

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

**REGULAR MEETING**

October 5, 2011, at 1:30 – 3:30 p.m.

LOCATION: Coordinated Child Care of Pinellas, 6500 102<sup>nd</sup> Avenue North, Pinellas Park

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

**Page**

|  |    |
|--|----|
| <b>I. Call to Order of Regular Board Meeting</b> |    |
| A. Announcements:                                |    |
| B. Agenda (addition of new items).....           | 1  |
| C. Approval of Minutes:                          |    |
| ▪ June 27, 2011 and July 14, 2011 .....          | 4  |
| <b>II. Action Items</b>                          |    |
| A. Licenses for New Centers/Homes .....          | 12 |
| B. 2012 Board Meeting Dates Selection .....      | 15 |
| <b>III. Information Items</b>                    |    |
| A. Executive Report .....                        | 16 |
| B. Statistical Report.....                       | 21 |
| C. Revenue and Expense Report.....               | 22 |
| D. Administrative Report                         |    |
| ▪ Children's Centers .....                       | 24 |
| ▪ Family Child Care Homes .....                  | 27 |
| ▪ 100 Percent Compliant Child Care Centers ..... | 29 |
| E. Training.....                                 | 30 |
| ▪ Special Terminology                            |    |
| ▪ Quality Child Care Emphasis                    |    |
| ▪ Organizational Charts                          |    |
| F. Appeal Process .....                          | 34 |
| G. Food Service Regulations Update .....         | 45 |
| H. Public Comment for Items Not on Agenda.....   | 46 |

**IV. Next Meeting:** Regular Meeting – January 19, 2012 @ 1:30 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 and 3.**

## PUBLIC COMMENT POLICY (Revised 7/7/10)

### 1. Public Comment Procedure for Regular and Special Board Meetings, and Public Hearings:

1. Sign-up in person to comment on each agenda item or proposed increase in standard prior to the start of the meeting.
2. When your name is called, come to the podium, be recognized by the Chairman, state your name, and make your comment. Comments should be concise and to the point. Supporting documentation may be distributed to the Board. Documents will be filed with the minutes.
3. Individual speakers have up to 3 minutes.
4. A spokesperson representing a group present has up to 5 minutes. Supporters may stand while the comment is being made.
5. Clapping, heckling or verbal outbursts in support or opposition to a speaker's comments is discouraged.
6. Repetitious comment(s) are also discouraged. If a speaker is saying what you signed up to say, you may stand during their comment and then decline when your name is called to speak.

#### Public Comment Sections of the Agenda:

- Public Comment Section during Regular Meetings: Sign up to comment on items NOT on the agenda.
- Action Items Section: Sign up to comment following staff presentation of the action item and prior to Board action.

#### Note:

Comment to the Board does not constitute a formal complaint, is not considered a request for records under the Public Records Act, and does not require staff response unless directed to do so by Board.

### 2. Making a Presentation to the Board:

To make a presentation to the Board lasting longer than 3-5 minutes but not longer than 10 minutes, please contact the Child Care Licensing Program office at 727-507-4857 for an application. All applications must be submitted at least 10 days prior to the Board meeting at which the presentation would occur.

### 3. Process for Decreasing or Increasing Licensing Regulations (Highlighted words are from Chapter 61-2681 et al):

#### Decreases:

- In the event the License Board determines it reasonable to decrease the requirements of any particular standard, it may do so by action of the Board only. However, state regulations (Chapters 65-C and 402) can only be decreased by the state not by county authority.

#### Increases:

- At a regular or special meeting, the Board will review the proposed increase for the first time. There shall be a finding of necessity, not merely desirability. The Board will hear public comment according to the procedure above.
- Following the meeting if approved, the licensing program must notice the finding, and mail to all licensees the old standard, the proposed new standard, the reason for the change and a hearing date.
- At the hearing, Board must give an opportunity for all affected persons to present their views. The Board will hear public comment according to the procedure above.
- The proposed new standard may not be considered (discussed) again by the Board until a meeting at least 90 days after the hearing, at which time, if approved by at least 5/7 of the Board, it shall be adopted. The Board will hear public comment according to the procedure above. During the 90 day period, written public comment may be received and will be forwarded to Board members, however, Board cannot discuss it until the final meeting.
- Any new standard must provide a reasonable effective date. The Pinellas County License Board must provide sufficient notification to providers and must establish a reasonable effective date.
- Substantive changes made during the Final Agency Action would necessitate a new Public

Hearing.

**A. In the event a member of the public proposes or drafts a bill that effects Chapter 61 et al and wishes to present it to the Board:**

1. The person(s) may present the proposed bill to the Board at anytime during the public comment portion of its meeting pursuant to the guidelines above or in writing to the Executive Secretary who will forward it to the Board.
2. However, if the Child Care Licensing Program is notified at least seven (7) days in advance of a Board meeting that a person or person(s) would like to present a proposed bill, the Licensing Program will include the presentation of the proposed bill on the agenda of the next Board meeting, which is published on the program's website. The Board will determine the length of the presentation by the presenter pertaining to the proposed bill, but in no event will it be less than 10 minutes. At their discretion, the Board or licensing program may schedule a special meeting or public hearing regarding the proposed bill presented.
3. Board may choose to refer the proposed bill to staff for research and set a date for staff to present their findings. Board may also choose to send a letter of support or disagreement to the legislature.
4. Nothing set forth above limits the Licensing Program or the Board's ability to present or discuss or take action on proposed bills or legislation during a regular meeting or special meeting or public hearing without a presentation by a member of the public.

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 507-4857 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  
June 27, 2011

UNAPPROVED 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 Monday, June 27, 2011, at 6500 102<sup>nd</sup> Avenue North, Pinellas Park, to begin at 1:30 p.m.

Board Members Present: Elise Minkoff, Board Chair; Lourdes Benedict; Anne Brooks; Judith Bruckner; Michael Bessette; Norm Roche

Board Members Absent: Judith Vitucci

Ex Officio Member Present: Charles Minor

Advisory Members Present: Lynn Bittner, DaVee Henderlong

Advisory Members Absent: Ann Hofmeister, Elizabeth Krakowski, Merlita Jones, Nina Meyers, Susan Weber

Attorney: Colleen Flynn

Staff Members Present: Patsy Buker, Executive Director; Kathy Krause, Supervisor Family Child Care Homes; Kim Schneider, Board Recorder, and other Health Department staff

Call to order: The meeting was called to order at 1:30 p.m.

I.A. Announcements: Patsy Buker introduced Sandy Barbeau and Dorothy Williams, new licensing specialists for the Pinellas County Child Care Licensing Program.

I.B. Agenda:  
**Motion:** A motion was made by Lourdes Benedict and was seconded to approve the June 27, 2011 agenda. Unanimously approved.

Board Chair Request: Board Chair, Elise Minkoff, requested that Bathroom Requirements be added to Action Items.

Public Comment: There were no public comments for items not on the agenda.

I.C. Capacity: Colleen Flynn requested to speak prior to Patsy Buker's Capacity presentation.

I.C. Capacity: Ms. Flynn stated that the language the Board attempted to

pass on May 25<sup>th</sup> was not valid, as under Option C, which maxes out the total number of children a provider can have at 10.

Ms. Buker, Executive Director, presented the Executive Director Report that included a presentation regarding recommendations for Options A, B and C of the Large Family Child Care Homes.

**1. Family Child Care Home:** means an occupied residence in which child care is regularly provided for children from at least two unrelated households with or without compensation. A family child care home shall be allowed to provide care for one of the following groups of children, which shall include household preschool aged children whether present or not, and household school aged children under 13 years of age when on the premises of the family child care home or on a field trip with children enrolled in care.

A) A maximum of 6 children, if no more than 3 are under 18 months of age

B) A maximum of 6 preschool aged children, if no more than three are under 18 months of age, and all are older than 12 months of age

C) A maximum of 10 children total, of which, a maximum of 8 children are in Child Care status. Of the 10 total children, no more than five are preschool age and of those five no more than three are under 18 months of age, and of those three, no more than two are under 12 months of age.

**2. Large Family Child Care Home** – A large family child care home for the purposes of this regulation means a home that is licensed under section 402.3131, F.S. A large family child care home means an occupied residence in which child care is regularly provided for children with or without compensation from at least two (2) unrelated households and which has at least two (2) full-time child care personnel on the premises during the hours of operation. One (1) of the two (2) full-time child care personnel must be the operator or the operator's substitute. A large family child care home must first have operated as a licensed family child care home for two (2) consecutive years, with an operator who has had a child development associate credential or its equivalent for one (1) year, before seeking licensure as a large family child care home. The two consecutive years of operation as a licensed family child care home must have been in the state of Florida and within five years of the date of application to operate a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include household preschool aged children whether present or not, and

household school aged children under 13 years of age when on the premises of the large family child care home or on a field trip with children enrolled in care:

A) A maximum of 8 children from birth to 24 months of age

B) A maximum of 12 children, with no more than 4 children under 24 months of age

Large family child care homes must meet and comply with all standards of this regulation at all times unless there are insufficient numbers of children in care to meet the definition of a large family child care home in which case an additional employee is not required.

For increased capacity requests, Ms. Buker confirmed that the specialists would go out and re-measure per child, inside and outside.

**Public Comment:**

Lynn Gibson, 8697 78<sup>th</sup> Avenue North, Seminole, FL 33777  
Ms. Gibson, speaking as a group for the PCLP Yahoo Group, wanted to clarify that Option C would give providers eight slots to work out of and then give them 2 more. This would “equal out the playing field” for the provider to have 10 children, but the provider would start losing clients from this side to get to have 10 children, so when the household children “edge off,” the provider can plan up to 8 slots.

**Motion:**

A motion was made by Michael Bessette and was seconded to approve the change of Option C, effective July 1, 2011. Unanimously approved.

**I.D. Bathroom Requirements**

Ms. Buker stated that Pinellas County Standards requires homes shall have at least one toilet, one bath tub and one lavatory for hand washing purposes provided no more than a total of 8 persons are using the bathroom facilities of the home.

After much research and consultation, it was discovered that Pinellas County is the only entity that utilizes these bathroom requirements. The requirement probably came into effect in the ‘70s when there was concern about the over usage of septic tanks (septic tanks size is approved by the number of bedrooms in a residence).

Ms. Buker added that the State says each family daycare home shall provide and maintain toilet and bath facilities that are easily accessible and at a height useful by the children.

**Motion:**

A motion was made by Michael Bessette and seconded to include the language “Homes shall have at least one toilet, one bath tub/shower and one lavatory for hand washing purposes” and striking ~~“provided no more than a total of 8 persons including family and the operator are using the bathroom facilities of the house.”~~ This language will be

effective July 1, 2011. Unanimously approved.

Ms. Buker added that our specialists will be trained to learn what is acceptable bathroom cleanliness and what is not.

**Public Comment:**

Lynn Gibson, 8697 78<sup>th</sup> Avenue North, Seminole, FL 33777  
Ms. Gibson, speaking as a group for the PCLP Yahoo Group, thanked the Board, stating she was very happy with the recommended change.

**Motion to Adjourn:**

A motion was made Anne Brooks to adjourn the meeting at 2:37 p.m. and was seconded. Unanimously approved.

Respectfully Submitted by:

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Judi Vitucci, Board Secretary

PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS  
AND FAMILY DAY CARE HOMES  
Minutes for the Regular Board Meeting  
July 14, 2011

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 Monday, July 14, 2011, at 6500 102<sup>nd</sup> Avenue North, Pinellas Park, to begin at 6:30 p.m.

Board Members Present: Elise Minkoff, Board Chair; Judith Vitucci; Anne Brooks; Judith Bruckner; Michael Bessette; Norm Roche

Board Members Absent: Lourdes Benedict

Ex Officio Member Present: Charles Minor

Advisory Members Present: Ann Hofmeister; Elizabeth Krakowski; DaVee Henderlong; Nina Meyers

Advisory Members Absent: Lynn Bittner; Merlita Jones; Susan Weber

Attorney: Colleen Flynn

Staff Members Present: Patsy Buker, Executive Director; Kathy Krause, Supervisor Family Child Care Homes; Jorie Massarsky, Supervisor Children's Centers; Kim Schneider, Board Recorder, and other Health Department staff

Call to order: The meeting was called to order at 6:32 p.m.

I. A. Announcements: Patsy Buker introduced Kim Schneider, Staff Assistant, as new Board Recorder.

I. B. Agenda:  
**Motion:**

A motion was made by Judith Vitucci and was seconded by Judith Bruckner to approve minutes from the 5/25/11 Special Board Meeting. Unanimously approved.

Public Comment: There were no public comments for items not on the agenda.

II. A.1. **Motion:**

A motion was made by Judith Vitucci and was seconded that seven (7) new Children's Centers be approved for Regular Licenses.

Jorie Massarsky added that two centers executed name change amendments on 7/11/11 for their corporation. Therefore, Plato Academy Preschool Largo and Plato Academy Preschool North will have their regular licenses issued to Superior School Corporation. The corporation's EIN number and history remains unchanged. All centers recommended for license have been on Temporary Permit for one (1) year and have demonstrated that they can maintain compliance. Unanimously approved.

- A.2. **Motion:** A motion was made by Commissioner Roche and was seconded that eighteen (18) new Family Day Care Homes be approved for Regular Licenses. Unanimously approved.
- A.3. **Motion:** A motion was made by Judith Bruckner and was seconded that one (1) license change for New Centers/Homes be approved for Capacity Change from a Family Child Care Home to a Large Family Child Care Home. Unanimously approved.
- B. There were no Attorney Items/Updates.
- C. **Motion:** A motion was made by Judith Vitucci and seconded to accept Elise Minkoff as Board Chairman. Unanimously approved.
- Elise Minkoff thanked the Board and shared that her term on the Juvenile Welfare Board concludes in August 2012. Ms. Minkoff has not yet made a decision to reapply for a second term. If she chooses to reapply for a second term, there is no guarantee that JWB will accept her application. Ms. Minkoff encourages the Board to begin looking for leadership considerations for the next year.
- D. Gayle Guidash, Division Director, presented the PCLB Budget Overview and Training (Special District) that included a request to approve Resolution 11-02 to Amend 2010-2011 Budget and Proposed Budget Amendment, a request to approve Resolution 11-01 as well as a request to adopt the Fifth Amendment to Interlocal Agreement.
- Motion:** Proposed Budget Amendment for 2010-2011  
A motion was made by Commissioner Roche to approve Resolution 11-02, which was seconded and upon roll call, the vote was unanimously approved.  
AYES: Michael Bessette; Anne Brooks; Judith Bruckner; Elise Minkoff; Norm Roche
- NAYS: 0
- ABSENT AND NOT VOTING: Lourdes Benedict
- E. **Motion:** Proposed Budget Amendment for 2011-2012  
A motion was made by Judith Vitucci to approve Resolution 11-01 and was seconded. Upon roll call, the vote was unanimously approved.
- AYES: Michael Bessette; Anne Brooks; Judith Bruckner; Elise Minkoff; Norm Roche
- NAYS: 0
- ABSENT AND NOT VOTING: Lourdes Benedict

Board Direction: Ms. Minkoff requested that an efficiency study be conducted regarding legal fees for monitoring purposes. Ms. Guidash to provide this information at the October Board for any action required prior to the Legislative Session.

F. **Motion:** A motion was made by Judith Bruckner and was seconded by Commissioner Roche to approve the recommendation to adopt the 5<sup>th</sup> Amendment to Interlocal Agreement. Unanimously approved.

AYES: Michael Bessette; Anne Brooks; Judith Bruckner; Elise Minkoff; Norm Roche

NAYS: 0

ABSENT AND NOT VOTING: Lourdes Benedict

III. A. Patsy Buker, Executive Director, discussed:

- The increase in capacity – Forty-two (42) Family Child Care Homes have applied to date. Eight (8) applications have been approved and thirteen (13) applications were returned due to missing items. All but ten (10) are already assigned. Patsy gave “kudos” to Kathy Krause and her staff for a job well done.
- That Judy Scott from JWB will complete a side-by-side comparison of the rules and regulations of the Pinellas County Licensing Board, Early Learning Coalition, and Coordinated Child Care of Pinellas County. This task will be for internal review and there will be no charge for Ms. Scott’s services as these services are a part of a JWB initiative.

B. Statistical Report

C. Revenue and Expense Report

D. Administrative Reports

E. Training

- Ann Hofmeister narrated a PowerPoint presentation about the Pinellas County Licensing Board History.
  - Ms. Minkoff requested a copy of Ms. Hofmeister’s presentation to include in the JWB board packet.
- Colleen Flynn presented the PCLB By-Laws and Board Membership and Duties.

**Board Direction:** Ms. Minkoff would like to continue the remaining training topics at the October 5, 2011 Regular Board Meeting. It is extremely important for the board to be in compliance at all times.

Ms. Minkoff expressed her thanks and appreciation to all PCLB Board Members and Advisory Board Members for their continued devotion and dedication to the children in Pinellas County. She also expressed her gratitude to Ms. Guidash for her comprehensive, yet clear explanation of the budget and budget resolutions.

**Motion to Adjourn:** A motion was made Judith Bruckner to adjourn the meeting at 8:37 p.m. and was seconded. Unanimously approved.

Respectfully Submitted by:

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Judi Vitucci, Board Secretary

**II. ACTION ITEMS**

**A. RECOMMENDATION: LICENSES FOR NEW CENTERS/HOMES**

1. CHILDREN'S CENTERS: REGULAR LICENSES: 3

| <b>Center Name</b>                    | <b>Address</b>                           | <b>Owner</b>                           | <b>Category</b> | <b>Capacity</b>           | <b>Age</b>                                    |
|---------------------------------------|--|--|-----------------|---------------------------|---|
| Handprints Academy                    | 241 Omaha Street<br>Palm Harbor          | PPALC, Inc.                            | Day<br>Nursery  | 76<br>with<br>16 infants  | 2 Months through 6 Years<br>and<br>School Age |
| Leap Forward Academy                  | 1410 East Lake Road N.<br>Tarpon Springs | Leap Forward<br>Academy, LLC           | Day<br>Nursery  | 133<br>with<br>13 infants | 2 Months through 6 Years<br>and<br>School Age |
| North Bay Church Christian<br>Academy | 3170 McMullen Booth Rd.<br>Clearwater    | North Bay<br>Community<br>Church, Inc. | Day<br>Nursery  | 25                        | 2 Years through 6 Years<br>and<br>School Age  |

**Board Motion: To approve, modify or deny**

**II. ACTION ITEMS**

**A. RECOMMENDATION: LICENSES FOR NEW CENTERS/HOMES**

**2. FAMILY DAY CARE HOMES: REGULAR LICENSES: 11**

| <b>Provider Name</b> | <b>City</b>    |
|----------------------|----------------|
| Brown, Terri         | St. Petersburg |
| Clayton, Elysia      | St. Petersburg |
| Coll, Christie       | Madeira Beach  |
| Collins, Davina      | Largo          |
| Daniels, Shurrea     | St. Petersburg |
| Dupes, Krista        | St. Petersburg |
| Flowers, Latisha     | St. Petersburg |
| Nesbitt, Janieuisse  | St. Petersburg |
| Owens, Lunique       | St. Petersburg |
| Piper, Teresa        | Pinellas Park  |
| Wilson, Katrina      | St. Petersburg |

**Board Motion: To approve, modify or deny**

**II. ACTION ITEMS**

**A. RECOMMENDATION: LICENSES CHANGES FOR NEW CENTERS/HOMES**

3. FAMILY DAY CARE HOMES: REGULAR LICENSE FOR LARGE FAMILY CHILD CARE HOME: 1

| <b>Provider Name</b> | <b>City</b>        | <b>Type of Change</b> | <b>Change From</b> | <b>Change To</b> |
|----------------------|--------------------|-----------------------|--------------------|------------------|
| Byrd, Shoneka        | St. Petersburg, FL | Capacity              | FCCH               | LFCCH            |

**Board Motion: To approve, modify or deny**

## II. ACTION ITEMS

### B. 2012 Recommended Board Meeting Dates Selection (To be determined)

|          |                            |   |           |
|----------|----------------------------|---|-----------|
| Thursday | January 19 <sup>th</sup>   | @ | 1:30 p.m. |
| Thursday | March 15 <sup>th</sup>     | @ | 6:30 p.m. |
| Thursday | June 21 <sup>st</sup>      | @ | 1:30 p.m. |
| Thursday | September 20 <sup>th</sup> | @ | 6:30 p.m. |
| Thursday | December 6 <sup>th</sup>   | @ | 1:30 p.m. |

**Board Motion: To approve, modify or deny**

## **INFORMATION ITEMS**

### **A. EXECUTIVE DIRECTOR REPORT**

**October 5, 2011**

#### **Quality Assurance Activities**

We are continuing the QA processes, including peer file reviews, supervisory observation of inspection visits, paper reviews of multiple factors regarding licensing issuance, and frequent discussions with staff members to ensure that everyone understands their own role and how it interfaces with the efforts of the team as a whole.

#### **Written Communications to Providers**

We are collecting topics for another mailing to all of our licensed providers and we plan to send it out in October or November. Among the topics will be the continued need for close supervision of children, crib re-call information, changes in CCLP staff, changes to State regulations, screening of substitutes and a variety of clarifications to questions about our regulations and clarification between our regulations and those of the Early Learning Coalition and Coordinated Child Care of Pinellas, Inc.

#### **Legislative Updates**

Elise Minkoff and Patsy Buker appeared before the Pinellas Legislative Delegation on September 14<sup>th</sup> in Pinellas Park. We were able to give a brief update of the PCLB's work and we informed the Legislators that the PCLB had approved the changes to Family Child Care Home capacity that were included in their Local Bill 01 that had not been passed by the Legislature last year. Representative Nehr commended us for working closely with providers and making this progress.

Elise Minkoff, Gayle Guidash, and Patsy Buker met with Representative Ahern on August 23<sup>rd</sup> at his request. This proved to be an excellent opportunity to hear the Representative's concerns and to provide some important information and feedback. Representative Ahern had concerns about unlicensed child care and what the PCLB was doing about it.

Legislation has been filed that would require vehicle alarms in child care facility and large family child care vehicles that are used to transport children. The alarm would have to be turned off by the operator after a full sweep of the vehicle is completed. This is a protective measure in light of the fact that children have perished in child care vehicles when forgotten by staff. Additionally, legislation has been filed that would require that children seven years of age and under and of a certain size to be properly protected by approved safety equipment when transported by any child care operator.

#### **Budget and Contract Updates**

We are very fortunate to have received the same amounts of funding this year as we had last year from JWB, DCF, and the Health Department. All contracts are signed and in place.

## Topics for Board Consideration

We are working on a number of topics, projects and proposals that we would like to bring to the attention of the Board and Advisory Committee for consideration in January at the regularly scheduled meeting. They will be introduced in this report and staff will follow up with whatever actions the Board deems appropriate. The topics include:

- 1) Changing the PCLB fine levels for non compliance to State levels  
The PCLB adopted a more stringent fine schedule than the State's and we would like to be closer to the State's structure regarding fine amounts.
- 2) Change of ownership in centers regulations  
This topic has been reviewed by legal counsel and will be presented at the January meeting. It appears that this State regulation that was created for good reasons also creates a loop hole for failing centers to continue in some situations with only slight modifications in ownership.
- 3) Locks on exit doors and fire codes  
There continues to be a discrepancy between certain municipal and state fire codes and our regulations on locking exit doors. Our regulation is also unclear in that it requires that "Locks not accessible to children must be on all doors leading to the outside and to areas off limits to children." It does not say that the locks must be engaged. Our regulations also say that "All exits leading to the outside of the family child care home must be free of obstruction." I have been in some homes where there are three or more locks that are engaged on their front doors, which could be considered as an obstruction in case of a fire, or a need for first responders to gain entry. As an interim measure, we have discontinued finding providers out of compliance if their exit doors are not locked.
- 4) "With or without compensation"  
We are looking at the ramifications of changing the wording in our regulations for children's centers, only. The State does not have that modifier for centers and we have had a request from the City of Pinellas Park to eliminate it for centers in our regulations. While staff is interested in discussing this option for centers, we feel that it is important to keep it for family child care homes, as it would be often claimed in unlicensed care that the provider is not charging fees. We will bring additional information for the Board to consider in January.
- 5) Unlicensed child care  
We are looking at the possibilities for tracking the advertisement of unlicensed care on Craig's List and other media. We are currently investigating all complaints of licensed care that we receive. This involves sending a Licensing Specialist out to the site when we have an address and/or responding electronically when all that we have is an e-mail address. We are also implementing a plan for active outreach to the public about the importance of licensed care for children.
- 6) Regulations for locking toxins and sharp objects  
We have received numerous requests to modify our regulations for centers to eliminate the requirement for a lock to keeping these items inaccessible to children. We would like to work with some center providers to see if we can come up with some compromise language that is mutually acceptable and present it for the January Board meeting for consideration.

- 7) Field trip regulations for Large Family Child Care Homes  
The PCLB increased the capacity for Family Child Care Homes (FCCH) in July of 2011. When a Large Family Child Care Home (LFCCH) has fewer children present or on a field trip and thus becomes covered under the capacity of a regular FCCH, they are allowed to let their employee leave and they fall under the regulations for a regular FCCH. This can occur on a daily basis or an occasional basis, due to scheduling of care or non attendance by children. This regulation needs to be updated to allow for the new FCCH capacity to reflect in LFCCH field trip supervision. Staff will bring a recommendation to the January Board to clarify the capacities for LFCCH's.
- 8) FS 435 regarding background screening  
Our legal counsel is working on wording to incorporate into our regulations that would comport with State laws. This will be presented for January's meeting.
- 9) Preschool aged children, present or not  
Staff would like to open dialogue with the Board regarding the requirement in PCLB regulations that preschool aged children count towards capacity in Family Child Care Homes even when they are not at home. I believe that this regulation may be based on a belief that if a provider's preschooler is at a center and becomes ill, the provider will want to immediately respond and bring the child home. That situation has at least two potential problems: if the child comes home, there needs to be an available slot for the child that will not put the home over capacity and if the provider needs to leave to pick up his or her child, the other child care children need to continue to be appropriately supervised. While preschoolers may be more prone to illnesses, the same challenge exists if the provider's 12 year old breaks a leg at recess, and there would also be a potential challenge to providing care if the provider has an infirm adult family member living nearby for whom the provider is responsible for providing care.

### **Changes in Child Care Licensing Program Staff**

Bridget Livingston who has worked as our Sr. Clerk for Children's Centers for the last several months has transferred to the St. Pete Center to work in immunizations. We are interviewing to find a replacement for Bridget and we hope to fill the position very quickly.

### **Media Contacts**

#### **Oldsmar Learning Center**

There was an article in the St. Petersburg Times on August 20th regarding the Oldsmar Learning Center. The article was forwarded to the Board and Advisory Committee and is attached to this report. This investigation was started when a Times reporter contacted us to ask if we were aware that an individual who was disqualified and not eligible to be around children in a child care setting was an Owner/Director of a licensed children's center in Oldsmar. We were obviously not aware but we immediately took action by calling the individual and inviting her to meet with us, which she did that evening.

We researched her situation by contacting the State Attorney's Office to verify that she had indeed pled to a charge that was a disqualifier and we worked closely with the DCF Background Screening office to determine our best course of action. We also had the individual undergo another Live Scan fingerprinting while at our office so that we could verify the ineligibility. We

## Media Contacts

### Oldsmar Learning Center (continued)

informed the Owner/Director that she could not be around children in her child care center, effective immediately. We advised that she would need to hire another credentialed and screened Director if Oldsmar Learning Center was to continue.

The Coordinated Child Care and the Early Learning Coalition were notified of the disqualification and the changes necessitated by that and they notified parents of children at the center that they would be assisted in locating other child care settings for their children that could be paid for by scholarship funding as that was no longer an option at Oldsmar Learning Center. The center has stopped providing child care and we have sent a Notice of Intent to Revoke the license of Oldsmar Learning due to having a disqualified person as the Director. We are currently awaiting confirmation that the Notice of Intent to Revoke has been personally served via a process server as to date we have not received confirmation that the certified letters attempting to serve the Notice of Intent to Revoke has been received by the licensee. This situation brought a troublesome gap in the system to light for us and for the Times. Every family child care provider, center owner, center director and every employee at a licensed child care setting must undergo background screening and they must sign a DCF Affidavit of Good Moral Character. The affidavit lists all of the offenses in the criminal justice system that disqualifies a person from being around children in child care. Further, by signing the affidavit an employee agrees to immediately notify his or her employer if he or she is arrested for a disqualifying offense, which is a good policy. However, there is no requirement for a children's center owner (who in most cases is serving as the Director or an employee) to notify anyone of a disqualifying arrest, nor is there a requirement for family child care homes to notify anyone of their disqualifying arrest.

Presumably, the disqualifying arrest and conviction would come to light at their next required Live Scan screening, but that is only required every five years for owners, directors and FCCH providers. In this case, perhaps we were fortunate in that the provider "only" pled to grand theft, rather than to a crime against a child.

In this particular instance, the Owner/Director was arrested on multiple charges of fraud and financial crimes; none of which are on the DCF list of disqualifying crimes. However, when she made her plea deal it was for a disqualifying offense. I share this with you to help you understand that if even if we were able to track arrests, which we are not, due to the sheer volume of individuals connected with licensed child care, it would not be a full solution. Many arrests are not brought to court and perhaps the majority of cases that are prosecuted are brought in and or disposed of under different charges.

I spoke with Bernie McCabe, our State Attorney, about this and he said that he could not see a way to cross reference data from his office with individuals in child care settings from our licensure data systems on an ongoing basis. He suggested that the PCLB consider adding a requirement that all licensed providers in homes and Center Directors and Owners (employees of Centers and Homes are required to report a disqualifying arrest to their employer and the employer is required to take action as dictated by statute) report all arrests to the Child Care Licensing Program immediately so that they could be investigated and tracked by us. He further suggested that we incorporate some sort of consequences for providers who fail to give us appropriate notification of their arrests.

### Planned Outreach Activities

I have met with Mike Bross of the Hillsborough County licensing program and we discussed initiating some joint efforts for trying to engage media outlets that are regional in their coverage. My plan is to contact some print media and television and radio stations to see if we can communicate through them to help parents be more informed about the importance of using quality, licensed child care for their children. I think that if we offer to communicate in a broader perspective, including weighing out homes versus centers and how to select a setting that best meets your child's needs, etc. we will have more success in getting articles printed and being offered opportunities to be included in broadcasted programs than if we approach this from the more narrow perspective of eliminating unlicensed care. We will also target some of the local neighborhood based newspapers to see if we can get some information regarding quality child care published.

**III. INFORMATION ITEMS  
B. STATISTICAL REPORT**

Statistical Report for August 2011

|  | HOMES      |             |           |            | CHILDREN'S CENTERS |              |            |              |          |            |           |            |
|--|------------|-------------|-----------|------------|--------------------|--------------|------------|--------------|----------|------------|-----------|------------|
|  | FDCH       |             | LFDCH     |            | Preschool          |              | B/A School |              | Exempt   |            | Nonpublic |            |
| Previous Months Totals   | #          | Capacity    | #         | Capacity   | #                  | Capacity     | #          | Capacity     | #        | Capacity   | #         | Capacity   |
| Monthly Activity   | 507        | 2740        | 40        | 345        | 265                | 22404        | 98         | 13602        | 4        | 272        | 23        | 988        |
| <b>1. Temporary Permits</b><br>1st Time TP                                       | 4          | 30          | 1         | 12         | +4                 | +284         | +1         | +75          |          |            |           |            |
| <b>2. Capacity Change - current licenses</b><br><b>New capacity began 7/1/11</b> | *11        | *88         |           |            |                    | +54          |            | -40          |          |            |           | +1         |
| <b>3. Closed - # with capacity</b>   | -10        | -50         |           |            | -4                 | -148         |            |              |          |            | -1        | -108       |
| <b>4. Corrections - from previous reports</b> Explain below*                     |            |             |           |            |                    |              |            |              |          |            |           |            |
| <b>Total Capacity</b>  | <b>501</b> | <b>2720</b> | <b>41</b> | <b>357</b> | <b>265</b>         | <b>22594</b> | <b>99</b>  | <b>13637</b> | <b>4</b> | <b>272</b> | <b>22</b> | <b>881</b> |

\*11 providers increased their capacity by 3 children.

| Monthly Tally Sheet Summary       | Homes       | FDCH        | LFDCH      | CC           | Infant Centers | Health |
|-----------------------------------|-------------|-------------|------------|--------------|----------------|--------|
| <b>Total Number</b>               | <b>542</b>  | <b>501</b>  | <b>41</b>  | <b>390</b>   | <b>112</b>     |        |
| <b>Total Capacity</b>             | <b>3077</b> | <b>2720</b> | <b>357</b> | <b>37384</b> | <b>1842</b>    |        |
| <b>1. Licensing</b>               |             |             |            |              |                |        |
| a. Pre-licensing inspections      | 4           |             |            | 6            |                |        |
| b. - e. Inspections/ Re-checks    | 119         |             |            | 85           |                |        |
| f. TA/Consultation                | 6           |             |            | 8            |                |        |
| g. Unlicensed care investigations | 27          |             |            | 1            |                |        |
| h. Children's Records (only)      |             |             |            | 0            |                |        |
| i. Renewal licenses issued        | 49          |             |            | 39           |                |        |
| <b>2. Enforcement</b>             |             |             |            |              |                |        |
| a. Complaints                     | 3           |             |            | 8            |                |        |
| b. Fines administered             | 4           |             |            | 21           |                |        |
| c. Conferences                    | 0           |             |            | 2            |                |        |
| d. Intent to deny/suspend/revoke  | 0           |             |            | 0            |                |        |
| e. - f. Hearings                  | 0           |             |            | 0            |                |        |
| <b>3. Training Presented</b>      |             |             |            |              |                |        |
| a. Number of trainings            | 0           |             |            | 3            |                |        |
| b. Number of hours                | 0           |             |            | 12           |                |        |
| <b>4. Training Taken</b>          |             |             |            |              |                |        |
| a. Number of trainings            | 0           |             |            | 10           |                |        |
| b. Number of hours                | 0           |             |            | 10           |                |        |
| <b>5. Health Inspections</b>      |             |             |            |              |                |        |
| a. Food                           |             |             |            | 118          |                |        |

**II. INFORMATION ITEMS**  
**C. REVENUE AND EXPENSE REPORT**

PINELLAS COUNTY LICENSE  
 BOARD

REVENUE & EXPENSE BUDGET REPORT

10/01/2010 (Program Year 2010-2011) **Cash Basis**

**ALL FUND SUMMARY**

| <b>ACCOUNT</b>                   | <b>AMENDMENT<br/>#2</b> | <b>AUGUST<br/>Actual</b> | <b>ALL FUNDS<br/>SPENT<br/>8/31/2011</b> | <b>UNSPENT<br/>BALANCE</b> | <b>PROJECTED<br/>9/1-9/30/11</b> | <b>VARIANCE<br/>9/30/2011</b> | <b>PROJECTED<br/>%</b> |
|----------------------------------|-------------------------|--------------------------|--|----------------------------|----------------------------------|-------------------------------|------------------------|
| <b>TOTAL SALARIES</b>            | 598,578.00              | 34,138.89                | <b>506,401.82</b>                        | 111,150.18                 | 70,266.77                        | 40,883.41                     | <b>82.00%</b>          |
| FICA/MEDICARE                    | 45,332.00               | 2,611.56                 | <b>38,748.20</b>                         | 8,518.80                   | 5,372.97                         | 3,145.83                      | <b>81.98%</b>          |
| RETIREMENT                       | 52,795.00               | 1,676.25                 | <b>50,346.05</b>                         | 16,255.95                  | 3,666.61                         | 12,589.33                     | <b>75.59%</b>          |
| HEALTH/LIFE/DIS                  | 160,127.00              | 10,203.22                | <b>138,427.41</b>                        | 30,148.59                  | 12,463.77                        | 17,684.82                     | <b>82.12%</b>          |
| <b>TOTAL FRINGE BENEFITS</b>     | 258,254.00              | 14,491.03                | <b>227,521.66</b>                        | 54,923.34                  | 21,503.35                        | 33,419.99                     | <b>80.55%</b>          |
| <b>TOTAL SALARY AND BENEFITS</b> | 856,832.00              | 48,629.92                | <b>733,923.48</b>                        | 166,073.52                 | 91,770.12                        | 74,303.40                     | <b>81.55%</b>          |
| TELEPHONE                        | 2,447.00                | 226.11                   | <b>2,404.20</b>                          | 42.80                      | 208.83                           | (166.03)                      | <b>98.25%</b>          |
| CELLULAR PHONES                  | 900.00                  | 55.26                    | <b>608.55</b>                            | 291.45                     | 94.62                            | 196.83                        | <b>67.62%</b>          |
| POSTAGE                          | 6,400.00                | 0.00                     | <b>2,774.71</b>                          | 3,025.29                   | 817.76                           | 2,207.53                      | <b>47.84%</b>          |
| PRINTING                         | 6,500.00                | (143.80)                 | <b>2,075.45</b>                          | 3,924.55                   | 903.43                           | 3,021.12                      | <b>34.59%</b>          |
| TRAVEL                           | 23,781.00               | 988.33                   | <b>13,496.39</b>                         | 8,667.61                   | 701.20                           | 7,966.41                      | <b>60.89%</b>          |
| EDUCATIONAL MATERIALS            | 1,000.00                | 0.00                     | <b>182.50</b>                            | 817.50                     | 136.25                           | 681.25                        | <b>18.25%</b>          |
| OFFICE SUPPLIES                  | 9,313.00                | 20.79                    | <b>7,863.24</b>                          | 605.76                     | 744.37                           | (138.61)                      | <b>92.85%</b>          |
| INFO. TECHNOLOGY                 | 12,000.00               | 2,447.78                 | <b>5,347.78</b>                          | 6,652.22                   | 0.00                             | 6,652.22                      | <b>44.56%</b>          |
| RENT- OFFICE SPACE               | 73,776.00               | 5,667.22                 | <b>66,494.87</b>                         | 7,281.13                   | 0.00                             | 7,281.13                      | <b>90.13%</b>          |
| RENT- STORAGE SPACE              | 1,500.00                | 200.78                   | <b>1,402.24</b>                          | 97.76                      | 140.98                           | (43.22)                       | <b>93.48%</b>          |
| RENT- EQUIPMENT (COPIER)         | 3,144.00                | 261.91                   | <b>2,619.10</b>                          | 524.90                     | 261.91                           | 262.99                        | <b>83.30%</b>          |
| SUBSCRIPTIONS/DUES               | 276.00                  | 0.00                     | <b>275.52</b>                            | (100.52)                   | 0.00                             | (100.52)                      | <b>157.44%</b>         |
| CONTRACTUAL- Audit               | 14,000.00               | 0.00                     | <b>14,000.00</b>                         | 0.00                       | 0.00                             | 0.00                          | <b>100.00%</b>         |
| CONTRACTUAL- Legal Fees          | 79,307.00               | 2,121.00                 | <b>51,863.36</b>                         | 3,433.64                   | 2,694.25                         | 739.39                        | <b>93.79%</b>          |
| CONTRACTUAL- Advertising         | 3,000.00                | 0.00                     | <b>1,320.82</b>                          | 1,679.18                   | 405.13                           | 1,274.05                      | <b>44.03%</b>          |
| FINGER-PRINT EXPENSE             | 8,337.00                | 3,270.00                 | <b>29,582.25</b>                         | (23,025.25)                | 2,000.00                         | (25,025.25)                   | <b>451.16%</b>         |
| HR ASSESSMENT FEE                | 5,224.00                | 1,132.81                 | <b>4,471.97</b>                          | 752.03                     | 1,498.94                         | (746.91)                      | <b>85.60%</b>          |
| <b>TOTAL OPERATING</b>           | 250,905.00              | <b>16,248.19</b>         | <b>206,782.95</b>                        | <b>14,670.05</b>           | 10,607.67                        | 4,062.38                      | <b>93.38%</b>          |

**III. INFORMATION ITEMS**  
**C. REVENUE AND EXPENSE REPORT** (continued)

| ACCOUNT                           | AMENDMENT<br>#2 | AUGUST<br>Actual    | SPENT<br>8/31/2011         | UNSPENT<br>BALANCE       | PROJECTED<br>9/1-9/30/11 | VARIANCE<br>9/30/2011 | PROJECTED<br>%       |
|-----------------------------------|-----------------|---------------------|----------------------------|--------------------------|--------------------------|-----------------------|----------------------|
| ADMIN. COST- PinCHD In-Kind       | 71,792.00       | 4,084.67            | <b>61,645.90</b>           | 13,949.10                | 6,551.97                 | 7,397.13              | <b>81.55%</b>        |
| ADMIN. COST- PinCHD, JWB,<br>Fees | 46,700.00       | 2,650.53            | <b>40,001.76</b>           | 9,051.24                 | 4,251.65                 | 4,799.59              | <b>81.55%</b>        |
| <b>TOTAL ADMIN. COST</b>          | 118,492.00      | 6,735.20 *          | <b>101,647.66</b>          | 23,000.34                | 10,803.62                | 12,196.72             | <b>81.55%</b>        |
| <b>ALL FUND TOTAL EXPENSES</b>    | 1,226,229.00    | <u>71,613.31</u>    | <u><b>1,042,354.09</b></u> | <u>203,743.91</u>        | <u>113,181.41</u>        | <u>90,562.50</u>      | <u><b>83.65%</b></u> |
| <b>REVENUE SOURCES:</b>           |                 |                     |                            |                          |                          |                       |                      |
| JWB                               | 609,614.00      | 30,618.80           | <b>459,852.01</b>          | 149,761.99               | 64,218.65                | 85,543.34             | <b>75.43%</b>        |
| DCF                               | 282,122.00      | 0.00                | <b>211,591.44</b>          | 70,530.56                | 70,530.48                | 0.08                  | <b>75.00%</b>        |
| PinCHD                            | 109,086.00      | 3,692.36            | <b>64,016.49</b>           | 45,069.51                | 11,281.45                | 33,788.06             | <b>49.94%</b>        |
| PinCHD - In-Kind                  | 71,792.00       | 4,084.67            | <b>57,561.23</b>           | 14,230.77                | 6,494.74                 | 7,736.03              | <b>77.55%</b>        |
| LB FEES & FINES                   | 125,944.00      | 8,912.25            | <b>110,993.15</b>          | 14,950.85                | 10,932.70                | 4,018.15              | <b>87.20%</b>        |
| LB FINGER PRINT FEES              | 8,337.00        | 4,223.75            | <b>28,371.52</b>           | (20,034.52)              | 497.20                   | (20,531.72)           | <b>405.31%</b>       |
| FUND BALANCE                      | 19,334.00       | 2,276.04            | <b>13,081.66</b>           | 6,252.34                 | 1,398.18                 | 4,854.16              | <b>74.07%</b>        |
| <b>ALL FUND TOTAL REVENUE</b>     |                 | <u>1,226,229.00</u> | <u>53,807.87</u>           | <u><b>945,467.50</b></u> | <u>280,761.50</u>        | <u>165,353.40</u>     | <u><b>75.87%</b></u> |

**III. INFORMATION ITEMS**  
**D. ADMINISTRATIVE REPORT**  
**CHILDREN'S CENTERS**

**Children's Center Fines**  
**June - August 2011**

| <b>FINE DATE</b> | <b>PROVIDER</b>                       | <b>CLASS FINE</b> | <b>REASON</b>   | <b>DATE OF OCCURENCE</b> | <b>FINE</b> | <b>PAID</b> | <b>DATE PAID</b> |
|------------------|---------------------------------------|-------------------|---|--------------------------|-------------|-------------|------------------|
| 6/2/2011         | KinderCare Learning Center #1037      | III               | Children's Records-Expired Immunization Record                  | 6/2/2011                 | \$25.00     | \$25.00     | 6/13/2011        |
| 6/2/2011         |                                       | II                | Unlocked Cleaning Supplies                                      | 6/2/2011                 | \$50.00     | \$505.00    | 6/13/2011        |
| 6/10/2011        | Little Ones Preschool                 | II                | Daily Attendance-Transitions Not Documented                     | 6/10/2011                | \$50.00     | \$50.00     | 6/10/2011        |
| 6/13/2011        | Sugar N Spice Learning Center         | III               | Forms - Acknowledgement Form Late                               | 6/13/2011                | \$25.00     | \$25.00     | 6/13/2011        |
| 6/15/2011        | Sonkised Preschool                    | II                | Unlocked Cleaning Supplies                                      | 6/15/2011                | \$50.00     | \$50.00     | 6/29/2011        |
| 6/14/2011        | PCHS – Jordan Park Center             | I (state)         | Mandatory Reporting   | 6/14/2011                | \$1,000.00  | \$1,000.00  | 6/22/2011        |
| 6/20/2011        | A Circle of Children                  | III               | Children's Records-Missing/Expired EMR                          | 6/20/2011                | \$50.00     | \$50.00     | 6/28/2011        |
| 6/23/2011        | Skycrest Christian Preschool          | II                | Daily Attendance Not Accurate                                   | 6/23/2011                | \$50.00     | \$50.00     | 6/23/2011        |
| 6/28/2011        | Kids Christian Care of the FUMC of PP | I (state)         | Mandatory Reporting   | 6/28/2011                | \$2,000.00  | \$2,000.00  | 6/28/2011        |
| 6/28/2011        | A Circle of Children                  | I                 | Premises – Hole in Fence  | 6/28/2011                | \$500.00    | \$500.00    | 7/13/2011        |
| 6/28/2011        | Educare of Palm Harbor                | II                | Child Discipline-Inappropriate                                  | 6/28/2011                | \$50.00     | \$50.00     | 7/11/2011        |
| 7/1/2011         | Countryside Christian Academy         | III               | Personnel-Local Not Completed Prior to Hire Date Prior to Start | 7/1/2011                 | \$50.00     | \$50.00     | 7/8/2011         |
|                  |                                       | III               | Personnel-Results Not Back                                      | 7/1/2011                 | \$75.00     | \$75.00     | 7/8/2011         |
| 7/6/2011         | PCHS-Connie Marmaro                   | III               | Children's Records-Expired Emergency Medical Release Form       | 7/6/2011                 | \$50.00     | \$50.00     | 7/22/2011        |
| 7/6/2011         | COTI                                  | II                | Unlocked Toxics   | 7/6/2011                 | \$50.00     | \$50.00     | 7/12/2011        |
| 7/7/2011         | First Start CDC                       | II                | Outdoor Play Equipment-Not Maintained/Safe                      | 7/7/2011                 | \$50.00     | \$50.00     | 7/19/2011        |
| 7/7/2011         |                                       | II                | Daily Attendance Not Accurate                                   | 7/7/2011                 | \$75.00     | \$75.00     | 7/19/2011        |
| 7/7/2011         | A Child's Choice                      | II                | Outdoor Play Equipment-Not Maintained/Safe                      | 7/7/2011                 | \$50.00     | \$50.00     | 7/11/2011        |
| 7/7/2011         |                                       | II                | Unlocked Toxics   | 7/7/2011                 | \$50.00     | \$50.00     | 7/11/2011        |
| 7/8/2011         | Tutor Time                            | III               | Indoor Play Space Not in Good Repair                            | 7/8/2011                 | \$25.00     | \$25.00     | 7/8/2011         |

**III. INFORMATION ITEMS**  
**D. ADMINISTRATIVE REPORT**  
CHILDREN'S CENTERS(Continued)

| <b>FINE DATE</b> | <b>PROVIDER</b>          | <b>CLASS FINE</b> | <b>REASON</b>  | <b>DATE OF OCCURENCE</b> | <b>FINE</b> | <b>PAID</b>  | <b>DATE PAID</b> |
|------------------|--------------------------|-------------------|--|--------------------------|-------------|--------------|------------------|
| 7/11/2011        | Tiny Treasures Preschool | II                | Outdoor Play Space-Not Clean and Free of Hazards                     | 7/11/2011                | \$50.00     | \$50.00      | 8/4/2011         |
| 7/11/2011        |                          | II                | Unlocked Toxics  | 7/11/2011                | \$50.00     | \$50.00      | 8/4/2011         |
| 7/11/2011        |                          | III               | Diapering - Surface Not Impermeable                                  | 7/11/2011                | \$25.00     | \$25.00      | 8/4/2011         |
| 7/12/2011        | La Petite Academy        | II                | Expired Fire Inspection  | 7/12/2011                | \$50.00     | \$50.00      | 7/19/2011        |
| 7/13/2011        | Little Ones Preschool    | I                 | No Additional Adult on Field Trip                                    | 7/13/2011                | \$500.00    | Payment Plan |                  |
| 7/13/2011        |                          | I                 | Lack of Supervision of School Age Children When Separated from Group | 7/13/2011                | \$500.00    | \$500.00     | 7/20/2011        |
| 7/13/2011        |                          | I(state)          | Discipline - Severe/Humiliating                                      | 7/13/2011                | \$500.00    | \$500.00     | 8/16/2011        |
| 7/13/2011        |                          | I(state)          | Transportation-Seat Restraints Not Engaged                           | 7/13/2011                | \$500.00    | \$500.00     | 9/16/2011        |
| 7/13/2011        | Little People's LC of SH | III               | Children's Records-Expired Emergency Medical Release Form            | 7/13/2011                | \$25.00     | \$25.00      | 8/9/2011         |
| 7/13/2011        |                          | III               | Children's Records-Expired Immunization Record                       | 7/13/2011                | \$25.00     | \$25.00      | 8/9/2011         |
| 7/15/2011        | NorthLake PS             | III               | Children's Records-Incomplete Enrollment Form                        | 7/15/2011                | \$25.00     | \$25.00      | 8/2/2011         |
| 7/15/2011        |                          | III               | Children's Records-Expired Immunization Record                       | 7/15/2011                | \$25.00     | \$25.00      | 8/2/2011         |
| 7/15/2011        | Kidz World               | II                | Outdoor Play Equipment-Not Maintained/Safe                           | 7/15/2011                | \$50.00     | \$50.00      | 8/2/2011         |
| 7/15/2011        |                          | III               | Children's' Records-Expired Immunization Record                      | 7/15/2011                | \$25.00     | \$25.00      | 8/2/2011         |
| 7/15/2011        |                          | II                | Daily Attendance Not Accurate  | 7/15/2011                | \$75.00     | \$75.00      | 8/2/2011         |
| 7/15/2011        |                          | II                | Personnel-5 Yr Local Not Submitted Timely                            | 7/15/2011                | \$50.00     | \$50.00      | 8/2/2011         |
| 7/15/2011        |                          | II                | Personnel-5 Yr Local Not Submitted Timely/Rescreen Not Done Timely   | 7/15/2011                | \$50.00     | \$50.00      | 8/2/2011         |
| 7/14/2011        | Victory CDC              | III               | Children's Records-Expired Immunization Record                       | 7/14/2011                | \$25.00     | \$25.00      | 7/20/2011        |
| 7/19/2011        | A Child's Place          | II                | Supervision-Adult/Child Ration                                       | 7/19/2011                | \$50.00     | \$50.00      | 7/27/2011        |
| 7/19/2011        |                          | II                | Daily Attendance Not Accurate  | 7/19/2011                | \$50.00     | \$50.00      | 7/27/2011        |
| 8/2/2011         | Sunset Point Preschool   | II                | Daily Attendance-Transitions Not Documented                          | 8/2/2011                 | \$50.00     | \$50.00      | 8/2/2011         |

**III. INFORMATION ITEMS**  
**D. ADMINISTRATIVE REPORT**

CHILDREN'S CENTERS (Continued)

| <b>FINE DATE</b> | <b>PROVIDER</b>                | <b>CLASS FINE</b> | <b>REASON</b>   | <b>DATE OF OCCURENCE</b> | <b>FINE</b> | <b>PAID</b> | <b>DATE PAID</b> |
|------------------|--------------------------------|-------------------|---|--------------------------|-------------|-------------|------------------|
| 8/8/2011         | Mt. Zion Children's Center     | II                | Daily Attendance-Transitions Not Documented                     | 8/8/2011                 | \$25.00     | \$25.00     | 8/18/2011        |
| 8/8/2011         | Dunedin Academy                | III               | Children's Records-Expired Health Exam                          | 8/8/2011                 | \$25.00     | \$25.00     | 8/23/2011        |
| 8/9/2011         | Jack in the Box                | II                | Personnel-Local Not Completed Prior to Hire Date                | 8/9/2011                 | \$50.00     | \$50.00     | 8/29/2011        |
| 8/9/2011         |                                | II                | Personnel-Employment History Not Verified                       | 8/9/2011                 | \$75.00     | \$75.00     | 8/29/2011        |
| 8/9/2011         |                                | II                | Unlocked Flammable Products                                     | 8/9/2011                 | \$50.00     | \$50.00     | 8/29/2011        |
| 8/9/2001         | Paul R. Hortin CDC             | III               | Personnel-Literacy Not Completed Timely                         | 8/9/2001                 | \$25.00     | \$25.00     | 8/18/2011        |
| 8/10/2011        | Immaculate Conception          | II                | Discipline-Inappropriate  | 8/10/2011                | \$50.00     | \$50.00     | 9/1/2011         |
| 8/12/2011        | Community Pride-Breeden        | II                | Personnel-5 Yr Local Not Submitted Timely                       | 8/12/2011                | \$50.00     | \$50.00     | 8/24/2011        |
| 8/16/2011        | Kids Christian Care of FUMC    | II                | Unlocked Toxics   | 8/16/2011                | \$75.00     | \$75.00     | 8/16/2011        |
| 8/16/2011        |                                | II                | Unlocked Cleaning Supplies                                      | 8/16/2011                | \$50.00     | \$50.00     | 8/16/2011        |
| 8/16/2011        |                                | III               | Personnel-Expired Acknowledgement Forms                         | 8/16/2011                | \$25.00     | \$25.00     | 8/16/2011        |
| 8/17/2011        | Old Landmark Christian Academy | III               | Children's Records-Expired Immunization Record                  | 8/17/2011                | \$25.00     | \$25.00     | 9/2/2011         |
| 8/17/2011        |                                | II                | Dead Roach Observed on Floor in Infant Room                     | 8/17/2011                | \$50.00     | \$50.00     | 9/2/2011         |
| 8/18/2011        | Par Village                    | II                | Daily attendance-Transitions not documented                     | 8/18/2011                | \$75.00     | \$75.00     | 8/26/2011        |
| 8/24/2011        | Faith Academy                  | II                | Personnel-Local Not Completed Prior to Hire Date Prior to Start | 8/24/2011                | \$50.00     | \$50.00     | 8/30/2011        |
| 8/24/2011        | American Montessori            | II                | Unlocked Toxins   | 8/24/2011                | \$50.00     | \$50.00     | 9/13/2011        |
| 8/24/2011        |                                | II                | Outdoor Play Equipment-Not Maintained/Safe                      | 8/24/2011                | \$50.00     | \$50.00     | 9/13/2011        |
| 8/24/2011        | Immaculate Conception          | II                | Unlocked Toxics   | 8/24/2011                | \$75.00     | \$75.00     | 9/1/2011         |
| 8/24/2011        |                                | II                | Personnel-2 year Employment History Not Done Timely             | 8/24/2011                | \$50.00     | \$50.00     | 9/1/2011         |
| 8/24/2011        | Stars & Comets B/A             | II                | Medication-Not in Original Package                              | 8/24/2011                | \$50.00     | \$50.00     | 9/7/2011         |

**III. INFORMATION ITEMS**  
**D. ADMINISTRATIVE REPORT**  
**FAMILY CHILD CARE HOMES**

Family Child Care Home Fines  
 June – August 2011

| Date of Occurrence | Provider            | Fine Class | Reason   | Fine Date | Fine  | Date Paid | Paid  | Balance |
|--------------------|---------------------|------------|--|-----------|-------|-----------|-------|---------|
| 6/2/2011           | Williams, Anita     | I          | <b>Supervision:</b> An unscreened & untrained person was left alone to supervise 5 children on 6/2/11.   | 06/23/11  | \$500 | 7/11/2011 | \$150 | \$350   |
| 6/14/2011          | Ramos, Carmen       | II         | <b>Emergency Medical Release:</b> There was no emergency medical release for all children in care. This is 2nd violation, first on 8/17/10.  | 06/14/11  | \$50  | 7/11/11   | \$50  | 0       |
| 6/14/2011          | Ramon, Carmen       | II         | <b>Personnel:</b> Substitute's CPR expired on 6/6/11; provider did not have a copy of current CPR cards. This is 2nd occurrence, 1st was on 6/10/09.   | 06/14/11  | \$50  | 7/11/2011 | \$50  | 0       |
| 6/15/2011          | Bromm, Dana         | II         | <b>Outdoor Space:</b> A gas grill propane tank was in the outdoor play area. This is the 2nd violation of this standard previously on 6/9/10.  | 06/15/11  | \$50  | 6/29/2011 | \$50  | 0       |
| 6/15/2011          | Bromm, Dana         | II         | <b>Safety Plugs:</b> No safety plug in an open, exposed outlet in the LR. This is the 2nd Class II violation for safety plugs; the 1st was on 6/10/10.   | 6/15/2011 | \$50  | 6/29/2011 | \$50  | 0       |
| 6/22/2011          | Alzate-Ruiz, Helena | III        | <b>Emergency Medical Release:</b> Form had expired for one child. This is 2nd offense, 1st was 12/17/10.   | 06/22/11  | \$25  | 6/27/2011 | \$25  | 0       |
| 6/28/2011          | Bolden, Burnice     | III        | <b>Facility Records/Attendance:</b> The operator failed to have a complete enrollment record for each child in care. This is the 4th violation of this standard. Previous violations occurred on 11/9/09, 5/11/10 and 12/2/10. | 07/07/11  | \$50  | 7/25/2011 | \$50  | 0       |
| 7/11/2011          | Diaz, Aida          | III        | <b>Emergency Medical Release:</b> There was 1 expired Emergency Medical Release. This is the 3rd time for this standard, 12/15/09, 6/17/10.  | 07/20/11  | \$25  | 7/26/2011 | \$25  | 0       |

**FAMILY CHILD CARE HOMES FINES (Continued)**  
**JUNE - AUGUST 2011**

| <b>Date of Occurrence</b> | <b>Provider</b>         | <b>Fine Class</b> | <b>Reason</b>  | <b>Fine Date</b> | <b>Fine</b> | <b>Date Paid</b> | <b>Paid</b> | <b>Balance</b> |
|---------------------------|-------------------------|-------------------|--|------------------|-------------|------------------|-------------|----------------|
| 7/18/2011                 | <b>McCulley, Janene</b> | III               | <b>Emergency Medical Release:</b> 2 children had expired Emergency Medical Release forms. This is the 3rd violation of this standard. Other violations occurred on 7/7/10 and 1/11/10. | 07/18/11         | \$25        | 7/18/2011        | \$25        | 0              |
| 7/26/2011                 | <b>Ramos, Carmen</b>    | II                | <b>Physical Plant/Operable Corded Phone:</b> Did not have an operable corded telephone. This is the 2nd violation of this standard, 1st was 6/14/11.                                   | 08/15/11         | \$50        | 8/31/2011        | \$50        | \$0            |
| 7/26/2011                 | <b>Ramos, Carmen</b>    | II                | <b>Facility Records/Attendance:</b> Daily attendance record must be kept daily. This is 2nd violation of this standard; 1st was 6/14/11.   | 08/15/11         | \$50        | 8/31/2011        | \$50        | \$0            |
| 8/3/2011                  | <b>Colden, Nekil</b>    | III               | <b>Safety/Health:</b> 1st Aid Kit did not include all supplies. This is the 3rd time this same standard was violated; 2nd time on 1/25/11 and 7/20/11.                                 | 08/15/11         | \$25        |                  |             | \$25           |
| 8/3/2011                  | <b>Colden, Nekil</b>    | II                | <b>Facility Attendance/Attendance:</b> Daily attendance did not include all children present. This is the 2nd violation of this standard 1st on 7/20/10.                               | 08/15/11         | \$50        |                  |             | \$50           |

III. INFORMATION ITEMS

D. ADMINISTRATIVE REPORT

100 PERCENT COMPLIANT CHILD CARE CENTERS

Centers with 100 Percent Compliant Inspections  
June - August 2011



**June**

Academy of Learning  
Child Life Preschool  
City of Seminole Preschool  
Cornerstone Christian  
Faith Presbyterian Preschool  
Gingerbread-Azalea  
Grace Children's Center  
Loving Arms Preschool  
New Horizons CDC  
North East Park Preschool  
Pauline Rivkind ECC  
R'Club ELA Whitney Road  
R'Club MLK  
Sea Us Grow  
Westchester LC NE  
YMCA - Campbell Park

**July**

Community Preschool  
Country Acres Preschool  
County Learning Academy  
Gingerbread-Bardmoor  
Ivy Prep  
Light of Christ ECC  
Ms. Susie's Learning Center  
My Purpose in Life Preschool  
Seminole UMC  
Sunshine Academy  
Temple B'Nai Israel ECC  
Write Start  
YWCA - USF

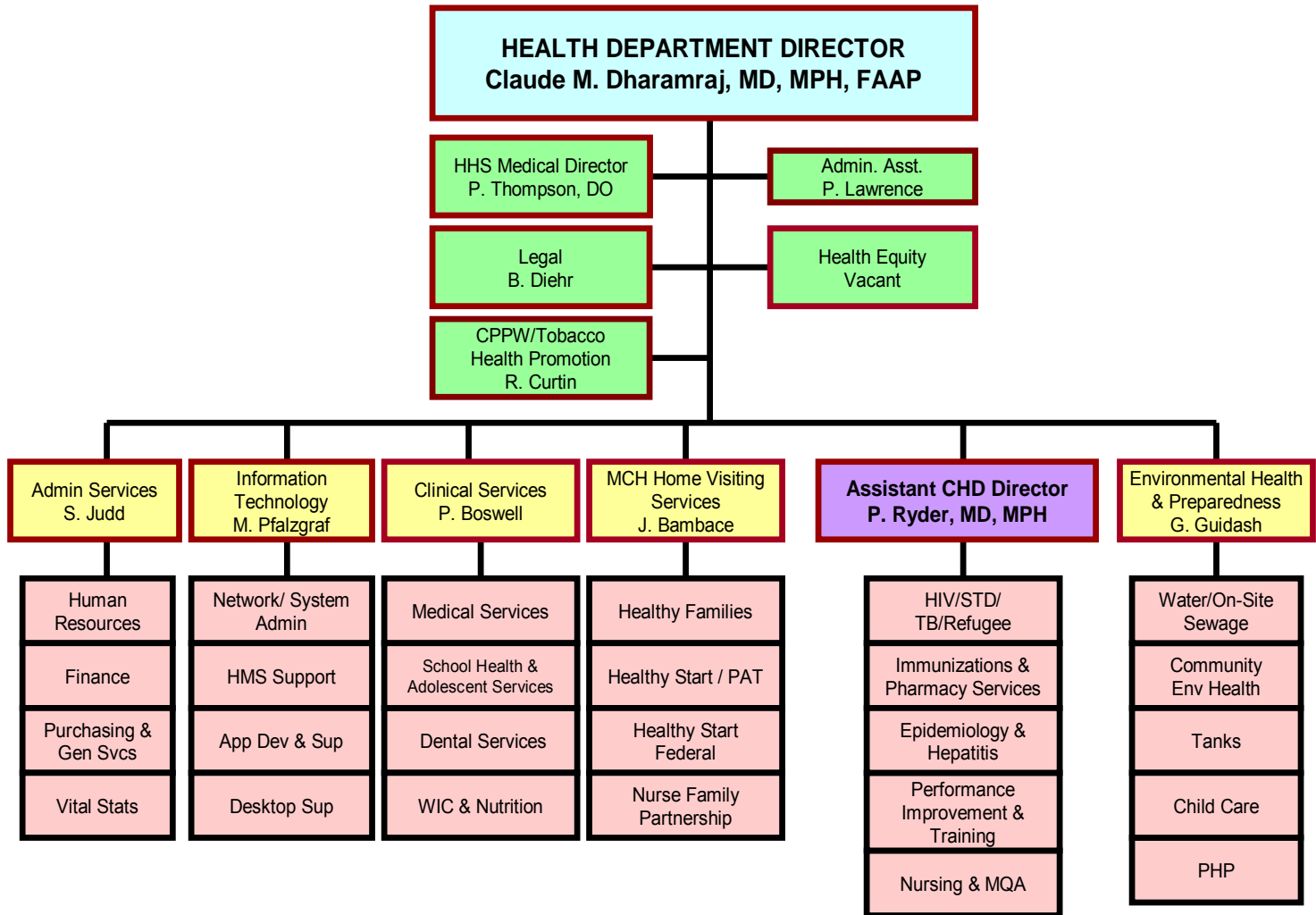
**August**

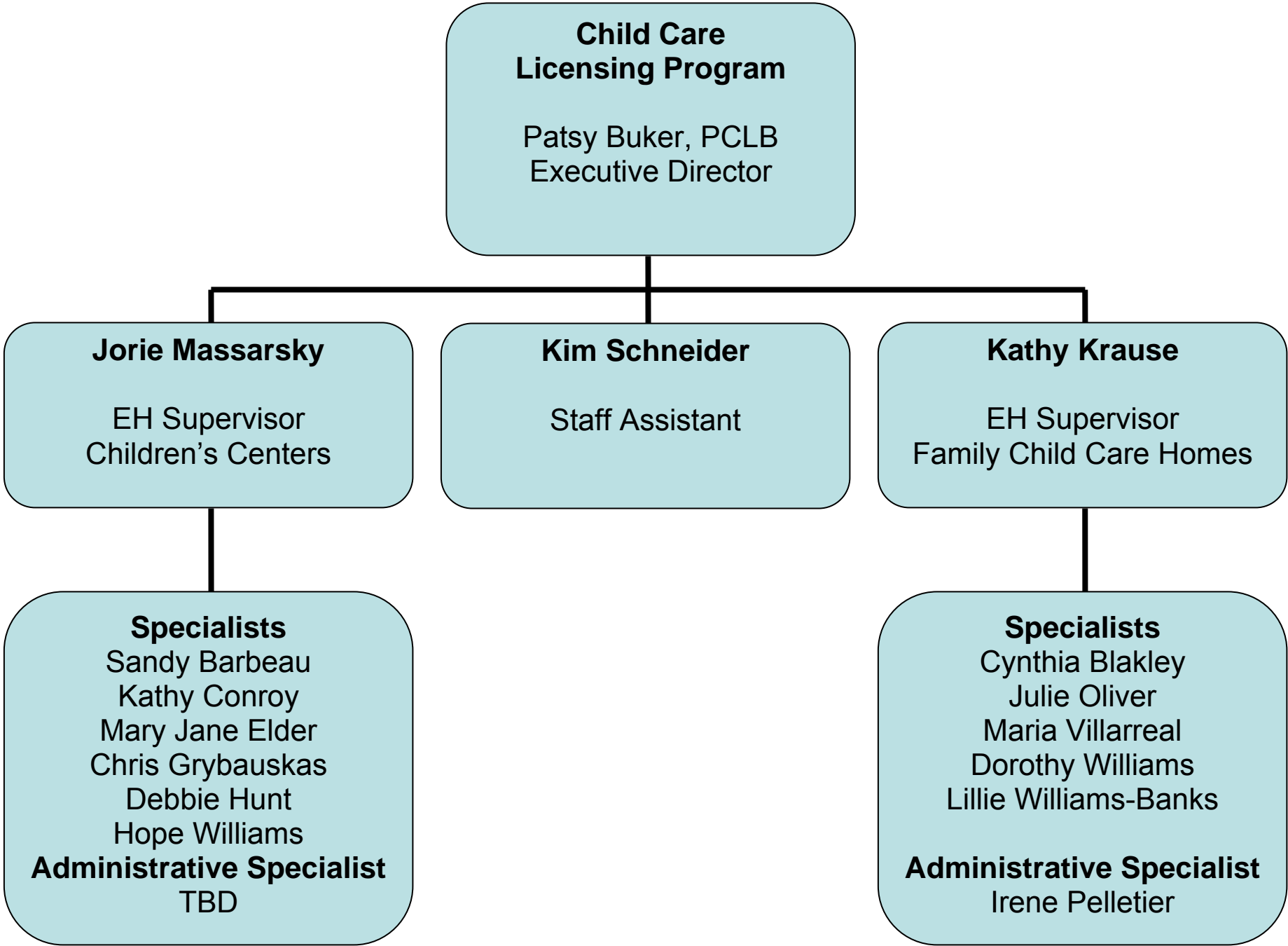
Alpha & Omega LC  
Discovery Learning Center  
Early Explorations  
Gladden Park Recreation  
Happy Days Academy  
Imagine School  
Kindercare 1046  
Plato Academy Preschool  
Rainbow Preschool of OUMC  
R'Club Gulfport  
R'Club Sandy Lane  
R'Club Skyview  
Shore Acres Recreation  
Tot Tenders  
TPP - Dixie Hollins  
TPP - PTEC  
Twinkle Stars of Belcher  
YMCA - Ridgcrest  
YMCA - Safety Harbor  
YMCA - Starkey

### **III. INFORMATION ITEMS**

#### **E. TRAINING**

SPECIAL TERMINOLOGY  
QUALITY CHILD CARE EMPHASIS  
ORGANIZATIONAL CHARTS





**Pinellas County  
Licensing Board**

**Chair**  
Elise Minkoff

**Board Members**

Lourdes Benedict  
Michael Bessette  
Anne Brooks  
Judith Bruckner  
Commissioner Norm Roche  
Charles Minor, Ex Officio  
Dr. Judi Vitucci, Secretary

**Advisory Committee**

Lynn Bittner  
DaVee Henderlong  
Ann Hofmeister  
Merlita Jones  
Elizabeth Krakowski  
Nina Meyers  
Susan Weber

**Pinellas County  
Licensing Board  
Attorney**

Colleen Flynn, Esq.

**III. INFORMATION ITEMS**  
**F. APPEALS PROCESS**

-----Original Message-----

From: Colleen Flynn [mailto:[ColleenF@jpfirm.com](mailto:ColleenF@jpfirm.com)]

Sent: Monday, October 03, 2011 2:34 PM

To: Buker, Patsy W

Subject: Inquiry regarding hearings for fines, suspensions etc.

Patsy:

In response to the inquiry from a provider regarding hearings for fines, suspensions, revocations etc. and whether the hearing could go ONLY before the board and not before a Hearing Officer, I attach copies of the following:

1. Fl. Stat. 402.310
2. Resolution of the County Commission 08-174 designating the hearing officer and
3. Attorney General Opinion 2003-15.

The answer is no.

Pursuant to Fl. Stat. 402.310(3) "if a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the County Commission."

The County Commission has designated that PCLB must use either a senior judge or a hearing officer designated by the Department of Administration. PCLB shall be responsible for compensating the senior judge or hearing officer.

In 2003, PCLB submitted a request to the Attorney General on the nature of the order entered by the senior judge or hearing officer. The question was what was the nature of the senior judge's or hearing officer's order- was it final or was it a recommended order pursuant to Chapter 120. The Attorney General opined that the senior judge's or hearing officer's order was not final and that it was only a recommended order pursuant to Chapter 120 which required final agency action by the board. Thus, the rules we have in place today comport with state law, the county commission designation and the AGO opinion. The senior judge's order or the hearing officer's order is a recommended order in accordance with Chapter 120 and then it goes to the Board for final agency action and the hearing is conducted in accordance with Chapter 120.

If you have any further questions, please let me know.

Colleen

C

Effective: July 1, 2006

West's Florida Statutes Annotated Currentness

Title XXIX. Public Health (Chapters 381-408)

Chapter 402. Health and Human Services: Miscellaneous Provisions (Refs. &amp; Annos)

**→ 402. 310. Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines**

(1)(a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. 402.301-402.319, or the rules adopted thereunder:

1. Impose an administrative fine not to exceed \$100 per violation, per day. However, if the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed under this section.

2. Convert a license or registration to probation status and require the licensee or registrant to comply with the terms of probation. A probation-status license or registration may not be issued for a period that exceeds 6 months and the probation-status license or registration may not be renewed. A probation-status license or registration may be suspended or revoked if periodic inspection by the department or local licensing agency finds that the probation-status licensee or registrant is not in compliance with the terms of probation or that the probation-status licensee or registrant is not making sufficient progress toward compliance with ss. 402.301-402.319.

3. Deny, suspend, or revoke a license or registration.

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. 402.301-402.319 have been violated.

2. Actions taken by the licensee or registrant to correct the violation or to remedy complaints.

3. Any previous violations of the licensee or registrant.

(c) The department shall adopt rules to:

1. Establish the grounds under which the department may deny, suspend, or revoke a license or registration or place a licensee or registrant on probation status for violations of ss. 402.301-402.319.

2. Establish a uniform system of procedures to impose disciplinary sanctions for violations of ss. 402.301-402.319. The uniform system of procedures must provide for the consistent application of disciplinary actions across districts

and a progressively increasing level of penalties from predisciplinary actions, such as efforts to assist licensees or registrants to correct the statutory or regulatory violations, and to severe disciplinary sanctions for actions that jeopardize the health and safety of children, such as for the deliberate misuse of medications. The department shall implement this subparagraph on January 1, 2007, and the implementation is not contingent upon a specific appropriation.

(d) The disciplinary sanctions set forth in this section apply to licensed child care facilities, licensed large family child care homes, and licensed or registered family day care homes.

(2) When the department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall determine the matter in accordance with procedures prescribed in chapter 120. When the local licensing agency has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration; the conversion of a license or registration to probation status; or the imposition of an administrative fine, it shall notify the applicant, registrant, or licensee in writing, stating the grounds upon which the license or registration is being denied, suspended, or revoked or an administrative fine is being imposed. If the applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days after receipt of the notice, the license shall be deemed denied, suspended, or revoked; the license or registration shall be converted to probation status; or an administrative fine shall be imposed.

(3) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(4) An applicant, registrant, or licensee shall have the right to appeal a decision of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the child care facility, family day care home, or large family child care home is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of chapter 120.

#### CREDIT(S)

Laws 1977, c. 77-117, § 1; Laws 1978, c. 78-95, § 19; Laws 1983, c. 83-248, § 3; Laws 1984, c. 84-551, § 9; Laws 1987, c. 87-225, § 42; Laws 1990, c. 90-306, § 37. Amended by Laws 2000, c. 2000-153, § 24, eff. July 4, 2000; Laws 2006, c. 2006-91, § 3, eff. July 1, 2006.

#### HISTORICAL AND STATUTORY NOTES

Laws 1974, c. 74-113, § 10.

#### Amendment Notes:

Laws 1977, c. 77-117, a reviser's bill, modified references to chapter 120 by deleting the chapter part designation to conform with the revision of that chapter by Laws 1974, c. 74-310.

Laws 1978, c. 78-95, amending various provisions of the Florida Statutes containing procedural language superseded or made redundant by chapter 120, the Administrative Procedure Act, rewrote subsec. (1), deleted "or the department" following "local licensing agency" in the first sentence of subsec. (3), and substituted "Any required" for "A" at the beginning of the second sentence thereof. Former subsec. (1), as it appeared in Fla. St. 1977, provided:

"When the department or local licensing agency, whichever is applicable, has reasonable cause to believe that

grounds for the denial or revocation of a license exist, it shall notify the applicant or licensee in writing, stating the grounds upon which the license is being denied or revoked. If the applicant or licensee makes no written request for a hearing to the local licensing agency or the department, whichever is applicable, within 15 days from receipt of such notice, the license shall be deemed denied or revoked.”

Laws 1983, c. 83-248, § 3, interpolated subsec. (1), and redesignated former subsecs. (1) to (3) as subsecs. (2) to (4).

Laws 1984, c. 84-551, § 9, eff. Jan. 1, 1985, provided for suspension of licenses throughout the section and inserted references to “or imposition of administrative fine” throughout the section.


Laws 1987, c. 87-225, was a reviser's correction bill amending subsec. (2) to ratify prior editorial action, to improve clarity.

Laws 1990, c. 90-306, § 37, added the second sentence to subsec. (1)(a).

#### CROSS REFERENCES

Administrative procedure act, see § 120.50 et seq.

#### LIBRARY REFERENCES

Infants  17.5.  
Westlaw Topic No. 211.  
C.J.S. Infants §§ 8 to 9.

#### RESEARCH REFERENCES


Encyclopedias

Child Care Facilities, FL Jur. 2d Health & Sanitation § 35.

#### NOTES OF DECISIONS

Findings 1  
Orders 2

##### 1. Findings

In reviewing hearing officer's refusal to revoke license to operate child care facility, Department of Health and Rehabilitative Services could not, without indicating that findings were unsupported by competent, substantial evidence, reject findings that evidence did not show a consistent failure by operators to address serious deficiencies and that operators had reasonably cooperated with Department to correct violations and remedy complaints. Pillsbury v. State, Dept. of Health and Rehabilitative Services, App. 2 Dist., 744 So.2d 1040 (1999), rehearing denied. Infants  17.5

##### 2. Orders

An order issued by a hearing officer acting on behalf of a local licensing agency in a child care facility licensing

proceeding is a recommended order and is subject to final agency action. Op.Atty.Gen., 2003-15, April 30, 2003.

West's F. S. A. § 402. 310, FL ST § 402. 310

Current through Chapter 236 (End) of the 2011 First Regular Session of the Twenty-Second Legislature

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END OF DOCUMENT

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 Morrioni.**

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APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY  
By James G. Antro  
Attorney

2003 WL 2010175 (Fla.A.G.)

Office of the Attorney General  
State of Florida

AGO

2003

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15

April 30, 2003

RE: CHILD CARE FACILITIES--LICENSING--COUNTIES--ADMINISTRATIVE HEARINGS--nature of hearing officer's order acting on behalf of local licensing agency. ss. 402.301, 402.310, Fla. Stat.

Ms. Susan H. Churuti  
Pinellas County Attorney  
315 Court Street  
Clearwater, Florida 33756

Dear Ms. Churuti:

On behalf of the Pinellas County License Board for Children's Centers and Family Day Care Homes, you ask substantially the following question:

What is the nature of an order from a hearing officer appointed pursuant to section 402.310(3), Florida Statutes?

You state that the Pinellas County License Board for Children's Centers and Family Day Care Homes is a local licensing agency subject to the provisions of Chapter 402, Florida Statutes, [FN1] which generally governs the provision of health and human services. Sections 402.301 - 402.319, Florida Statutes, operate "to establish statewide minimum standards for the care and protection of children in child care facilities, to ensure maintenance of these standards, and to approve county administration and enforcement to regulate conditions in such facilities through a program of licensing." [FN2]

The Department of Children and Families (DCF) and local licensing agencies are authorized to "deny, suspend, or revoke a license or impose an administrative fine not to exceed \$100 per violation, per day, for the violation of any provision of ss. 402.301 - 402.319 or rules adopted thereunder." [FN3] In determining the appropriate disciplinary action to take for a violation, DCF or the local licensing agency must consider: the severity of the violation, including the probability that death or serious harm will result or has resulted; the severity of actual or potential harm; and the extent to which the statutory provisions have been violated, as well as actions taken by the licensee to correct violations or remedy complaints. [FN4]

Section 402.310, Florida Statutes, provides a mechanism for disciplinary actions against applicants or licensees for child care facilities subject to Chapter 402, including providing for hearings when DCF or a local licensing agency seeks to deny, suspend or revoke a license. In cases where DCF is initiating such an action, it "shall determine the

matter in accordance with procedures prescribed in chapter 120.” [FN5] When a local licensing agency has reasonable cause to believe that grounds exist for denial, suspension, or revocation of a license or imposition of an administrative fine, the statute requires written notification to the applicant or licensee, stating the grounds upon which such action is being taken. [FN6] An applicant or licensee is given fifteen days from receiving such notice to make a written request for a hearing. If no request for a hearing is made, then the license is deemed to be denied, suspended, or revoked or an administrative fine shall be imposed. If a request for a hearing is made to a local licensing agency, “a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.” [FN7] Section 402.310(4), Florida Statutes, recognizes the right of an affected applicant or licensee “to appeal a decision of the local licensing agency to a representative of the [DCF].” (e.s.)

\*2 The plain language of the statute sets forth a means to provide a hearing to those affected by the official actions of DCF or a local licensing agency. In cases where a local licensing agency is responsible for the licensure of child care facilities, the county commission is responsible for designating an individual to conduct the hearing. While Chapter 402, Florida Statutes, does not prescribe the duties of such a hearing officer, it is instructive that the same section directs that a hearing held when DCF exercises oversight of the licensing in a county shall be in accordance with Chapter 120. Section 120.57(1)(k), Florida Statutes, states:

“The presiding officer shall complete and submit to the agency and all parties a recommended order consisting of findings of fact, conclusions of law, and recommended disposition or penalty, if applicable, and any other information required by law to be contained in the final order....” (e.s.)

Thus, the order of a hearing officer acting on behalf of DCF is recognized as a recommended order. Generally, the order of the presiding officer at a formal adjudicatory hearing is merely a “recommended” order, and can only be finally disposed of by the agency involved. [FN8] When presented with a recommended order, the agency may adopt it as the agency’s final order. An agency may reject or modify conclusions of law over which it has substantive jurisdiction under specified conditions. Findings of fact, however, may not be rejected or modified unless the agency first determines from a review of the entire record and states with particularity in its final order that the findings of fact were not based on competent substantial evidence or that the proceedings on which the findings of fact were based did not comply with essential requirements of law. A recommended penalty may be accepted, but may not be reduced or increased without a review of the complete record and without particularly stated reasons supported by the record. [FN9]

The courts of this state have found that administrative hearings, such as ones for county code violations, are quasi-judicial in nature such that:

“An administrative agency conducts a quasi-judicial proceeding in order to investigate and ascertain the existence of facts, hold hearings, and draw conclusions from those hearings as a basis for their official actions.” [FN10]

Section 402.310, Florida Statutes, does not characterize an order of an individual holding a hearing for a local licensing agency as a recommended order, but it does recognize, as noted above, that the local licensing agency makes the decision regarding the licensing of a child care facility. [FN11] It would appear, therefore, that a hearing officer’s place in the statutorily prescribed procedures for taking action against a child care facility licensee or applicant for such a license is one of taking evidence, making findings of fact and conclusions of law, and rendering an order that recommends a determination to the local licensing agency. The local licensing agency, upon reviewing the recommended order, may then accept or reject the conclusions under the constraints of a formal administrative process and take final agency action.

\*3 Accordingly, it is my opinion that the order rendered by an individual designated as a hearing officer acting on behalf of a local licensing agency in a child care facility licensing proceeding is a recommended order subject to final agency action by the local licensing agency.

Sincerely,

Charlie Crist  
Attorney General

[FN1]. Section 402.302(10), Fla. Stat., defines “[l]ocal licensing agency” as “any agency or individual designated by the county to license child care facilities.” Section 402.306(1)(a)-(b), Florida Statutes, allows any county whose licensing standards meet or exceed state minimum standards to designate a local licensing agency to license child care facilities in the county or contract with DCF to delegate the administration of state minimum standards in the county to the department.

[FN2]. Section 402.301(1), Fla. Stat.

[FN3]. Section 402.310(1)(a), Fla. Stat.

[FN4]. Section 402.310(1)(b)1.-2., Fla. Stat.

[FN5]. Section 402.310(2), Fla. Stat.

[FN6]. Id.

[FN7]. Section 402.310(3), Fla. Stat.

[FN8]. See, University Community Hosp. v. Tampa Heart Institute, 445 So. 2d 410 (Fla. 2nd DCA 1984) and s. 120.52(14), Fla. Stat., defining “[r]ecommended order” as “the official recommendation of an administrative law judge assigned by the division or of any other duly authorized presiding officer, other than an agency head or member of an agency head, for the final disposition of a proceeding under ss. 120.569 and 120.57.”

[FN9]. Section 120.57(1)(l), Fla. Stat.

[FN10]. Broward County v. La Rosa, 505 So. 2d 422, 423 (Fla. 1987). See also, Verdi v. Metropolitan Dade County, 684 So. 2d 870, 874 (Fla. 3rd DCA 1996).

[FN11]. See, s. 402.310(4), Fla. Stat.

2003 WL 2010175 (Fla.A.G.)

END OF DOCUMENT

### **III. INFORMATION ITEMS**

#### **G. FOOD SERVICE REGULATIONS UPDATE**

As you may be aware, the legislature determined that to eliminate duplication in the inspection process the Department of Health would no longer conduct food service inspection in licensed child care facilities. The Department of Children and Families' Services Child Care Program Office has taken on the responsibility for food service inspection, and their staff has had 45 hours of training in order to conduct this type of inspection. They have determined that they will conduct this inspection once yearly. The Department has been operating under a 90 day emergency rule, and has submitted a rule change to accommodate this new procedure through proper channels. The rule revisions that have been submitted have been rejected by the Governor's office, and they reported to us, via a conference call on September 27, 2011 that they will be re-submitting rules for approval, and are once again operating under an emergency rule order.

Fortunately, in Pinellas County, we have a local ordinance that allows a certified food inspector, who is part of the Child Care Licensing Program to conduct food service inspections two or four times a year, based on the level of food preparation that the children's center reports to us. We have been given this ability through the Pinellas County Commission, and a long standing Florida Statute. We will continue to watch developments on the state-wide level to make sure that our process in Pinellas County continues to meet or exceed state requirements.

**III. INFORMATION ITEMS**

- I. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA  
(See page 2 and page 3)