

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS
AND FAMILY DAY CARE HOMES
Minutes for the Special Board Meeting and
Public Hearing
July 1, 2009

APPROVED CORRECTED MINUTES

The Regular Board Meeting of the Pinellas County License Board for Children's Centers and Family Day Care Homes was scheduled and properly noticed for Wednesday, July 1, 2009, at 4175 East Bay Drive, Suite 350, Clearwater, to begin at 6:30 p.m.

Board Members Present: Lourdes Benedict, Chairman; Nancy Bostock (arrived at 6:10 p.m.); Donna Huard; Barbra Mastrota; Elise Minkoff; Judi Vitucci, Secretary

Board Members Absent: Donna Rippley

Ex Officio Member Present: Charles Minor

Advisory Members Present: Lynn Bittner, Heidi Buck, Ann Hofmeister, Susan Weber

Advisory Members Absent: Terri Hajian

County Attorney Present: Colleen Flynn, Evan Frayman

Staff Members Present: Carla Recker, Executive Director; Kathy Krause, Supervisor Family Child Care Homes; Jorie Massarsky, Supervisor Children's Centers; and other Health Department staff

Call to order: The meeting was called to order at 6:35 p.m.

Motion: A motion was made by Barbra Mastrota and seconded to approve the minutes from May 14, 2009. Motion unanimously approved.

Public Comment: Anne Brooks, 2801 Dovewood Street, Clearwater
At the last meeting Ms. Brooks was told by staff that no public comment was allowed.

Response: There were many public comments made at the last meeting; there was a miscommunication regarding public comment made at the beginning of the meeting; there was no intent to prevent public comment.

After being asked if she wanted to make a comment at this time, Ms. Brooks said she had none that she took care of it through email.

Lynn Gibson, 8697 78th Avenue North, Largo

Ms. Gibson stated that she is working with legislators to see if there is a way to stop people from advertising on Craig's List for child care. Ms. Gibson reported to the Board on several advertisements for unlicensed child care and stated that unlicensed care should be stopped.

Response:

In answer to a Board member's question, Ms. Recker reported to Board the procedure for inspecting unlicensed care complaints and the legal issues with shutting them down.

Ms. Recker further explained that we investigate every unlicensed complaint given to us. She reported that she will be offering a training in September to assist providers in marketing their home to combat unlicensed care; she is working with the Health Department in running a story in the St. Pete Times on the requirements to care for children. Ms. Recker stated that all we can do is take a proactive stance that there isn't the staff or the funding to hire staff to investigate Craig's List and every unlicensed care situation.

Board Direction:

Barbra Mastrotta suggested an ad be placed daily on Craig's List regarding licensing requirements.

Response:

Ms. Recker stated that Child Care Licensing would need IT approval to go onto Craig's List and to post to Craig's List.

II. A.

Ms. Recker reviewed the budget for the Board.

Response:

Regarding Administrative Costs in the amount of \$40,000 +, Ms. Recker responded to a question from Commissioner Bostock stating this amount together with the \$71,000 + in-kind from the Health Department pays for the Health Department's administration of the child care licensing program; that the HR Assessment Fee pays for the administration of People First.

Board Direction:

Board directed Ms. Recker to email to Board members the information regarding use of the \$40,000.

Board Direction:

Elise Minkoff requested that staff follow-up with Pinellas County regarding legal fees for files that were in legal process prior to Attorney Colleen Flynn replacing Christy Pemberton.

III. A. 1.

Motion:

A motion was made by Judi Vitucci and seconded that 7 new Children's Center be approved for Regular Licenses. Motion unanimously approved.

A. 2.

(There were no new Children's Centers recommended for a Provisional License.)

A. 3.

A motion was made by Barbra Mastrotta and seconded that 1 new Children's Center be approved for a Probationary-Provisional License. Motion unanimously approved.

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III.

A. 4.

Motion:

A motion was made by Donna Huard and seconded that 13 new Family Day Care Homes be approved for Regular Licenses. Motion unanimously approved.

A. 5.

Motion:

(There were no new Family Day Care Homes recommended for Provisional Licenses.)

A. 6.

(There were no new Family Day Care Homes recommended for Probationary-Provisional Licenses.)

B. 1.

Motion:

A motion was made by Donna Huard and seconded that 5 License Changes for Children's Centers be approved for Regular Licenses. Motion unanimously approved.

B. 2.

Motion:

(There were no License Changes for Children's Centers recommended for a Provisional License.)

B. 3.

(There were no License Changes for Children's Centers recommended for Probationary-Provisional Licenses.)

B. 4.

Motion:

(There were no License Changes for Family Day Care Homes recommended for Regular Licenses.)

B. 5.

Motion:

(There were no License Changes for Family Day Care Homes recommended for a Provisional License.)

B. 6.

(There were no License Changes for Family Day Care Homes recommended for Probationary-Provisional Licenses.)

C.

(There were no Children's Centers recommended as Religious Exempt Centers.)

E.

A motion was made by Commissioner Bostock and seconded to accept and elect Board members Barbra Mastrotta and Judi Vitucci and Advisory Committee Member Susan Weber to the Nomination Committee. Motion unanimously approved.

F.

Colleen Flynn recused herself for this item – Final Agency Action Regarding Intent to Revoke the License of Family Day Care Home Provider LaFonte Hunter-Davis. Evan Frayman will represent the Board regarding Ms. Hunter-Davis.

Evan Frayman gave a Summary of the Final Agency Action stating that each party has 15 minutes to present their arguments.

LaFonte Hunter-Davis' attorney Albert B. Lewis spoke on her behalf by including the following comments:

- Their exceptions did not cite to the transcript pages because the transcript was not yet available.
- That the judges ruling is based on the information provided and there were three allegations made: 1. that his client was conducting a business out of her home in violation of the rules and regulations; 2. that his client had allowed a CPR certificate to expire; 3. that his client had called a parent of a former child in her care and left a nasty message on her answering machine.
- That the judge based his decision on his client running a business out of her home.
- That there is no evidence as to what his client said on the message.
- That the out of date CPR certificate was faxed to the licensing program by his client within the time period requested.
- That the Florida Administrative Code 65C-20.009 which was cited during the hearing states that the operator of a family day care home may not work outside of the home during the hours the family day care home is operating.
- That the Pinellas County Regulations state - or during hours when the family day care home is operating.
- That his client interpreted that when she was operating her family day care home that she could not operate a business out of her home.
- That on that particular day at 3:30 p.m. she had 2 children in her home and it was the first time she had operated her business during the hours of her day care. That after her charges leave the rule no longer applies. That the rule says for minor violations such as this that the violator should receive an opportunity to correct it and that his client was not given an opportunity to correct the violation.
- That testimony at the hearing was that she violated the rule against having more than 5 children in the home during the hours of operation; the transcript doesn't reflect that.
- That the Board policy #9397 says that a date by which each violation shall be corrected unless the violation is of an eminent threat to the health and safety of the children in which case the violation shall be corrected within 24 hours.
- That this violation should have been classified as a Class III.
- That there were a number of statements made in the transcript that were either false or were later corrected.
- That the only substantiated claim was the time that she sold some soda and a bag of chips one time during the operation of her family child care home.

Colleen Flynn attorney for the License Board included the following statements in her presentation to the Board:

- That on October 2008 that Ms. Hunter-Davis was granted a temporary permit to operate a family day care home and was told by a License Board staff member that she was not to operate a store out of her home during day care hours and that she signed a statement to that effect.
- That a state and county regulation requires that the home must be in compliance with all local building, fire, and health requirements. Operating a store out of your home is against the PC zoning ordinances.
- That Food Program specialists from Coordinated Child Care witnessed little children purchasing store items.
- That Ms. Hunter-Davis asked licensing staff why they gave her a temporary permit because she had been operating a store out of her house for a long time and didn't know it was against the law.
- That ignorance of the law is not an excuse.
- That when providers are on a temporary permit that they are on a very short leash to prove they can comply with regulations.
- That the temporary permit was Ms. Hunter-Davis' second chance.
- That during the hearing it was explained that running a business while operating a family child care home causes supervision concerns.
- That at no time did Ms. Hunter-Davis say that there was only one time that Ms. Hunter-Davis operated her store.
- That Ms. Hunter-Davis was given time to complete her CPR training.
- That this issue is before the Board to determine why they should not uphold the judge's final ruling to suspend and deny the application.

Motion:

A motion was made by Judi Vitucci and seconded by Elise Minkoff to approve the Recommended Order, to accept the findings of fact, to accept the conclusions of law and to accept the penalty proposed by the Hearing Officer.

Discussion:

Responding to a question from Ms. Minkoff, Ms. Recker stated that the recommendation to suspend and deny is based on the business that Ms. Hunter-Davis runs.

Ms. Hofmeister's concern is that Ms. Hunter-Davis did not comply with regulations and did not have a permit to operate the business.

Motion unanimously approved.

III. G.

A motion was made by Barbra Mastrota and seconded to approve a decrease for Daily Attendance Record/Center Closing Log. Motion unanimously approved.

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III. G. continued

V. RECORDS (Children's Centers)

7. Daily Attendance Record/Center Closing Log

An accurate, legible daily attendance record shall be kept for each child in care.

- 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 verifying attendance accuracy 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.

Reference: Ch. 65C-22.001(10)

Implementation Date: August 1, 2009

III.H. A motion was made by Barbra Mastrota and seconded by Elise Minkoff to approve for Public Hearing an increase in II. Records A. Facility Records. Motion unanimously approved.

II. Records

A. Facility Records (Family Child Care Homes)

1. The operator shall obtain enrollment information from the child's custodial parent or legal guardian and record it on the Enrollment form provided by the Child Care Licensing Program, (CCLP) prior to accepting the child in care. The CCLP Enrollment form information shall be completely filled out, with kept current, and on file for each child in care. The following required information is included:

Reference: Ch 61. S. 7. (1)
Ch 65C-20.011 (2)(a)(b)

Finding of Necessity:

The goal of our agency is to streamline documentation and this will assist in shortening the length of time required to complete children's records inspections, as well as enhancing the operator's ability to maintain their records because all the required information for child enrollment will be on one document.

Implementation Date: January 1, 2010

Motion: A motion was made by Barbra Mastrota to modify the time of the public hearing to 6:30 p.m. on August 20, 2009. Motion failed.

Barbra Mastrota amended her motion which was seconded to hold the Public Hearing on August 12, 2009 at 6:30 p.m. Motion unanimously approved.

Motion to Adjourn: A motion was made by Elise Minkoff to adjourn the meeting at 8:00 p.m. Motion unanimously approved.

Judi Vitucci, Board Secretary