

October 18, 2012

KIM'S SHINING STARS
Kimberly S. Dyke, Licensee
604 13th Street
Auburn, NE 68305

Dear Ms Dyke:

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 This request is being made since said License has been revoked, effective September 27, 2012 by the Notice of Revocation issued on September 12, 2012 by Joann Schaefer, MD, Chief Medical Officer and Director, Division of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

Helen L. Meeks, Administrator
Licensure Unit

By

JChiles

HLM/dcp

cc: Child Care Licensing

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

IN THE MATTER OF:)	
THE OPERATING FAMILY CHILD CARE HOME)	NOTICE OF
II LICENSE OF KIMBERLY S. DYKE, D/B/A)	REVOCATION
KIM'S SHINING STARS)	

LICENSED LOCATION: 604 13TH STREET, AUBURN, NE, 68305

NOTICE:

Kimberly S. Dyke (hereinafter referred to as "Dyke") is notified that the Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Department") intends to revoke Dyke's Operating Family Child Care Home II license for violation of the following:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... 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 and safety of a person served by or employed by the program;

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

- 1. When a licensee has shown a history of repeated violations of regulations; ...17. When a licensee has violated any regulation;" ...

391 NAC 6-001 Provider: "The child care provider must understand and be familiar with the rules for Family Child Care Homes." (Page 3, Standard 3, Family Child Care Home Standards, Rev. 4/12)

"...1. The child care provider shall permit announced and unannounced visits by agency representatives during the hours of operation." ... (Page 3, Standard 5, Family Child Care Home Standards, Rev. 4/12)

"The child care provider shall report the following changes to the Nebraska Department of Health and Human Services: address, ...". (Page 3, Standard 13, Family Child Care Home Standards, Rev. 4/12)

391 NAC 6-004.01 in pertinent part: "The child care provider and/or household members do 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, Rev. 4/12)

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, Rev. 4/12)

FACTS AND FINDINGS:

Dyke is the licensee of a Family Child Care Home II. This program is licensed for a maximum of 12 children, ages six weeks to 13 years of age, 6:00 a.m. to 9:00 p.m., seven days a week. This program was licensed on October 19, 2011. Dyke was the licensee of a Family Child Care Home I at the same address from July 28, 2010 to October 19, 2011.

On February 23, 2012 and February 29, 2012, Angie Lewis (hereinafter referred to as “Lewis”), Child Care Inspection Specialist, attempted to conduct a complaint investigation/monitoring inspection of Dyke’s program after receiving information that Dyke had allegedly tried to run over her boyfriend/partner, W.S. This alleged incident occurred in Sidney, Iowa located in Fremont County Iowa on or about January 7, 2012. Lewis was unable to make contact with Dyke on either of these dates to discuss the incident.

Lewis attempted to make telephone contact with Dyke on February 29, 2012 and March 2, 2012, but was unable to speak with Dyke. Lewis was able to make contact with W.S. on February 23, 2012, who informed Lewis that Dyke was considering closing the child care program. Lewis requested that W.S. have Dyke contact her. Lewis observed a mattress and debris on the porch on both February 23, 2012 and February 29, 2012.

On March 5, 2012, Lewis interviewed a parent whose child had attended Dyke’s program. The parent said that Dyke had left the state and was residing in Sidney, Iowa.

On March 2, 2012, Lewis interviewed Sergeant Eric Adams of the Auburn Police Department who stated that their agency, as well as the Nebraska State Patrol, had responded to a family disturbance to Dyke’s residence on February 13, 2012. W.S. was waving a gun around while Dyke and her daughter were present. To resolve the disturbance, W.S. left the residence and surrendered the weapon to the Auburn Police Department.

On November 4, 2011, Dyke and W.S. were charged with possession of alcoholic liquor unsealed, a misdemeanor. Each was convicted. On September 25, 2011, W.S. was cited for an open container of alcohol. W.S. was convicted. A household member, D.S., was cited for Minor in Possession. Dyke was convicted on June 18, 2012 for issuing a bad check on February 15, 2012.

Dyke failed to notify the Department as required by regulations of the law enforcement contacts on herself, and her household members on five occasions: September 25, 2011, November 4, 2011, January 7, 2012, February 13, 2012 and February 15, 2012.

In addition, Dyke signed a Licensing Agreement on July 28, 2010 agreeing that W.S. would not provide care to any day care child during the time and days listed on Dyke’s license. Dyke signed a Licensing Agreement on November 22, 2011 pertaining to sanitation violations which required that monitoring inspections be conducted. Monitoring inspections have not been able to be conducted because Lewis is not able to find Dyke at home nor will Dyke return Lewis’s telephone calls. Based on the information from the parent and Dyke’s failure to contact Lewis, the Department has concluded that Dyke has moved out of state but has failed to notify the

Department that she has moved and is no longer operating her Family Child Care Home II program. The last address on record that the Department has is 604 13th Street, Auburn, Nebraska, 68305.

Based on the facts presented above, the Department is revoking Dyke's Family Child Care Home II license. Dyke must send her Family Child Care Home II license to Marsha Wandersee at the address listed below seven (7) days after this action becomes final.

BE ADVISED:

That according to Nebraska Revised Statutes, section 71-1922, the action in this Notice shall become final on September 27, 2012, 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 September 27, 2012, 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 68509-4986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

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 "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 "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 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 "amended applications will not be processed whenever a negative license action is pending."

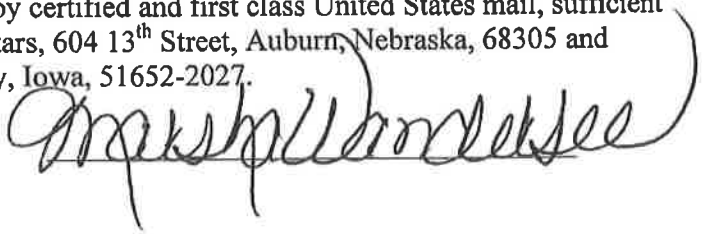
Dated: SEPTEMBER 12, 2012

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
Licensure Unit - Division of Public Health
Nebraska Department of Health and Human Services
P.O. Box 94986
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 12th day of September, 2012, a copy of the foregoing **NOTICE OF REVOCATION** was sent by certified and first class United States mail, sufficient postage prepaid, to Kimberly S. Dyke, Kim's Shining Stars, 604 13th Street, Auburn, Nebraska, 68305 and Kimberly S. Dyke, 1211 Illinois Street, Apt. 684, Sidney, Iowa, 51652-2027.



LICENSING AGREEMENT

I, Kimberly Dyke – Licensee of the Family Child Care Home II – located at 604 13th Street, Auburn, NE 68305, hereby voluntarily state and declare:

I have read and understand the Family Child Care Home Standards (CRED-PAM-0929).

I agree to comply with each of the Family Child Care Home Standards as long as I am licensed by the State of Nebraska to provide child care services.

391 NAC 6-001 – Provider - I understand and agree that “The child care provider must understand and be familiar with the rule for Family Child Care Homes.”

391 NAC 6-007.01 Overall – I understand and agree that “The child care provider shall ensure that all cleaning agents and poisons are kept in locked storage.”

391 NAC 6-007.01 Overall – I understand and agree that “The child care provider shall ensure that all rooms used for child care are clean and dry.”

391 NAC 6-007.01 Overall – I understand and agree that “The child care provider shall ensure that all floors, walls, ceilings, and furniture are clean and in good repair.”

391 NAC 6-007.01 Overall – I understand and agree that “The child care provider shall ensure that play materials, equipment, and furnishings are easily cleanable, kept clean and in good repair, have no sharp edges, and have no rusty or loose parts.”

391 NAC 6-008 Fire Safety – I understand and agree that “There will be at least two unblocked exits approved by the State Fire Marshal from every floor on which child care is provided.”

391 NAC 6-008 Fire Safety – I understand and agree that “All storage areas will be free of excessive combustibles or highly flammable materials.”

391 NAC 6-009.02G Storage – I understand and agree that “The child care provider shall ensure that all prescription and over the counter medications will be kept in locked storage. Separate locked storage will be provided for medications requiring refrigeration. Over-the-counter lip balm, petroleum jelly, suntan lotion and diaper ointment will be kept out of reach of children.

391 NAC 6-010.01 Food Preparation Area – I understand and agree that “The child care provider shall ensure that all food preparation, serving, and storage areas, equipment, and utensils are easily cleanable and in good repair.

391 NAC 6-010.01 Food Preparation Area – I understand and agree that “The child care provider shall ensure that dishes and utensils will be properly cleaned, rinsed, sanitized, and air-dried.”

I agree that this Licensing Agreement will be prominently posted with my Family Child Care Home II license so it is clearly visible to parents and Department representatives.

I understand that Children's Services Licensing staff shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.

Any violation of this Agreement may be grounds for further negative action or discipline as the Department of Health and Human Services, Division of Public Health, Children's Services Licensing may deem appropriate.

This Agreement shall be in effect for six months from the signing after which time the Agreement will be reviewed and terminated, extended and/or modified. Should the Family Child Care Home II license be amended to a Family Child Care Home I or should a change of address occur, this Licensing Agreement may transfer to the new license and/or address if appropriate to the conditions of the Licensing Agreement.

Cheryl Gaur
Witness

Karen [Signature] 11/22/11
Provider/Licensee

11-22-11
Date

604 13th St.
Street/Address

Non-relative Witness/Notary Public

Auburn, NE 68305
City and Zip Code



JUL 30 2007

State of Nebraska

Dave Heineman, Governor

LICENSING AGREEMENT

I, Kimberly Dyke, 604 13th Street, Auburn, Nebraska, 68305, hereby state and declare:

I have read and understand the Family Child Care Home Standards (CRED-PAM-0929).

I agree to comply with each of the Family Child Care Home Standards as long as I am licensed by the State of Nebraska to provide child care services.

I agree to comply and understand Standard 23, Page 4, which states: "The child care provider and/or household members do not engage in or have a history of behavior injurious to or which may endanger the health or morals of children." (391 NAC 6-004.01)

I understand and agree that under no circumstances will William E. Snyder, friend and household member, provide direct care to any day care child during the time and days listed on my license nor will he be used as a substitute even the case of an emergency.

I understand that Children's Services Licensing staff shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.

I also agree that this Licensing Agreement will be prominently posted with my Family Child Care Home I License so that it is clearly visible to parents.

Any violation of this Agreement may be grounds for further discipline as the Nebraska Department of Health and Human Services, Division of Public Health may deem appropriate.

This Agreement shall be effective from the signing of this agreement for as long as William E. Snyder is a household member. I understand that I can request that this Agreement be reviewed after one year to determine if I am in compliance with the child care regulations. In addition, should the Family Child Care Home I license be amended to a Family Child Care Home II or should a change of address occur, this Licensing Agreement will transfer to the new license and/or address.

Child Care Inspection Specialist

Provider/Licensee

Date

Street/Address

OR

Non-Relative Witness OR Notary Public

City and Zip Code

Date

Date