



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

IN THE MATTER OF:)
THE OPERATING FAMILY CHILD CARE HOME I) NOTICE OF
FREEDOM AUGUSTIN'S DAYCARE) DISCIPLINARY ACTION
OWNED BY FREEDOM AUGUSTIN)

LICENSED LOCATION: 160 WEST CHERRY ST., SHELBY, NE 68662
LICENSE NUMBER: FI10268
CAPACITY: 10
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 6:00 AM TO 9:00 PM MONDAY THROUGH SUNDAY
DATE INITIALLY LICENSED: DECEMBER 9, 2008

NOTICE:

Freedom Augustin's Daycare owned by Freedom Augustin (hereinafter referred to as "Augustin") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Augustin's Operating Family Child Care Home I 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;
- (e) Establish restrictions or other limits on the number of children or the age of the children served in the program." ; ...

391 NAC 1-008.01 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 1-006.01 Licensee Qualifications and Requirements: The Family Child Care Home I licensee must: ... "7. Be in compliance with all regulations whenever any children are in care;" ...

391 NAC 1-006.15B Beds, Cribs, and Sleeping Surfaces: Appropriate sleeping surfaces must be available for each child in care.

2. The only acceptable sleeping surfaces for children age 12 months and under are cribs and playpens. When used, cribs and playpens must meet the following standards: ... "c. Cribs and playpens must contain no soft objects, bumper pads, toys, or loose bedding. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the playpen and reach no higher than the infant's chest;" ...

FACTS AND FINDINGS:

On January 3, 2018, Sue Jensen Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Jensen"), conducted an unannounced annual inspection of Augustin.

During this inspection, Jensen observed two infants, ages 8 months and 11 months, sleeping in separate playpens. Each infant was covered with a loose blanket. Jensen reminded Augustin that loose blankets in cribs/playpens was a violation and required Augustin to immediately remove the loose blankets from the playpens. Augustin has a history of violating regulations regarding appropriate sleep environments for infants. Augustin signed a Licensing Agreement on March 28, 2017 indicating that appropriate

sleeping surfaces would be available for children in care. This Agreement was based on violations of appropriate sleeping surfaces and allowing loose bedding or soft objects in playpens with children observed at a March 23, 2017 inspection. The Agreement was allowed to expire on September 28, 2017. Augustin has demonstrated a failure to maintain compliance with regulations regarding safe sleep environments for infants in her care.

DISCIPLINARY ACTION IMPOSED:

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

1. Augustin's Operating Family Child Care Home I license is placed on probation for a period of six months from the effective date of February 22, 2018 to August 21, 2018. The following terms and conditions will apply:

a. By May 21, 2018, Augustin must complete Safe with You training.

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 childcare program staff.

Prior to participating in any training, Augustin 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 Augustin within ten working days of the receipt of the letter requesting approval of the training. If additional information is required, Augustin must reply with the required information within ten calendar days of notice by the Department.

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

b. Augustin is responsible for paying all costs associated with compliance.

2. Augustin's Operating Family Child Care Home I license will be restricted to: **ages 18 months to 13 years** during the probationary period. All documentation required must be submitted to Department, Attn: Sue Jensen, Child Care Inspection Specialist, Children's Services Licensing, P.O. Box 2440, Grand Island, NE 68802, or at such other address as directed in writing, by the Department.

3. 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.

4. 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.

5. Failure to comply with the terms of this disciplinary action, the applicable Family Child Care Home I 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.

6. If Augustin discontinues the child care program for any reason, the time the Augustin 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 Augustin as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Augustin 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 February 21, 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 February 21, 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.

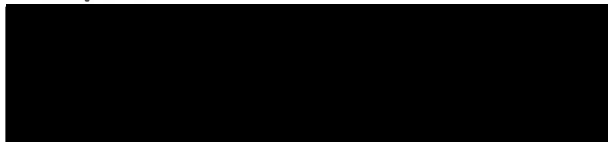
Nebraska Revised Statutes, section 71-1911, provides that a person who has had their “**license suspended or revoked other than for nonpayment of fees shall not operate or offer to operate a program for or provide care to any number of children until the person is licensed pursuant to this action.**”

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.”

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

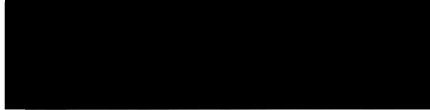
Dated: February 6, 2018

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 6th day of February 2018, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to Freedom Augustin **160 West Cherry St., Shelby, NE 68662**



Chris Kort
Administrative Assistant

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

LICENSING AGREEMENT

I, Freedom Augustin, Licensee of Freedom Augustin's Daycare, 160 W Cherry Street, Shelby, NE, 68662, operating Monday-Sunday, 0600-2100, hereby voluntarily state and declare:

I have read and understand the Regulations Governing Licensure of Family Child Care Home I (Title 391, Chapter 1, effective May 20, 2013).

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

I understand that this Agreement is based on an annual inspection conducted on March 23, 2017, in which the following violation was noted:

391 NAC 1-006.15B Beds, Cribs, and Sleeping Surfaces: Appropriate sleeping surfaces must be available for each child in care.

2. The only acceptable sleeping surface for children age 12 months and under are cribs and playpens. When used, cribs and playpens must meet the following standards:
 - b. The mattress pad for a playpen must be specifically designed for the playpen use and covered with a fitted sheet;
 - c. Cribs and playpens must contain no soft objects, bumper pads, toys, or loose bedding. If a blanket is used, it must be secured or tucked under the crib mattress or the pad of the playpen and reach no higher than the infant's chest.

I understand and agree children under 12 months of age will sleep **only** in a crib or playpen. Swings, infant seats, car seats or any other surface will not be allowed for sleeping for any child under 12 months of age.

I understand and agree that a playpen occupied by a child will not contain any loose bedding or soft objects.

I will ensure that this Licensing Agreement will be prominently posted with the current Family Child Care Home I license so it is clearly visible to parents, staff, and Department representatives.

I understand that Child Care Licensing staff shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.

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

This Agreement shall be in effect from the signing of this Agreement for a period of six months, at which time this Agreement will be reviewed and terminated, extended and/or modified. In addition, should a change of address occur or should I reapply for a different type of child care license, this Licensing Agreement may transfer to the new license and/or address if appropriate to the conditions of the Licensing Agreement.



Provider/Licensee

160^W Cherry St

Street/Address

Shelby 168662

City and Zip Code

3-28-17

Date



Child Care Inspection Specialist

3/28/17

Date

OR

Non-Relative Witness

Date



LICENSING AGREEMENT

I, Freedom Augustin, Licensee of a Family Child Care Home I located at 160 West Cherry Street, Shelby, NE 68662, hereby voluntarily state and declare:

I have read and understand the Regulations Governing Licensure of Family Child Care Home I, Title 391 Chapter 1.

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

I understand that this Agreement is based on an unannounced annual inspection conducted January 23, 2015, and a follow-up inspection conducted February 27, 2015 in which the following violations were noted:

391 NAC 1-006.01 Licensee Qualifications & Requirements:

- 7. Be in compliance with all regulations whenever any children are in care.

391 NAC 1-006.08 Licensed Capacity and Staff-to-Child Ratio

391 NAC 1-006.08A Licensed Capacity: The number of children in care at any one time must not exceed the licensed capacity.

The maximum licensed capacity for a Family Child Care Home I is eight children, except that a licensee may be approved to serve up to two additional school-age children during non-school hours, if no more than two of the other children in care are under 18 months of age.

391 1-006.08B Staff-to Child Ratio: The appropriate staff-to-child ratio must be met at all times, as follows:

Mixed ages: If the program provides care to children of mixed ages, the following Ratios apply:

Number of Children in Care	Number of Staff Required
1-8	1
9-10	1

(9th and 10th children must be school-age)

- a. Programs serving children of mixed ages may provide care for up to three infants if no more than two of the infants are under 12 months of age.

- b. Programs may provide care for up to two additional school-age children during non-school hours if no more than two of the other children in care are under 18 months of age.

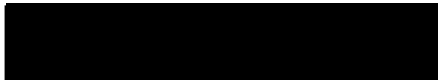
I understand and agree that I must maintain the above capacity and staff-to-child ratio AT ALL TIMES children are in my care.

I understand that Child Care Licensing staff shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.

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

Any violation of this Agreement may be grounds for further 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 six months, at which time this Agreement will be reviewed and terminated, extended and/or modified. In addition, should a change of address occur or should I reapply for a different type of child care license, this Licensing Agreement may transfer to the new license and/or address if appropriate to the conditions of the Licensing Agreement.


Child Care Inspection Specialist
3/6/15
Date

OR

Non-Relative Witness or Notary Public

Date


Licensee
160th Cherry St
Street Address
Shelby 68162
City and Zip Code
3-6-15
Date