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JAN 19 2010

ATTORNEY GENERAL'S OFFICE
SPOKANE

**BEFORE THE WASHINGTON STATE OFFICE OF ADMINISTRATIVE
HEARINGS FOR The Department Of Early Learning, DEL**

In Re:) Docket No. 2009-DEL-0121
)
LORI SAYMAN,)
) Request for Expedited STAY of Summary
) Suspension and an
)
Appellant) Appeal of Summary Suspension

Comes now Lori Sayman, Appellant, by and through her lay representative, Deborah Rosser of Advocates for Provider Rights and Education (APRE), pursuant to WAC 170-03-0300 (3), a request for an Expedited STAY of the January 13, 2010 Summary Suspension, authored by Kristen Weigand and imposed on The Academy of Little Bears, Childcare Center.

The January 13, 2010 Notice of Summary Suspension "revisits" the October 19, 2009 revocation action which has been timely appealed and not yet heard before the assigned ALJ. It should be noted that one of the allegations used as support for the revocation action has been investigated by DLR/CPS and resulted in an UNFOUNDED finding.

The Notice also references a "complaint" made on December 29, 2009. This "complaint" was in fact not a complaint but a referral called in by the Center at Mrs. Sayman's direction. The implication made in the Notice is inflammatory and distorts the facts in the case.

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APRE
13116 NW 6th Ave
Vancouver, WA 98685
360-574-7678 ~ 360-991-3026
SAYMAN
Academy Of Little Bears
Request for
Expedited STAY/Summary Suspension
Appeal of Summary Suspension
January 14, 2010

The Notice further addresses a January 10, 2010 complaint. Again there was no complaint made. A referral was called into Children's Administration. The allegation is under investigation by DLR/CPS. The Appellant vehemently denies a failure to report to the child's parent. The Appellant vehemently denies that staff was aware of any sexual activity between children until a parent brought it to Mrs. Sayman's attention. Mrs. Sayman immediately conducted a conference with staff, the parent of the child, and the child. The parent did not disclose the full nature of the allegation to Mrs. Sayman. After the meeting, the parent informed Mrs. Sayman that she had reason to believe that her child was "making it up". A complete investigation into this matter will provide support that neither Mrs. Sayman nor her staff failed to report suspected child abuse.

Mrs. Sayman is not in violation of WAC 170-295-6040 (2) as the Notice alleges.

WAC 170-295-6040

- 1) You and your staff must protect the child in care from child abuse, neglect, or exploitation, as required under chapter 26.44 RCW.***
- (2) You must immediately report an instance when you or the staff have reason to suspect that child physical, sexual, or emotional abuse, child neglect, or child exploitation as defined in chapter 26.44 RCW has occurred. This report must be made to children's administration central intake.***
- (3) If there is immediate danger to a child you must also make a report to local law enforcement.***

Mrs. Sayman is not in violation of WAC 170-295-7060(2) as the Notice alleges.

WAC 170-295-7060

You or your staff must report immediately:

- (1) A death or a serious injury or illness that requires medical treatment or hospitalization of a child in care must be reported by telephone and in writing to the parent, licenser, and child's social worker, if the child has a social worker;***
- (2) Any instance when you or your staff have reason to suspect the occurrence of any physical, sexual, or emotional child abuse or child neglect, child endangerment, or child exploitation as required under described in chapter 26.44 RCW. You may make a report by calling the statewide number at 1-800-562-5624 or 1-866-ENDHARM; and***

(3) An occurrence of food poisoning or reportable communicable disease, as required by the state board of health to the local public health department and to the licensor, by telephone.

The Appellant is requesting a STAY of summary suspension while the DLR/CPS investigation is being conducted and completed.

A memorandum in support of a STAY of the Summary Suspension will be forthcoming and sent directly to the Spokane Office of Administrative Hearings.

Submitted this 14th day of January 2010



Deborah Rosser, Representative for Lori Sayman

Attached:

DEL's January 13, 2010 Summary Suspension Notice (3 Pages)

Sent via fax to OAH, Olympia

cc. DEL Spokane

Nicole Koyama, AAG

A hard copy will be sent to OAH and DEL via certified mail.



STATE OF WASHINGTON
DEPARTMENT OF EARLY LEARNING

January 13, 2010
Notice of Summary Suspension
Certified – Return Receipt Requested OR Hand-Delivered

Academy of Little Bears
Lori Sayman
1104 W. Heroy
Spokane, WA 99205

Dear Ms. Sayman,

I am writing to inform you that the Department of Early Learning (DEL) is summarily suspending and suspending your child care license. **This means the suspension is effective as soon as you receive this letter. Any child care offered after that date would be considered illegal, unlicensed child care.** This action is taken pursuant to the Revised Code of Washington (RCW) Chapter 43.215 and the Washington Administrative Code (WAC) Chapter 170-295-0100. Below I will explain the facts leading up to the Department's decision to suspend your license and the legal basis for suspending it summarily. At the end of this letter, you will find important information about how you can appeal this suspension.

Facts and Legal Basis for the Decision:

These are the facts the Department considered in making its decision:

On October 19, 2009, the Department issued a revocation licensing action letter due to chronic licensing violations, failure to protect children in your care and failure to report child abuse and/or neglect. A copy of the October 19, 2009 revocation letter is attached for your reference.

On December 29, 2009, the Department received a complaint with the following allegations: A two year old child came to the facility on December 23, 2009 and was observed with bruising on her face. The child disclosed that her "mom did it". You did not immediately report this child injury and suspected child abuse and/or neglect to Children's Administration Intake This was not reported until December 29, 2009 and the Department's inspection is still open. Your failure to report this as a mandated reporter is of grave concern to the Department.

On January 10, 2010, the Department received another complaint with the following allegations: A four year old child disclosed significant sexual activity between other children at the child care facility. The child also indicated that your center staff were aware of the sexual activity and this occurred on more than one occasion. These incidents were not reported to the child's parent. Again, as a mandated reporter, you failed to immediately report these concerns to Children's Administration Intake or to the Department. Due to the risk to children, this referral also screened into Division of License Resources/Child Protective Services (DLR/CPS) for investigation. The DEL inspection is also still pending.

Summary Suspension: The Department may summarily suspend a license if it finds that conditions in the licensed facility constitute an immediate danger to a child or children in care, or if the public health, safety, or welfare requires emergency action. WAC 170-03-0300(1); RCW 34.05.422(4). The facts and violations listed above lead the Department to believe that your child care facility constitutes a threat to a child and/or the public health, safety, and welfare. Immediate action is imperative. You are directed to stop providing child care as soon as you receive this letter. Providing child care without a license is illegal. If you continue to provide child care after you receive this letter, you will be subject to the civil and criminal penalties of RCW 43.215.300, RCW 43.215.330 and RCW 43.215.340.

Suspension: The Department is authorized to suspend a provider's license if he or she fails to meet minimum licensing requirements or takes certain actions. RCW 43.215.300(1); WAC 170-295. Specifically, the facts discussed above violate the following Department licensing requirement(s):

WAC 170-295-0100(1) - This WAC requires that: If you do not meet the requirements in chapter 170-295 we may deny your license application or suspend or revoke your license.

WAC 170-295-0100(3)(e) - This WAC requires that: We may deny, suspend, or revoke your license if you: Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference.

WAC 170-295-6040(2) - This WAC requires that: You must immediately report an instance when you or the staff have reason to suspect that child physical, sexual or emotional abuse, child neglect, or child exploitation as defined in chapter 26.44 RCW has occurred. This report must be made to Children's Administration Central Intake.

WAC 170-295-7060(2) - This WAC requires that: Any instance when you or your staff have reason to suspect the occurrence of any physical, sexual, or emotional child abuse or child neglect, child endangerment, or child exploitation as required in chapter 26.44 RCW. You may make a report by calling the statewide number at 1-800-562-5624 or 1-866-Endharm.

Appeal Rights

You may contest both the Department's decision to suspend your license and the effective date of that decision. If you wish to contest the Department's decision to suspend your license, you have the right to an administrative hearing under WAC 170-03, WAC 170-03-0030 through WAC 170-03-0090 and RCW 43.215.305(3). To request a hearing, you must complete the following steps within 28 calendar days:

- Your request must be in writing;
- Your written request must state the basis for contesting the Department's decision;
- You must include a copy of this letter;
- Your request must be received by the Office of Administrative Hearings (OAH) within 28 calendar days of when you or your agent receive this letter;
- You must serve your written request to the Department of Early Learning in some manner that ensures proof of receipt.
- Your request must be sent to the following addresses:

Office of Administrative Hearings
PO Box 42488
Olympia, WA 98504-2488