

NOTICE OF CLASS I ADMINISTRATIVE FINE

Issued by: Pinellas County License Board for Children's Centers and Family Day Care Homes

Authority: Chapter 61-2681, Amended by Chapter 70-893, Laws of Florida, as referenced in the current Licensing Regulations Governing Pinellas County Family Day Care Homes

Date issued: 11-3-11

For: Burnice Bolden (Provider's Name)
1445 Preston Street South St. Petersburg 33712 (Address)

Class I Administrative Fine of \$ 500.00 is imposed for violation of licensing regulation(s):

F.C.L. Capacity (Reference to Licensing Regulations)

The specific violation occurred on 10-19-11 while children were in care, and is described as:

The provider was over the licensed capacity. The provider left an employee alone with 8 children ages 12 months through 4 years old.

- Issued at the family day care home
Issued at conference
Copy of Rules of Procedure for Hearing provided with Administrative Fine
Provider stated he/she has copy of Licensing Regulations
Provider given copy of Licensing Regulations

Signed by: Julie Oliver, Licensing Specialist Date signed: 11-3-11

Received by: Burnice S. Bolden Date received: 11/3/11

The Provider refused to acknowledge receipt of the Administrative Fine.

Notice of Right to Request a Hearing: The provider may request a hearing to contest imposition of this fine. Any such request must be in writing stating full grounds upon which the request is based and must be received in the License Board office within fifteen (15) days of the service of this fine.

Table with 4 columns: Payment Amount Received, Check, Cash, Date Received, Initial.

D.B.A
Lillie's Little Angels
1445 Preston Street So.
St. Petersburg FL, 33712
Tel (727)821-6712

Pinellas County Licensing Board
Attn. Patsy Baker/Program Director
147 East Bay Drive, Suite 350
Clearwater FL, 33764



Letter of Appeal (\$500.00 Fine)

This letter has been sent to your office in regards to the fine that has been imposed on me regarding my substitute Ms. Rose Dixon caring for the children in my daycare while I left to go pick up a child from school that is enrolled in my daycare on October 19th, 2011. my employee MRS. ELLA wright had DOCTOR APPOINTMENT ALSO MY LARGE FAMILY CHILDCARE LICENSE STATES 8 CHILDREN FROM BIRTH TO 24MONTHS OR 12CHILDREN WITH NO MORE THAN 4 UNDER 24MONTHS OF AGE I WAS GOING BY LICENSE

I am formally appealing the program's decision to impose a fine on me. I have read the by laws governing family daycare homes and I was unable to find written documentation stating that I am unable to leave my substitute with the children in the event that I have to leave the daycare, neither does it say the number of children that is allowed to rest in the care of my substitute. Secondly, this incident is the first occurrence, yet in field a warning, I was given a fine I disagree with the programs decision and request that this incident be reviewed the appeal process.

Yours Truly,
BURNICE I BOLDEN
Daycare Owner/Operator

PINELLAS COUNTY LICENSE BOARD
IN AND FOR PINELLAS COUNTY, FLORIDA

IN RE THE MATTER OF THE APPEAL OF:

BURNICE I. BOLDEN, d/b/a LILLIE'S LITTLE ANGELS

Petitioner/Operator,

vs.

NOTICE OF CLASS 1 ADMINISTRATIVE FINE

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

Respondent.

_____ /

NOTICE OF HEARING

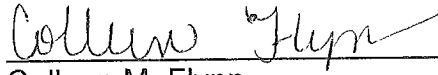
TO: Ms. Burnice Bolden
d/b/a Lillie's Little Angels
1445 Preston Street South
St. Petersburg, FL 33712

PLEASE TAKE NOTICE that the undersigned will bring on to be heard before the Honorable Senior Judge Crockett Farnell, Hearing Officer, on **Tuesday, December 6, 2011, at 10:00 a.m.** the Notice of Administrative Fine, issued by Pinellas County License Board for Children's Centers and Family Day Care Homes, at the Offices of Johnson, Pope, Bokor, Ruppel & Burns, LLP., 911 Chestnut Street, Clearwater, FL 33756. **Two hours have been reserved.**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the above-named addressee by Certified Mail, Return Receipt Requested, and regular U. S. Mail this 22nd day of November, 2011.

JOHNSON, POPE, BOKOR,
RUPPEL & BURNS, LLP

By:



Colleen M. Flynn
FBN 0190470/SPN 02510190
911 Chestnut Street
Clearwater, FL 33756
Telephone: 727-461-1818
Facsimile: 727-441-8617
Attorneys for Pinellas County
License Board

cc: Pinellas County License Board
The Honorable Crockett Farnell
D & D Court Reporters

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PINELLAS COUNTY LICENSE BOARD
IN AND FOR PINELLAS COUNTY, FLORIDA

IN RE THE MATTER OF THE APPEAL OF:

BURNICE I. BOLDEN, d/b/a LILLIE'S LITTLE ANGELS

Petitioner/Operator,

vs.

NOTICE OF CLASS 1
ADMINISTRATIVE FINE

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

Respondent.

**NOTICE OF SERVICE OF HEARING OFFICER'S RECOMMENDED ORDER
AND NOTICE OF RIGHT TO FILE WRITTEN EXCEPTIONS**

TO: **VIA CERTIFIED MAIL AND REGULAR U.S. MAIL**

Ms. Burnice Bolden
d/b/a Lillie's Little Angels
1445 Preston Street South
St. Petersburg, FL 33712

I HEREBY CERTIFY that a copy of the Hearing Officer's Findings of Facts, Conclusions of Law and Recommendations filed by the Honorable Senior Judge Crockett Farnell, regarding the December 6, 2011, hearing was provided by first class and certified mail to Burnice Bolden at the address shown above, this 9th day of December, 2011.

PLEASE TAKE NOTICE that pursuant to §120.57(1)(k), Florida Statutes, either party has the right to file with the Pinellas County License Board for Children's Centers and Family Day Care Homes or the PCLB's attorney written exceptions to the Findings of Fact, Conclusions of Law and Recommendations contained in the Recommendation of the Hearing Officer within fifteen (15) days after the above-referenced service of the Recommendation. Any written exceptions will be considered by and ruled upon by the Board, along with the Hearing Officer's Recommendation, at its January 19, 2012 meeting at 4175 East Bay Drive Suite

350, Clearwater, FL 33764 at 1:30 p.m. at which time the Final Agency Action will be taken.

ANY PARTY DESIRING OR REQUIRING A VERBATIM TRANSCRIPT for appeal or other purposes, may, at its own expense, arrange to have a certified court reporter report the hearing portion of the meeting. If the court reporter records the proceeds, the recordation shall become the official transcript.

JOHNSON, POPE, BOKOR,
RUPPEL & BURNS, LLP

By:



Colleen M. Flynn
FBN 0190470/SPN 02510190
911 Chestnut Street
Clearwater, FL 33756
Telephone: 727-461-1818
Facsimile: 727-441-8617
Attorneys for PCLB

NOTICES TO PERSONS WITH DISABILITIES: If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Within two (2) working days of your receipt of this Notice, please contact the Human Rights Office, 400 S. Ft. Harrison Avenue, Suite 300, Clearwater, FL 33756, phone 727-464.4062 (V/TDD).

cc:

PCLB – Patsy Buker, Executive Director

585006

**PINELLAS COUNTY LICENSE BOARD
IN AND FOR PINELLAS COUNTY, FLORIDA**

IN RE THE MATTER OF THE APPEAL OF:

BURNICE I. BOLDEN, d/b/a LILLIE'S LITTLE ANGELS

Petitioner/Operator,

vs.

**NOTICE OF CLASS 1 ADMINISTRATIVE
FINE**

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

Respondent.

_____ /

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF
HEARING OFFICER**

THIS CAUSE came for hearing on December 6, 2011 at 10:00 a.m. at 911 Chestnut Street, Clearwater, Florida, 33756, before the Honorable Senior Judge Crockett Farnell, acting in the capacity of Hearing Officer. Both parties were present and Colleen M. Flynn, Esq., appeared as Counsel for the Pinellas County License Board ("PCLB").

The issue before the undersigned was whether the facts and law supported the imposition of a Class 1 fine on Burnice I. Bolden ("Bolden") dated November 3, 2011 for the incident on October 19, 2011.

Having heard the testimony of witnesses for both parties, observed the demeanor of the witnesses and taken that into consideration, argument of both parties, and after reviewing the evidence presented, the undersigned submits the following

findings of fact, conclusions of law and recommendations based on the clear and convincing evidence presented at the hearing:

Findings of Fact

1. Bolden is licensed as a Large Family Child Care Home as that term is defined in the *Licensing Regulations Governing Pinellas County Family Child Care Homes and Large Family Child Care Homes*.

2. On October 19, 2011, at approximately 2:30 p.m. two ELC employees observed 8 children between the ages of 12 months and 4 years at Bolden's Large Family Child Care Home.

3. The dates of birth of the children were: 1-15-10; 8-2-10; 12-16-08; 2-12-09; 6-23-09; 11-24-08; 11-28-06; 1-22-07.

4. At that time, only one childcare provider was present at Bolden's home.

5. When the two ELC employees arrived at Bolden's home, Bolden was not home.

6. On October 19, 2011 at approximately 2:30 p.m., one employee was alone with 8 children between the ages of 12 months and 4 years.

Conclusions of Law

1. The definition of "Large Family Child Care Home as set forth in the *Licensing Regulations Governing Pinellas County Family Child Care Homes and Large Family Child Care Homes* (version effective July 11, 2011) provides as follows:

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 large family child care home in which case an additional employee is not required.

2. *Licensing Regulations Governing Pinellas County Large Family Child Care*

Homes (May 2010) Section I.C.1. provides as follows:

A large family child care home shall be allowed to provide care for one of the following groups of children which shall include those children under 13 years of age who are related to the caregiver:

- 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.

3. *The Large Family Child Care Homes Standard Findings* (effective

November 2010) classification 9.3 provides that it is a Class 1(state) Fine if the operator was over the licensed capacity.

4. Based on clear and convincing evidence, Bolden violated the *Licensing Regulations Governing Pinellas County Family Child Care Homes and Large Family Child Care Homes* (version effective July 11, 2011) and *Licensing Regulations Governing Pinellas County Large Family Child Care Homes* (May 2010) Section I.C.1 on October 19, 2011 when she had eight (8) children in care ranging in age from 12 months to 4 years with only one child care provider present at the home.

RECOMMENDATION

Based on the foregoing findings, it is hereby RECOMMENDED that the Imposition of the Class 1(state) Fine for violating *Licensing Regulations Governing Pinellas County Family Child Care Homes and Large Family Child Care Homes* (version effective July 11, 2011) and *Licensing Regulations Governing Pinellas County Large Family Child Care Homes* (May 2010) Section I.C.1 on October 19, 2011 by caring for 8 children with age ranges 12 months to 4 years with only one childcare provider present be upheld.

RESPECTFULLY SUBMITTED to the Pinellas County License Board this

7th day of December, 2011.



Honorable Senior Judge Crockett Farnell

cc: Colleen M. Flynn, Esq.

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PINELLAS COUNTY LICENSE BOARD FOR CHILDREN'S CENTERS AND FAMILY DAY CARE HOMES
RULES OF PROCEDURE FOR HEARINGS

1. PURPOSE:

In accordance with the authority given to this Board by its enabling acts, and in accordance with this Board's desire to conduct its hearing procedures in a fair and impartial manner, the following rules of procedure are hereby adopted. These rules shall be binding upon the Board in its hearings and shall only be subject to change by the affirmative vote of a simple majority of members. The Board may adopt further "guidelines" as it deems necessary to further assist the parties in preparing for the conduct of these proceedings, however, such guidelines shall not have the force or effect of these rules. The adoption of these rules supersedes all Board Rules adopted previously.

2. AVAILABILITY OF HEARING:

Any licensed provider or applicant who has been issued a Notice of Imposition of Fine, Notice of Intent to Revoke, Notice of Intent to Suspend, or Notice of Intent to Deny Application is entitled to request a hearing under these procedures.

3. REQUEST FOR HEARING:

Providers or applicants entitled to a hearing shall, as a condition precedent to being granted a hearing, file a written Request for Hearing. Such Request for Hearing must be received by the Pinellas County License Board for Children's Centers and Family Day Care Homes within fifteen (15) calendar days of receipt of written notice of fine, intent to revoke suspend or deny to which the provider or applicant is being subjected. The Request shall be deemed effective upon actual receipt. Failure to provide such written request within the fifteen (15) day period shall constitute a voluntary waiver by the provider or applicant of all rights to an administrative appeal and the matter will be scheduled for Final Agency Action pursuant to the Special Act.

The Request for Hearing shall contain, as a minimum, the following items:

- (a) a statement that the person filing the Request for Hearing is entitled to an appeal;
- (b) a brief statement of the action which is being appealed and the basis for the appeal; and
- (c) a specific request for relief (i.e. a request to the hearing officer to take specific action).

The appealing provider or applicant shall be limited in the scope of his or her appeal to the issues which are raised in the Request for Hearing.

4. NOTICE TO PROVIDER, APPLICANT, BOARD AND INTERESTED PARTIES:

Within two (2) working days of receipt of the provider or applicant's Notice of Appeal/Request for Hearing, the PCLB staff shall transmit to the PCLB Attorney the Notice of Appeal/Request for Hearing and the underlying action being appealed. The Attorney shall then schedule a hearing with a senior judge and this information shall be furnished by U. S. mail by the Attorney to all interested parties forthwith. Absent a waiver from the provider, the hearing must be held within thirty (30) days of the effective date the Notice of Appeal/Request for Hearing.

5. HEARINGS:

All hearings and proceedings related thereto shall be conducted according to the rules followed by the Department of Administrative Hearings, as found in Florida Statutes, Chapter 120, as may be amended.

6. APPEALING PARTY FAILS TO APPEAR:

Where a proceeding is commenced by a party pursuant to the Special Act or the procedures adopted pursuant thereto, and said party, after filing their initial Request for Hearing, fails to appear for any scheduled proceedings, such party shall be deemed to have waived their appeal, and accepted the decision of the PCLB staff as final. Further, said party agrees that the Hearing Officer is authorized by this Rule, to dismiss said appeal and submit a Recommended Order to that effect.

7. REVIEW BY BOARD:

Upon receipt by the PCLB Attorney of executed Findings of Fact and Recommendations of the Hearing Officer (Order) from the Hearing Officer, the same shall be distributed to all interested parties. Either the PCLB or the appealing provider or applicant – whichever is aggrieved by the Order – shall have the right to file written Exceptions to the Board within fifteen (15) days of their receipt of the Order. If both parties are aggrieved, then the party against whom the written Exceptions are filed, would have the right to file written Cross-Exceptions within fifteen (15) days of their receipt of the original Exceptions.

7. REVIEW BY BOARD: continued

Responses to Exceptions shall be filed within ten (10) days of the service of the Exceptions, and time shall be computed in accordance with Florida Administrative Code, rules 28-106.217 and 28-106.103, as may be subsequently amended. The Board will schedule or calendar hearings in such a manner as to accommodate the time frames provided in this section and the Attorney will notify all parties of the date and time of the hearing.

8. WRITTEN EXCEPTIONS:

Each exception shall specify with particularity the finding of fact, conclusion of law, or recommendation which is objectionable and the reasons therefore. The exceptions themselves shall state with specificity if the finding of fact excepted to is not supported by competent substantial evidence or that the proceedings did not comply with the essential requirements of law or that the conclusion of law excepted to departs from the essential requirements of law. In accordance with Florida Statutes, section 120.57(1)(k), the Board has the right to decline to rule upon Exceptions which do not identify the disputed portion of the recommended order by page number or paragraph, do not identify the legal basis for the exception, or do not include appropriate and specific citations to the record.

Facts upon which exceptions to findings of fact or conclusions of law are based which are not set forth in the Recommended Order shall be provided by the party filing the exceptions. It is the responsibility of the excepting party to notify the PCLB Attorney so that a transcript may be promptly ordered and made available to the provider or applicant at actual cost.

9. BOARD HEARING:

All exceptions to the recommended order shall be considered at a hearing before the Board. In the event a conflict exists, the party in conflict may file a written request for continuance of the hearing, which will be considered at the hearing.

At the hearing before the Board, in cases where exceptions have been filed, each party or their representative shall each be given 15 minutes to present their argument as to why the Hearing Officer's recommended order should be adopted by the Board or why the order should be rejected or modified. The excepting party shall proceed first. The parties are limited in their presentation to matters of law and to the facts contained within the record of the administrative hearing and may not argue any facts not contained within that record. If no exceptions have been filed, no argument shall be received by the board.

Following presentations of the parties, the Board shall deliberate and either adopt the Hearing Officer's recommendation or reject or modify the recommended order, as it deems appropriate. The Board may not reject or modify findings of fact unless the Board first determines from a review of the entire record and states with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with the essential requirements of law.

Board hearings shall be recorded and minutes prepared following each hearing.

Any party desiring or requiring a verbatim transcript, is responsible for retaining and compensating a court reporter to record the proceeding.

10. FINAL AGENCY ACTION:

The Chairman, or in the Chairman's absence, the Secretary or designee, shall execute the Final Agency Action prepared by the Board Attorney and reflecting the decision of the Board at the hearing held on this cause. The determination of the Board becomes final within fifteen (15) days of service of the decision if not appealed.

11. APPEALS OF FINAL AGENCY ACTION:

An aggrieved party may file an appeal of the Final Agency action with the Department of Children and Families. by filing a Notice of Appeal within fifteen (15) days of service of the Final Agency Action.

**PINELLAS COUNTY LICENSE BOARD
IN AND FOR PINELLAS COUNTY, FLORIDA**

IN RE THE MATTER OF THE APPEAL OF:

BURNICE I. BOLDEN, D/B/A LILLIE'S LITTLE ANGELS

Petitioner/Operator,

vs.

NOTICE OF CLASS 1 ADMINISTRATIVE FINE

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

Respondent.

_____ /

NOTICE OF BOARD MEETING TO TAKE FINAL AGENCY ACTION

TO: VIA CERTIFIED MAIL AND REGULAR U.S. MAIL

Ms. Burnice I. Bolden
d/b/a Lillie's Little Angels
1445 Preston Street South
St. Petersburg, FL 33712

PLEASE TAKE NOTICE that on **THURSDAY, JANUARY 19, 2012** at or about **1:30 p.m.** or as soon thereafter as the matter may be called, the Pinellas County License Board for Children's Centers and Family Day Care Homes will consider and rule upon any written exceptions and responses or motions in opposition thereto filed in this matter, along with the Hearing Officer's Recommended Order and take final agency action. The meeting will be held at **Coordinated Childcare, 6500 102nd Avenue North, Pinellas Park, Florida 33782, at 1:30 p.m.** and will be tape-recorded.

ANY PARTY DESIRING OR REQUIRING A VERBATIM TRANSCRIPT for appeal or other purposes, may, at its own expense, arrange to have a certified court reporter report the hearing portion of the meeting. If the court reporter records the proceeds, the recordation shall become the official transcript.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the above-named addressee by Certified Mail, Return Receipt Requested and regular U. S. Mail this 4th day of January, 2012.

JOHNSON, POPE, BOKOR,
RUPPEL & BURNS, LLP

By: Colleen M. Flynn
Colleen M. Flynn
FBN 0190470
911 Chestnut Street
Clearwater, FL 33756
Telephone: 727-461-1818
Facsimile: 727-441-8617
Attorneys for PCLB

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cc:
PCLB – Patsy Buker, Executive Director

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