed documentation that all staff are familiar and are trained in the Policies and Procedures. Documentation must be maintained on site and available for review upon request by the Department.
- i. Licensee must send all documents required by this Order to: Stefanie Sellers, Child Care Inspection Specialist, 1801 North 73rd Street, Omaha NE 68114 or such other address required by the Department in writing.
- j. If the Licensee discontinues its child care program for any reason, the time Licensee is not actively operating a licensed child care program will not count toward the term of probation and any subsequent child care license shall be subjected to the remainder of the term of probation. Any subsequent child care license indicating Licensee or its owners as Licensee/Director shall be subject to the terms of this Order including completion of the term of probation and all other requirements set forth herein.

- k. Licensee must notify the Department, in writing, within seven days of any period it is not actively operating, and the probationary period will toll as of the date the Licensee stopped operation. Violation of any of the terms of this Order or the statutes and regulations governing its license is grounds for revocation of her license or as such other discipline as may be deemed determine appropriate.

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

**IN THE MATTER OF:)
THE OPERATING FAMILY CHILD CARE HOME)
II LICENSE OF MARION'S QUALITY SERVICES,)
INC. D/B/A DEB'S LEARNING PLACE INC.)**

**NOTICE OF REVOCATION
AND DENIAL**

LICENSED LOCATION: 3516 MADISON STREET, OMAHA, NE, 68107

NOTICE:

Marion's Quality Services, Inc. (hereinafter referred to as "Marion's") is hereby notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") intends to revoke Marion's operating Family Child Care Home II license and deny the application to amend received on April 7, 2011 for violation of the following:

AUTHORITY:

Nebraska Revised Statutes, section 71-1911.02 states in pertinent part: "An application shall be accompanied by...additional information as required by the Department, including affirmative evidence of the applicant's ability to comply with rules and regulations adopted and promulgated under the Act."

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

- (1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program; ..."

391 NAC 3-001.12 Denial of a License: "Denial of a license will be based upon any of the following circumstances: 1. The applicant's unwillingness or inability to comply with regulations; ..."

391 NAC 4-001.04 Suspension or Revocation: "The Department may initiate ... revocation proceedings under any of the following circumstances:

- 1. When a licensee has shown a history of repeated violations of regulations; 2. When a licensee has violated a regulation(s) so as to create a situation which places children at substantial risk; ...17. When a licensee has violated any regulation; ...".

391 NAC 6-004.01 Felony/Misdemeanor Statement: "Before issuance of a license, the child care provider shall submit a "Felony/Misdemeanor Statement," signed and dated by all household members age 19 and older, which includes the following information:

1. Felony and/or misdemeanor arrests related to crimes against children;
2. Misdemeanor tickets, other than minor traffic violations;
3. Felony and/or misdemeanor convictions;
4. Any pending criminal charge(s); and
5. Current parole or probation status.

This statement must include all law enforcement contacts, regardless of prosecution." (Page 4, Standard 22, Family Child Care Center Standards)

"The child care provider and/or household members shall not engage in or have a history of behavior injurious to or which may endanger the health or morals of children." (Page 4, Standard 23, Family Child Care Home Standards)

391 NAC 6-004.03 Report of Law Enforcement Record: "The child care provider is responsible for reporting any arrests, misdemeanor tickets other than traffic violations, pending criminal charges, and/or any felony/misdemeanor convictions on themselves, substitutes, secondary providers and/or household members when care is provided in the place of residence." (Page 5, Standard 26, Family Child Care Home Standards)

FACTS AND FINDINGS:

Marion's is the licensee of a Family Child Care Home II. This program is licensed for a maximum 12 children, Monday through Friday, 6:00 a.m. to 6:00 p.m. This program has been licensed since August 28, 2002.

Marion's is also the licensee of a child care center, It's a Kidz World located at 810 Fort Crook Road South, Bellevue, Nebraska, 68005. Such license is on Probation until March 14, 2012. On May 24, 2011, a Notice of Revocation was sent to this program for violations of statutes and regulations governing the operation of a child care program. The facts, in summary, were:

- Marion's knowingly hired two individuals who were Department of Correctional Services (DCS) inmates.
- Marion's failed to conduct a complete criminal history check and failed to ensure that staff members completed their felony/misdemeanor statement accurately.
- Marion's failed to recognize by hiring two staff members, currently inmates of DCS, was a violation of the child care center regulations.
- The program violated the terms of the probation which required Marion's to maintain compliance with all child care regulations.

Due to the violations by Marion's at the 810 Fort Crook Road South program and violations at the program located at 3516 Madison Street, Omaha, Nebraska, 68107 the Department is taking action to revoke Marion's child care license for the program located at 3516 Madison Street, Omaha, Nebraska, 68107. The Department found the following:

On April 7, 2011, Marion's submitted a Family Child Care Home II application to amend the days of operation, hours of care and staff members. Shantee Richardson was listed as the primary provider, Shonae Doremus as secondary provider and Carla Marion as substitute.

Licensing records show that Carla Marion was formerly employed at Debs Childcare and Learning Center, 13030 W. Dodge Road, Omaha, which is now closed and was owned by Marion's. On May 27, 2010, Department staff substantiated Carla Marion inappropriately disciplined children by thumping, kicking and purposely tripping children, throwing an object at a child and twisting the cheek of a another child. A Compliance/Complaint Review with this information was sent to Licensee on September 22, 2010.

In addition, the three proposed staff members listed on the application failed to accurately disclose their criminal history. Ms. Carla Marion and Ms. Richardson both indicated they had no criminal history on their Felony/Misdemeanor Statements. A check of the Nebraska Data Exchange Network shows that Carla Marion has a criminal history from 2001 to 2010 in the Douglas and Sarpy County Courts. Carla Marion's criminal history includes misdemeanor convictions for leave accident-report w/i 12 hours, no valid operator's license, no proof of insurance, and driving under suspension on four occasions.

A check with the Omaha Police Department shows that Shantee. Richardson has a criminal history from 1993 to 1999. Ms. Richardson's criminal history includes misdemeanor convictions for carrying a concealed weapon, possession of controlled substance, operating a vehicle during revocation/suspension, failure to appear and closed prop: post sign; remove exp. sign.

Shonae Doremus indicated on her Felony/Misdemeanor Statement signed on March 16, 2011 that her record of misdemeanor tickets and convictions included possession of marijuana, less than an ounce, flight to avoid arrest, unlawful taking, and shoplifting in Douglas County. Information obtained from the Douglas County Sheriff's office shows that Shonae. Doremus has a criminal conviction history dating back to 1992 to 2009 including the above convictions and operating a vehicle during revocation/suspension, furnishing tobacco to a minor under 18, and failure to appear.

In summary:

- Marion's has proposed hiring Carla Marion as a substitute even though it is aware that Carla Marion was investigated while employed at one of their other sites, for allegations of inappropriate discipline and behaviors injurious to the health of children which were substantiated by the Department. There is no indication that Carla Marion has obtained any training related to age-appropriate discipline.
- All three staff failed to accurately disclose their entire criminal history.
- Marion's has history of non-compliances.

Based on the above information and a history of non-compliance, the Department is revoking Marion's Quality Services, Inc.'s Family Child Care Home II license located at 3516 Madison Street, Omaha, Nebraska, 68107 and denying the application to amend their Home II license.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on June 20, 2011, which is fifteen days after the mailing of this Notice unless the Department, within such fifteen-day period, receives a written request for a hearing. The license shall continue in effect until the final order of the director if a hearing

is requested. If the director does not receive such request within such fifteen-day period, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no later than June 20, 2011, which is fifteen days after the mailing of this Notice. It should be addressed to:

Marsha Wandersee, for DHHS
Children's Services Licensing
Licensure – Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-5986

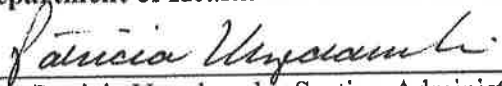
Nebraska Revised Statutes, section 71-1911, provides that a person who has had their "license suspended or revoked other than for nonpayment of fees shall not operate or offer to operate a program for or provide care to any number of children until the person is licensed pursuant to this action." In addition, section 71-1920, (2), states that "a person who has had a license revoked for any cause other than nonpayment of fees shall not be eligible to reapply for a license for a period of two years."

Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee."

Title 391 of the Nebraska Administrative Code, section 4-001.04, also provides that the "licensee shall not transfer the license to a household member or current staff member while a ...revocation action is still pending." In addition, Title 391 of the Nebraska Administrative Code, section 3-001.08, provides that "amended applications will not be processed whenever a negative license action is pending."

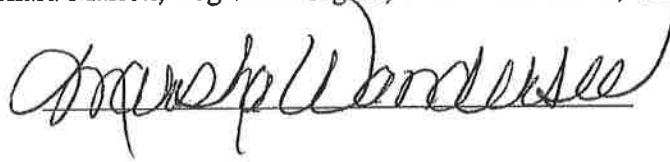
Dated: June 3, 2011

Joann Schaefer, M.D.
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services


By: Patricia Urzedowski, Section Administrator
Children's Services Licensing
Nebraska Department of Health and Human Services
Division of Public Health - Licensure
P.O. Box 94986
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 3rd day of June, 2011, a copy of the foregoing **NOTICE OF REVOCATION AND DENIAL** was sent by certified and first class United States mail, sufficient postage prepaid to Deb's Learning Place Inc., 3516 Madison Street, Omaha, Nebraska, 68107, and Marion's Quality Services, Inc., C/O Richard Marion, Registered Agent, 5606 Willit Street, Omaha, Nebraska, 68152.

A handwritten signature in black ink, appearing to read "Joseph W. Anderson", written over a horizontal line.