



Division of Public Health

State of Nebraska
Pete Ricketts, Governor

July 19, 2016

Ana Eckersley
Willow Tree Day Care #3
616 South 75th Street
Omaha, NE 68114

Civil Penalty Payment – License No. CCC9477

Dear Ms. Eckersley:

This letter is to acknowledge receipt, as of July 11, 2016, of check number 1340 in the amount of \$810.00 which is payment remitted in accordance with the Notice of Disciplinary Action issued on July 1, 2016 by Courtney N. Phillips, MPA, Chief Executive Officer, Department of Health and Human Services. Therefore, the total amount of \$810.00 has been paid in full.

Thank you for your remittance.

Sincerely,

Becky Wisel, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/mrw

Cc: Children's Services Licensing

**NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA**

IN THE MATTER OF:)
THE OPERATING CHILD CARE CENTER)
LICENSE OF WILLOW TREE DAYCARE) **NOTICE OF**
OWNED BY ECKERSLEY DAYCARE 3 LLC) **DISCIPLINARY ACTION**

LICENSED LOCATION: 616 SOUTH 75TH STREET, OMAHA, NE., 68114

LICENSE NUMBER: CCC9477

CAPACITY: 162

AGES: SIX WEEKS TO 13 YEARS

HOURS AND DAYS: 24 HOURS A DAY, SEVEN DAYS A WEEK

DATE INITIALLY LICENSED: DECEMBER 10, 2014

NOTICE:

Willow Tree Daycare owned by Eckersley Daycare 3 LLC (hereinafter referred to as "Willow Tree #3" and "Eckersley") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Eckersley's Child Care Center license for violation of the following statutes and regulations:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

- (1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;
- (2) Violation of an order of the department under the act; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

391 NAC 3-008.01 Grounds for Denial or Disciplinary Action: "The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act;
2. Violation of an order of the department under the Act; ...
4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

391 NAC 3-002 DEFINITIONS “Adequate and appropriate supervision includes: 1. Knowing the whereabouts and being within sight or sound of all children at all times; 2. Being awake, alert, attentive, and responsive to the needs of all children, and 3. Protecting or removing children from harm.”

391 NAC 3-006.01 Licensee Requirements: “The licensee must: 1. Ensure that the center is administered and managed appropriately; 2. Maintain compliance with all applicable state statutes and child care center regulations;” ...

391 NAC 3-006.02 Director Requirements: “The director is responsible for managing the day-to-day operations of the child care center. The director must report to the licensee all matters related to the maintenance, operation, and management of the child care center and be directly responsible to the licensee or to a person delegated governing authority by the licensee. The director must: 1. Be responsible for the center’s compliance with rules and regulations; 2. Be within the child care area a sufficient number of hours to permit adequate attention to the management of the center;” ...

391 NAC 3-006.15B Staffing Requirements: ... “2. Each room where children are receiving care must have a teacher who is involved with the direct care of children.” ...

391 NAC 3-006.19 Supervision of Children: “Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee.”

391 NAC 3-008.02B Additional Action: “If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action.”

FACTS:

Martha Renteria (hereinafter referred to as “Renteria”) is listed as the director of record of the program. Ana Eckersley is listed as the owner of the Limited Liability Company. On November 10, 2015, Willow Tree #3 was placed on probation by Order on Agreed Settlement for leaving two children behind at a fun center.

On March 23, 2016, Dawn Kozak (hereinafter referred to as “Kozak”), Child Care Inspection Specialist, Children Services Licensing, Licensure, Division of Public Health, was able to determine that a toddler vomited more than once. One staff interviewed reported that s/he was not in the room when the child initially vomited and did not observe what may have caused the vomiting. This staff stated another child in the room reported that the toddler had swallowed something before vomiting. A second staff interviewed reported that a child had informed her that the toddler had something in her mouth.

Renteria had already left for the day; however, none of the staff interviewed saw what happened or what the child had swallowed. This child described the object as possibly a paperclip. The toddler's mother was called and informed that the toddler had been ill.

In addition to appropriate supervision not being provided during the time of the incident, during the interview with Renteria, when asked, Renteria admitted that the individual who was in the room when the incident occurred was not qualified as a teacher and should not have been left alone with children.

DISCIPLINARY ACTION IMPOSED:

Based upon the facts set out above, the Department is imposing the following:

1. Eckersley is assessed a civil penalty in the amount of \$810.00 (\$5.00 times license capacity of 162 children times one day of non-compliance, March 23, 2016).

Said penalty in the amount of \$810.00 must be paid on or by August 19, 2016, which is thirty (30) calendar days from the effective date of this Notice, July 19, 2016, and must be payable to the Nebraska Department of Health and Human Services, Division of Public Health, Licensure. Said penalty must be sent to Marsha Wandersee, Administrative Assistant, Nebraska Department of Health and Human Services, Division of Public Health, Licensure, Children's Services Licensing, PO Box 94986, Lincoln, Nebraska, 68509-4986.

2. In addition to the terms and conditions that are effective until November 10, 2016, additional terms and conditions include:

a. By July 19, 2016, Eckersley must designate an individual who will be on duty and in charge when Renteria is not present.

b. By July 19, 2016, Eckersley must submit written policies and procedures on how adequate and appropriate supervision will be provided at all times children are in attendance, to include the Director's responsibility in ensuring this occurs. In addition, these policies and procedures must include how Eckersley will ensure that there is a qualified teacher in each room.

These policies and procedures must be submitted to the Department in writing. The Department agrees that after reviewing this plan, it will either approve or require modifications. If modifications are required, Eckersley must, within ten calendar days of notice by the Department, resubmit the written plan to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plans.

Once approved, Eckersley must implement the plan as approved by the Department.

c. Eckersley is responsible for paying for all costs associated with compliance.

d. All documentation required must be submitted to Dawn Kozak, Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, State Office Building, 1313

Farnam Street, Third Floor, Omaha, Nebraska, 68102, or at other such address as directed, in writing, by the Department.

2. Compliance will be monitored by Children's Services Licensing staff and may be monitored by other Department representatives (i.e., Fire Marshal or designated agent, Environmental Health Specialist/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). Eckersley and any employees and/or agents must cooperate with the Department in these monitoring inspections.
3. A copy of this Notice of Disciplinary Action must be posted with the current child care license so it is clearly visible to parents and agency representatives.
4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations and failure to correct the violations will be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.
5. If Eckersley discontinues the child care program for any reason, the time Eckersley is not actively operating a licensed child care program will not count toward the probation period and any subsequent child care license issued by the Department indicating Ana Eckersley, Willow Tree Daycare, Eckersley Day Care LLC and/or Martha Renteria as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Eckersley must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the provision of child care for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on July 18, 2016, unless the Department receives a written request for a hearing on or before such date. The license shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request on or before such date, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no later than July 18, 2016. It must be addressed to:

Marsha Wandersee, for DHHS
Children's Services Licensing
Licensure Unit – Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-5986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty,

restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

That Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee.

Dated: July 1, 2016

Courtney N. Phillips, MPA
Chief Executive Officer
Department of Health and Human Services


Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 1 day of July, 2016, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to:

Eckersley Day Care 3, LLC
Willow Tree Daycare
Ana Eckersley
616 South 75th Street
Omaha, NE 68114

Eckersley Day Care 3, LLC
Michelle B. Miller-McCoy
17525 Arbor Street
Omaha, NE 68130

Maria Renteria
Willow Tree Day Care #3
616 South 75th Street
Omaha, NE 68114

Willow Tree Day #3
616 South 75th Street
Omaha, NE 68108


Marsha Wandersee

November 13, 2015

WILLOW TREE DAYCARE
Eckersley Day Care, LLC
616 South 75th Street
Omaha NE 68114


Dear Eckersley Day Care, LLC:

In accordance with the Order on Agreed Settlement issued on November 10, 2015, by Courtney N. Phillips, MPA, Chief Executive Officer, Division of Public Health, Department of Health and Human Services, your original License to operate a Provisional Child Care Center in the State of Nebraska has been placed on Probation. A license imprinted with the term "PROBATION" is enclosed. This status became effective November 10, 2015, and it will remain in effect until November 10, 2016. Upon completion of the Probation, a new license will be issued to you.

At this time we ask that you submit your current license by return mail, within the next seven (7) days, to DHHS, Division of Public Health, Licensure Unit, Attn: Marsha Wandersee, 301 Centennial Mall South, Lincoln, NE 68509-4986.

If you have any questions, please contact Jo Pfeiffer, Child Care Licensing Supervisor, at (402) 595-3335.

Sincerely,


Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

BW/dcp

cc: Children's Services Licensing

This license shall be kept available in the establishment and such proof of credentialing shall be shown upon request.

State of Nebraska

PROBATION

Department of Health and Human Services
Division of Public Health

ECKERSLEY DAY CARE 3 LLC

is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an
Operating Provisional Child Care Center
located at 616 SOUTH 75th ST Omaha NE 68114

A maximum of 162 children in ages 6 WKS to 13 YRS may be in attendance at any one time during the hours of 0000 to 2400 on MTWTFSSU

WILLOW TREE DAYCARE owned by ECKERSLEY DAY CARE 3 LLC is hereby issued License No. CCC9477 which is effective from 12/10/2014 to 12/31/2015

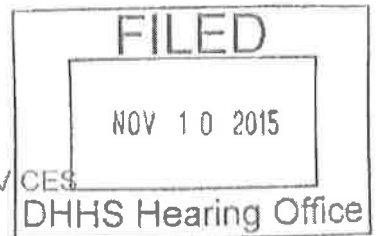
Amended: 11/10/2015

Given under the name and Seal of the Department of Health and Human Services Regulation and Licensure of the State of Nebraska at Lincoln on November 16, 2015.



Christine N. Huber, MPA
Chief Executive Officer
Department of Health and Human Services

STATE OF NEBRASKA
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES




IN THE MATTER OF)
THE REQUEST FOR HEARING BY)
WILLOW TREE DAYCARE OWNED BY)
ECKERSLEY DAY CARE 4 LLC)

152181 CCC
ORDER

This matter came before the Director of the Division of Public Health on the Department's Motion for Approval of Agreed Settlement. The Director having considered said Motion and Agreed Settlement:


1. Approves the Agreed Settlement;
2. The facts as set out in the Notice of Disciplinary Action are taken as true and adopted herein; and
3. Orders the parties to comply with all of the terms of the Agreed Settlement.

DATED this 10th day of November, 2015


Courtney N. Phillips, MPA
Chief Executive Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of November, 2015 true and correct copies of the foregoing Order were served upon the parties by sending the same by certified United States mail, sufficient postage prepaid, return receipt requested with sufficient postage prepaid, and/or electronically to: Eckersley Day Care 4 LLC, Willow Tree Daycare, 616 South 75th Street, Omaha, NE 68108 and konyeckersley@gmail.com, and to teresa.hampton@nebraska.gov.


DHHS Legal Services
P. O. Box 98914
Lincoln, NE 68509-8914
(402) 471-7237 F. (402) 742-2376

7013 2250 0000 5074 0659

STATE OF NEBRASKA
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

IN THE MATTER OF)	
THE REQUEST FOR HEARING BY)	152181 CCC
)	AGREED SETTLEMENT
WILLOW TREE DAYCARE OWNED BY)	
ECKERSLEY DAY CARE 4 LLC)	

COMES NOW the Department of Health and Human Services, Division of Public Health (hereinafter "Department") and Eckersley Day Care 4 LLC d/b/a Willow Tree Daycare (hereinafter "Licensee"), and in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. Licensee holds a license to operate a child care center at 11325 Davenport St., Omaha, NE 68154 which was issued by the Department, the executive agency of the state of Nebraska charged with administration of child care licensure statutes and regulations. Licensee is owned by Ana C. Eckersley (hereinafter "Eckersley"). Jeff Eckersley is the spouse of Ana C. Eckersley and Jordan Eckersley is an adult child of Ana C. Eckersley. Eckersley also owns Eckersley Day Care 3 LLC d/b/a Willow Tree Daycare located at 616 So. 75th St., Omaha, NE 68114. Eckersley Day Care 3 LLC (Licensee II) holds a provisional license to operate a child care center at the above address.
2. On August 27, 2015, the Department notified Licensee that it proposed to discipline the license. A copy of the Notice of Disciplinary Action is on file herein and incorporated into this agreement by this reference.
3. Licensee is entitled to a hearing upon request on the Notice. Licensee filed a timely written request for a hearing on the Notice, a copy of which is on file herein and incorporated into this Agreement by this reference. Licensee and Licensee II hereby waives each of their right to an administrative contested case hearing and any right to judicial review of any order that approves the terms of this Agreed Settlement.
4. Licensee and Licensee II are not represented by an attorney in this matter. Licensee and Licensee II acknowledge that each has the right to have this

Agreed Settlement reviewed by their own attorney, at their expense, at all times relevant to this matter and to receive legal advice from such attorney.

5. Licensee and Licensee II agree that it and its representatives have the authority to enter into this Agreed Settlement. No coercion, threats, or promises other than those stated herein were made to induce Licensee to enter into this Agreed Settlement. Licensee's signature below represents its entry into this Agreed Settlement freely, voluntarily and knowingly and that of Eckersley Day Care 3 LLC as such.
6. Licensee admits the allegations in the Notice. Licensee has closed the child care program located at 11325 Davenport St., Omaha, NE and no longer has access to the location. Licensee terminated the employment of the staff involved in the incident and the Director of the program was reassigned and is currently the Director of the program located at 616 So. 75th St., Omaha, NE. Licensee and Eckersley Day Care 3 LLC agree to the provisions of this Agreed Settlement as a resolution of this contested matter.
7. This Agreed Settlement does not constitute a waiver, suspension, or modification of the requirements of the Child Care Licensing Act or the regulations adopted thereunder.
8. Licensee and Licensee II agree that the license held by Eckersley Day Care 3 LLC will be placed on probation for one (1) year under the following terms and conditions:
 - a. Within thirty (30) days of approval of this Agreed Settlement Licensee II must retain, at licensee's expense, an Early Childhood Consultant, and must notify the department in writing of the name, business address, phone number and email address of the Consultant. The Consultant must be currently approved by the Early Childhood Training Center as an instructor in the child care management training program. The License must have the Consultant review and assess the program's current policies and procedures related to the field trips. Licensee II must cooperate with the Consultant. Licensee II must ensure that they confer with the Consultant on steps to take to comply with regulations

based on the Consultant's review and observations, and to revise their policies related to field trips and supervision of children to ensure compliance with the regulations. Licensee must document all consultations with the Consultant and the decisions made after each such consultation. The Licensee must maintain such documentation and provide it to the Department upon request.

- b. Licensee II must have Eckersley, Jeff Eckersley, or Jordan Eckersley be on any field trips taken during the probation. This is in addition to any teachers that are responsible for the supervision of children during the field trips. Licensee II shall document all staff that attends each field trip and whether Eckersley, Jeff Eckersley or Jordan Eckersley attended the field trip. Licensee II must maintain such documentation and provide it to the Department upon request.
 - c. Licensee and Licensee II must ensure that Martha Renteria, the Director of Licensee II, successfully completes the Child Abuse and Neglect 101 class offered by Project Harmony within ninety (90) days of the approval of this Agreed Settlement and submits written documentation of such to the Department within ten (10) days of its completion.
 - d. Licensee II must maintain compliance with all Child Care Center Regulations and the Child Care Licensing Act.
 - e. Licensee II must post a copy of this Agreed Settlement with the current child care license so it is clearly visible to parents and agency representatives.
9. Department agrees to accept the voluntary surrender of the License to operate the child care program at 11325 Davenport St., Omaha, NE 68154.
10. Compliance with the terms of this Agreed Settlement will be monitored by unannounced inspections by Children's Services Licensing staff and may be monitored by other Department representatives (i.e. Fire Marshal or designated agent, Environmental Health Specialist or designated agent, Resource Development Worker, Children and Family Specialist, etc.).

Licensee and any of their employees and agents must cooperate with the Department in these monitoring visits. Any violation will be grounds for revocation or such other discipline as the Department may determine appropriate after notice to Licensee and an opportunity for a hearing.

11. Failure to comply with the terms of this Agreed Settlement, the statutes governing the provision of child care or the Family Child Care Home regulations is grounds for revocation or such other discipline as the Department may deem appropriate.
12. If Licensee II discontinues operation of the child care program for any reason, the time Licensee II is not actively operating a licensed child care program will not count toward the Probation period and any subsequent child care license issued by the Department indicating Licensee II or Ana C. Eckersley or a related party, as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Licensee II must notify the Department within seven (7) calendar days of any period it is not operating. Active operation is the provision of child care for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year. The probation period shall apply to any operating license issued to Licensee II.
13. Licensee and Licensee II acknowledges that under Nebraska statutes a probation is considered a disciplinary sanction. Licensee and Licensee II acknowledge that neither has received any representations from the Department or its employees or representatives of the effect this Agreed Settlement may have on their ability to obtain a license or other authorization document of any nature in this or any other state.
14. If the Director of the Division of Public Health does not approve this Agreed Settlement, in its entirety, it shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter or any further disciplinary action in the future.

WHEREFORE, the parties request that an Order be entered approving and adopting the terms of this Agreement.

Dated this 3rd day of NOV., 2015.

Eckersley, Day Care 4 LLC, Licensee

by Ana C. Eckersley
Ana C. Eckersley, member

Dated this 3rd day of NOV., 2015.

Eckersley, Day Care 3 LLC, Licensee II

By Ana C. Eckersley
Ana C. Eckersley, member

Dated this 9th day of November, 2015.

Nebraska Department of Health
and Human Services

b, Teresa M. Hampton
Teresa M. Hampton #16746
Legal Services
P.O. Box 95026
Nebraska Department of Health and
Human Services
Lincoln, Nebraska 68509-5026
(402) 471-4051

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH
STATE OF NEBRASKA

IN THE MATTER OF:)	
THE OPERATING CHILD CARE CENTER)	
LICENSE OF WILLOW TREE DAYCARE)	NOTICE OF
OWNED BY ECKERSLEY DAYCARE 4 LLC)	DISCIPLINARY ACTION

LICENSED LOCATION: 11325 DAVENPORT ST., OMAHA, NE., 68154

NOTICE:

Willow Tree Daycare owned by Eckersley Daycare 4 LLC (hereinafter referred to as "Willow Tree #4" and "Eckersley") is notified that the Department of Health and Human Services, Division of Public Health, (hereinafter referred to as "Department") is imposing disciplinary action against Eckersley's Child Care Center license for violation of the following statutes and regulations:

AUTHORITY:

Nebraska Revised Statutes, section 71-1919, of the Child Care Licensing Act provides that "the Department may ... take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

- (1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;
- (2) Violation of an order of the department under the act; ...
- (4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;
- (9) Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711;" ...

391 NAC 3-008.01 Grounds for Denial or Disciplinary Action: "The Department may deny the issuance of or take disciplinary action against a license on any of the following grounds:

- 1. Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the Act;
- 2. Violation of an order of the department under the Act; ...
- 4. Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

9. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711;” ...

Nebraska Revised Statutes, section 28-711, provides, in part, that “(1) When ... any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section.” ...

391 NAC 3-002 DEFINITIONS “Adequate and appropriate supervision includes: 1. Knowing the whereabouts and being within sight or sound of all children at all times; 2. Being awake, alert, attentive, and responsive to the needs of all children, and 3. Protecting or removing children from harm.”

391 NAC 3-006.01 Licensee Requirements: “The licensee must: 1. Ensure that the center is administered and managed appropriately; 2. Maintain compliance with all applicable state statutes and child care center regulations; ... 4. Either manage the day-to-day operations of the center or designate a director who is responsible for the day-to-day management of the center and define the duties and responsibilities of the director in writing;” ...

391 NAC 3-006.02 Director Requirements: “The director is responsible for managing the day-to-day operations of the child care center. The director must report to the licensee all matters related to the maintenance, operation, and management of the child care center and be directly responsible to the licensee or to a person delegated governing authority by the licensee. The director must: 1. Be responsible for the center’s compliance with rules and regulations; 2. Be within the child care area a sufficient number of hours to permit adequate attention to the management of the center; 3. When not in the child care area, designate another staff to act in his/her absence who will be responsible and accountable for management of the center; ... 10. Immediately file a report with the Child Abuse-Neglect Hotline (1-800-652-1999) and/or appropriate local law enforcement agency when s/he has reason to believe child abuse, neglect, or sexual abuse may be occurring in the child care center, in the child’s home, or elsewhere, or ensure that a report is filed;” ...

391 NAC 3-006.10C Transportation Training: “Individuals who transport children on behalf of a child care center must: 1. Receive and maintain a valid certificate of completion of the “Safe Kids Buckle Up” program within 90 days of employment and every five years thereafter. Individuals who transport children who were employed before the operative date of these regulations must receive and maintain a valid certificate of completion for “Safe Kids Buckle Up” within one year and every five years thereafter. Any proposed equivalent training must be approved by the Department.” ...

391 NAC 3-006.15B Staffing Requirements: ... “2. Each room where children are receiving care must have a teacher who is involved with the direct care of children.” ...

391 NAC 3-006.15C Staff-to-Child Ratio: “The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis.”

"Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows.

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
School-age	15	1"

391 NAC 3-006.19 Supervision of Children: "Adequate and appropriate supervision must be provided to children at all times children are in attendance, including during outdoor play. Ultimate responsibility for supervision rests with the licensee."

391 NAC 3-006.26 Transportation: "When transportation is provided for children in care, the licensee must ensure the following conditions are met: ... 12. Staff-to-child ratio must be maintained whenever children are in care;" ... 5. The vehicle used to transport children must be properly registered and insured, and must contain a first aid kit and parent contact information for each child being transported;"

FACTS AND FINDINGS:

Eckersley is the licensee of a Provisional Child Care Center, Willow Tree. This program is licensed for a maximum of 162 children, ages six weeks to 13 years of age, 24 hours a day, seven days a week. This program was licensed March 20, 2015, and placed on probation. Ana Eckersley is listed as the owner of the Limited Liability Company.

On June 9, 2015, Dawn Kozak (hereinafter referred to as "Kozak"), Child Care Inspection Specialist, Children Services Licensing, Licensure, Division of Public Health, received a call from Martha Renteria (hereinafter referred to as "Renteria"), Director of Willow Tree #4, stating that 19 children from Willow Tree #1 and Willow Tree #4 had gone on a field trip to The Family Fun Center as well as two teachers, Adela Vasquez (hereinafter referred to as "Vasquez" and Kathia Salinas (hereinafter referred to as "Salinas"). These two teachers had forgotten two children, ages four years of age, behind at Family Fun Center, when they returned to the Willow Tree #4 program with the rest of the children. Renteria said she had received a call from Willow Tree #2 at 2:30 p.m. informing her that the Family Fun Center had called Willow Tree #2 stating they had the two children. Willow Tree #2 had also been at the Family Fun Center on June 9, 2015. Willow Tree #2 was not missing any children and were trying to determine which Willow Tree program the children belonged. Renteria eventually determined that the children were from Willow Tree #4. Renteria and Ana Eckersley went to pick up the children about 3:40 p.m.

Kozak asked Renteria to provide incident reports completed by staff and parent contact information on the children.

On June 10, 2015, Kozak telephoned Renteria to inquire if she had called Child Protective Services to make a report. Renteria stated that she had not and Kozak directed her to do so immediately. On June 29, 2015, Kozak and Nadja Sherry (hereinafter referred to as "Sherry"), Children and Family Services, Department of Health and Human Services, conducted an investigation to Willow Tree #4. Prior to this, Sherry had met with both of the children who confirmed that they were left behind at the Family Fun Center.

During the interview with Ana Eckersley, Ana Eckersley stated that she was at Willow Tree #4 when Willow Tree #2 called inquiring if they were missing two children. Ana Eckersley asked Vasquez and Salinas if they had accounted for all the children, and they advised they had.

She then called Leslie Garcia (hereinafter referred to as "Garcia"), Director of Willow Tree #3, who also had children at the Family Fun Center at the same time as Willow Tree #4, who confirmed that they had all of their children accounted for.

Prior to leaving, Ana Eckersley called the Family Fun Center and obtained the names of the children that were left behind. It was determined that they were BC and AN, both four years, and that they were from Willow Tree #4.

Interviews were conducted with Salinas and Vasquez who provided the following information:

Salinas:

- Children put on green shirts so they could easily be identified.
- Had list of children who had paid for the outing and had them go to two vans
- Never saw the list again as Renteria kept it at the center
- Vasquez took children to one van and Salinas took the remainder to the other van – did not know how many children
- Stated it was lead teacher's responsibility to count children and identified Vasquez as lead teacher
- Did not see Vasquez counting children
- Stated the two children left behind were in Vasquez's van when going to the Family Fun Center
- Never assigned children to staff and children rode in different vans when returning to the center
- Had no idea which children she personally or Vasquez were responsible for
- When returned to the center, went on break and knew nothing of the incident until Ana Eckersley came and told her that two children were left behind

Vasquez:

- When leaving Willow Tree #4 for the field trip, called out the children's names who had paid, gave them shirts and then returned the list to Renteria
- Had 12 children in her van with no other staff. Some of the children were three years old.
- Went with two vans. She drove one and Joaquin (cook/driver) drove the other with Salinas. Did not know how many children were in the van. They went to Willow Tree #1 to pick up other children from that center.
- When leaving Willow Tree #1, Vasquez and Salinas were on Vasquez's van with an unknown number of children and Karla Cabrera (hereinafter referred to as "Cabrera"), a staff from Willow

Tree #1, was driving the other van with an unknown number of children from both centers on it. Thought there were 30 children between the two centers.

- Upon arrival at the Family Fun Center, the group went to the back room to eat lunch and after lunch, each teacher took 10 kids to play games but cannot recall which kids were with which teacher.
- At about 2:00 p.m., they got ready to go and Vasquez was at the head of the line of children and Salinas and Cabrera were at the end.
- Walked out to get on the vans and when asked, stated nobody counted children when getting on the vans.
- Dropped children off at Willow Tree #1 and returned to Willow Tree #4.
- Did not know that two children were missing until Ana Eckersley told her.
- Stated the van that had children from both Willow Tree #1 and Willow Tree #4 did not have emergency contact information on it for all children on the van.

Kozak was unable to interview Cabrera as she was no longer employed. Ana Eckersley informed Kozak that Cabrera did not have the Safe Kids Buckle Up class and should not have been transporting.

Renteria had initially informed Kozak that the children that went on the outing were age four and older; however, in reviewing the list of names and ages of children that went on the outing, five children were three years of age. Vasquez had informed Kozak that there were three year olds on both vans and 10 children on each van. Only three staff went on the outing, leaving one van with only one staff. With a 10 to 1 ratio for three year olds, a second staff would need to be on each van leaving them out of ratio when transporting.

As part of the complaint investigation, Kozak requested and reviewed Willow Tree's "Transportation Policy" which included the following requirements:

- All children will be accounted for before leaving the facility and again before returning.
- A passenger log sheet shall be used to track each child during transportation.
- ...a list of emergency contacts for all children and adults will be in the vehicle during transportation.

The program, therefore, violated its own policy.

Eckersley also violated the terms and conditions of the Probation dated March 20, 2015 which required:

- Staff will not leave children in any room unattended for any reason and a qualified teacher must be in each room.
- ... must comply with all of the provisions of the Child Care Licensing Statutes, Nebraska Revised Statutes, 71-1908 through 71-1923 and the child care licensing regulations set out in Title 391 of the Nebraska Administrative Code.

In addition, the following was also violated:

- ...“within ten days of the completion of the Safe With You training, all staff, including the director, Martha Renteria, must provide a Statement of Understanding to the Department confirming that they understand Nebraska’s reporting laws and that they understand they are a mandatory reporter of suspected child abuse/neglect.” ...

While Willow Tree submitted Statements of Understanding, program staff had to be instructed by Children’s Services Licensing staff to call the Child Abuse-Neglect Hotline regarding the incident of leaving children unattended and unsupervised at the Family Fun Center, which falls into a category of suspected neglect.

DISCIPLINARY ACTION IMPOSED:

Based upon the facts set out above, the Department is imposing the following:

1. Eckersley’s Child Care Center license’s probation, Willow Tree #4, is extended for a period of six additional months from March 20, 2016 to September 20, 2016. In addition, Willow Tree #4’s Provisional license will be extended from March 20, 2016 to September 20, 2016. Additional terms and conditions will include:

a. By September 11, 2015, Eckersley will revise the current transportation policies and procedures that were previously approved by the Department. The policies and procedures must be more specific regarding how Eckersley intends to monitor transportation.

These policies and procedures must be submitted to the Department in writing. The Department agrees that after reviewing these written policies and procedures, it will either approve or require modifications. If modifications are required, the Licensee must within ten calendar days of notice by the Department, resubmit the written policy to the Department with the required modifications. The Department reserves the right to make minor unilateral modifications to the written plans.

Once approved, Eckersley must implement the plans as approved by the Department.

b. By September 11, 2015, Eckersley must submit to the Department, for approval, the document that will be used to assign specific children to specific staff when transporting. The Department reserves the right to make minor unilateral modifications to the document. Once approved, Eckersley must implement the document.

c. Staff will maintain a 4 to 1 ratio when transporting children on field trips.

d. There will be no merging of field trips with field trips from other Willow Tree facilities and/or other facilities. Staff from Willow Tree #4 are responsible for Willow Tree #4 children only.

e. Either Ana Eckersley or Jeff Eckersley must accompany and supervise staff when transporting to verify compliance with transportation policies and procedures. Written documentation must be kept on site for review by the Department to verify compliance.

f. By September 27, 2015, Eckersley must provide training to current and future staff on the revised transportation policies and procedures, documentation used when transportation, ratios required and a document signed by all staff that they understand and intend to comply.

g. By November 27, 2015, Eckersley will ensure that Martha Renteria will register/enroll, attend and successfully complete the approved training titled Child Abuse/Neglect 101 as offered by Project Harmony, 11949 Q Street, Omaha, Nebraska, 68137, 402-595-1326.

Eckersley must submit verification of attendance and successful completion within fifteen calendar days after completion of the approved training to the Department; Attn: Dawn Kozak, at the address listed below, or at such address as directed, in writing, by the Department.

This training will count toward the required 12 hours of in-service training.

h. Eckersley is responsible for paying for all costs associated with compliance.

i. All documentation required must be submitted to Dawn Kozak, Child Care Inspection Specialist, Children's Services Licensing, Licensure Unit, Division of Public Health, 1313 Farnam Street, Third Street, Omaha, Nebraska, 68102, or at other such address as directed, in writing, by the Department.

2. Compliance will be monitored by Children's Services Licensing staff and may be monitored by other Department representatives (i.e., Fire Marshal or designated agent, Environmental Health Specialist/Scientist or designated agent, Resource Development Worker, Children and Family Services Specialist/Worker, etc.). Eckersley and any employees and/or agents must cooperate with the Department in these monitoring inspections.

3. A copy of this Notice of Disciplinary Action must be posted with the current child care license so it is clearly visible to parents and agency representatives.

4. Failure to comply with the terms of this disciplinary action, the applicable Child Care Regulations and failure to correct the violations will be grounds for revocation or such other discipline as the Department may deem appropriate after notice to the licensee and an opportunity for a hearing.

5. If Eckersley discontinues the child care program for any reason, the time Eckersley is not actively operating a licensed child care program will not count toward the probation period and any subsequent child care license issued by the Department indicating Ana Eckersley, Willow Tree Daycare, Eckersley Day Care LLC and/or Martha Renteria as licensee/director/owner shall be subject to the terms of this probation including completion of the probation period. Eckersley must notify the Department, in writing, within seven (7) working days of any period that it is not actively operating the program. Active operation is the provision of child care for a minimum of forty (40) hours a week for fifty (50) weeks of a calendar year.

BE ADVISED:

Pursuant to Nebraska Revised Statutes, section 71-1922, this action becomes final on September 11, 2015, unless the Department receives a written request for a hearing on or before such date. The license

shall continue in effect until the final order of the director if a hearing is requested. If the director does not receive such request on or before such date, the action of the Department is final.

If you decide to request a hearing, your written request for hearing must be received by the Department no later than September 11, 2015. It must be addressed to:

Marsha Wandersee, for DHHS
Children's Services Licensing
Licensure Unit – Division of Public Health
P.O. Box 94986
Lincoln, NE 68509-5986

If you request a hearing, you will be notified of the time, date and place of the hearing and other pertinent information, by separate notice. On the basis of such hearing, the director will affirm, modify or rescind the determination of the Department. Be advised that pursuant to Nebraska Revised Statutes, section 71-1920, upon completion of any hearing held, the director may impose any or a combination of any of the following: probation, suspension, revocation, civil penalty, restrictions of new enrollment, restrictions or other limitations on the number of children or the ages of the children served in the program, or other restrictions or limitations on the type of service provided by the program. On the basis of the hearing, a modification by the director may include sanctions important to your program, up to and including the loss of your license.

Nebraska Revised Statutes, section 71-1920 of the Child Care Licensing Act, provides that "any fine imposed and unpaid under the Child Care Licensing Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of State of Nebraska in the district court of the county in which the program is located." ...

That Nebraska Revised Statutes, section 71-1923 of the Child Care Licensing Act, provides that "a licensee may voluntarily surrender the license issued under the Child Care Licensing Act at any time, except that the Department may refuse to accept a voluntary surrender of a license if the licensee is under investigation or if the Department has initiated disciplinary action against the licensee.

Dated: August 27, 2015

Courtney N. Phillips, MPA
Chief Executive Officer
Department of Health and Human Services


Becky Wisell, Administrator
Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4986

CERTIFICATE OF SERVICE

COMES NOW, the undersigned and certifies that on the 27 day of August, 2015, a copy of the foregoing **NOTICE OF DISCIPLINARY ACTION** was sent by certified and first class United States mail, sufficient postage prepaid to:

Eckersley Day Care 4, LLC
Willow Tree Daycare
Ana Eckersley
11325 Davenport Street
Omaha, NE 68154

Eckersley Day Care 4, LLC
C/O Daniel J. Guinan, Registered Agent
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102-2663

Maria Renteria
Willow Tree Day Care #4
11325 Davenport Street
Omaha, NE 68154

Willow Tree Day #4
616 South 75th Street
Omaha, NE 68108


Marsha Wandersee

LICENSING AGREEMENT

I, Ana Eckersley, Licensee of Willow Tree Daycare, 816 South 75th Street, Omaha, NE 68114 hereby voluntarily state and declare.

I have read and understand the Nebraska Administrative Code, Regulations Governing Licensure of Child Care Centers.

I agree to comply with each of the Child Care Center Regulations as long as I am licensed by the State of Nebraska to provide child care services.

Licensee agrees that it and its representatives have the authority to enter into this Licensing Agreement.

I understand that this Licensing Agreement is a result of inspections which occurred on April 4, 2014, April 24, 2014 and May 29, 2014 when Child Care Inspection Specialist Lori Anderjaska conducted complaint inspections involving infant care and infant room ratios. These inspections substantiated violations of the following regulations, at the licensed child care center previously licensed at the address above.

I understand and agree that my purchase of this program includes continued employment of the same staff employed on the dates listed above.

I understand and agree to comply with:

List of violated regulations:

3-006.15C Staff-to-Child Ratio: The center must maintain accurate staff and daily attendance records to verify compliance with staff-to-child ratios. Compliance with staff-to-child ratios is determined on a center-wide basis.
 Only staff involved in the direct care of children are counted. The appropriate staff-to-child ratios must be met at all times, as follows.

Age of Children	Number of Children in Care	Number of Staff Required
6 weeks to 18 months	4	1
18 months to 3 years	6	1
3 years	10	1
4 and 5 years	12	1
school-age	15	1

3-006.23A Infant Care Rooms: Rooms where infants are receiving care must be limited to the care of no more than 12 children at any one time.

1. If five or more infants are receiving care in a room, at least two staff members must be in the room.
2. If nine or more infants are receiving care in a room, at least three staff members must be in the room.

I understand and agree that infant is defined as a child age six (6) weeks to eighteen (18) months.

I understand and agree that Staff-to-Child Ratios will be maintained at all times.

I understand and agree that when infants are present the one to four, staff-to-child ratio will be maintained.

I understand and agree that no more than 12 children will be present in any room where infants are receiving care.

I also agree that this Licensing Agreement will be prominently posted with my Child Care Center license so it is clearly visible to parents and Department representatives.

I understand that Children's Services Licensing staff shall conduct announced or unannounced visits to my facility to determine compliance with this Agreement.

Any violation of this Agreement may be grounds for further negative action or discipline as the Department of Health and Human Services, Division of Public Health, Children's Services Licensing may deem appropriate.

This Agreement shall be in effect until January 2, 2015. Should the Child Care Center license be amended because of a change of address, this Agreement may transfer to the new address if appropriate to the conditions of the Licensing Agreement.

Child Care Inspection Specialist

Date

OR

Not Relative Witness/Notary Public

Date

Ana Eckersley, Licensed
Eckersley Day Care 3, LLC

11325 Davenport St
Street/Address

Omaha NE 68154
City and Zip Code

12-31-14
Date