

November 5, 2013


Danielle Phelps
6032 Binney
Omaha, NE 68104

Dear Ms. Phelps:

This letter is written to request that you submit to Marsha Wandersee in the Licensure Unit by return mail your current License to operate as a Family Child Care Home I in the State of Nebraska. This request is being made since said license remains revoked by Emergency Order of October 18, 2013 and since you did not appeal the Emergency Order by or on November 4, 2013.

Please contact Marsha Wandersee at 402-471-9302 if you have any questions.

Sincerely,


Helen L. Meeks, Administrator
Licensure Unit

HLM/mrw

cc: Children's Services Licensing

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

IN THE MATTER OF)	
)	EMERGENCY ORDER;
DANIELLE PHELPS)	PROTECTIVE ORDER
A Family Child Care Home I)	

This matter comes for consideration on the Motion for an Emergency Order and Motion for Protective Order filed by the Nebraska Department of Health and Human Services, Division of Public Health. The Director, having reviewed the Motion and accompanying Affidavits, finds as follows:

1. Danielle Phelps holds a Family Child Care Home I License, located at 6032 Binney, Omaha, Nebraska, 68104.
2. An emergency exists requiring immediate action to protect the physical well-being and safety of a child or children in the care of Danielle Phelps.

WHEREFORE, IT IS ORDERED:


1. Pursuant to Nebraska Revised Statutes §71-1915, the child care license of Danielle Phelps is hereby and immediately revoked and Danielle Phelps is hereby and immediately prohibited from providing child care to any children. Upon application to the Director within fifteen days of this Order, Danielle Phelps shall be afforded a hearing as soon as possible and within ten days of the application, unless she requests that the hearing be held later. Any such application 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.

2. Any reference in this matter to any child enrolled in the above child care program or any minor child residing in the home shall not be made by the use of a name or initials.

3. Any information which is confidential by state statute shall not be released to the public and any pictures of any children referred to in this matter shall not be released to the public.

DATED this 18 day of October, 2013.

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES



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

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

IN THE MATTER OF)	
)	MOTION FOR EMERGENCY ORDER;
DANIELLE PHELPS)	MOTION FOR PROTECTIVE ORDER
A Family Child Care Home I)	

COMES NOW the Department of Health and Human Services, Division of Public Health and pursuant to Neb. Rev. Stat. §71-1915 moves the Director, Division of Public Health to declare an emergency and issue an Emergency Order revoking the child care license of Danielle Phelps, 6032 Binney, Omaha, Nebraska, 68104 and prohibiting her from providing care for any children. Danielle Phelps has a license as a Family Child Care Home I at 6032 Binney, Omaha, Nebraska, 68104. Her operating hours are Monday through Sunday; 0000 to 2400. The Department also requests that a Protective Order be entered pursuant to Neb. Rev. Stat. §84-914(2) to protect the privacy of any minor children whose identity may be revealed during the course of these proceedings, and to ensure the confidentiality of any information which is deemed confidential by state statute.

The Department requests the following:


1. That any reference to any child enrolled in the above child care program or any foster child residing in the home or any child of the licensee be made by the use of the initial letters of the child's first and last name.
2. That any information which is confidential by state statute be protected from release to the public and that any pictures of children referred to in the matter be non-releasable to the public. .

In support of its motion, the Director is shown the accompanying affidavits of Meghan Brewer, Child Care Inspection Specialist, and Patricia Urzedowski, Section Administrator.

WHEREFORE the Department moves the Director of the Division of Public Health for an Emergency Order revoking the child care license of Danielle Phelps and prohibiting her from providing care for any children.

Nebraska Department of Health
and Human Services

Dated: October 18, 2013


Teresa M. Hampton #16746
P.O. Box 95026
Legal Services
Department of Health and Human
Services
Lincoln, Nebraska 68509-5026
(402) 471-4051
Its Attorney

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

IN THE MATTER OF)	
)	
DANIELLE PHELPS)	AFFIDAVIT
A Family Child Care Home I)	
)	

STATE OF NEBRASKA)	
)	
COUNTY OF LANCASTER)	

Comes now Affiant, Patricia Urzedowski, being first duly sworn, and states as follows:

1. I am employed as the Administrator of the Office of Children's Services Licensing with the Nebraska Department of Health and Human Services Division of Public Health (hereinafter "Department").
2. The records of the Department show that Danielle Phelps holds a Family Child Care I Operating License at 6032 Binney, Omaha, NE, 68104.
3. The records of the Department show that Danielle Phelps listed only Alishia Hubbard as a substitute on her most recent application dated 9/19/11.
4. In my capacity as Administrator of the Office of Children's Services Licensing, I am the custodian of all licensing records for licensed Child Care Programs.
5. 391 NAC 1-008.01 provides : 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; 2. When a licensee has violated a regulation(s) so as to create a situation which places children at substantial risk;... 4. Conduct or practices detrimental to the health or safety of an individual served by or employed at the program;..."
6. Based on the information contained in the Affidavit signed by Meghan Brewer, Child Care Inspection Specialist with the Department of Health and Human Services, Division of Public Health, Danielle Phelps has violated the following Child Care Licensing Regulations:

391 NAC 1-002 DEFINITIONS

Adequate and appropriate supervision means:

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

391 NAC 1-006.01 Licensee Qualifications and Requirements: The Family Child Care Home I licensee must:... 4. Be responsible for the day-to-day operation of the child care program;... 7. Be in compliance with all regulations whenever any children are in care;... 10. During the hours of operation, not be under the influence or allow any staff, volunteer, or household member to be under the influence of alcohol, controlled substances that have not been lawfully prescribed, or any other type of substance that would affect their ability to care for children;... 16. Not engage in or have a history of behavior injurious to or which may endanger the health or morals of children;

391 NAC 1-006.02A Criminal History Record Check: The applicant/licensee must complete a pre-employment criminal history record check through a governmental law enforcement agency on him/herself, each staff member and volunteer age 19 or older, and each household member age 19 or older. Documentation must be kept and available for review by the Department.

The check must be conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived in Nebraska less than 12 months, the applicant/licensee must obtain documentation of a criminal history record check from the previous state(s) of residence.

391 NAC 1-006.06 Child's Record: A Child's Record must be completed before the child's enrollment. The record must be kept current and available for review upon request by the Department....

391 NAC 1-006.12 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.

1-006.12A Supervision in the Absence of the Licensee: Any designated substitute has the same responsibility for providing adequate and appropriate supervision as the licensee. All parents, except in emergency situations, must be notified in advance of the use of a substitute supervisor.

Further affiant saith not.

Patricia Urzedowski
Patricia Urzedowski, Administrator
Office of Children's Services Licensing

Subscribed and sworn before me this 18 day of October, 2013.

Patricia L. Lang

Notary Public



IN THE MATTER OF)
)
THE CHILD CARE CENTER LICENSE OF)
)
DANIELLE PHELPS) AFFIDAVIT

Comes now Affiant, Meghan Brewer, being first duly sworn, and states as follows:

The records of the Department show that Danielle Phelps holds a Home I License, with a capacity of 10, licensed for 24/7 care, at 6032 Binney St. Omaha Ne. 68104.

- No answer at front, or back door of home
- Smell of marijuana and side door to the detached garage was open.
- Three of Danielle Phelps children in the garage, and identified a _____ and Lakeitha Moore age 22. Lakeitha was observed smoking a cigarette. The inside of the garage had a strong odor of marijuana.
- _____ stated to Jankowski that they, as well as Lakeitha, were smoking marijuana. Lakeitha denied smoking anything but a cigarette in the garage.
- The garage was located approximately 25 feet from the licensed home.
- Inside the child care home, there were four children, C- age _____, SW- age _____, A- age _____, and K- age _____.
- C and SW were napping in the living room on mats. Child - K was in the bedroom, asleep on the bed., and child A was wandering around the living room.
- No other adults were observed in the home with the children.
- Lakeitha, _____ were not in sight or sound of any of the children.
- Danielle Phelps was not home at the time of the unannounced investigation.

- Phelps was "out of town" according to Lakeitha. Lakeitha stated that she did not know where Danielle was, or when she was going to return.
- Lakeitha stated that she had been caring for the named children since Monday October 14, 2013 and was planning on caring for the children through the end of the week. She could not recite ages, and provided the first names of the children only.
- Licensing file review shows that Lakeitha and _____ are not, on the most current application.
- No current background checks have been completed for Lakeitha and _____. Criminal Record check of Oct. 18, 2013, shows that Lakeitha has an active warrant for Trespassing.
- Lakeitha informed Department staff she did not know where the Children's Records were located. Those records should contain parent and emergency contacts, as well as other required child information.
- Danielle was contacted by phone by Lakeitha. Danielle spoke to Brewer and stated that she would call all the parents of the children in care to let them know of the situation.
- Jankowski requested that Lakeitha take a drug test, which Lakeitha refused.
- Danielle stated to Brewer, that she was only gone for 48 hours.
- Danielle was not aware that her daughter Lakeitha had a warrant out for her arrest for Trespassing.
- Danielle was in Charlotte, North Carolina opening up a boutique per her statement to Brewer. This was a planned absence.
- When contacted by Child Protective Services, Danielle did not ask if the child care children were safe, nor inquire about the children's well being at all.
- Danielle showed a lack of concern of the consequences for the situation.
- Danielle did not acknowledge any responsibility for the situation that had occurred at her licensed child care. Danielle stated that she does not let anyone smoke on her property.

Based on the information above, it is my professional opinion that there is an immediate risk of harm to children in care and this is an emergency situation which requires immediate action to protect the physical well-being and safety of children enrolled in this child care program, which operates Sunday through Saturday, 24 hours a day.

Meghan Brewer
Child Care Inspection Specialist

Dated this 18th day of October, 2013.
Acknowledgement
State of Nebraska
County of Douglas
The foregoing instrument was acknowledged before me this _____ by _____

Notary Public Signature
Affix Seal Here

