

May 6, 2015

Kelly Sheard  
Kelly's Day Care  
3709 Groves Rd.  
Bellevue, NE 68147

**CERTIFIED AND FIRST CLASS MAIL**

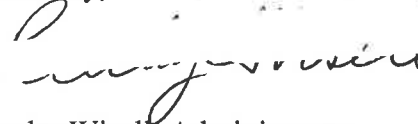
Dear Ms. Sheard:

Since you have complied with Notice of Disciplinary Action dated March 26, 2015 by coming into compliance as of May 2, 2015, you have been assessed a civil penalty in the amount of \$252.00 (\$12.00 a day times 21 days, April 11, 2015 through May 1, 2015). This penalty must be received by or on June 6, 2015.

Your check or money order should be payable to the Nebraska Department of Health and Human Services and sent to Marsha Wandersee, Administrative Assistant, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, P.O. Box 94986, Lincoln, Nebraska, 68509-4986.

If you have questions, please contact Jo Pfeiffer, Child Care Licensing Supervisor at 402-595-3335.

Sincerely,



Becky Wisell, Administrator  
Licensure Unit  
301 Centennial Mall South  
Lincoln, NE 68509-4986

BW/mrw

**NEBRASKA 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 OF KELLY SHEARD, D/B/A KELLY'S DAY** ) **DISCIPLINARY ACTION**  
**CARE** )

**LICENSED LOCATION: 3709 GROVES RD., BELLEVUE, NE., 68147**

**NOTICE:**

Kelly Sheard (hereinafter referred to as "Sheard") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Sheard's Family Child Care Home II license for violation of the following statutes and regulations:

**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;

Nebraska Revised Statutes, section 71-1920, of the Child Care Licensing Act provides that "...the Department may impose any one or a combination of the following types of disciplinary action against a license issued under the Child Care Licensing Act: ... (c) impose a civil penalty of up to five dollars per child, based upon the number of children for which the program is authorized to provide child care on the effective date of the finding of violation, for each day the program is in violation;" ...

391 NAC 2-008.01 Grounds for Denial or Disciplinary Action: "The Department may deny the issuance of or take disciplinary action against a license 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; ...

391 NAC 2-006.01 Licensee Qualifications and Requirements: "The Family Child Care Home II licensee must: ...7. Be in compliance with all regulations whenever any children are in care;" ...

391 NAC 2-006.04E Annual Training: "The primary provider and each staff member, not including substitutes or volunteers, must obtain 12 clock hours of training annually. Staff who work 20 hours or less each week must complete six hours of training annually."

## **FACTS AND FINDINGS:**

Sheard is the licensee of an operating Family Child Care Home II that is currently licensed for 12 children, ages six weeks to 13 years, 24 hours a day, seven days a week. This program was licensed prior to July 21, 2003.

On December 30, 2014, Renee Madsen (hereinafter referred to as "Madsen"), Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, conducted an unannounced annual inspection of Sheard's program. At that time, Madsen noted the following non-compliance and required that it be corrected by January 30, 2015:

- Documentation of 12 hours of approved in-service was not available for review for calendar year 2014.

As of the date of this Notice, Sheard has not provided documentation of correction of the above non-compliance even after Madsen sent Sheard a reminder on February 20, 2015.

## **DISCIPLINARY ACTION IMPOSED:**

Based upon the facts presented above, the Department intends to impose the following:

1. Sheard is assessed a civil penalty in the amount of \$12.00 per day (\$1.00 times license capacity of 12 children) from the effective date of this Notice, April 11, 2015, and for each day thereafter, including Saturday and Sunday, that Sheard fails to submit corrections/documentation that the outstanding non-compliance noted at the inspection conducted on December 30, 2014 has been corrected.

Documentation must be submitted to Renee Madsen, Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, 1313 Farnam, 3<sup>rd</sup> Floor, Omaha, Nebraska, 68102. Once Madsen has received and verified the submitted written documentation, which may require an on-site inspection, Sheard will be informed in writing of the total of the civil penalty, which will be due 30 calendar days from the date of the notification to Sheard.

Said penalty will then be payable to the Nebraska Department of Health and Human Services, Division of Public Health. Said penalty is to be sent to Marsha Wandersee, Administrative Assistant, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, PO Box 94986, Lincoln, Nebraska, 68509-4986.

2. Sheard must comply with all of the terms of this Notice by submitting the required corrections/documentation as indicated above by or on April 26, 2015.
3. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations, and failure to correct the violations may 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.

**BE ADVISED:**

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on April 10, 2015, unless the Department receives a written request for a hearing on or before such date. 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 or on before such date, 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 April 10, 2015. 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

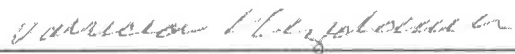
**If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised 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 71-1920 of the Child Care Licensing Act, provides that “any fine imposed and unpaid under the Child Care Licensing Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of State of Nebraska in the district court of the county in which the program is located.”

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.”


Dated: MARCH 26, 2015

**Joseph M. Acierno, MD, JD**  
**Acting Chief Executive Officer**  
**Chief Medical Officer**  
**Director, Division of Public Health**  
**Department of Health and Human Services**

  
By: Patricia Urzedowski, Program Manager  
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 26 day of March, 2015, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to Kelly Sheard, Kelly's Day Care, 3709 Groves Rd., Bellevue, Nebraska, 68147.

  
Marsha Wandersee