

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

May 8, 2018

Teresa Avelar-Rivera
2324 S. 10th Street
Omaha, NE 68108

Dear Ms. Avelar-Rivera:

In accordance with the Letter of Offer to issue you a Provisional Family Child Care Home II License dated April 9, 2018, by Thomas L. Williams, MD, Chief Medical Officer and Director, Division of Public Health, Department of Health and Human Services, enclosed is an original license to operate a Provisional Family Child Care Home II in the State of Nebraska. The license is imprinted with the term "PROBATION" to indicate the status of this license that became effective May 7, 2018, and will remain in effect until February 22, 2019. The reason for placing your Family Child Care Home II License on Probation is that your Family Child Care Home I License was placed on Probation for one year, beginning February 22, 2018, as stated in the Notice of Disciplinary Action issued on February 6, 2018.

Upon completion of the Probation of your Provisional Family Child Care Home II License, a new license will be issued to you.

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

Sincerely,



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

BW/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

TERESA RIVERA AVELAR

is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Provisional Family Child Care Home II
located at: 2324 S 10 ST Omaha NE 68108

A maximum of 10 children in ages 6 WKS to 13 YRS may be in attendance at any one time during the hours of 0000 to 2400 on MTWTFSSU.

TERESA RIVERA AVELAR is hereby issued License No. FI19730 which is effective from 05/03/2018 to 05/31/2019.

Given under the name and Seal of the Department of Health and Human Services Division of Public Health of the State of Nebraska at Lincoln on 05/03/2018.



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

LICENSURE UNIT

MAY 3, 2018

To whom it may concern.

RECEIVED

I Teresa Rivera Arévalo accept the conditions offered by the department for a Provisional license. If you any questions please call me @ 402-517-0385 or by email @ tr022530@gmail.com.

Thank you,



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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

April 9, 2018

TERESA AVELAR-RIVERA
2324 SOUTH 10th St.
OMAHA, NE 68108

CERTIFIED AND FIRST CLASS MAIL

Re: Application for a Proposed Family Child Care Home II License located at 2324 South 10th St., Omaha, NE 68108

Dear Ms. Avelar-Rivera:

This letter provides notification that the Department of Health and Human Services, Division of Public Health, Licensure Unit is offering to issue to you a Provisional Family Child Care Home II License at 2324 South 10th St., Omaha, NE 68108 with the same terms, conditions, and remaining probationary period that were placed on your Family Child Care Home I license at the same address that was signed on February 6, 2018.

The reason for imposing probation is that your Family Child Care Home I was in violation of the following regulations and placed on Probation February 22, 2018 to February 22, 2019.

391 NAC 1-006.04B Safety Training: "The licensee must complete training developed by the Early Childhood Training Center on Sudden Infant Death Syndrome (SIDS), safe sleep, shaken baby syndrome, and child abuse/neglect and reporting. Any proposed equivalent training must be approved by the Department.

1. In programs licensed on or after the operative date of these regulations, the licensee must complete the training within three years of the date of provisional licensure and every five years thereafter.
2. In programs licensed before the operative date of these regulations, the licensee must complete the training within three years of that operative date and every five years thereafter.
3. This training counts toward the annual training requirement."

391 NAC 1-006.05A Staff: "Records for all staff, except substitutes and volunteers, must include: ... 8. Documentation of Nebraska registry checks with no adverse findings," ...

391 NAC1-006.08B Staff-to-Child Ratio: 'The appropriate staff-to-child ratio must be met at all times, as follows.

1. Infants only. If the program provides care to infants only, the following ratios apply:

Number of Infants in Care	Number of Staff Required
4	1
5-8	2

2. 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 (9 th and 10 th children must be school-age)	1

- a. Programs serving children of mixed ages of 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."

If you accept this offer, the probation would be effective starting the date the Provisional license would be issued.

1. Your Provisional Child Care License will be placed on Probation until February 22, 2019.
2. Once Avelar-Rivera's Family Child Care Home II license is issued:
 - A. Avelar-Rivera must submit a list of all current staff, substitutes, and volunteers to the Department. When additional staff, substitutes, or volunteers are added, Avelar-Rivera must submit copies of all employee/staff records to the Department within 15 days of hire.
 - B. Avelar-Rivera must submit a list of all enrolled children and times those children are in attendance in writing to the Department. When children no longer attend, or additional children are enrolled, Avelar-Rivera must submit an updated enrollment list and attendance schedule to the Department within 5 days.
3. In addition to the above, Avelar-Rivera must comply with all of the provision of the Child Care Licensing Statutes, Nebraska Revised Statutes, §§ 71-1908 through 71-1923 and the Child Care Licensing Regulations set out in Title 391 of the Nebraska Administration Code.

4. Failure to comply with the terms of this disciplinary action or the applicable Child Care Regulations 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.

You have the following options:

1. You may accept this offer. A decision to accept this offer requires you to comply with the requirements stated in this letter and all requirements of the Child Care Licensing Act and the regulations governing childcare.
2. You may reject this offer. A decision to reject this offer means that your application for a Family Child Care Home II license is denied. You may request a hearing on the denial of your application as set out below.

AUTHORITY FOR ACTION:

Nebraska Revised Statutes, section 71-1919 provides that “the department may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act...”

Nebraska Revised Statutes, section 71-1911.02 provides that additional information may be required by the Department, “including affirmative evidence of the applicant’s ability to comply with rules and regulations adopted and promulgated under the act.”

If you do not accept the issuance of a Provisional license on probation, you may request a hearing. Such request voids the offer to issue a Provisional license on probation; therefore, you would not be authorized to operate a childcare program during the course of the hearing process.

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on May 2, 2018, unless the Department receives a written request for a hearing on or before such date. If the director does not receive such request on or before such date, the action of the Department is final. Your request 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.

Dated: April 17, 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 17th day of April 2018, a copy of the foregoing **OFFER OF PROBATION** was sent by certified and first class United States mail, sufficient postage prepaid to Teresa Avelar-Rivera, 2324 South 10th St., Omaha, NE 68108.

Chris Kort
Administrative Assistant
Licensure Unit

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

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

IN THE MATTER OF:
THE OPERATING FAMILY CHILD CARE HOME I
TERESA AVELAR-RIVERA)
)
) **NOTICE OF LICENSE OF**
) **DISCIPLINARY ACTION**

LICENSED LOCATION: 2324 SOUTH 10, OMAHA, NE 68108
LICENSE NUMBER: FI9334
CAPACITY: 10
AGES: 6 WEEKS TO 13 YEARS
HOURS AND DAYS: 12: 00 AM TO 12: 00 AM, MONDAY THROUGH SUNDAY
DATE INITIALLY LICENSED: MAY 1, 2006

NOTICE:

Teresa Avelar-Rivera (hereinafter referred to as "Avelar-Rivera") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Avelar-Rivera'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." ...

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 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;" ...

391 NAC 1-006.04B Safety Training: "The licensee must complete training developed by the Early Childhood Training Center on Sudden Infant Death Syndrome (SIDS), safe sleep, shaken baby syndrome, and child abuse/neglect and reporting. Any proposed equivalent training must be approved by the Department.

1. In programs licensed on or after the operative date of these regulations, the licensee must complete the training within three years of the date of provisional licensure and every five years thereafter.
2. In programs licensed before the operative date of these regulations, the licensee must complete the training within three years of that operative date and every five years thereafter.
3. This training counts toward the annual training requirement."

391 NAC 1-006.05A Staff: "Records for all staff, except substitutes and volunteers, must include: ... 8. Documentation of Nebraska registry checks with no adverse findings;" ...

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

1. Infants only. If the program provides care to infants only, the following ratios apply:

Number of Infants in Care	Number of Staff Required
4	1
5-8	2

2. 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 (9 th and 10 th children must be school-age)	1

- 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."

FACTS AND FINDINGS:

On October 2, 2017, Dawn Kozak Child Care Inspection Specialist, Nebraska Department of Health and Human Services, Division of Public Health (hereinafter referred to as "Kozak"), conducted an unannounced annual inspection of Avelar-Rivera. Avelar-Rivera was in violation of numerous regulations. Avelar-Rivera was required to provide documentation of corrections to Kozak by November 2, 2017.

On November 21, 2017, Jo Pfeiffer, Child Care Licensing Supervisor, Nebraska Department of Health and Human Services, Division of Public Health (herein after referred to as "Pfeiffer"), sent a letter to Avelar-Rivera informing her that all violations needed to be corrected by December 2, 2017, to avoid disciplinary action against the license.

As of February 6, 2018, the following violations found at the October 2, 2017, inspection still require correction.

- Avelar-Rivera is missing evidence of safety training
- Staff records missing evidence of central registry checks
- Avelar-Rivera shall submit to the Department a plan of how the program will remain in compliance with staff-to-child ratios.

Previous History:

Avelar-Rivera has a history of non-compliances, primarily with staff and children's records. A review of Avelar-Rivera's non-compliance history over the last 4 calendar years, depicts the following violations:

- Law Enforcement Contact missing in 2017, 2015, and 2014
- Health Report missing in 2017 and 2014
- Safety Training 2017
- Children's Record were incomplete in 2017, 2015, and 2014
- Parent Brochures - All were missing in 2017
- Immunization Records missing in 2017, 2014, and 2012
- Signed permissions to transport were missing in 2017, 2016, and 2015,
- All required policies were missing 2017, 2016, and 2014
- Disaster preparedness plan was missing 2017 and 2014
- Staff files were incomplete in 2017, 2016, 2015, and 2014
- Water temperature was too high in 2017, 2015, and 2014

Avelar-Rivera's history also shows a failure to comply with cited noncompliances within a 30-day timeframe:

- Inspection completed on 7/21/2014, corrections due 8/21/2014, final compliance on 09/09/2014.
- Inspection completed on 10/2/2017. As of 2/6/2018, licensee remains out of compliance.

DISCIPLINARY ACTION IMPOSED:

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

1. Avelar-Rivera is assessed a civil penalty in the amount of \$10 per day (\$ 1.00 times license capacity of 10 children) from the effective date of this Notice, February 22, 2018, and for each day thereafter, including Saturday and Sunday, that Avelar-Rivera fails to submit corrections/documentation that all outstanding noncompliances noted at the inspection conducted on October 2, 2017 have been corrected.

Documentation must be submitted to Dawn Kozak, State Office Building, 3rd Floor, 1313 Farnam St., Omaha, Nebraska, 68102, (402)595-3203, Dawn.Kozak@nebraska.gov, Once Kozak has received and verified the submitted written corrections and documentation, which may require an on-site inspection, Avelar-Rivera will be informed in writing of the total of the civil penalty, which will be due 30 calendar days from the date of the notification to Avelar-Rivera.

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

2. Once Avelar-Rivera has come into compliance with all violations found on the October 2, 2017 inspection, Avelar-Rivera's Operating Family Child Care Home I license will be placed on probation for a period of one year. During the probationary period, the following conditions will apply:

- A. Avelar-Rivera must submit a list of all current staff, substitutes and volunteers to the Department. When additional staff, substitutes, or volunteers are added, Avelar-Rivera must submit copies of all employee/staff records to the Department within 15 days of hire.
- B. Avelar-Rivera must submit a list of all enrolled children and times those children are in attendance in writing to the Department. When children no longer attend, or additional children are enrolled, Avelar-Rivera must submit an updated enrollment list and attendance schedule to the Department within 5 days.

3. Avelar-Rivera must comply with all of the terms of this Notice by submitting the required written corrections/ documentation as indicated above by or on March 7, 2018.

4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations, and failure to correct the violations may be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on 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
PO Box 94986
Lincoln, NE 68509-4986

If you request a hearing, you will be notified of the time, date, and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify, or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

Nebraska Revised Statutes, section 71-1920 of the Child Care Licensing Act, provides that "any fine imposed and unpaid under the Child Care Licensing Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of State of Nebraska in the district court of the county in which the program is located." In addition, section 71-1920, (2), states, "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: 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 TERESA AVELAR-RIVERA 2324 SOUTH 10, OMAHA, NE 68108



Chris Kort
Administrative Assistant