

Pinellas County License Board for Children's Centers & Family Day Care Homes

*Our mission is to protect and promote the health, safety, and mental development
of children cared for in children's centers and family day care homes in Pinellas County.*

Carla Doenges, Executive Director
Lourdes Benedict, Chairman



MEMORANDUM

TO: License Board, Advisory Committee and Attorney
FROM: Carla Doenges, Health Services Manager
DATE: October 28, 2008
Subject: **November 5, 2008 Board Meeting**

Enclosed is the License Board report for the regular Board meeting on Wednesday, November 5, 2008, **which begins at 1:30 p.m.** in conference room 340 at the Pinellas County Health Department-Center Bay, located at 4175 East Bay Drive, Suite 350, Clearwater.

At the March 2008 Board meeting, staff was requested to include certain information in the Board reports. As these reports become available, they will be included.

If you find you are unable to attend the Board meeting, please call Dana at 507-4857 ext. 1349 as soon as you know.

Thank you.

dms

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS
AND FAMILY DAY CARE HOMES
REGULAR MEETING

Pinellas County Health Department (PCHD) – Center Bay
4175 East Bay Drive, Suite 350, Clearwater, FL 33764
November 5, 2008, 1:30 P.M. CONFERENCE ROOM 340

AMENDED AGENDA

*Our mission is to protect and promote the health, safety, and mental development
of children cared for in children's centers and family day care homes in Pinellas County.*

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I. Call to Order	
A. Announcements: Elise B. Minkoff, JWB Board Representative Kathy Krause, Environmental Supervisor I, Family Day Care Homes <u>Colleen Flynn, Attorney</u> <u>Sharon Carrie, Advisory Committee</u> <u>Virginia Rowell, Advisory Committee</u>	
B. Agenda (addition of new items)	1
C. Approval of the Minutes from:	
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IV. Next Meeting:	
Public Hearing December 3, 2008, 6:30 p.m.	
Regular Meeting January 7, 2009 6:30 p.m.	

The Pinellas County License Board welcomes input from Pinellas County citizens. **Please see Public Comment Policy on page 2.**

Persons are advised that if they decide to appeal any decision made at this meeting/hearing, they will need a record of the proceedings, and, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. **Please see Policy for Recording Meetings on page 2.**

Public Comment Policy – (Revised 9/19/07)

- A. Citizen responsibilities during the Public Comment section of the agenda:
1. Sign-up in person with the Recording Secretary or designee prior to the start of the meeting.
 2. Comment to the Board on topics *not listed on the agenda*; time starts when recognized by the Chairman.
 3. Limit repetitious comment(s); speakers supporting the same issue are encouraged to appoint a spokesperson who may ask members of the audience represented to stand/raise their hand during comment(s).
 4. Individual speakers have up to 3 minutes and a spokesperson representing a group present at the meeting has up to 5 minutes.
- B. Citizen responsibilities during Action Items section of the agenda:
1. Sign-up in person with the Recording Secretary or designee prior to the start of the meeting to comment on specific action item(s).
 2. Time starts when recognized by the Chairman.
 3. Limit repetitious comment(s); speakers supporting the same issue are encouraged to appoint a spokesperson who may ask members of the audience represented to stand/raise their hand during comment(s).
 4. Individual speakers have up to 3 minutes and a spokesperson representing a group present at the meeting has up to 5 minutes.
- C. Public comment regarding recommendations for increase(s) in standard(s):
1. Public Comment will be entertained during two meetings: the initial meeting when recommendations are first brought before the Board and again during the Public Hearing.
 2. Public Comment will not be heard again on these recommendations until the Board meeting following final Board approval.
- D. Written Documents:
Written documents may be distributed and will be filed with the minutes and available to absent Board members.

Notes:

- The intent of the policy is to make more effective use of the Public Comment portion of the agenda, not unlimited use.
- The Board is not required to respond to citizen comment.
- Comment to the Board does not constitute a formal complaint, is not considered a request for records, and does not require staff response unless directed to do so by Board.

POLICY FOR RECORDING MEETINGS (Revised 11/1/06)

Citizens desiring or requiring a verbatim transcript of the meeting, or needing a transcript for appeal, should, at their own expense, retain a certified court reporter to record the meeting, or the relevant portion of the meeting.

Citizens not needing a verbatim transcript or transcript for appeal may use silent, unobtrusive recording devices to record meetings.

Video cameras may be used to record meetings, but the cameras must be hand held. Tripods may be used only in the area(s) designated by staff. The designated tripod area will not impede ingress or egress, or the ability of attendees to see the meeting and will be adjusted according to known attendance.

Persons needing an accommodation may request it by calling the executive secretary at 547-5840 at least two business days prior to the Board meeting.

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS
AND FAMILY DAY CARE HOMES
Minutes for the Special Board Meeting for
September 23, 2008

UNAPPROVED CORRECTED MINUTES

The Special Board Meeting of the Pinellas County License Board for Children's Centers and Family Day Care Homes was scheduled and properly noticed for Tuesday, September 23, 2008, at 4175 East Bay Drive, Suite 350, Clearwater, to begin at 1:30 p.m.

- Board Members Present: Lourdes Benedict, Chairman; Donna Huard; Barbra Mastrota; Judi Vitucci
- Board Members Absent: Commissioner Seel, Donna Rippley
- Ex Officio Member Present: Charles Minor
- Advisory Members Present: Sharon Carder, Sharon Carie, Ann Hofmeister, Terri Hajian, June Moody
- Advisory Members Absent: Heidi Buck, Terri Hajian, Virginia Rowell, Anne Sullivan
- County Attorney Present: Christy Pemberton
- Staff Members Present: Linda Tamanini, Executive Director; Suzie Lewis, Supervisor Children's Centers; Dana Stajkowski, Recording Secretary; and other Health Department staff
- Call to order: The meeting was called to order at 1:35 p.m.

II. D. County Attorney: James Bennett, County Attorney, reported to the Board that he will recommend on October 7 to the Board of County Commissioners that consent be withdrawn for funding of the hearing master for the License Board and legal representation. Attorney Bennett assured the Board that this decision was not made lightly; however, due to the ethical situation Attorney Pemberton has been placed in that there is no other choice. The outside date of the termination will be 90 days from October 7, 2008.

In response to Board's questions, the following advice/suggestions were made:

- The License Board will need to procure private legal services, pro bono services may be an option
- County Attorney Bennett assured the Board that Christy will be available to help orient the new attorney
- That the Board is protected by sovereign immunity, that the new attorney will handle **and** suits, appeals, etc. for the Board
- That the License Board does not carry officers and directors liability insurance. Attorney Bennett cautioned the Board that individuals may not be covered under liability insurance, and that in licensing scenarios it's the Board's decisions that are contested
- That there is not at this time a line item in the Budget for an attorney
- That Pervinder Birk will begin reviewing the budget to see if there is funding available for hiring the new attorney
- That senior judges received \$300 per case; that pro bono hearing officers are available for government boards; that there are 3-4 hearings a year

II. D. County Attorney: continued:

- That professional services may not need to be professionally bid; that there are several attorneys well versed in representing governmental bodies

Board Direction: Christy Pemberton and Linda Tamanini will make a list of attorney duties/responsibilities.

Board Direction: A reminder will be sent to JWB regarding representation from the JWB Board.

Committee Appointment: Chairman Benedict appointed Barbra Mastrotta, Judi Vitucci, and Sharon Carie to search for an attorney. Christy Pemberton will also attend the meeting. The Committee will meet when Chairman Benedict receives the list of duties and dollars available from the budget.

Motion: A motion was made by Barbra Mastrotta and seconded to approve the minutes from August 6, 2008. Motion unanimously approved.

II. A. 1.

Motion: A motion was made by Judi Vitucci and seconded to approve the following recommendation to increase minimum standard for Violation in regulations governing children's centers to be presented at a Public Hearing. Motion unanimously approved.

IV. REPORTING CHILD ABUSE AND NEGLECT

C. Violation

2. Failure to perform the duties of a mandated reporter pursuant to s.39.201, F.S., constitutes a violation of the standards in ss.402.301-319, F.S.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve the following recommendation to increase minimum standard for Facility Records in regulations governing children's centers to be presented at a Public Hearing.

Discussion: In answer to an Advisory Board question, Ms. Tamanini responded that she is concerned about a 15 minute sign-in rule, that it's okay for children coming into the center in a group to sign them in using the same time, but that center staff will need to be careful to record separately children not arriving with the group but at the same time.

Barbra Mastrotta is concerned that so much attention to detail will detract from the attention to the child.

Vote: Motion unanimously approved.

V. RECORDS

A. Facility Records

7. Daily Attendance Record/Center Closing Log

- a. Daily attendance of children shall be taken and recorded by the children's center personnel, documenting the time when each child enters and departs the children's center or program. The custodial parent or guardian may document the time when their child(ren) enter and depart the children's center or program. However, children's center personnel are responsible for ensuring that attendance records are complete and accurate. Staff is also responsible for recording when each child enters and/or departs a group and when the group moves from one indoor/outdoor area to another. Such records shall be maintained for a minimum of four (4) months. Attendance forms used for Voluntary PreKindergarten or School Readiness may be used if applicable.

Implementation Date: May 1, 2009

II. A. 1.

Motion: A motion was made by Barbra Mastrotta and seconded to approve the following recommendation to increase minimum standard for Application, Fees, License in regulations governing children's centers to be presented at a Public Hearing.

Discussion: In response to a question regarding a parent bringing a younger child with them, staff responded that if the parent is counted in the child adult ratio, the child is counted; if the parent is not counted in the child adult ratio, the child is not counted.

Vote: Motion unanimously approved.

X. APPLICATION, FEES, LICENSE

H. Upon receipt of a license issued under Licensing Regulations X.C.D.E.F. the children's center shall display such license in a conspicuous place within the children's center.

3. The total number of children in care on site and while on field trips must never exceed the licensed capacity as reflected on the annual license.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve the following recommendation to increase minimum standard for Gold Seal Quality Care Program in regulations governing children's centers to be presented at a Public Hearing. The State administers this program. Motion unanimously approved.

The following section, "Gold Seal Quality Care Program" (65C-22.009 F.A.C.) is included for the provider's convenience. The License Board does not award Gold Seal accreditation. Contact the Department of Children and Family Services for further information.

65C-22.009 *Gold Seal Quality Care Program*

(1) Definitions

- (a) "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.
- (b) "Effective" refers to the beginning date of a Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.
- (c) "Expired" refers to the end date of a provider's Gold Seal Quality Care designation certificate issued by the Child Care Program Office.
- (d) "Gold Seal Quality Care Accrediting Association" refers to an accrediting association that has applied for and been approved by the department as a Gold Seal Quality Care Accrediting Association.
- (e) "Inactive" refers to the status of a Gold Seal Quality Care Accrediting Association in which all criteria for accreditation are no longer being successfully met.
- (f) "Nationally Recognized" refers to an association whose accrediting body is recognized, accepted and present in at least five (5) states or which had been approved as a Gold Seal Quality Care Accrediting Association by the department prior to July 1, 2007.

65C-22.009 Gold Seal Quality Care Program – continued:

(2) Provider Requirements

(a) Gold Seal Quality Care Provider Designation Certificate

Pursuant to s. 402.281(1), F.S., a child care facility seeking to obtain a designation as a Gold Seal Quality Care provider shall provide the department with documentation of accreditation by an accrediting association that has been approved by the department. A list of approved accrediting associations may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare.

(b) Gold Seal Quality Care Enforcement

1. Gold Seal Quality Care providers must maintain national accreditation in order to retain their designation. A child care facility's Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a child care facility must meet the additional criteria outlined in s. 402.281(3), F.S.
2. If Gold Seal Quality Care designation is revoked by the Department, termination of the designation will be effective on the last day of the current period of licensure.
3. If the child care facility's accreditation is revoked by the accrediting agency, the child care facility's Gold Seal Quality Care designation will be terminated effective the date of revocation.

(3) Accrediting Association Requirements

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315, August 2007, Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare. Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six (6) month waiting period from the date of denial before re-submission during the next scheduled acceptance month.

(b) Active Gold Seal Quality Care Associations must re-apply every five (5) years by submitting CF-FSP Form 5315 that may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare. Re-applications must be received a minimum of six (6) months prior to end of the five (5) year period. Failure to submit CF-FSP Form 5315 every five (5) years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. Child care arrangements receiving accreditation certificates from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.

(c) Inactive Gold Seal Quality Care Accrediting Associations wishing to become active must be in compliance with all requirements outlined on CF-FSP Form 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending the Department of Children and Family Services' approval

Implementation Date: May 1, 2009

II. A. 2.

Motion: A motion was made by Barbra Mastrota and seconded to approve the following recommendation to increase minimum standard for Staff Training in regulations governing family day care homes and large family child care homes to be presented at a Public Hearing. Motion unanimously approved.

I. PERSONNEL

B. Staff Training

1. Prior to licensure and prior to caring for children, all family day care home operators and substitutes who work 40 hours or more per month on average during a 12 month period must:

Successfully complete the Department of Children and Family Services' 30 clock-hour Family Child Care Home Training, as evidenced by successful completion of a competency based examinations(s) offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. Family day care home operators who successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. ~~Beginning July 1, 2006, the 30 clock-hour Family Child Care Home training will be replaced by~~ Documentation of course completion may either be a single Family Child Care Home (30 Hr) certificate or certificates for the five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.

a. ~~Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better.~~

b. ~~Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

1. ~~Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

2. ~~An active National Early Childhood Credential (NECC) or an active Birth Through Five Florida Child Care Professional Credential (FCCPC).~~

c. ~~The Family Child Care Home training completed successfully after July 1, 2004 will be documented on the child care training transcript only. Training completed successfully prior to July 1, 2004 will be documented either on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference, or on the Department of Children and Family Services' child care training transcript.~~

2. Training completed successfully will be documented on the training transcript or on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP Form 5267 may be obtained from the Department of Children and Families Services' website at www.myflorida.com/childcare by clicking on the training link.

4.5. Family day care home substitutes who work less than 40 hours a month on average during a 12 month period shall complete the Department of Children and Family Services' ~~3 clock-hour six (6) clock-hour~~ Fundamentals of Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the Department of Children and Family Services or its designated training representative prior to caring for children. ~~as Training completed successfully will be~~ documented on the Department of Children and Family Services' CF-FSP Form 5267 ~~and or~~ the Department of Children and Family Services' child care training transcript.

II. A. 2.

I. B. 4.5. continued:

Family day care substitutes who have successfully completed the **three (3) clock-hour Fundamentals of Child Care training or** 30-clock-hour Family Child Care Home training are not required to complete the ~~3-clock-hour Fundamentals of Child Care training.~~ **six (6) clock-hour Family Child Care Home Rules and Regulations course.**

Implementation Date: May 1, 2009

Motion: A motion was made by Barbra Mastrotta to modify the following recommendation to increase minimum standard for Facility Records in regulations governing family day care homes and large family child care homes to be presented at a Public Hearing.

Public Comment: Sandra Harper, 3601 63rd Street North, St. Petersburg Regarding "stored separately" – why are medicines required to be in a separate box if they are already in a box with other items inaccessible to children.

Staff Response: Medicines can cross contaminate and some medicine containers look like containers for items that are not medicine.

Attorney Pemberton: Pointed out that if storing separately always applies, then another word may be necessary.

Public Comment: Anne Brooks, 2801 Dovewood Street, Clearwater, FL 33759 Questioned whether or not adult and children's medicines can be stored in the same container and if there is a height restriction.

Response: The standard does not breakdown to whom the medicines belong, nor does it include a standard height.

Amended motion: Barbra Mastrotta amended her original motion which was seconded to include the word "also" in the segment "stored separately and also locked or inaccessible" and to delete at the end of the sentence "and shall be stored separately". Motion unanimously approved.

II. RECORDS

A. Facility Records

8. Medication.

d. All medicines shall be **stored separately and also locked or inaccessible and kept** out of the reach of children and must have child resistant caps ~~and shall be stored separately.~~

Implementation Date: May 1, 2009

Public Comment: Anne Brooks, 2801 Dovewood Street, Clearwater, FL 33759 Regarding IV. C. Outdoor Play Area, Ms. Brooks is concerned about the word "exclusively" in the segment "exclusively used for the children". Suggested a period be placed at the end of property in the same line and adding the last sentence in 4.

Response: Ms. Tamanini responded that this section is not new and that staff has not monitored as if the play area would be used by only day care children.

II. A. 2.

Recommendation: Attorney Pemberton recommended the standard be approved as written, that the suggestion is a decrease and can be approved by action of the Board. This would give staff a chance to compare the words in the Chapter 61 with what's written in the law.

Public Comment: Sandra Harper, 3601 63rd Street North, St. Petersburg
Agreed with Anne Brooks

Motion: A motion was made by Judi Vitucci and seconded to approve the following recommendation to increase minimum standard for Outdoor Play Area in regulations governing family day care homes and large family child care homes to be presented at a Public Hearing. Motion unanimously approved.

IV. PHYSICAL PLANT HOUSING FAMILY DAY CARE HOMES

C. Outdoor Play Area Space

~~1. All family day care homes' shall provide outdoor play equipment play activities shall be suitable to each child's age and development.~~

4.2. All family day care homes must have a minimum of fifty (50) square feet per child of usable outdoor play area space located on the property and which is exclusively used for the children attending or residing at the family day care home.

~~3.4. The outdoor play area space shall be fenced, maintain safe and adequate fencing or walls~~ a minimum of four (4) feet in height. Gates on the fence must be locked while children in care are in the outdoor play space. Outdoor activities conducted at the family day care home shall be conducted in the designated outdoor space.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded and approved the following recommendation to increase minimum standard for Equipment Maintenance in regulations governing family day care homes and large family child care homes to be presented at a Public Hearing. Motion unanimously approved. Motion unanimously approved.

IV. PHYSICAL PLANT HOUSING FAMILY DAY CARE HOMES

D. Equipment Maintenance

3. Permanent or stationary playground equipment must have ground cover or other protective surface under the equipment, which provides resilience and is maintained to reduce the incidence of injuries to children in the event of falls.

Implementation Date: May 1, 2009

Public Comment: Sandra Harper, 3601 63rd Street North, St. Petersburg
Regarding IV. F. Sleeping and Napping Space, Ms. Harper commented that double is also a size of bed and asked if providers could use the lower portion of a double bed:

Response: Children cannot use the lower portion of a double bed.

II. A. 2.

Motion: A motion was made by Judi Vitucci and seconded to modify the recommendation to increase minimum standard for Sleeping and Napping Space in regulations governing family day care homes and large family child care homes by deleting "Children in care shall not sleep or nap on the top level of a bunk bed" and to add the word "stacked" in "No double stacked or . . ." to be presented at a Public Hearing. Motion unanimously approved.

IV. PHYSICAL PLANT HOUSING FAMILY DAY CARE HOMES

F. Sleeping and Napping Space

3. Cribs, bassinets, or playpens with bases raised above the floor shall be provided for infants. Crib sides must be raised and secured while an infant is in the crib and bar spacings may not exceed two and three-eighths inches. Cribs and playpens must meet the construction regulations as outlined in Title 16, Parts 1508.7 and 1509.8, Code of Federal Regulations, January 1, 2004.
7. ~~Children in care shall not sleep or nap on the top level of a bunk bed.~~ No double stacked or multi-deck cribs, cots, or beds may be used.

Implementation Date: May 1, 2009

Motion: A motion was made by Barbra Mastrota and seconded to modify the recommendation to increase minimum standard for TRANSPORTATION in regulations governing family day care homes to be presented at a Public Hearing. Motion unanimously approved.

V. TRANSPORTATION

- C. Each child, when transported, must be in an individual factory installed seat belt or federally approved properly installed child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.
- G. The maximum number of individuals transported in a vehicle shall not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.
- H. An adult must remain within sight and hearing of children being transported in a vehicle so as to respond to the needs of the children at all times.
- I. Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:
 1. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of six (6) months. The log shall include each child's name, date, time of departure and time of arrival, and signature of the driver to verify the fact that all children have left the vehicle.
 2. Upon arrival at the destination, the driver of the vehicle shall:
 - a. Mark each child off the log as the child departs the vehicle.
 - b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and
 - c. Sign, date, and record the driver's log immediately, verifying that all children were all accounted for and that the visual sweep was conducted.
- J. Smoking is prohibited in all vehicles while being used to transport children.
- K. Emergency medical forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children on all field trips.

Implementation Date: May 1, 2009
Minutes 9/23/08

II. A. 2.

Motion: A motion was made by Judi Vitucci and seconded to approve the recommendation to increase minimum standard for CHILD DISCIPLINE in regulations governing family day care homes and large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

VII. CHILD DISCIPLINE

- E. **All family day care home operators, including sSubstitutes, of a family day care home** shall comply with the home's written disciplinary policy.
- F. A copy of the discipline policy must be available for review **by parents or legal guardian and** the licensing specialist.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve the recommendation to increase minimum standard for Violation in regulations governing family day care homes and large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

VIII. REPORTING CHILD ABUSE AND NEGLECT

C. Violation

- 2. Failure to perform the duties of a mandatory reporter pursuant to s. 39.201 F.S. constitutes a violation of the standards in Licensing Regulations.**

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve the recommendation to increase minimum standard for Gold Seal Quality Care Program in regulations governing family day care homes and large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

The following section, "Gold Seal Quality Care Program" (65C-20.014 F.A.C.) is included for the provider's convenience. The License Board does not award Gold Seal accreditation. Contact the Department of Children and Family Services for further information.

65C-20.014 Gold Seal Quality Care Program

(1) Definitions.

- (a) "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.**
- (b) "Effective" refers to the beginning date of a Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.**
- (c) "Expired" refers to the end date of a provider's Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.**
- (d) "Gold Seal Quality Care Accrediting Association" refers to an accrediting association that has applied for and been approved by the department as a Gold Seal Quality Care Accrediting Association.**
- (e) "Inactive" refers to the status of a Gold Seal Quality Care Accrediting Association where in which all criteria for accreditation are no longer being successfully met.**
- (f) "Nationally Recognized" refers to an association whose accrediting body is recognized, accepted and present in at least five (5) states or which had been approved as a Gold Seal Quality Care Accrediting Association by the department prior to July 1, 2007.**

(2) Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate

Pursuant to s. 402.281(1), F.S., family day care homes and large family child care homes seeking to obtain designation as a Gold Seal Quality Care provider shall provide the department with documentation of accreditation by an accrediting association that has been approved by the department. A list of approved accrediting associations may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare.

(b) Gold Seal Quality Care Enforcement

1. Gold Seal Quality Care providers must maintain national accreditation in order to retain their designation. A family day care home's Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a family day care home must meet the additional criteria outlined in s. 402.281(3), F.S.

2. If Gold Seal Quality Care designation is revoked by the Department, termination of the designation will be effective on the last day of the current period of licensure.

3. If the family day care home's accreditation is revoked by the accrediting agency, the family day care home's Gold Seal Quality Care designation will be terminated effective the date of revocation.

(3) Accrediting Association Requirements.

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315, August 2007, Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare. Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six (6) month waiting period from the date of denial before re-submission during the next scheduled acceptance month.

(b) Active Gold Seal Quality Care Associations must re-apply every five (5) years by submitting ~~form~~ CF-FSP Form 5315 that may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare. Re-applications must be received a minimum of six (6) months prior to end of the five (5) year period. Failure to submit ~~form~~ CF-FSP Form 5315 every five (5) years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. Child care settings arrangements receiving accreditation certificates from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.

(c) Inactive Gold Seal Quality Care Accrediting Associations wishing to become active must be in compliance with all requirements outlined on CF-FSP Form 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending the Department of Children and Family Services' approval.

Implementation Date: May 1, 2009

II. A. 2.

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for General Qualifications in regulations governing large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

I. PERSONNEL

A. General Qualifications

1. . . .

For the employee **and the substitute for the employee**, the operator/applicant must within five (5) days of employment at the family day care home or large family child care home submit to the License Board office background screening information.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for Training in regulations governing large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

I. PERSONNEL

B. Training

1. Large Family Child Care Home Operators. In addition to the training requirements identified in **B. Staff Training paragraph 65C-20.009(3)(a), F.A.C.**, large family child care home operators must:

Possess **a CF-FSP Form 5206, April 2005, Staff Credential Verification Confirmation or** one (1) of the following credentials for a minimum of one (1) year **prior to Large Family Child Care Home licensure**.

An active National Early Childhood Credential (NECC); an active Birth Through Five or School-Age Florida Child Care Professional Credential (FCCPC) (formerly known as the Child Development Associate Equivalency); an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), Early Childhood Professional Certificate (ECPC) or School-Age Professional Certificate (SAPC); or meet the formal educational qualification requirement outlined on CF-FSP Form 5211, **April 2006 January 2008**, Staff Credential Application, which is incorporated by reference. An Employment History Recognition Exemption will not be accepted to meet the minimum staff credential requirements for Large Family Child Care Homes.

a. A candidate must complete CF-FSP Form 5211, January 2008, Staff Credential Application.

4. **Large Family Child Care Home** Substitutes. Prior to taking care of children, substitutes for the operator of large family child care homes and substitutes for the large family child care home employee who work 40 hours or more per month on average during a 12 month period must:

a. S successfully complete the Department of Children and Family Services' 30 clock-hour Family Child Care Home training, as evidenced by successful completion of a competency based examination(s) offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. Individuals who have successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. **Beginning July 1, 2006, the 30 clock-hour Family Child Care Home training will be replaced by five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening. Completion of the 30 clock-hour Family Child Care Home training shall be documented on the Department of Children and Family Services' CF-FSP Form 5267 or the Department of Children and Family Services' child care training transcript.**

II. A. 2.

I. B. Training 4. continued:

a. ~~Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better.~~

b. ~~Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

~~(I) Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

~~(II) An active National Early Childhood or an active Birth Through Five Florida Child Care Professional Credential.~~

b. Training completed successfully will be documented on the training transcript or on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP Form 5267 may be obtained from the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the training link.

(1) A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care home.

(2) A copy of the CF-FSP Form 5267 or training transcript for the operator of a child care home must be included in the License Board's file.

5. Large Family Child Care Home Employees ~~in a large family child care home~~. Employees in a large family child care home shall be at least 18 years of age and must:

a. ~~W~~Within 90 days of employment in the child care industry, begin the Department of Children and Family Services' 30 clock-hour Family Child Care Home training. The training shall be successfully completed within 12 months from the date on which the training began, as evidenced by the successful completion of a competency examination offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better, and may not exceed 15 months from the date of employment in the child care industry. All individuals who have successfully completed the mandatory 30 clock-hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement. ~~Beginning July 1, 2006, the 30 clock-hour Family Child Care Home training will be replaced by five (5) individual training courses which total 30 clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.~~

b. Training completed successfully will be documented on the training transcript or on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP Form 5267 may be obtained from the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the training link.

(1) A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care home.

(2) A copy of the CF-FSP Form 5267 or training transcript for the operator of a child care home must be included in the License Board's file.

II. A. 2.

I. B. Training 5. continued:

a. ~~Child care personnel have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better. The Family Child Care Home training must be documented on the Department of Children and Family Services' CF-FSP Form 5267 or the Department of Children and Family Services' child care training transcript.~~

b. ~~Beginning July 1, 2006 the Department of Children and Family Services or its designated representative shall exempt individuals from the Health, Safety, and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one (1) of the following educational qualifications:~~

~~(I) Associate's degree or higher with six (6) college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade; or~~

b. (2.) b. ~~(II) An active National Early Childhood Credential or an active Birth Five Florida Child Care Professional Credential.~~

7. Substitutes for an employee at a large family child care home. Prior to caring for children, substitutes for an employee at a large family child care home who work less than 40 hours a month on average during a 12 month period shall complete the department's ~~completed the three (3) clock-hour Fundamentals of Child Care Training~~ six (6) clock-hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the Department of Children and Family Services or its designated training representative prior to caring for children as documented on the Department of Children and Family Services' CF-FSP Form 5267 and the Department of Children and Family Services' training transcript. Large family child care substitutes who have successfully completed ~~the three (3) clock-hour Fundamentals of Child Care~~ or the 30 clock-hour Family Child Care Home training are not required to complete the six (6) clock-hour Family Child Care Home Rules and Regulations course.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for Supervision in regulations governing large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

I. PERSONNEL
C. Supervision

4. An adult must remain within sight and **hearing sound** of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for TRANSPORTATION in regulations governing large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

V. TRANSPORTATION

A. When any vehicle is used by a large family child care home to provide transportation, the driver shall have a **current valid** Florida driver's license in accordance with sections 322.03(1) ~~02-70~~, F.S.

II. A. 2.

V. TRANSPORTATION – continued:

- E. An adult must remain within sight and **hearing sound** of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.
 - a. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle.
 - b. Sign, date and record the driver's log immediately verifying that all children were accounted for and driver's log is complete.
- F. 3. Upon arrival at the destination a second **adult staff member** shall:
- H. **When one (1) staff takes some children on a field trip and one (1) staff remains on the premises with the remainder of the children in care, the operator or employee transporting children is totally responsible for the care and supervision of those children and shall follow the transportation guidelines for a family day care home as defined in V. TRANSPORTATION**

Implementation Date: May 1, 2009

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for CHILD DISCIPLINE in regulations governing large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

VI. CHILD DISCIPLINE

- C. All **large family** child care **home operators and** personnel **including substitutes** of a large family child care home **must shall** comply with the home's written disciplinary policy.
- D. A copy of the **written** discipline policy must be available for review by **parents or legal guardian and** the licensing specialist.

Implementation Date: May 1, 2009

II. A. 3

Public Comment: Anne Brooks, 2801 Dovewood Street, Clearwater, FL 33759
Ms. Brooks commented that it will be difficult but must be done. Further, Ms. Brooks suggested that in paragraph 2 on the second line that ". . . children of any age. . ." should be stricken reasoning that the state already designates age 13.

Response: Ms. Tamanini reported that ". . . children of any age. . ." was added to include those children who are developmentally delayed, not a teen parent waiting for a bus.

Public Comment: Sandra Harper, 3601 63rd Street North, St. Petersburg
Sandra Harper distributed the Florida Child-to-Adult Ratios for Child Care. Ms. Harper suggested mentally delayed children could be given an age equal to their mental abilities.

Attorney Recommendation: Ms. Pemberton suggested the Board approve the standard as is and review public comment as a separate issue as it would be a decrease.

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation to increase minimum standard for Supervision and selecting "children are present" in regulations governing family day care homes and large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

II. A. 3.

I. PERSONNEL

C. Supervision

1. The number of children in a family day care home at any given time is limited to a maximum of five (5) children. This includes preschool household members, whether present or not, and children of any age who are in the operator's care and do not reside in the family day care home. No more than three (3) of the five (5) children may be under two (2) years of age or no more than three (3) of the five (5) children may be under 18 months of age if the provider has proof of completion of the training course "Beyond Cribs and Rattles" or a current equivalent as determined by the License Board.

The number of children in a family day care home at any given time is limited to the maximums set forth herein. Preschool household members, whether present or not, and children of any age who are in the operator's care and do not reside in the family day care home, are counted in the license capacity.

The license capacity of a family day care home is limited to five (5) children in care. No more than three (3) of the five (5) children may be under the age of 2, or with approved training, no more than three (3) of the five (5) children may be under 18 months of age.

In order to comply with F.S. 402.302(7) all household members under 13 years old must be included in the total number of children as follows:

- a. When no more than two (2) of the five (5) children in care are under one (1) year of age, then the total of children in care and those household members under 13 years of age who are present may not exceed ten (10) children.
- b. When three (3) of the five (5) children in care are under one (1) year of age, then the total of children in care and those household members under 13 years of age who are present may not exceed six (6) children.
- c. When household school age children under 13 years of age are present, the supervision of these children must comply with section I.C.6. of Licensing Regulations.

Motion:

A motion was made by Judi Vitucci and seconded to approve recommendation to increase Definition and selecting "when children are present" in regulations governing family day care homes and large family child care homes **to be presented at a Public Hearing**. Motion unanimously approved.

The Definition of a family day care home will be modified to agree with the standard for Supervision.

A family day care home means an occupied place of residence of a family, person, or persons who regularly provide child care and training for children from at least two (2) unrelated households, with or without compensation, for no more than five (5) children at any given time under thirteen (13) years of age who are not related to such person or persons by blood, marriage, or adoption. This includes preschool household members whether present or not and children of any age who are in the operator's care and do not reside in the family day care home. Of those five (5) children, no more than three (3) of the five (5) children may be under two (2) years of age, or no more than three (3) of the five (5) children may be under 18 months of age if the provider has proof of completion of an approved training course. A family day care home shall provide child care for a period less than 24 hours per day per child.

When 3 children in care are under one year old, the provider may have no more than 6 children total including household children under 13 years old who are present.

When 2 children in care are under one year old, the provider may have no more than 10 children total including household children under 13 years old who are present.

II. A. 4.

Motion: A motion was made by Barbra Mastrotta and seconded to select December 3, 2008 at 6:30 p.m. for a Public Hearing and cancel the Special Board meeting for December 17, 2008. Motion unanimously approved.

B. First Amendment to Interlocal Agreement

Motion: A motion was made by Judi Vitucci and seconded to approve the amended Interlocal Agreement. Motion was unanimously approved.

C. 2008-09 Budget and Resolution

Presentation: Pervinder Birk stated the budget for next year was based on actual expenditures in 2007-08 and on increases/decreases in expenditures, funding, fees, etc.

Board Direction: Judi Vitucci recommended the Board be more involved in the budget oversight. The Board requested that Pervinder Birk give the Board a budget training/workshop at a future regular meeting.

Staff Question: Ms. Tamanini stated that Ms. Judd had said there would be a substantial reduction in rent because the county would be getting involved, but that she didn't see a reduction in the budget. She further stated that the License Board fund balance has been substantially reduced.

Motion: A motion was made by Judi Vitucci and seconded by Barbra Mastrotta to approve the 2008-09 Budget Resolution. Motion unanimously approved. Ayes 4, Nays 0, Absent and Not Voting 3.

D. Sunshine Law

Attorney Pemberton gave a brief Sunshine Law training for the benefit of new and current Board and Advisory Committee members, stressing that as members of a governmental entity that members **are** sovereignly immune to tort actions unless committed intentionally. Attorney Pemberton will send a training link to the secretary who will forward the link to Board and Advisory Committee members. Flgov.com/og_training contains training on public records and the Sunshine Law.

Attorney Pemberton recommended that staff not be on a committee because of the Sunshine restrictions for discussing committee business. Further that if members will not be at the next meeting, to send the information to the recording secretary who can then forward to the Board or copy and distribute at the next Board meeting. Attorney cautioned members to never "reply all" when receiving such information via email. Most Sunshine Law violations can be remedied by reporting the violation at the next Board meeting.

E. Emergency Regulations

Motion: A motion was made by Judi Vitucci and seconded to approve recommendation for Emergency Regulations for children's centers, family day care homes, and large family child care homes. Motion unanimously approved.

2. After a fire or natural disaster, the children's center/family day care home or large family day care home provider must notify the Child Care Licensing Program within 24 hours as to their status of operation in order for the Child Care Licensing Program to ensure health standards are met for continued operation as a children's center/family day care home or large family child care home. Damage to the building or property/home may require approval from the Child Care Licensing Program and in addition may require the Health Department and/or other agencies to inspect and approve the premises.

Minutes 9/23/08

Presentation: Lourdes Benedict presented Linda Tamanini with a Certificate of Appreciation from the Board for Ms. Tamanini's 24 years with the License Board and invited those present to stay for the reception.

Adjournment: The Board adjourned at 3:30 p.m.

Judi Vitucci, Secretary

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS
AND FAMILY DAY CARE HOMES

Minutes for the Emergency Board Meeting for
October 23, 2008

UNAPPROVED CORRECTED MINUTES

The Emergency Board Meeting of the Pinellas County License Board for Children's Centers and Family Day Care Homes was scheduled for Thursday, **October** 23, 2008, at 11351 Ulmerton Road, Largo, Room 418D, to begin at 8:15 a.m. A public notice of the meeting was posted in the Health Department at Center Bay, and requested to be posted in the Juvenile Welfare Board and Coordinated Child Care buildings. In addition, an email posting was sent to the provider associations and posted on the Child Care Licensing website. The meeting will be ratified at the next regular Board meeting of November 5, 2008.

- Board Members Present: Lourdes Benedict, Chairman; Barbra Mastrota; Elise Minkoff, Donna Rippley
- Board Members Absent: Donna Huard, Commissioner Seel, Judi Vitucci
- Ex Officio Member Absent: Charles Minor
- Advisory Members Present: None
- Advisory Members Absent: Heidi Buck, Sharon Carder, Sharon Carie, Terri Hajian, Ann Hofmeister, Anne Sullivan
- County Attorneys Present: Christy Pemberton, and Dennis Long (arrived at approximately 8:30 a.m.)
- Staff Members Present: Carla Doenges, Executive Director
Frank Nagatani, Attorney for Department of Health
Stephanie Judd, Financial Administrator for PC Health Department
John Geisler, Community Environmental Health Program Manager
Gayle Guidash, Director of Environmental Health and Preparedness
Dana Stajkowski, Recording Secretary
- Others present: Katie Cole of Johnson, Pope, Bokor, Ruppel & Burns LLP
Rod Cyr, JWB Contract Manager
- Call to order: The meeting was called to order at 8:15 a.m.

Chairman Benedict stated the purpose of the meeting is to review and discuss the Memorandum of Understanding (MOU) and to discuss legal counsel for the Pinellas County License Board.

Memorandum of Understanding:

Attorney Pemberton stated since the MOU was prepared, the Board of County Commissioners (BOCC) in its meeting on Tuesday, October 21, 2008, decided that in light of the County Administrator agreeing, based upon the advise of the BOCC, to give the PCLB money (\$7,500) and the preparation by Dennis Long of the MOU that the BOCC withdrew its consent to provide legal counsel to the PCLB at the end of October 2008.

Attorney Pemberton assured the Board that the County Attorney would aid in the transition and do whatever it takes to make it work. She reported there are two attorneys who are interested in representing the PCLB; one is interested in representing pro bono on November 5.

Dennis Long, Chief Assistant County Attorney for Pinellas County, stated that on October 21, 2008, the BOCC withdrew legal representation of the PCLB based on the Rules of Professional Conduct.

- That the County Attorney's Office proposed funding support from the appropriate accounts relating to conflicts and outside counsel
- That an MOU (copy attached) provides support in the amount of \$7,500 for transition funding for legal counsel
- That the MOU was approved and signed by the Interim County Administrator and becomes effective November 1, 2008
- That the \$7,500 will be paid in the form of a check

Pending Litigation:

Chairman Benedict Stated that she is concerned about pending litigation on two cases.

Attorney Pemberton responded that there is only one outstanding case; that there is not a lot of legal work to be done before resolution of the case; that the defending attorney only recently expressed desire to continue pressing forward with it.

Legal Costs & Transition Funding:

Attorney Pemberton stated that her original estimate for legal assistance was based on a full staff of licensing specialists; that time spent on prosecutions and the amount of prosecutions has dramatically been reduced with the decreased staff; that providers are not being monitored as often; that there has been fewer calls from staff to the attorney for advise.

Ms. Doenges stated that staff has met the requirement for the number of visits.

Replying to a question about cost of pending litigation Attorney Pemberton stated that the second pending case has not been filed; that if it went forward there could be approximately 3 hours of attorney time; that she has no estimate of cost on the one that has gone forward.

Responding to a question from Chairman Benedict of how the \$7,500 was determined, Attorney Long responded that the figure was derived from discussions within the county attorney office; that he took the total amount of estimated time and doubled it; that it is not based on years of time ticket analysis.

Responding to a question from Attorney Nagatani regarding the amount of substantial outstanding fees on the pending case, Attorney Pemberton stated the status has not changed; that her notes from the transfer [of PCLB to the Health Department] specifically mentioned that the Health Department was assuming that responsibility; that Dr. Dharamraj stated the County Attorney's office should not be representing staff.

Ms. Judd responded that it was a misunderstanding, that Dr. Dharamraj did not expect the County Attorney to represent Health Department staff in personnel related matters; but when there is a prosecution, revocation or other legal action against a provider, Health Department staff is in essence hired by the Board contractually to handle the Board's actions against the provider [and would then be represented by the Board's attorney].

Ms. Judd expressed concern about the cost of the pending case(s) and the available transition funding.

Outstanding Legal Fees:

Ms. Doenges stated that she is concerned that the Board is being asked to sign the MOU without time to determine the actual cost of outstanding legal fees on the pending case and without an understanding of the amount of legal time needed.

Attorney Long stated that if attorney's fees were assessed in the pending case that it would not be paid by the County Attorney.

Attorney Long restated that attorney representation is being withdrawn because of their ethical responsibility; that from a cost prospective, there has never been a cost allocation from the county for representing the PCLB.

Assistance for New Attorney:

Attorney Long stated that the County Attorney's office will be available for whatever period of time it takes to sit down with new counsel to be brought up to speed [including pending case(s)] and that there will not be an allocation or charge [from the County Attorney's Office] for that.

Process for Requesting Additional County Funding:

Attorney Long stated that there is a process for requesting funds from the BOCC that the Board can use; that he suggests the Board's legal counsel make the request and not Health Department counsel.

Responding to Chairman Benedict's and Barbra Mastrota's questions, Attorney Long stated:

- That if the Board does not sign the MOU that the money is not off the table but that the transition will still occur.
- That there isn't an articulated procedure for [the PCLB] requesting additional dollars because this is a one of a kind situation. He suggests that:
 - The Board approve or not approve the MOU
 - The PCLB Chairman communicate with the Chairman of the County Commission and ask for time on the agenda to ask for additional funding that would be scheduled under the County Attorney's portion of the agenda.
 - County Attorney Bennett could present the item and the appropriate representative of the PCLB can stand at the podium and present the background and ask for the additional dollars.
 - The County Commission would direct County staff to research the issue.
 - That the County Commission said if later on in the budget year the County Attorney's Office needs to transfer money from reserves to make up for money used for the transfer of the PCLB they would do that.

Attorney Long Recommendation:

That the PCLB will be best served with an attorney who does not have divided loyalty.

Pending Litigation Fees:

Responding to Chairman Benedict's question Attorney Long stated that the County is not responsible for settling a court case.

Attorney Nagatani reported he understood there are fees incurred by opposing counsel that need to be addressed; \$30,000 is the asking price.

Pending Litigation Fees: Attorney Pemberton stated that the case should not be discussed because at some point it will come before the PCLB and that these discussions will probably have to be shared. She stated that in general under the statute if the governmental/state agency (whether or not the statute applies to the PCLB is a question of law) goes after the license of a small business owner to revoke the license and the small business owner is the prevailing party and the court finds that the administrative proceedings against the small business owner was not commenced in good faith - three ifs – does the PCLB qualify under the statute, will the licensee be a prevailing party, will the court find that the proceeding was not initiated in good faith – if all that happens, then the small business owner can apply to the court for reasonable attorney fees not to exceed \$30,000.

She stated this was an issue that began when the PCLB was at JWB; that under statutory provision the fees are assessed against the agency and are not like other fees that are assessed against both the agency and the attorney.

She questioned whether the Health Department would take the assessed fee out of the PCLB budget or out of the Health Department's risk management fund and handle it as a risk management under the Interlocal Agreement.

In answer to a Elise Minkoff's question, Attorney Pemberton stated she could not respond as to why it has taken two years to resolve this case when the PCLB would take final agency action on the case.

Recommendation: In response to Chairman Benedict's request for guidance, Attorney Nagatani agreed with Attorney Long that the Board approve the MOU, that if the Board needs additional funding for legal counsel that they go before the BOCC. He reported that Commissioner Latvala had remarked that if more funding was needed to ask.

Commitment: Attorney Long agreed that the BOCC did leave the door open to make a request for additional dollars. Further, Attorney Long made a commitment that if the PCLB decides to go to the BOCC to ask for more funding that no one in the County Attorney's office will take the position that because the MOU was approved that it precludes the PCLB from asking for more funding.

Dennis Long will send an email to the PCLB and copy the County Attorney stating his commitment above.

Motion: A motion was made by Donna Rippley and seconded by Barbra Mastrota that the Memorandum of Understanding in the amount of \$7,500 be approved. Unanimously approved.

Discussion: Elise Minkoff stated that there isn't anything that precludes the PCLB from requesting additional funding, however she appreciates Attorney Long's offer to put his commitment in writing.

Vote: Unanimously approved.

**Legal Counsel and
Estimate of Atty. fees:**

Rod Cyr, JWB Contract Manager, stated that Gay Lancaster, Executive Director for PCLB, will consider a request from PCLB for attorney representation and support that representation up to \$25,000; and that he would entertain an amendment to add the estimated 70 hours or \$15,750 for legal counsel to the contract.

Responding to Chairman Benedict's question Rod Cyr stated that Gay Lancaster's offer to pay for the PCLB attorney was with the understanding that PCLB choose the JWB attorney, but that he could present the question to Ms. Lancaster; and that the JWB Board wants to do what it can to help.

Ms. Doenges explained to the Board how she estimated the number of hours **needed** for legal counsel. She also stated that she is looking to reduce meeting time for the Board; that she will look to the Department of Children and Families for explanation of regulations; that staff will be offering provider training to reduce the amount of questions by providers at Board meetings.

Responding to a question from Chairman Benedict Attorney Cole stated that attorney's fees begin according to the agreement between client and attorney.

Attorney Pemberton stated that Charles Harris of Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis is interested in representing the PCLB; and that if the PCLB selects the JWB attorney that the \$7,500 could cover the cost of another attorney when there is conflict between PCLB and JWB as there may be at the November 5th Board meeting. In response to questions, Attorney Pemberton responded:

- That Mr. Harris is looking for us to put in a bid for his services but that he would represent us for free on November 5th.
- That professional services do not require going out for a bid.

Attorney Cole reported to Board there would be a potential conflict with respect to the funding of the PCLB. She reported to the Board qualifications of her firm and its lawyers.

Attorney Long stated that the attorneys would need to determine when a conflict exists.

Responding to questions from Lourdes Benedict:

- Ms. Judd reported that it was the understanding of Dr. Dharamraj and herself that the JWB funding would be made available for services other than Johnson, Pope.
- Mr. Cyr reported that when JWB when out for bid on an attorney that [Johnson, Pope] prices were reasonable.

Motion:

A motion was made by Elise Minkoff and seconded by Barbra Mastrota to accept the bid of Johnson, Pope, Bokor, Ruppel & Burns LLP as the attorney for the PCLB.

Accountability:

Ms. Minkoff requested to know who will be accountable for the expenditure of legal fees because she has heard that we have not been able to track passed legal service fees and that the County has been very generous in that support to the PCLB.

Ms. Judd reported that Carla Doenges will be the responsible party.

Vote:

Unanimously approved.

Minutes – October 23, 2008

Motion: A call for a motion to approve a different attorney for November 5 due to a potential conflict was declined; that the attorney just hired will make a determination.

Board Direction: Elise Minkoff requested on the record that Attorney Flynn reach out to Attorney Harris of Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis.

Adjournment: A motion was made by Elise Minkoff and seconded by Barbra Mastrota adjourn the meeting at approximately 9:45 a.m. **Unanimously approved.**

Lourdes Benedict, Chairman

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of this 23rd day of October, 2008 (“Effective Date”), by and between Pinellas County, a political subdivision of the State of Florida, (“County”) and the Pinellas County License Board for Children’s Centers and Family Day Care Homes, an independent special district with the State of Florida, (“PCLB”).

WITNESSETH:

WHEREAS, pursuant to Chapter 61-2681, Laws of Florida, and Chapter 70-896, Laws of Florida, as amended (the “Act”), the PCLB licenses and regulates children’s centers and family child care homes in Pinellas County to protect and promote the health, safety and mental development for children cared for in these child care facilities (the “Program”); and

WHEREAS, as authorized by the Acts, the Board of County Commissioners previously consented to the Office of the County Attorney providing legal representation to the PCLB in civil matters; and

WHEREAS, the County Attorney has determined that it would not be appropriate or permissible in accordance with the Rules of Professional Conduct to continue to provide legal representation to the PCLB, and the County desires to provide financial assistance to the PCLB to secure legal counsel to aid in the transition to new legal representation, as provided herein.

In consideration of the mutual promises set forth herein, the parties hereby agree as follows:

1. The PCLB shall secure legal representation to handle all legal matters, pending or in the future, relating to its Program duties and responsibilities as defined in the Acts and applicable Florida Law, effective November 1, 2008. The manner and scope of legal representation shall be determined by the PCLB in its sole discretion.
2. The County shall pay to the PCLB the sum of \$7,500.00 to be utilized by the PCLB to secure legal representation as provided in Section 1 herein, upon receipt of an invoice from the PCLB in accordance with Section 218.70, et seq., Florida Statutes, the “Florida Local Government Prompt Payment Act.” The County shall have no obligation to contribute any sums in excess of the sum set out herein, and the PCLB shall be responsible for and fund all costs and expenses related to the Program.
3. This MOU shall commence on the Effective Date and shall terminate on June 30, 2009.
4. The County and the PCLB shall be fully responsible for their own acts of negligence and their respective agents’ acts of negligence, when such agents are acting within the scope of their employment; and shall be liable for any damages resulting from said negligence to the extent permitted by section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity or shall be construed as consent by either party to be sued by third parties in any matter arising out of this MOU.

5. The PCLB shall permit examination or audit of all MOU related records and documents during or following the termination of this MOU, and shall maintain such records and documents for at least three (3) years following the termination of this MOU.


6. It is hereby mutually agreed that the PCLB is not acting as an agent or employee of the County.

7. Neither party may subcontract, assign or transfer its rights or obligations under this MOU without prior written consent of all other parties.


8. This MOU constitutes the entire agreement between the parties and may be amended only in writing, signed by all parties to this MOU.

IN WITNESS WHEREOF, the parties hereto, or their lawful representative, have executed this MOU as of the Effective Date.


PINELLAS COUNTY LICENSE BOARD
FOR CHILDREN'S CENTERS AND
FAMILY DAY CARE HOMES

By: 

PINELLAS COUNTY, a political
subdivision of the State of Florida,
by and through the County Administrator

By: 
Fred E. Marquis, Interim County Administrator

APPROVED AS TO FORM
OFFICE OF THE COUNTY ATTORNEY

By: 
Chief Assistant County Attorney

NO. 08-174

RESOLUTION DESIGNATING HEARING OFFICER

PINELLAS COUNTY LICENSE BOARD FOR
CHILDREN'S CENTERS & FAMILY DAY CARE HOMES

WHEREAS, Chapter 61-2681, as amended by Chapter 70-893 and Chapter 2007-277 Laws of Florida, created the PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS & FAMILY DAY CARE HOMES (License Board) which is the local licensing agency for Pinellas County child care facilities; and

WHEREAS, the License Board conducts proceedings involving the imposition of administrative fines or the denial, suspension or revocation of child care licenses in accordance with the provisions of Chapter 402, Florida Statutes; and

WHEREAS, Florida Statutes, section 402.310(3) requires the County Commission to designate hearing officers for appeals of administrative action taken on behalf of the License Board; and

WHEREAS, the Commission recognizes that the requirement for formal proceedings under Chapter 120, F.S. (Administrative Procedures Act) will call for the use of a Florida State Department of Administration hearing officer in some cases, whereas, in other cases, the utilization of a retired senior judge as the hearing officer would be more practical and more economically feasible; and

WHEREAS, the Commission considers that the Chairman of the License Board would be the most qualified person to make such a decision on a case-by-case basis; and

WHEREAS, the County Attorney no longer prosecutes administrative actions on behalf of the License Board.

IT IS THEREFORE RESOLVED

The Commission hereby designates that either a senior judge available through the Court Administrator’s Office or a hearing officer designated by the Department of Administration may be utilized as Chapter 120 hearing officers for the License Board.

The Chairman of the License Board or his/her designee, shall, under the limitations set forth above, arrange for hearing officers on an as-needed, case-by-case basis.

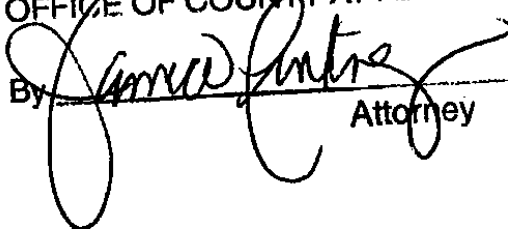
The License Board shall be responsible for compensating senior judges or hearing officers designated by the Department of Administration.

Resolution 92-174 is hereby repealed.

Commissioner Welch offered the foregoing resolution and moved its adoption, which was seconded by Commissioner Latvala, and upon roll call the vote was:

- AYES **Stewart, Seel, Latvala, Welch and Duncan.**
- NAYS **None.**
- ABSENT AND NOT VOTING **Harris and Morroni.**

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APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY
By 
Attorney