

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

May 3, 2019

TENDER HEART DAYCARE
OWNED BY THURESA HOAGLAND
223 EAST 14TH, SUITE 10
HASTINGS, NE 68901

CERTIFIED AND FIRST CLASS MAIL

Dear Ms. Hoagland:

Since you did not appeal the Notice of Disciplinary Action dated March 29, 2019, by or on April 15, 2019, you are assessed a civil penalty. The amount due is \$417 (\$3.00 times license capacity of 139 children) for one day of non-compliance found on the October 17, 2018, inspection.

The above penalties must be received by or on May 15, 2019. Your check or money order should be payable to the Nebraska Department of Health and Human Services and sent to Chris Kort, Administrative Assistant, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, PO Box 94986, Lincoln, Nebraska, 68509-4986.

If you have questions, please contact Harriet Spelts, Child Care Licensing Supervisor, Children's Services Licensing at 308-535-8246.

Sincerely,

[Redacted Signature]
Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/ck

Cc: Children's Services Licensing

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

May 3, 2019

TENDER HEART DAYCARE
Thuresa Hoagland, Owner
223 East 14th Street, Suite #10
Hastings, NE 68901

Dear Ms. Hoagland:

In accordance with the Notice of Disciplinary Action, 2nd Probation Extension and 2nd Civil Penalty, issued on March 29, 2019, by Bo Botelho, Interim Director, Division of Public Health, Department of Health and Human Services, the Probation of your original License to operate a Child Care Center in the State of Nebraska has been extended to January 12, 2020. This status became effective January 13, 2018, and it will remain in effect until January 12, 2020. Upon completion of the Probation, a new license will be issued to you.

If you have any questions, please contact Harriet Spelts, Child Care Licensing Supervisor, at (308) 535-8246.

Sincerely,

[Redacted Signature]
Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/dcp

cc: Children's Services Licensing



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

**IN THE MATTER OF:
THE OPERATING CHILD CARE CENTER
LICENSE OF TENDER HEART DAYCARE
OWNED BY THURESA HOAGLAND**

) **NOTICE OF
) DISCIPLINARY ACTION
) 2nd PROBATION EXTENSION
) AND 2nd CIVIL PENALTY**

LICENSED LOCATION: 223 EAST 14TH, SUITE 10, HASTINGS, NE 68901
LICENSE NUMBER: CCC8902
CAPACITY: 139
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 5:30 AM TO 6:00 PM, MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 6, 2007

NOTICE:

Tender Heart Daycare, owned by Thuresa Hoagland (hereinafter referred to as "Tender Heart"), is notified that the Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Department"), is imposing disciplinary action against Tender Heart's Operating Child Care Center 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; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program; ...

Nebraska Revised Statutes, section 71-1920, of the Child Care Licensing Act provides that “(1) 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:

(a) Issue a probationary license; ...

(c) Impose a civil penalty of up to five dollars per child, base on the number of children for which the program is authorized to provide child care on the efective date of the finding of violation, for each day the program is in violation;”...

391 NAC 3-008.01 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; ...
4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;” ...

391 NAC 3-006.15B Staffing Requirements: ... “2. Each room where children are receiving care must have a teacher who is involved with the direct care of children.”...

391 NAC 3-006.15C Staff-to-Child Ratios: “The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis.

Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows.”

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
School-age	15	1

391 NAC 3-006.19 Supervision of Children: “Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.”

391 NAC 3-002 DEFINITIONS

“Adequate and appropriate supervision includes:

1. Knowing the whereabouts and being within sight or sound of all children at all times;
2. Being awake, alert, attentive, and responsive to the needs of all children, and
3. Protecting or removing children from harm.”

FACTS AND FINDINGS:

- On October 17, 2018, Lori Altmaier, Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (herein after referred to as "Altmaier"), conducted a monitoring inspection of Tender Heart. Through general observation during a walkthrough of the program, she found Tender Heart to be out of compliance with the terms of the Probation regarding Staff-to-Child ratio.

At the visit, there were 10 infants with 3 teachers, 9 infants and 3 three-year-olds with 2 teachers, 4 infants with one teacher, one room with 6 toddlers with one teacher, a second room with 6 toddlers with one teacher, and 37 children with 2 staff. The 37 children included 2 two-year-olds, 10 three-year-olds, and 25 four and five-year-olds. One of the staff with this group was the cook. There were 10 staff working with children and 12 were needed to meet staff-to-child ratios. Thuresa Hoagland, director and licensee, was out of town due to a personal issue. Details of this inspection can be found on an "Inspection Compliance Review" dated October 17, 2018.

- On November 2, 2018, Altmaier conducted a complaint inspection of Tender Heart. Through an interview with Director/Licensee Hoagland, Altmaier found Tender Heart to be out of compliance with the terms of the Probation regarding supervision.

On October 19, 2018, a three-year-old child was found alone in the parking lot of the daycare. Hoagland stated that the three-year-old outside was her grandson. She was caring for him and they were getting ready to leave the Center. The child was standing by the door when the phone rang. Hoagland answered the phone then went into the front office to write down a child's schedule. When she turned around her grandson was gone. She looked in the back rooms and then was notified he was in the parking lot. Details of this inspection can be found on a "Compliance/Complaint Review" dated November 2, 2018.

- On November 20, 2018, Altmaier conducted a complaint inspection of Tender Heart. Through general observations and an interview with Director/Licensee Hoagland, Altmaier found Tender Heart to be out of compliance with the terms of the Probation regarding supervision and staffing requirements.

On November 5, 2018, Hoagland stated that her own three school age children were sitting in the front part of the office watching a movie after school and a three-year-old came and sat with them. Hoagland was working in the back part of the office while the children were watching the movie for about an hour. Hoagland was not sure which teacher was in the room when the three-year-old left the room. Hoagland also thought there was a staff worker in the front part of the office, but this person couldn't be identified. Details of this inspection can be found on "Compliance/Complaint Review" dated November 20, 2018.

PREVIOUS HISTORY:

Tender Heart has a history of failing to provide adequate and appropriate supervision to children in care.

- On December 2, 2015, Tender Heart had 2 four-year-old children who fled the center without permission or supervision. Upon returning from a preschool program, 2 children went out the back door and ran down the street. They were found by a utility worker who called 911. The boys were picked up by Hastings Police who returned them to the center. This incident resulted in Tender Heart being placed on Corrective Action Status for six months effective January 26, 2016.
- On November 14, 2016, Tender Heart had a toddler that had been left unattended for approximately six minutes as the toddler left the lunch area without staff noticing. Later in the same day, a toddler got separated from a group of ten children with two staff when walking from the gym area back to the center. The center is at one end of a business building and the gym area is at the other with several businesses between. This incident resulted in a staff member being fired and Tender Heart was put on a six month probation effective December 28, 2016.
- On November 28, 2017, Tender Heart toddler staff were combining rooms. One staff person (Kim) took three of the children into another toddler room and left. The staff person in that room (Brooklyn), was talking to a parent and was not aware Kim had brought the three children into the room. Those three toddlers opened a gate, went up a staircase and got out of the building through a door that had been propped open.

Another staff person (Beatrice) saw the children running by her window and notified Kim that the toddlers were out of the building. Kim went outside to retrieve the children. By that time, a person passing by had stopped the children from leaving the premises. Kim was then able to bring the children back indoors. This event led to Tender Heart being placed on probation, scheduled to end on January 13, 2019.

- On May 2, 2018, at 6:10 a.m., Pam Wicht, Child Care Inspection Specialist (herein after referred to a "Wicht") observed Tender Heart had 2 infants, 2 toddlers, 14 three-year-olds, 6 four and five-year-olds, and 11 school age children. There were 2 staff present working with the children and 4 were needed to meet staff-to-child ratios. Wicht observed another room where 14 children were in care, including an infant. Rooms where infants are in care are limited to a total of 12 children. Also, Wicht observed a room where 9 children were sleeping; however, no teacher was present in the room. An additional room where 12 school age children were receiving care was observed not to have a teacher present.

On May 3, 2018, Altmaier observed Tender Heart had 4 infants in a room with no teacher. The teacher had gone to the other infant room to help out because they had 10 infants with 2 teachers. This event led to a Civil Penalty in the amount of \$278.00 and

extending the Probation scheduled to end on January 13, 2019, to a new end date of July 13, 2019.

DISCIPLINARY ACTION IMPOSED:

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

1. Tender Heart's original probation from the Notice of Discipline signed on December 28, 2017:
 - was originally scheduled to end on January 13, 2019;
 - was extended by six months to end on July 13, 2019, by Notice of Disciplinary Action signed on August 30, 2018; and
 - is extended for a second time by six months and will now end January 12, 2020.
2. In addition to the original terms and conditions from the December 28, 2017, Notice of Disciplinary action, with the following terms and conditions are imposed:
 - A) Tender Heart is not allowed any new enrollments until 6 months after the effective date of this notice. Tender Heart will submit a current roster of enrolled children to Altmaier. If there are no violations related to staffing and/or supervision, the enrollment restriction will be lifted after 6 months.
 - B) Tender Hear must have one additional staff person above the Staff-Child Ratio requirement during all operating hours. If there are no violations related to staffing and/or supervision, the additional staff person requirement will be lifted after 6 months.

All documentation required must be submitted to NE Department of Health and Human Services, Attn: Lori Altmaier, Child Care Inspection Specialist, Children's Services Licensing, 4011 7th Avenue, Suite A, Kearney, NE 68845, or at such other address as directed in writing by the Department.

3. Tender Heart is assessed a civil penalty in the amount of \$ 417.00 (\$3.00 times license capacity of 139 children) for one day of non-compliance found on the October 17, 2018, inspection.
4. 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/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). The Licensee and any employees and/or agents must cooperate with the Department in these monitoring inspections.
5. A copy of this Notice of Disciplinary Action must be posted with the current childcare license so it is clearly visible to parents and agency representatives.
6. Failure to comply with the terms of this disciplinary action, the applicable Child Care Center Regulations, and failure to correct the violations 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.

7. If Tender Heart discontinues the child care program for any reason, the time the Licensee 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 indicating Tender Heart as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. The Licensee must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the provision of childcare for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on April 15, 2019, 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 on or 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 15, 2019. It should be addressed to:

Chris Kort, 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.**”

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.” 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.

Dated: March 29, 2019

Bo Botelho, Interim Director
Division of Public Health
Department of Health and Human Services

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

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 29th day of March, 2019, a copy of the foregoing NOTICE OF DISCIPLINARY ACTION was sent by certified and first class United States mail, sufficient postage prepaid to TENDER HEART DAYCARE, 223 EAST 14TH, SUITE 10, HASTINGS, NE 68901.

Chris Kort
Administrative Assistant
Licensure Unit



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

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER) NOTICE OF
LICENSE OF TENDER HEART DAYCARE) DISCIPLINARY ACTION
OWNED BY THURESA HOAGLAND) CIVIL PENALTY

LICENSED LOCATION: 223 EAST 14TH SUITE 10, HASTINGS, NE 68901
LICENSE NUMBER: CCC8902
CAPACITY: 139
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 5:30 AM TO 6:00 PM, MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 6, 2007

NOTICE:

Tender Heart Daycare, owned by Thuresa Hoagland (hereinafter referred to as "Tender Heart") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Tender Heart's Operating Child Care Center 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; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;"

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 on 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 3-008.01 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; ...
4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;" ...

391 NAC 3-006.15.B Staffing Requirements:

- "2. Each room where children are receiving care must have a teacher who is involved with the direct care of children.
3. During naptime, at least one teacher must be in the room where children are napping, as long as the staff-to-child ratio is maintained center-wide."

391 NAC 3-006.15C Staff-to-Child Ratios: "The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis.

Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows."

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
School-age	15	1

FACTS AND FINDINGS:

On May 2, 2018, Pam Wicht, Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Wicht"), and May 3, 2018, Lori Altmaier Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Altmaier"), conducted unannounced complaint inspections of Tender Heart.

On May 2, 2018, at 6:10 a.m. Wicht observed 2 infants, 2 toddlers, 14 3 year-olds, 6 4 and 5 year-olds, and 11 school age children. There were 2 staff present working with children and 4 were needed to meet staff-to-child ratios.

Wicht observed another room where 14 children were in care, including an infant. Rooms where infants are in care are limited to a total of 12 children. Also, Wicht observed a room where 9 children were sleeping; however, no teacher was present in the room. An additional room where 12 school age children were receiving care was observed not to have a teacher present.

On May 3, 2018, Altmaier returned to the center and observed 4 infants in a room with no teacher. The teacher had gone to the other infant room to help out because they had 10 infants with 2 teachers.

PREVIOUS HISTORY:

Tender Heart has a history of failing to adhere to regulations as described below.

1.) On December 2, 2015, 2 4 year-old children fled the center without permission or supervision. Upon returning from a preschool program, 2 children went out the back door and ran down the street. They were found by a utility worker who called 911. The boys were picked up by Hastings Police who returned them to the center. This incident resulted in Tender Heart being placed on Corrective Action Status for 6 months effective January 26, 2016.

2.) On November 14, 2016, a toddler had been left unattended for approximately 6 minutes as the toddler left the lunch area without staff noticing. Later in the same day, a toddler got separated from a group of 10 children with 2 staff when walking from the gym area back to the center. The center is at one end of a business building and the gym area is at the other with several businesses between. This incident resulted in a staff member being fired and Tender Heart was put on a 6 month probation effective December 28, 2016.

3.) On December 4, 2017, Altmaier conducted an unannounced complaint inspection of Tender Heart. During the interview with Altmaier, Hoagland stated that on November 28, 2017, the toddler staff were combining rooms. 1 staff person (Kim) took 3 of the children into another toddler room and left. The staff person in that room (Brooklyn), was talking to a parent and was not aware Kim had brought the 3 children into the room.

Those 3 toddlers opened a gate, went up a stair case and got out of the building through a door that had been propped open. Another staff person (Beatrice) saw the children running by her window and notified Kim the toddlers were out of the building. Kim went outside to retrieve the children. By that time, a person passing by had stopped the children from leaving the premises. Kim was then able to bring the children back indoors. This event lead to Tender Heart being placed on their current active probation scheduled to end on January 13, 2019.

DISCIPLINARY ACTION IMPOSED:

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

1. Tender Heart is assessed a civil penalty in the amount of \$139.00 per day (\$1.00 times license capacity of 139 children) for each day of noncompliance. Tender Heart was found to be out of compliance on May 2, 2018, and May 3, 2018, for a total civil penalty owed of \$278.00.

Said penalty is payable to the Nebraska Department of Health and Human Services, Division of Public Health. Said penalty is to be sent to Chris Kort, PO Box 94986, Lincoln, NE 68509-4986, by or on September 28, 2018.

2. 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.

3. If Tender Heart discontinues the child care program for any reason, the time the Adventure 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 indicating Adventure as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Adventure must notify the Department, in writing, within seven 7 working days of any period that it is not actively operating the program. Active operation is the provision of childcare for a minimum of 40 hours a week for 50 weeks of a calendar year.

4. Tender Heart's original probation from the Notice of Discipline signed on December 28, 2018, which was scheduled to end on January 13, 2019, will be extended an additional 6 months and will now end on July 13, 2019.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on September 13, 2018, 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 on or 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 September 13, 2018. It should be addressed to:

Chris Kort, 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.**”

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.” 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.

Dated: August 30, 2018

Courtney N. Phillips, PhD
Chief Executive Officer
Department of Health and Human Services


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

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 30th day of August, 2018, a copy of the foregoing NOTICE OF DISCIPLINARY ACTION was sent by certified and first class United States mail, sufficient postage prepaid to TENDER HEART DAYCARE 223 EAST 14TH SUITE 10, HASTINGS, NE 68901.

[Redacted Signature]

Chris Kort
Administrative Assistant



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

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER) NOTICE OF
LICENSE OF TENDER HEART DAYCARE) DISCIPLINARY ACTION
OWNED BY THURESA HOAGLAND)

LICENSED LOCATION: 223 EAST 14TH SUITE 10, HASTINGS, NE 68901
LICENSE NUMBER: CCC8902
CAPACITY: 139
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 5:30 AM TO 6:00 PM, MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 6, 2007

NOTICE:

Tender Heart Daycare, owned by Thuresa Hoagland (hereinafter referred to as "Tender Heart") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Tender Heart's Operating Child Care Center 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; ...

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;”

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: (a) Issue a probationary license.” ...

391 NAC 3-008.01 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; ...

4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;” ...

391 NAC 3-006.19 Supervision of Children: “Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.”

391 NAC 3-002 DEFINITIONS

Adequate and appropriate supervision includes:

1. Knowing the whereabouts and being within sight or sound of all children at all times;
2. Being awake, alert, attentive, and responsive to the needs of all children, and
3. Protecting or removing children from harm.

FACTS AND FINDINGS:

On December 4, 2017, Lori Altmaier Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as “Altmaier”), conducted an unannounced complaint inspection of Tender Heart.

During the interview with Altmaier, Hoagland stated that on November 28, 2017, the toddler staff were combining rooms. One staff person (Kim) took three of the children into another toddler room and left. The staff person in that room (Brooklyn), was talking to a parent and was not aware Kim had brought the three children into the room. Those three toddlers opened a gate, went up a stair case and got out of the building through a door that had been propped open. Another staff person (Beatrice) saw the children running by her window and notified Kim the toddlers were out of the building. Kim went outside to retrieve the children. By that time, a

person passing by had stopped the children from leaving the premises. Kim was then able to bring the children back indoors.

PREVIOUS HISTORY:

Tender Heart has a history of failing to provide adequate and appropriate supervision to children in care.

On November 14, 2016, a toddler had been left unattended for approximately six minutes as the toddler left the lunch area without staff noticing. Later in the same day, a toddler got separated from a group of ten children with two staff when walking from the gym area back to the center. The center is at one end of a business building and the gym area is at the other with several business between. This incident resulted in a staff member being fired and Tender Heart was put on a six month probation effective December 28, 2016.

On December 2, 2015 two four year old children fled the center without permission or supervision. Upon returning from a preschool program, two children went out the back door and ran down the street. They were found by a utility worker who called 911. The boys were picked up by Hastings Police who returned them to the center. This incident resulted in Tender Heart being placed on Corrective Action Status for six months effective January 26, 2016.

DISCIPLINARY ACTION IMPOSED:

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

1. Tender Heart's Operating Child Care Center license is placed on probation for a period of one year from the effective date of January 13, 2018. The following terms and conditions will apply:
 - a. By January 29, 2018, Tender Heart's director must submit to the Department a written plan on holding monthly meetings to review supervision issues. The plan must be approved by the Department.
 - b. By January 29, 2018, Tender Heart's director must submit to the Department an updated written policy regarding supervision. The policy must specifically address how supervision will be handled during transition times and what changes will be made to ensure children are always adequately and appropriately supervised.
 - c. By March 29, 2018, all staff who have not had supervision training must successfully complete two hours of face-to-face training relating to Adequate and Appropriate Supervision of children.

This training must be approved by the Early Childhood Training Center as well as the Department of Health and Human Services, as meeting the requirements for acceptable training for child care program staff.

Prior to participating in any training, Tender Heart will submit in writing the following to the Department, in order for the Department to determine if the training meets the requirements for which it is intended: training curriculum, date and time of training, name of the training, presenter/instructor's name, and the number of hours. This training will not count toward the required 12 hours of annual training.

Upon receipt of the above information, the Department will either approve or require additional information in writing from the Licensee within ten working days of the receipt of the letter requesting approval of the training. If additional information is required, Tender Heart must reply with the required information within ten calendar days of notice by the Department.

Tender Heart must submit verification of attendance and successful completion within fifteen calendar days after completion of the approved training.

d. Tender Heart is responsible for paying for all costs associated with compliance.

All documentation required must be submitted to Department, Attn: Lori Altmaier, Child Care Inspection Specialist, Children's Services Licensing, 4011 7th Avenue, Suite A, Kearney, NE 68845, or at such other address as directed in writing, by the Department.

2. 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/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). The Licensee 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 so it is clearly visible to parents and agency representatives.

4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Center Regulations, and failure to correct the violations 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 Tender Heart discontinues the child care program for any reason, the time the Licensee 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 indicating Tender Heart as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. The Licensee must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the

provision of childcare for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on January 12, 2018 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 on or 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 January 12, 2018. It should be addressed to:

Chris Kort, 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.**”

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.” 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.

Dated: December 28, 2017

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

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

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 29 day of December, 2017, a copy of the foregoing NOTICE OF DISCIPLINARY ACTION was sent by certified and first class United States mail, sufficient postage prepaid to LICENSE OF TENDER HEART DAYCARE 223 EAST 14TH SUITE 10, HASTINGS, NE 68901.


Chris Kort
Administrative Assistant



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

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER) NOTICE OF
LICENSE OF TENDER HEART DAYCARE) DISCIPLINARY ACTION
OWNED BY THURESA HOAGLAND)

LICENSED LOCATION: 223 EAST 14TH SUITE 10, HASTINGS, NE 68901
LICENSE NUMBER: CCC8902
CAPACITY: 139
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 5:30 AM TO 6:00 PM, MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 6, 2007

NOTICE:

Tender Heart Daycare, owned by Thuresa Hoagland (hereinafter referred to as "Tender Heart") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Tender Heart's Operating Child Care Center 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; ...

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;”

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: (a) Issue a probationary license.” ...

391 NAC 3-008.01 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; ...

4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;” ...

391 NAC 3-006.19 Supervision of Children: “Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.”

391 NAC 3-002 DEFINITIONS

Adequate and appropriate supervision includes:

1. Knowing the whereabouts and being within sight or sound of all children at all times;
2. Being awake, alert, attentive, and responsive to the needs of all children, and
3. Protecting or removing children from harm.

FACTS AND FINDINGS:

On December 4, 2017, Lori Altmaier Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as “Altmaier”), conducted an unannounced complaint inspection of Tender Heart.

During the interview with Altmaier, Hoagland stated that on November 28, 2017, the toddler staff were combining rooms. One staff person (Kim) took three of the children into another toddler room and left. The staff person in that room (Brooklyn), was talking to a parent and was not aware Kim had brought the three children into the room. Those three toddlers opened a gate, went up a stair case and got out of the building through a door that had been propped open. Another staff person (Beatrice) saw the children running by her window and notified Kim the toddlers were out of the building. Kim went outside to retrieve the children. By that time, a

person passing by had stopped the children from leaving the premises. Kim was then able to bring the children back indoors.

PREVIOUS HISTORY:

Tender Heart has a history of failing to provide adequate and appropriate supervision to children in care.

On November 14, 2016, a toddler had been left unattended for approximately six minutes as the toddler left the lunch area without staff noticing. Later in the same day, a toddler got separated from a group of ten children with two staff when walking from the gym area back to the center. The center is at one end of a business building and the gym area is at the other with several business between. This incident resulted in a staff member being fired and Tender Heart was put on a six month probation effective December 28, 2016.

On December 2, 2015 two four year old children fled the center without permission or supervision. Upon returning from a preschool program, two children went out the back door and ran down the street. They were found by a utility worker who called 911. The boys were picked up by Hastings Police who returned them to the center. This incident resulted in Tender Heart being placed on Corrective Action Status for six months effective January 26, 2016.

DISCIPLINARY ACTION IMPOSED:

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

1. Tender Heart's Operating Child Care Center license is placed on probation for a period of one year from the effective date of January 13, 2018. The following terms and conditions will apply:
 - a. By January 29, 2018, Tender Heart's director must submit to the Department a written plan on holding monthly meetings to review supervision issues. The plan must be approved by the Department.
 - b. By January 29, 2018, Tender Heart's director must submit to the Department an updated written policy regarding supervision. The policy must specifically address how supervision will be handled during transition times and what changes will be made to ensure children are always adequately and appropriately supervised.
 - c. By March 29, 2018, all staff who have not had supervision training must successfully complete two hours of face-to-face training relating to Adequate and Appropriate Supervision of children.

This training must be approved by the Early Childhood Training Center as well as the Department of Health and Human Services, as meeting the requirements for acceptable training for child care program staff.

Prior to participating in any training, Tender Heart will submit in writing the following to the Department, in order for the Department to determine if the training meets the requirements for which it is intended: training curriculum, date and time of training, name of the training, presenter/instructor's name, and the number of hours. This training will not count toward the required 12 hours of annual training.

Upon receipt of the above information, the Department will either approve or require additional information in writing from the Licensee within ten working days of the receipt of the letter requesting approval of the training. If additional information is required, Tender Heart must reply with the required information within ten calendar days of notice by the Department.

Tender Heart must submit verification of attendance and successful completion within fifteen calendar days after completion of the approved training.

d. Tender Heart is responsible for paying for all costs associated with compliance.

All documentation required must be submitted to Department, Attn: Lori Altmaier, Child Care Inspection Specialist, Children's Services Licensing, 4011 7th Avenue, Suite A, Kearney, NE 68845, or at such other address as directed in writing, by the Department.

2. 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/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). The Licensee 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 so it is clearly visible to parents and agency representatives.

4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Center Regulations, and failure to correct the violations 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 Tender Heart discontinues the child care program for any reason, the time the Licensee 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 indicating Tender Heart as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. The Licensee must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the

provision of childcare for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on January 12, 2018 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 on or 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 January 12, 2018. It should be addressed to:

Chris Kort, 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.**”

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.” 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.”

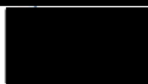
Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under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

Dated: December 28, 2017

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services



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



CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 29 day of December, 2017, a copy of the foregoing NOTICE OF DISCIPLINARY ACTION was sent by certified and first class United States mail, sufficient postage prepaid to LICENSE OF TENDER HEART DAYCARE 223 EAST 14TH SUITE 10, HASTINGS, NE 68901.



Chris Kort
Administrative Assistant

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

January 3, 2017

TENDER HEART DAYCARE

Thuresa Hoagland, Licensee
223 East 14th Street, Suite #10
Hastings, NE 68901

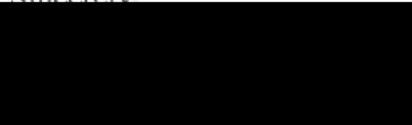
Dear Ms. Hoagland:

In accordance with the Notice of Disciplinary Action issued on December 9, 2016, by Thomas L. Williams, Chief Medical Officer and Director, Division of Public Health, Department of Health and Human Services, your original License to operate a Child Care Center in the State of Nebraska has been placed on Probation. A license imprinted with the term "PROBATION" is enclosed. This status became effective December 28, 2016, and it will remain in effect until June 28, 2017. Upon completion of the Probation, a new license will be issued to you.

At this time we ask that you submit your current license by return mail, within the next seven (7) days, to DHHS, Division of Public Health, Licensure Unit, Attn: Marsha Wandersee, 301 Centennial Mall South, Lincoln, NE 68509-4986.

If you have any questions, please contact Harriet Spelts, Child Care Licensing Supervisor, at (308) 535-3335.

Sincerely,



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

BW/dcp

cc: Children's Services Licensing

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

THURESA HOAGLAND

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Child Care Center

located at: **223 E 14TH ST Hastings NE 68901**

A maximum of **139** children in ages **6 WKS** to **13 YRS** may be in attendance at any one time during the hours of **0530** to **1800** on **MTWTHF**.

TENDER HEART DAYCARE is hereby issued License No. **GCC8902** which is effective on **03/03/2008**

Amended: 12/28/2016

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 6, 2017.**



[Redacted Signature]
The Honorable L. Williams, M.D., Medical Officer
Director, Division of Public Health
Department of Health and Human Services

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

IN THE MATTER OF:)	
THE OPERATING CHILD CARE CENTER)	NOTICE OF
LICENSE OF THURESA HOAGLAND D/B/A)	DISCIPLINARY ACTION
TENDER HEART DAYCARE)	

LICENSED LOCATION: 223 EAST 14TH, SUITE 10, HASTINGS, NE, 68901
LICENSE NUMBER: CCC8902
CAPACITY: 139
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 5:30 A.M. TO 6:00 P.M., MONDAY THROUGH FRIDAY
DATE INITIALLY LICENSED: FEBRUARY 6, 2007

NOTICE:

Theresa Hoagland (hereinafter referred to as "Hoagland") is hereby notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") intends to impose disciplinary action against Hoagland's operating Child Care Center license, Tender Heart Daycare (hereinafter referred to as "Tender Heart"), 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; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program; ...

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: (a) Issue a probationary license;"...

391 NAC 3-008.01 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; ...

4. Conduct or practices detrimental to the health or safety of an individual served by or employed at the program;" ...

391 NAC 3-002 DEFINITIONS "Adequate and appropriate supervision includes: 1. Knowing the whereabouts and being within sight or sound of all children at all times; 2 Being awake, alert, attentive, and responsive to the needs of all children, and 3. Protecting or removing children from harm."

391 NAC 3-006.19 Supervision of Children: "Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee."

FACTS:

Hoagland is listed as the licensee and director of record of Tender Heart.

On November 14, 2016, Lori Altmaier (hereinafter referred to as "Altmaier"), Child Care Inspection Specialist, Children's Services Licensing, Licensure, Division of Public Health, spoke with Hoagland after Hoagland had reported that an 18 month old was left unsupervised. The incident occurred on November 11, 2016.

Hoagland reported that ten toddlers were returning from the gym with two teachers. One teacher, Hilary, was in front of the line and one was in back. The teacher at the back of the line, Vanessa, did not see the 18 month old toddler turn a corner instead of going straight to the center. There are several businesses in the building where the center is located. The center is located at one end of the building and the gym is located at the other. The group proceeded down the hallway without the toddler and then went into the classroom in the child care portion of the building. Hilary noticed the toddler was missing and asked Vanessa where the toddler was. Vanessa stated she did not know. As Hilary was going to look for the toddler, she met a man who was bringing the toddler to the center.

Earlier in the day, a toddler had left the lunchroom without Vanessa's knowledge. The toddler was gone and unattended for six minutes. Vanessa's employment was terminated immediately after the latest incident.

A review of Hoagland's licensing file shows that Hoagland's license was recently on Corrective Action Status from January 26, 2016 to July 26, 2016 for violating supervision.

DISCIPLINARY ACTION IMPOSED:

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

1. Hoagland's Child Care Center license is placed on Probation for a period of six months effective December 28, 2016.

a. By March 28, 2017, the Hoagland must ensure that all existing staff, including the director, who have the responsibility of caring for children will register/enroll, attend and successfully complete a minimum of two hours of face-to-face training related to adequate and appropriate supervision.

This training must be approved by the Early Childhood Training Center as well as the Department of Health and Human Services, as meeting the requirements for acceptable training for child care program staff.

Prior to staff participating in any training, the Hoagland will submit in writing the following to the Department, in order for the Department to determine if the training meets the requirements for which it is intended: names of staff attending, training curriculum, date and time of training, name of the training, presenter/instructor's name, and the number of hours. This training will not count toward the required 12 hours of annual training.

Upon receipt of the above information, the Department will either approve or require additional information in writing from the Licensee within ten working days of the receipt of the letter requesting approval of the training. If additional information is required, Hoagland must reply with the required information within ten calendar days of notice by the Department.

Hoagland must submit verification of attendance and successful completion by all staff, including the director, who have the responsibility of caring for children within fifteen calendar days after completion of the approved training.

Hoagland must ensure that any new staff responsible for the care of children must complete two hours of face-to-face training related to adequate and appropriate supervision, within sixty days of hiring. Training documentation must be kept on the center premises and available for review by the Department upon request.

b. By December 28, 2016, Hoagland will review and revise its written policies and procedures related to the provision of adequate and appropriate supervision to children at all times the children are in attendance both inside and outside and to and from the gym area. The written policies and procedures should incorporate, but are not limited to: the use of checklists; staffing charts; frequent monitoring; accountability; training of staff who count in the staff-to-child ratio; how current and future staff will be made aware of current changes in policies and procedures; and other detailed procedures to insure proper and adequate supervision of children at all times.

c. By December 28, 2016, Hoagland will submit a detailed plan as to how she will be involved in the monitoring and compliance with policies and procedures regarding adequate and appropriate supervision, including regular staff meetings, overview of staff, etc.

d. By December 28, 2016, Hoagland will ensure that one additional staff person is present when taking children to and from the gym area and to and from the outdoor area. At least two staff shall provide written verification of the number of children by initialing a checklist. These checklists must be maintained on the center premises for at least six months and available for review by the Department upon request. Prior to taking children to and from the gym area and to and from the outdoor area, children must be assigned to specific staff who will then be accountable for these children.

e. Hoagland is responsible for paying for all costs associated with compliance.

f. All documentation required must be submitted to Lori Altmaier, Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, 4011 7th Avenue, Suite A, Kearney, Nebraska, 68845, or at such other address as directed, in writing, by the Department.

2. 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/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). Hoagland 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 so it is clearly visible to parents and agency representatives.

4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations and failure to correct the violations 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 Hoagland discontinues the child care program for any reason, the time Hoagland 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 indicating Hoagland as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Hoagland must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the provision of child care for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on December 27, 2016, 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 on or 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 no later than December 27, 2016. 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

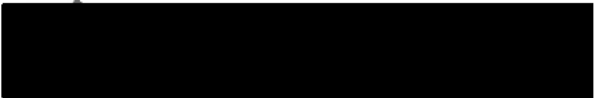
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modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, 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.

That 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.

Dated: December 9, 2016

Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services



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

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 9 day of December, 2016, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to Thuresa Hoagland, Tender Heart Daycare, 223 East 14th, Suite 10, Hastings, Nebraska, 68901.



Marsha Wandersee

February 9, 2016

TENDER HEART DAYCARE
Theresa Hoagland, Licensee/Director
223 East 14th Street, Suite #10
Hastings, NE 68901

Dear Ms Hoagland:

In accordance with the letter written to you by Harriet Spelts, Child Care Licensing Supervisor, on January 27, 2016, your original License to operate a Child Care Center in the State of Nebraska has been placed on Corrective Action Status. A license imprinted with the term "Corrective Action Status" is enclosed. This status became effective January 26, 2016, and it will remain in effect until July 26, 2016. Upon completion of this term, a new license will be issued to you.

At this time we ask that you submit your current license by return mail, within the next seven (7) days, to DHHS, Division of Public Health, Licensure Unit, Attn: Marsha Wandersee, 301 Centennial Mall South, Lincoln, NE 68509-4986.

If you have any questions, please contact Harriet Spelts, Child Care Licensing Supervisor, at (308) 535-8246.

Sincerely,



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

BW/dcp

cc: Children's Services Licensing

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

State of Nebraska

Department of Health and Human Services
Division of Public Health

THERESA HOAGLAND

is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Child Care Center
located at: 223 E 14TH ST Hastings NE 68901

A maximum of 139 children in ages 6 WKS to 13 YRS may be in attendance at any one time during the hours of 0530 to 1800 on MTWTHF.

TENDER HEART DAYCARE is hereby issued License No. CCC8902
whose status is Active-Corrective Action Status effective from 01/26/2016

Amended: 01/26/2016

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
March 2, 2016.



Courtney N. Phillips, MPA
Chief Executive Officer
Department of Health and Human Services

411480



Division of Public Health

State of Nebraska
Pete Ricketts, Governor

January 27, 2016

CERTIFIED MAIL

Theresa Hoagland, Licensee/ Director
Tender Heart Daycare
223 E 14th, Ste 10
Hastings, NE 68901

Dear Ms. Hoagland:

I have received and reviewed the Corrective Action Plan and the additional information requested by the Department of Health and Human Services. You have addressed all the items listed in your Corrective Action Status Notice. Your plan is approved.

Your plan stated you will:

1. Use a rope with loops that are placed around the children's wrists with the van driver holding onto the end of the rope until all children are in the facility.
2. Install a buzzer on your back door that will sound if it is opened.
3. Contact Law Enforcement immediately if it is discovered that a child is missing from the building. Then parents will be contacted.
4. Require all staff to attend and complete a 2 hour supervision training on February 11, 2016.

You are required to follow the plan you submitted as outlined above.

Your Corrective Action Status is in effect from January 26, 2016 to July 26, 2016, at which time your corrective action status will end. A new license indicating "Corrective Action Status" will be mailed to you. Please post the license in a prominent place upon its arrival.

You are subject to monitoring visits by Children's Services Licensing staff to determine compliance with this plan.

If at any time subsequent to your placement on Corrective Action Status, should Children's Services Licensing receive substantiated concerns or complaints relating to the care, well-being or risk to children in care, Children's Services Licensing/Licensure Unit will initiate further negative action against your Family Child Care Home I license.

If you have any questions, please contact Lori Altmaier, Child Care Inspection Specialist at 308-865-5625 or myself, Harriet Spelts, at 308-535-8246.

Sincerely,



Harriet Spelts, Child Care Licensing Supervisor
Division of Public Health
Children's Services Licensing
200 S. Silber
North Platte, NE 69101

cc: Lori Altmaier, Child Care Inspection Specialist
Marsha Wandersee, Administrative Assistant II

Altmaier, Lori

From:
Sent: Tuesday, January 05, 2016 6:21 PM
To: Altmaier, Lori
Subject: Compliance

Our correction plans:

Due to our two children escaping from our facility we have put into place our correction plan.

1. When unloading from the Vans our children now have to use a rope with loops over their hands attached to the teacher and other children being transported.
2. We now have a buzzer on our back door where they exited. It would have a lock but due to the fact that it is a fire exit, we are not allowed to lock it. Our buzzer sound box is located in the office so that we are sure to hear it and check to see who is coming and going.
3. Training is being scheduled on safety of our children as soon as Jo Braun with Head Start returns to work after her surgery. Sometime after January 11th, we will have all our staff attend a safety protocol training.
4. Our facility is also looking into putting security cameras to allow us sight access to the exits.

I am doing everything I possibly can to ensure the safety of our children. In my 38 + years of doing childcare I have never had anything like this happen. One of the children who escaped was my own. He wanted to go to McDonalds to have a burger. Knowing that is the exit we use when we leave the facility after work, he thought it was ok he got out that exit. After many explanations, he now knows that he may not leave the facility without an adult. The other parent has also done the same with the other child who left the building.

If there is more that we need to accomplish Please inform me.

Thank You;
Thuresa Hoagland, Director

Tender Heart Daycare
223 E 14th, Ste 10
Hastings, Ne 68901

Lori Altmaier, Child Care Inspection Specialist

RE: Correction plan for Tender Heart Daycare

Each van driver is responsible for loading and unloading the children being transported, as the children are being unloaded we now have a rope with loops that is placed around their wrists with the Van driver holding one end until they are in the facility. Once in the facility they are escorted to their coat hook and then taken to the lunchroom or to their classroom.

After a quick assessment to determine that a child is missing first call is made to 911 second call is made to the parent.

Training is scheduled for February 11, 2016....6:15 pm here at our facility...Presenter will be Jo Braun

Theresa Hoagland, Licensee/Director

Tender Heart Daycare

223 E 14th, Ste 10

Hastings, NE 68901

402-462-5102



December 18, 2015

CERTIFIED MAIL

Theresa Hoagland, Licensee/ Director
Tender Heart Daycare
223 E 14th, Ste 10
Hastings, NE 68901

Dear Ms. Hoagland

Nebraska Revised Statutes, section 71-1911 (4), of the Child Care Licensing Act and Regulations Governing Licensure of Child Care Centers, Title 391, Chapter 3, Page 11, 3-003.05B Corrective Action Status provides that the Department may place a provisional or operating license on corrective action status.

FACTS:

On December 2, 2015, Theresa Hoagland, Licensee/ Director, made a self-report to the Department of Health and Human Services Division of Public Health, Children's Services Licensing that two four year old children fled the Center and left the premises at approximately 11:23 a.m. without staff supervision or permission. It was reported that this incident occurred as four children arrived back at the Center from preschool and were hanging up their coats. Two of the children went out a back door and ran down the street. When the bus driver realized they were missing, she went out the back door and Ms. Hoagland went out the front door to look for the children. They were caught by a Hastings Utility worker who called 911. A Hastings Police Department officer picked up the two boys. Ms. Hoagland also called 911 and the Officer brought the boys back to the Center.

REGULATORY BASIS:

391 NAC 3-006.01, #2 Licensee Qualifications and Requirements: The Child Care Center licensee must be in compliance with all regulations whenever any children are in care.

391 NAC 2-006.01, #5 Licensee Qualifications and Requirements: The Child Care Center licensee must ensure that the center has sufficient resources to provide a safe, healthy, and nurturing environment to all children enrolled in the center.

391 NAC 3-006.19 Supervision of Children: Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.

DETERMINING CORRECTIVE ACTION STATUS:

A non-disciplinary probationary license may be issued for the licensee to operate under corrective action status if the department determines that:

- (a) The licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;
- (b) The effect of noncompliances with any rule or regulation does not present an unreasonable risk to the health, safety or well-being of children or staff;
- and
- (c) The licensee has a written plan of correction that has been approved by the Department.

Based on the facts presented above and the regulations violated, the Department is placing your operating license on Corrective Action Status for a period of six months.

CORRECTIVE ACTION STATUS: PLAN OF CORRECTION:

Corrective action status is voluntary and the decision regarding placement on corrective action status is not appealable. However, you are required to submit a written plan of correction that must be approved by the Department.

The following items must be included in your written Plan of Correction:

1. Identify the issues or concern;
2. Identify who is responsible for corrections and maintenance of compliance;
3. Describe how you will ensure that children in your care will not leave the premises without staff knowledge and how appropriate supervision is maintained at all times;
4. Describe any changes you have made to the facility to ensure this type of incident does not happen again;
5. Describe any changes in policies/ procedures you have done to ensure this type of incident does not happen again;
6. Describe procedures staff will take if it is determined a child is missing;
7. Ensure that all staff attend a 2 hour training on providing adequate and appropriate supervision approved by the Department within the next 60 days;

Please submit your written Corrective Action Plan to Lori Altmaier, Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Office of Children's Services Licensing, 4011 7th Ave, Ste A, Kearney, NE, 68845, within ten calendar days after you receive this letter.

FAILURE TO SUBMIT CORRECTIVE ACTION PLAN:

If you do not submit a written plan of correction, or the written plan of correction is not approved, the Department may discipline your license by imposing one or a combination of the following types of disciplinary action:

- (a) Issue a probationary (disciplinary) license;
- (b) Suspend or revoke a provisional, probationary, or operating license;
- (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;
- (d) Establish restrictions on new enrollment in the program;
- (e) Establish restrictions or other limitations on the number of children or the age of the children served in the program; or
- (f) Establish other restrictions or limitations on the type of service provided by the program.

If you have any questions regarding this letter, please contact Lori Altmaier at (308) 865-5625 or myself at (308) 535-8246.

Thank you.

Sincerely,



Harriet Spelts, Child Care Licensing Supervisor
Children's Services Licensing
Division of Public Health
200 South Silber Avenue
North Platte NE 69101

cc: Lori Altmaier, Child Care Inspection Specialist
Marsha Wandersee, Administrative Assistant II

LICENSING AGREEMENT

I, Theresa Hoagland, Director/Licensee of Tender Heart Daycare, 223 E. 14th St, Hastings, NE 68901, hereby voluntarily state and declare.

I have read and understand the Child Care Center Standards. (CRED-PB-365, Rev. 9/98)

I agree to comply with each of the Child Care Center Standards as long as Tender Heart Daycare Center is licensed by the State of Nebraska to provide child care services.

I understand that this Agreement is based on a complaint visit conducted on July 19, 2012

391 NAC 8-002 Staff Qualifications which state: "... Center staff, whether paid or volunteer, shall not engage in or have a history of behaviors injurious to or which may endanger the health or morals of the children in care." (Standard #13, page 6)

391 NAC 8-005 Teacher/Assistant Teacher Qualifications which states: "The Teacher/Assistant Teacher must have reached the age of majority". (Standard #18, page 7)

391 NAC 8-009 Staffing which states: "Each room where children are receiving care must include a Teacher/assistant teacher. (Standard #32, page 8)

391 NAC 8-012 Discipline, which states: "Staff shall not discipline children- (b) By forced napping." (Standard # 44, page 10)

I agree and understand that

- Each room must have a qualified staff person (someone who is at least 19 years of age and meets teacher/assistant teacher qualifications) present where children are receiving care.
- Staff shall not be allowed to use any form of physical discipline or physical restraint under any circumstances with children in care.
- All staff currently employed at Tender Heart Daycare (which includes the director, assistant/co-director, teacher, assistant teacher, substitutes, volunteers, or vehicle drivers) will at the program's expense, register/enroll, attend and successfully complete a minimum of 2 hours in a face-to-face training in the area of appropriate ways to deal with difficult children.
- Hoagland must, prior to Hoagland and the staff participating in any training, submit in writing a plan within 15 days of the signing of this agreement detailing how the training meets the requirements for which it is intended, plan must include: names of Tender Heart staff attending, training curriculum, date and time of training, name of the training, presenter/instructor's name, and the number of hours. This training will not count toward the required 12 hours of in-service training. Hoagland shall submit the plan to Pam Wichl, Child care Inspection Specialist, Children's Services Licensing, Division of Public Health, Licensure, P.O. Box 2440, Grand Island, NE 68802. Upon receipt of the above

GRAND ISLAND OFFICE

268 NORTH PINE STREET, P.O. BOX 2440, GRAND ISLAND NE 68802
PHONE (308) 385-6123 • TOLL FREE (800) 892-7922 • FAX (308) 385-6132

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

STATE OF NEBRASKA DEPARTMENT OF REGULATORY AFFAIRS, LICENSING

- information, the Department will either approve or require additional information in writing from Hoagland. Hoagland agrees to complete the training within 30 days of the approval of her plan.
- Hoagland must submit verification of attendance and successful completion by all staff including herself, within 15 calendar days after completion of the approved training to Pam Wicht, CCIS at the address listed above.

I understand that Child Care Licensing staff shall conduct announced or unannounced visits to Tender Hearts Daycare Center to determine compliance with this Agreement

I agree that this Licensing Agreement will be prominently posted with my Center license so that it is clearly visible to parents and agency representatives.

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 from the signing of this Agreement for a period of 6 months, at which time this Agreement will be reviewed and terminated, extended and/or modified. Should the Center be amended should a change of address occur, this Licensing Agreement may transfer to the new license and/or address.



Child Care Inspection Specialist

8-6-12

Date



Director / Licensee

Tender Heart Daycare
Facility

225 E 14th, Suite 10
Address

Wasson, NE
City/State/Zip

8/6/2012
Date