

# NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

May 16, 2018

Barb Shore  
Tender Tots  
120 S OK St  
Wilber, NE 68465

Dear [REDACTED]

This letter is to inform you that the Interim Licensing Agreement you signed March 28, 2018 has been terminated effective May 15, 2018.

If you have any questions, please contact me at 308-385-6152.

Sincerely,

[REDACTED]

Pam Wicht  
Child Care Inspection Specialist  
Office Children's Services  
Division of Public Health  
PO Box 2440  
Grand Island, NE 68802



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

**THE OPERATING FAMILY CHILD CARE HOME II OF TENDER TOTS OWNED BY BARBARA SHORE ) INTERIM ) LICENSING AGREEMENT**

**LICENSED LOCATION:** 120 S OK ST., WILBER, NE 68465  
**LICENSE NUMBER:** FII6731  
**CAPACITY:** 12  
**AGES:** 6 WEEKS TO 13 YEARS  
**HOURS AND DAYS:** 5:00 AM TO 8:00 PM MONDAY THROUGH SUNDAY  
**DATE INITIALLY LICENSED:** JULY 13, 2001

I, [REDACTED] hereby state and declare:

1. I am the owner of the above-mentioned childcare program.
2. I have read, understand and agree to comply with all the Regulations Governing Licensure of Family Child Care Home II's, Title 391, as long as I am licensed by the State of Nebraska to provide child care services. Specifically,  
[REDACTED]
3. I understand that this agreement is based on the fact that the Office of Children's Services Licensing (OCSL) became aware of an investigation involving Amy Kemerling on March 20, 2018.
4. I understand and agree with the following:
  - A. Under no circumstances will Amy Kemerling be alone with childcare children until the investigation by Children and Family Services is complete and findings are determined.
  - B. All parents of children enrolled will receive a copy of this Interim Licensing Agreement within 24 hours and that documentation of each parent receipt will be maintained and available for review upon request.

- C. This Interim Licensing Agreement will be prominently posted with the current license so it is clearly visible to parents and Department representatives.
  - D. That the OCSL shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.
5. This Agreement is an Interim Licensing Agreement, which means that the OCSL reserves the right to take additional action as deemed appropriate. Any violation of this Agreement may be grounds for further negative action or discipline.
6. This Agreement shall be in effect from the signing date for as long as the OCSL deems it appropriate and upon completion of an ongoing investigation. Should the license be amended because of a change of address, this Agreement may transfer to the new address if appropriate to the conditions of this Interim Licensing Agreement.

[Redacted Signature]

Licensee/Registered Agent

3-28-18

Date

[Redacted Signature]

Child Care Inspection Specialist  
Pam Wicht

3-28-18

Date



This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

# State of Nebraska

**PROBATION**

Department of Health and Human Services  
Division of Public Health

**BARBARA SHORE**

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an  
Operating Family Child Care Home II  
located at: 120 S OK ST WILBER NE 68465

A maximum of 12 children in ages 6 WKS to 13 YRS may be in attendance at any one time during the hours of 0500 to 2000 on MTWTFSS.

TENDER TOTS is hereby issued License No. FII6731 which is effective on 07/26/2001

Amended: 01/03/2013

Given under the name and Seal of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska at Lincoln on January 11, 2013.



Joann Schaefer, MD, Chief Medical Officer, Director  
Division of Public Health, Department of Health and Human Services

January 9, 2013

Barbara Shore  
Tender Tots  
120 S. OK Street  
Wilber, NE 68465

**CERTIFIED AND FIRST CLASS MAIL**

Dear Ms. Shore:

Since you withdrew your request for a hearing on the Amended Notice of Disciplinary Action dated December 14, 2012 and by Order of Dismissal dated January 3, 2013, the following terms/conditions must be complied with by these amended dates:

- Your Family Child Care Home I license has been placed on probation from January 3, 2013 until July 3, 2013. (License will be sent to you under separate cover.) The Licensing agreement signed on September 23, 2011 is terminated.
- You must maintain fire approval and post a diagram showing the areas approved and not approved by the Fire Marshal.
- Compliance with all Family Child Care Home regulations must be maintained.
- You must maintain at least two individuals as secondary providers and/or substitutes. By January 18, 2013, you must submit an application to the Department identifying at least two individuals who serve as secondary providers and/or substitutes prior to allowing them to be around and/or caring for children.
- You must develop and maintain a current written daily attendance chart that must be kept on the premises and submitted by the fifteenth of each month to the Department. You must also submit a list of all enrolled children by the fifteenth of each month to the Department.
- A copy of the Amended Notice of Disciplinary Action must be posted with the current child care license so it is clearly visible to parents and agency representatives.

For additional terms and conditions, please refer to the Amended Notice of Disciplinary Action dated December 14, 2012, which is enclosed.

If you have questions, please contact Susanne Schnitzer at 402-471-9193 or Angie Lewis at 402-245-4439.

Sincerely,



Patricia Urzedowski, Section Administrator  
Children's Services Licensing – Licensure Unit  
Division of Public Health  
Department of Health and Human Services  
P.O. Box 94986  
Lincoln, NE 68509-4986  
[Patricia.urzedowski@nebraska.gov](mailto:Patricia.urzedowski@nebraska.gov)

/mrw

Cc: Susanne Schnitzer, Child Care Licensing Supervisor  
Angie Lewis, Child Care Inspection Specialist  
Cindy Strufing, Staff Assistant  
Janet Apfelbeck, Resource Development  
Brad Roth, McHenry Haszard Law, PO Box 82426, Lincoln, NE, 68501-2426

LICENSURE UNIT  
JAN 04 2012  
RECEIVED

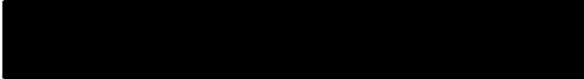
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH  
STATE OF NEBRASKA

**FILED**  
JAN - 4 2013  
DHHS Hearing Office

IN THE MATTER OF ) 12-2765  
THE REQUEST FOR HEARING BY )  
BARBARA SHORE D/B/A ) **ORDER OF DISMISSAL**  
TENDER TOTS )  
Family Child Care Home II )

This matter came on for consideration of the Appellant's written withdrawal of the request for hearing. The Hearing Officer being fully advised orders that this matter is DISMISSED.

DATED this 3rd day of January, 2013.

  
Susan Strohn  
Hearing Officer

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 4th day of January, 2013, a copy of the foregoing **ORDER OF DISMISSAL** was sent by certified United States mail, postage prepaid, return receipt requested, to: Brad Roth, attorney for Barbara Shore, at McHenry Haszard Law, P. O. Box 82426, 121 S. 13<sup>th</sup>, Ste. 702, Lincoln, NE 68501-2426 and electronically to [broth@mchenrylaw.com](mailto:broth@mchenrylaw.com) and to Agency Counsel, Teresa Hampton, at [teresa.hampton@nebraska.gov](mailto:teresa.hampton@nebraska.gov).

  
DHHS Hearing Office  
P.O. Box 98914  
Lincoln NE 68509-8914  
(402) 471-7237 Fax (402) 742-2376

LICENSURE UNIT  
DEC 17 2012  
RECEIVED

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

FILED  
DEC 14 2012  
DHHS Hearing Office

IN THE MATTER OF: )

THE OPERATING FAMILY CHILD CARE HOME )  
LICENSE OF BARBARA SHORE, D/B/A )  
TENDER TOTS )

AMENDED  
NOTICE OF DISCIPLINARY  
ACTION

LICENSED LOCATION: 120 S. OK STREET, WILBER, NE, 68465

**NOTICE:**

Barbara Shore (hereinafter referred to as "Shore") is notified that the Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Department") intends to suspend Shore's Family Child Care Home II license and impose disciplinary action for the reasons set out below:

**AUTHORITY:**

Nebraska Revised Statutes, section 71-1919 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; ...

(7) Failure to meet requirements relating to sanitation, fire safety, and building codes;" ...

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

- 9. When there is a fire safety (inspection) disapproval; ...
- 17. When a licensee has violated any regulation;" ...

391 NAC 6-006.01 Licensing Capacity: ... "2. The maximum license capacity for a Family Child Care Home II is 12 children." ... (Page 6, Standard 35, Family Child Care Home Standards, Rev. 4/12)

391 NAC 6-006.02 Child/Staff Ratio: "The child care provider shall maintain compliance with the child/staff ratios ...

Age Groups and Number of Children

Number of Providers

Mixed Age:

9-12

(Page 7, Standard 37, Family Child Care Home Standards, Rev. 4/12)



391 NAC 6-008 Fire Safety: "The child care provider shall ensure that a fire safety approval is maintained for the child care facility for the license to be effective." (Page 10, Standard 89, Family Child Care Home Standards, Rev. 4/12)

"There will be at least two unblocked exits approved by the State Fire Marshal from every floor on which child care is provided." (Page 10, Standard 90, Family Child Care Home Standards, Rev. 4/12)

"Operating, properly mounted smoke detection equipment will be required in child care areas. Smoke detection equipment will be U.L. (Underwriters Laboratories) listed or bear the approval of another major testing laboratory such as Factory Mutual." (Page 10, Standard 95, Family Child Care Home Standards, Rev. 4/12)

391 NAC 7001 Administration and Staffing: "The primary provider shall maintain the records for the secondary provider on the premises available for review upon request. The records will include but are not limited to -

1. Name, address, Social Security number, and phone number.
2. Within 30 days of hiring and every two years thereafter, the secondary provider shall provide a Health Information Report (or a report containing all information required in the Health Information Report) current within six months of the license application or hiring. The Health Information Report, Part B, will be completed by a medical practitioner.
3. Date of hire.
4. Signed and dated Felony/Misdemeanor Statement.

All regulations regarding background checks will apply to secondary providers, volunteers and substitutes." (Page 16, Standard 2, Family Child Care Home Standards, Rev. 4/12)

"Secondary providers must be at least 16 years of age." (Page 16, Standard 3, Family Child Care Home Standards, Rev. 4/12)

"Before hiring, the primary provider shall obtain at least three non-relative references for the secondary provider. One of these references must be from a previous child care employer, if applicable. A written record of having contacted these references will be maintained on the premises and available for review upon request." (Page 16, Standard 4, Family Child Care Home Standards, Rev. 4/12)

#### **FACTS AND FINDINGS:**

Shore 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, 5:00 a.m. to 8:00 p.m., seven days a week and has been licensed at this address since July 26, 2000.

On May 29, 2012, Sean Lindgren, Deputy State Fire Marshal, conducted an inspection of Tender Tots located at 120 S. OK Street, Wilber and Tender Tykes located at 118 S. OK Street, Wilber. A referral had been sent by the Department as a result of a violation of the licensing agreement due to a history of violations with license capacity and child/staff ratio. In addition, Shore had remodeled and altered the Tender Tots side of the building and the fact that two separate Family Child Care Home II's were being operated out of one building. Deputy Lindgren inspected the programs as a child care center rather than two separate Family Child Care Home II's and required the following violations be corrected:

1. Battery back-up emergency lighting shall be provided in the play areas, eating area, corridor to the west entrance and the locker room area.
2. Internally illuminated battery back-up exit signs shall be provided to direct occupants to all exits.
3. No items shall be stored in the means of egress that obstruct the path to the southeast exit door.
4. Every room or space normally subject to client occupancy, other than bathrooms, shall have not less than one outside window for emergency rescue that complies with the following:
  - Such windows shall be openable from the inside without the use of tools and shall provide a clear opening of not less than 20 in. (51 cm) in width, 24 in. (61 cm) in height, and 5.7 ft<sup>2</sup> (0.53 m<sup>2</sup>) in area.
  - The bottom of the opening shall be not more than 44 in. (112 cm) above the floor.
  - The clear opening shall allow a rectangular solid, with a width and height that provides not less than the required 5.7 ft<sup>2</sup> (0.53 m<sup>2</sup>) opening and a depth of not less than 20 in. (51 cm) to pass fully through the opening.
5. All storage rooms shall be separated from the remainder of the building by not less than 1 hour fire resistive construction with any openings protected by fire rated door assemblies not less than 45 minutes.

Deputy Lindgren required that these violations be corrected on or before July 30, 2012.

On July 31, 2012, Bob Sleight, Chief Deputy State Fire Marshal, conducted a follow-up inspection of Tender Tots and Tender Tykes. At that time, Chief Deputy Sleight disapproved Tender Tots for fire safety in that no corrections had been made as confirmed by Shore. However, Chief Deputy Sleight did indicate that Tender Tots located at 120 S. OK Street, Wilber would be approved as a Family Child Care Home II with the correction of #4 listed above.

Tender Tykes was disapproved for fire safety and occupancy effective July 31, 2012 as the State Fire Marshal's Office determined that the address of 118 S. OK Street, Wilber was not a valid address. Shore voluntarily surrendered this license to the Department on September 4, 2012.

On November 29, 2012, the State Fire Marshal approved the 1<sup>st</sup> floor, except for the three bedrooms, at 120 S. OK Street, Wilber, NE 68465.

A review of the Tender Tots file shows the following:

Probation from April 24, 2007 to April 24, 2008 – Shore entered into an Agreed Settlement in which she agreed, in part, when providing care to children on one side of the premises, she would not allow children to occupy the other side of the premises. Shore further understood that staff child ratio calculations were made independently for each side of the premises and not for the premises as a whole.

Unannounced annual inspection conducted on September 2, 2009 – Highchairs blocked the exit door on the south side of the building and provider did not have current CPR certification.

Unannounced annual inspection conducted on September 22, 2010 – New household members were not listed on the application; no gloves available in the first aid kit; and accident hazard was present in outdoor play area.

Unannounced annual inspection conducted on July 12, 2011. Shore was utilizing an unapproved child care provider. Shore did not have staff records for a secondary/substitute provider including no application for hire, registry checks, felony/misdemeanor statement, and no references. Equipment blocked the exit door on the south side of the building. No current immunization records available on three children in care. At time of

inspection, Shore had 12 children present with one other caregiver; however, Shore was unclear regarding how many children were present and nearly accepted another child in care to 13 children. Had Shore accepted this child she would have been in violation of staff/child ratio and capacity. This inspection resulted in Shore signing a Licensing Agreement on September 23, 2011 in which she agreed to comply, in part, with maintaining licensing capacity and staff records.

On January 30, 2012, a monitoring inspection was conducted by the Department in regards to the Licensing Agreement signed on September 23, 2011. Department staff observed 13 children in care, with Shore as the only provider. A secondary provider arrived after Shore had contacted them. The individual was not an approved child care provider on Shore's application with the Department. Shore did not have complete staff records on this individual. Department staff observed cleaning agents were not in locked storage.

#### **DISCIPLINARY ACTION IMPOSED:**

Based upon the facts set out above, the Department is imposing the following conditions:

1. Shore's Family Child Care Home II license, Tender Tots, is placed on disciplinary probation for a period of six months and the Licensing Agreement signed on September 23, 2011 terminated.

Terms and conditions will include:

- a. Shore must maintain fire approval for Tender Tots located at 120 S. OK Street, Wilber at all times. Shore must post a diagram showing the areas approved by the Fire Marshal and the areas not approved by the Fire Marshal. The diagram must be posted with the current child care license after the disciplinary action goes into effect so it is clearly visible to parents and agency representatives.
- b. Shore must maintain compliance with all Family Child Care Home regulations; especially those regulations pertaining to license capacity of a maximum of 12 children at any one time and maintaining child/staff ratio at all times children are in attendance
- c. Shore must maintain compliance with all Family Child Care Home regulations; especially those regulations pertaining to the submission of new primary staff, secondary staff and substitutes to the Department prior to allowing them to care for children. In addition, Shore shall maintain staff records for the primary, secondary provider and substitutes. Staff files will at a minimum contain: Name, address, telephone number, social security number, date of hire, felony/misdemeanor statement; three valid non-relative references; registry checks and health information report. In addition, Shore must maintain documentation of the training each provider is required to obtain and make available to the Department upon request.
- d. During the probationary period, Shore shall maintain at least two individuals as secondary providers and/or substitutes. By October 22, 2012, which is 15 days from the mailing of this Notice, Shore shall submit on an application to the Department identifying at least two (2) individuals who serve as secondary providers and/or substitutes, prior to allowing them to be around and/or caring for the children. Any changes regarding names of substitutes shall be submitted to the Department prior to use. This information must be sent to Cindy Strufing, Staff Assistant, Children's Services Licensing, Division of Public Health - Licensure Unit, P.O. Box 94986, Lincoln, Nebraska, 68509-4986.
- e. Shore must develop and maintain a current written daily attendance chart that includes the name of each child in care, date of birth of each child, and arrival and departure times of each child. This chart will be kept on the premises and available for review upon request by the Department. This chart must also be submitted by the fifteenth of each month. This chart must be submitted Angie Lewis, Child Care Inspection Specialist,

Children's Services Licensing, Division of Public Health – Licensure Unit, Courthouse, 1700 Stone Street, Falls City, Nebraska, 68355.

- f. Shore must submit a list of all enrolled children by the fifteenth of each month to the Department, Attn: Angie Lewis, at the address above. This list should include the child's name and date of birth.
2. During the probationary period, Shore must maintain compliance with all Family Child Care Home 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/Specialist or designated agent, Resource Development Worker, Children and Family Services Worker, etc). Shore and any employees and/or agents must cooperate with the Department in these monitoring inspections.
3. A copy of this Notice of Disciplinary Action must be posted with the current child care license after the disciplinary action goes into effect so it is clearly visible to parents and agency representatives.
4. Failure to comply with the terms of this disciplinary action and the Family Child Care Home Regulations will be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.
5. If Barbara Shore discontinues the child care program for any reason, the time Barbara Shore is not actively operating a licensed child care program will not count toward the probation period and any subsequent child care license issued by the Department shall be subject to the remainder of the probation period. Shore must notify the Department, in writing, within seven (7) calendar days of any period Shore is not actively operating the program. Any subsequent child care license issued by the Department indicating Barbara Shore as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period.

**BE ADVISED:**

That pursuant to Nebraska Revised Statutes, section 71-1922, the action in this Notice shall become final on October 22, 2012, which is fifteen days after the mailing of the 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 on or by October 22, 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 Unit  
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 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."

That 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."

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: October 5, 2012

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

[REDACTED]

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

**CERTIFICATE OF SERVICE**

COMES NOW, the undersigned and certifies that on the 5th day of October, 2012, a copy of the foregoing **NOTICE OF SUSPENSION AND DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid, to Barbara Shore, Tender Tots 120 S. OK Street, Wilber, Nebraska, 68465.

[REDACTED]

**CERTIFICATE OF SERVICE**

COMES NOW, the undersigned and certifies that on the 14<sup>th</sup> day of December, 2012, a copy of the foregoing **AMENDED NOTICE OF DISCIPLINARY ACTION** was sent by regular United States mail, sufficient postage prepaid, to Brad Roth, Attorney for Barbara Shore, at McHenry Haszard Law, P. O. Box 82426, 121 S. 13<sup>th</sup>, Ste. 702, Lincoln, NE 68501-2426 and electronically to [broth@mchenrylaw.com](mailto:broth@mchenrylaw.com).

A large black rectangular redaction box covering the signature area of the document.

Teresa M. Hampton

## LICENSING AGREEMENT

I, Barb Shore -- Licensee of Tender Tots, Family Child Care Home II -- located at 120 S OK Street, Wilber, NE 68465, 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 rules for Family Child Care Homes."

391 NAC 6-001 -- Provider- I agree to comply and understand that "The child care provider shall ensure that the maximum number of children stated on the license is not exceeded at any time."

391 NAC 391-6006.01- Licensed Capacity- I agree to comply and understand that "The maximum license capacity for a Family Child Care Home II is 12 children."

391 NAC 6-003- Substitutes and Household Members- I agree to comply and understand that "The child care provider shall submit the names of regularly identified substitutes (s) on the application or the amendment to the application."

391 NAC 7-001 Administration and Staffing- I agree to comply and understand that -  
"2. The primary provider shall maintain the records for the secondary provider on the premises and available for review upon request. The records will include, but are not limited to -

- a. Name, Address, Social Security Number and Phone Number.
- b. Within 30 days of hiring and every two years thereafter, the secondary provider shall provide a Health Information Report current within six months of license application or hiring.
- c. Date of Hire.
- d. Signed and dated Felony/Misdemeanor Statement.  
All regulations regarding background checks will apply to secondary providers, volunteers, and substitutes.

3. Secondary providers shall be at least 16 years of age.

4. Before hiring, the primary provider will obtain at least three non-relative references for the secondary provider. One of these references must be from a previous child care employer, if applicable. A written record of having contacted these references will be maintained on the premises and available for review upon request.

I agree to provide the Department with a complete list of all children enrolled in and attending this program, including their names, birthdates and usual schedules for attendance. Documentation will be submitted to Child Care Inspection Specialist – Angie Lewis – NDHHS – Child Care Licensing – 1700 Stone Street – Falls City, NE 68355 - within ten days of the signing of this agreement.

I agree and understand that I must update my licensing application with the names of all household members, secondary providers, staff, volunteers, and/or substitutes.

I agree and understand that I am responsible for ensuring that my employees maintain compliance with all of the Family Child Care Home Standards.

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 one year 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.

[Redacted Signature]

Witness

[Redacted Signature]

Provider/Licensee

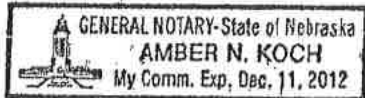
9-23-11  
Date

120 S. O/K  
Street/Address

[Redacted Signature]

Non-relative Witness/Notary Public

Wilber Ne 68465  
City and Zip Code



RECEIVED

SEP 26 2011





May 3, 2007

Tender Tots  
PO Box 202  
120 S OK St  
Wilber NE 68465

Dear Barbara Shore:

In accordance with the ORDER, issued by the Director, Dr. Joann Schaefer, on April 24, 2007, your original License to operate a Family Child Care Home II in the State of Nebraska has been placed on probation. A license imprinted with the term "PROBATION" is enclosed, this status became effective April 24, 2007; and it will remain in effect until April 24, 2008. Upon completion of the probation a new license will be issued to you.

At this time we ask that you return your current license, within the next ten (10) days, to Marsha Wandersee in the Credentialing Division. If you have any questions please contact Child Care Licensing, at (402) 471-9302.

Sincerely,



*HLM*  
Helen L. Meeks, Administrator  
Credentialing Division

HLM/clb

cc: Child Care Licensing

Your application for Nebraska Family Child Care Home II has been approved and your licensure document is attached. You will receive a new licensure document each time you amend your license.

This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

**PROBATION** **State of Nebraska**  
Department of Health and Human Services  
Regulation and Licensure

**BARBARA SHORE**  
Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an  
**Operating Family Child Care Home II**  
located at: **PO BOX 202 120 S OK ST WILBER NE 68465**

A maximum of **12** children in ages **6 WKS** to **13 YRS** may be in attendance at any one time during the hours of **0500** to **2000** on **MTWTFSS**.

**TENDER TOTS** is hereby issued License No. **FII6731** which is effective on **07/26/2001**

Given under the name and Seal of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska at Lincoln on **07/26/2001**.



Joann [redacted] M.D., Chief Medical Officer, Director  
Department of Health & Human Services Regulation & Licensure

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA

IN THE MATTER OF	)	
THE REQUEST FOR HEARING BY	)	94-070106
	)	
BARBARA SHORE	)	ORDER
D/B/A TENDER TOTS	)	
Family Child Care Home II	)	
	)	
<i>and</i>	)	
	)	
BARBARA SHORE	)	
D/B/A TENDER TYKES	)	
Family Child Care Home II	)	

UPON the presentation of the Agreed Settlement of the Department of Health and Human Services Regulation and Licensure and Barbara Shore, d/b/a Tender Tots and as Tender Tykes, the Director finds that she has jurisdiction in this matter and that a factual basis exists for the approval of the proposed resolution contained in the Agreed Settlement and hereby Orders:

That the Agreed Settlement attached hereto and incorporated herein by this reference is accepted and adopted, and the parties are ordered to comply therewith.

Date: 4/24/07



Nebraska Department of  
Health and Human Services  
Regulation and Licensure

  
Joann Schaefer, M.D., Director

**CERTIFICATE OF SERVICE**

COMES NOW the undersigned and certifies that on the 24 day of September, 2006, a copy of the foregoing **ORDER** was sent by certified mail, postage prepaid, return receipt requested, to Brad Roth, Attorney at Law, P.O. Box 82426, Lincoln, NE 68501, and hand-delivered to Agency Counsel, Brad Gianakos, HHS Regulation and Licensure, Lincoln, Nebraska.

BY: 

  
Jo Seefeld  
HHS Regulation and Licensure  
P.O. Box 95007  
Lincoln, NE 68509-5007  
(402) 471-0384

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA**

**IN THE MATTER OF  
THE REQUEST FOR HEARING BY**

**94-070106**

**AGREED SETTLEMENT**

**BARBARA SHORE  
D/B/A TENDER TOTS  
Family Child Care Home II**

*and*

**BARBARA SHORE  
D/B/A TENDER TYKES  
Family Child Care Home II**

The Department of Health and Human Services Regulation and Licensure and Barbara Shore, in consideration of the mutual covenants and agreements contained herein, Agree as follows:

1. Barbara Shore (hereinafter "Licensee") holds two Family Child Care Home II licenses issued by the Department of Health and Human Services Regulation and Licensure (hereafter "Department"), the executive agency of the State of Nebraska charged with administration of child care licensure statutes and regulations.
2. By letters of December 14, 2007, the Department notified Licensee that it intended to revoke both of her Family Child Care Home II licenses for the reasons set out in the letters. Copies of said letters are on file herein and incorporated into this Agreed Settlement by this reference.
3. Licensee is entitled to a hearing before disciplinary measures may be taken against her licenses. Licensee hereby waives her right to an administrative contested case hearing and any right to judicial review of any order that approves the terms of this Agreed Settlement.
4. Licensee, in resolution of the Department's concerns and to avoid revocation of her licenses, agrees to the provisions of this Agreed Settlement.

5. Licensee has read and understands the Family Child Care Home Standards and agrees to comply with all of the provisions of the child care licensing statutes, Neb. Rev. Stat. §§71-1908 through 71-1917, and the child care licensing regulations set out in Title 391, Nebraska Administrative Code, as long as she is licensed by the Department to provide child care services.
5. Licensee's Family Child Care Home II licenses shall be placed on a probationary license status for a period of one (1) year from the date of an Order accepting the terms of this Agreed Settlement. Any period of time in which Barbara Shore does not operate a child care program shall not count toward the calculation of the probationary period.
6. Licensee understands that during any time that she is providing care to children on only one side of the premises, she cannot allow children to occupy the other side of the premises. Licensee further understands that staff child ratio calculations are made independently for each side of the premises and not for the premises as a whole.
7. Licensee understands that she is expected to remain awake during any time that she is providing child care under her current licenses.
8. No coercion, threats, or promises other than those stated herein were made to Barbara Shore to induce her to enter into this stipulation.
9. If the Director of Regulation and Licensure does not approve this Agreed Settlement, it shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

WHEREFORE, the parties request that an Order be entered accepting and approving this Agreement.

**AGREED TO:**



Barbara Shore, Licensee

[REDACTED]  
Brad Roth, #16924  
PO Box 82426  
Lincoln NE 68501-2426  
(402) 476-2200  
Attorney for Barbara Shore

**Nebraska Department of Health  
and Human Services  
Regulation and Licensure**

4/20/07

[REDACTED]  
Brad Gianakos, #19700  
PO Box 95026  
Lincoln NE 68509-5026  
(402) 471-4068  
Attorney for the Department

**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE  
STATE OF NEBRASKA**

<b>IN THE MATTER OF:</b>	)	
<b>THE OPERATING FAMILY CHILD</b>	)	
<b>CARE HOME II LICENSE OF</b>	)	<b>NOTICE OF</b>
<b>BARBARA SHORE, D/B/A</b>	)	<b>REVOCAION</b>
<b>TENDER TOTS</b>	)	

**LICENSED LOCATION: 120 SOUTH OK STREET  
WILBER, NE 68465**

**NOTICE:**

Barbara Shore is hereby notified that the Department of Health and Human Services Regulation and Licensure (hereinafter referred to as "department") intends to **revoke** the operating Family Child Care Home II license of Barbara Shore, d/b/a Tender Tots, 120 South OK Street, Wilber, Nebraska, 68465 (hereinafter referred to as "Shore") for the reasons set out below:

**FACTS:**

Shore is the licensee of an operating Family Child Care Home II. This facility is licensed for a maximum of 12 children, six weeks to 13 years of age, seven days a week, 5:00 a.m. to 8:00 p.m. This facility has been licensed since July 26, 2000. Shore is also the licensee of an operating Family Child Care Home II, Tender Tykes, located at 118 South OK Street, Wilber, Nebraska. This facility has been licensed since July 26, 2000. Tender Tots and Tender Tykes is a joined facility operating as two Family Child Care Home II's. This joined facility shares common areas: play yard, kitchen, dining/craft areas and entry. Previous to July 26, 2000, Shore was the licensee of an operating Family Child Care Home II located at 320 South Railroad, Wilber, Nebraska.

On May 31, 2006, Angie Lewis, Child Care Resource Specialist, Department of Health and Human Services Regulation and Licensure, Anne Farin, Protection and Safety Worker, Department of Health and Human Services, and Melissa Boldt, Protection and Safety Worker Trainee, Department of Health and Human Services, conducted a complaint investigation to Shore's facilities located at 120 South OK Street and 118 South OK Street, Wilber. This investigation was in response to allegations received that Shore's 21-year-old son, C.L., was allowed to live in a bedroom at the facility and had been arrested for possession and use of marijuana, and felony burglary. Allegations also included that C.L. kept a gun in a bedroom with the door unlocked



Upon entering the facility, Ms. Lewis and Ms. Boldt observed a rifle propped up against a wall in a bedroom with the door open. Children were playing in the adjacent room with no caregiver present in that room. One child attempted to enter the bedroom but was redirected by Ms. Lewis. Shore informed Ms. Lewis and Ms. Farin that she had discovered the gun on the morning of May 31, 2006 as she was packing up C.L.'s belongings since he was moving out of the facility. Shore was unsure if the gun was loaded.

Shore admitted that C.L. had been residing at the licensed facility and that she had been utilizing C.L. as a secondary provider. Information reveals that C.L. has a criminal history that involves burglary, drug paraphernalia, possession of marijuana and minor in possession. Shore failed to notify the department that C.L. was residing at the facility in order for the required background checks to be conducted, as well as reporting C.L.'s criminal history to the department until after numerous requests for an accurate Felony/Misdemeanor Statement for C.L. were made of Shore.

A coffee can with cigarette butts and an empty beer bottle was observed on the porch of the facility and Shore was instructed to remove these items from children's reach. Shore denied that anyone smokes during the hours of operation at the facility.

Ms. Farin's assessment of the investigation reveals that Shore demonstrated a lack of supervision and was negligent by placing children at risk by having a gun propped in the corner of a room of her child care facility with the door wide open and numerous children having access to a weapon. In addition, Shore did not know how to check with the gun was loaded or unloaded.

Based on this investigation and Ms. Farin's assessment, Ms. Lewis was able to substantiate violation of the following regulations: history of behaviors injurious to the health and morals of children, supervision, weapon storage, notifying the department of household composition and report of law enforcement contacts on a household member.

Ms. Lewis was also able to substantiate that laundry detergents and cleansers were not in locked storage.

#### **REGULATORY BASES:**

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act effective July 16, 2004, 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; ...
- (3) Conviction of, or substantial evidence of committing or permitting, aiding, or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where the program is provided, or employees of the applicant that involve: ...
  - (b) Endangerment or neglect of children...; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;..."

391 NAC 6-001 Provider: "The child care provider shall assume responsibility for providing adequate and appropriate supervision at all times children are in attendance."  
... (Page 3, Standard 6, Family Child Care Home Standards)

"The child care provider shall report the following changes to the Nebraska Department of Health and Human Services: address, household composition, children residing in the home, and days and hours of care." (Page 3, Standard 13, Family Child Care Home Standards)

391 NAC 6-003 Substitutes and Household Members: "When child care is being provided in the residence of the provider, the child care provider shall notify the Department by completing an application, when there is a change in household member residing in the home." (Page 4, Standard 17, Family Child Care Home Standards)

391 NAC 6-004.01 Felony/Misdemeanor Statement: "Before the 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 traffic violations;
3. Felony and/or misdemeanor convictions;
4. Any pending criminal charge(s);
5. Current parole or probation status.

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

391 NAC 6-004.01 in pertinent part: "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)

391 NAC 6-007.01 Overall: "The child care provider shall ensure that all cleaning agents and poisons are kept in locked storage." (Page 8, Standard 44, Family Child Care Home Standards)

391 NAC 7-001 Administration and Staffing: "The primary provider shall maintain the records for the secondary provider on the premises and available for review upon request. The records will include but are not limited to –

1. Name, address, Social Security number and phone number.
2. Within 30 days of hiring and every two years thereafter, the secondary provider shall provide a Health Information Report (or a report containing all information required in the Health Information Report) current within six months of the license application or hiring. The Health Information Report, Part B, will be completed by a medical practitioner.
3. Date of hire.
4. Signed and dated Felony/Misdemeanor Statement."

"All regulations regarding background checks will apply to secondary providers, volunteers and substitutes." (Page 18, Standard 2, Family Child Care Home Standards)

"Before hiring, the primary provider shall obtain at least three non-relative references for the secondary provider. One of these references must be from a previous child care employer, if applicable. A written record of having contacted these references will be maintained on the premises and available for review upon request." (Page 18, Standard 4, Family Child Care Home Standards)

#### **HISTORY:**

A review of the Tender Tots and Tender Tyke's licensing files reveal a history of non-compliances:

- February 25, 1997 – Katie Zabel, Child Care Resource Specialist – complaint investigation – Substantiated non-compliance with child/staff ratio in that Shore was caring for nine children, including three infants - two staff were required.
- November 23 1998 – Teresa Jacobitz, Child Care Resource Specialist – annual inspection – Substantiated non-compliances: supplies were missing from first aid kit, no documentation of fire and tornado drills was available and there was lead paint on an outbuilding.
- July 28, 1999 – Ms. Jacobitz – complaint investigation – allegations included Shore’s 14-year-old son using a rope to tie two five-year-old children in care to a clothesline pole and that two five-year-old children were engaging in oral sex in the backyard. Complaint was unable to substantiate.
- January 11, 2000 – Ms. Jacobitz – annual inspection – Substantiated non-compliances: Health Information Reports were not available for two staff, Felony/Misdemeanor Statements not available for one staff, and there was no documentation of fire drills.
- July 17, 2002 – Ms. Jacobitz – annual inspection – Substantiated non-compliance with child/staff ratio as there were 22 children present with one staff.
- February 18, 2004 – Ms. Jacobitz – complaint investigation – Substantiated non-compliance with child/staff ratio in that there were 20 children, including two infants, present with two staff.
- June 29, 2004 – Ms. Jacobitz – annual inspection – Substantiated non-compliances: Health Information Report, references and prior to hire checks were not available for one staff person.
- September 10, 2004 – Ms. Jacobitz – complaint investigation – Substantiated non-compliances with inappropriate discipline and behaviors injurious to the health or morals of children – Shore threatened three young children in care by telling them she was going to “cut off their tally wackers” with scissors.
- March 5, 2005 – September 3, 2005 – Corrective Action Status based on substantiated violations of inappropriate discipline and behaviors.
- April 19, 2005 – Angie Lewis, Child Care Resource Specialist – annual inspection and monitoring of Corrective Action Status – Substantiated non-compliances with Health Information Report not available for Shore, cleaning agents were not in locked storage; play equipment and fence needed repair.
- August 17, 2005 – Ms. Lewis – monitoring inspection – no violations

- September 21, 2005 – Ms. Lewis and Cynthia McPherson, Protection and Safety Worker, Department of Health and Human Services – complaint investigation – Allegations included: child in care received an injury to the back of the head that required medical treatment but staff were unable to explain how the child received the injury and that Shore uses offensive language around the children. Substantiated non-compliances: supervision, failure to notify the department of a child receiving medical treatment. Unable to substantiate: inappropriate discipline.
- April 18, 2006 – Ms. Lewis – unannounced amendment inspection – Substantiated non-compliances: play equipment needed repair, uncovered electrical outlets, fence needed repair, no label on child's medication with clear instructions for dispensing, medications were not in locked storage, medication records not available, no immunization records for three children and no secondary staff records available for one staff member.

#### **CONCLUSION:**

Based on the facts presented above, the department finds that:

- 
- Shore's behaviors and conduct place vulnerable children at substantial risk and endanger the health and morals of children in care; especially allowing a rifle to be accessible to children and not being able to determine if the rifle was loaded. In addition, Shore allowed her son to reside at the licensed premises knowing that he had an extensive criminal history.
- Shore's blatant lack of supervision or awareness placed children's safety in danger and imminent harm.
- Shore has a history of non-compliances with regulations with place children at substantial risk.
- Shore is unable to comply with the Family Child Care Home II regulations and the terms of the Child Care Licensing Act.

#### **DISCIPLINARY ACTION IMPOSED:**

Based on the facts set out above, the department intends to revoke the operating Family Child Care Home II license of Barbara Shore, d/b/a Tender Tots.

**BE AWARE:**

That Nebraska Revised Statutes, section 71-1922, the action in this Notice shall become **FINAL on December 29, 2006, 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.**

**TO REQUEST A HEARING:**

If you decide to request a hearing, your written request for hearing must be received by the department **ON OR BY December 29, 2006, which is fifteen days after the mailing of this Notice.** It should be addressed to:

Marsha Wandersee, for HHS F&S  
Legal Services – Child Care Licensing  
P.O. Box 95007  
Lincoln, NE 68509-5007

**BE ADVISED:**

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: DECEMBER 14, 2006

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



By: Patricia Urzedowski, Administrator  
Credentialing Division – Child Care  
Licensing Program  
Regulation and Licensure  
P.O. Box 94986  
Lincoln, NE 68509-4986

**CERTIFICATE OF SERVICE**

*December* COMES NOW, the undersigned and certifies that on the *14* of  
2006, a copy of the foregoing **NOTICE OF REVOCATION**  
was sent by certified and first class United States mail, sufficient postage prepaid, to  
Barbara Shore, d/b/a Tender Tots, 120 South OK Street, Wilber, Nebraska, 68465,

