



TEXAS

Health and Human Services

Executive Commissioner
Dr. Courtney N. Phillips

February 27, 2020

Darryl Ashford
5620 FM 359 RD
RICHMOND, TX 77406-9606

Operation #1019226
North Fork Educational Center

Re: Intent to Impose Adverse Action

REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

#Hand Delivery

Dear Darryl Ashford,

On 09/23/2010, the Child Care Licensing (CCL) division of the Texas Health and Human Services Commission (HHSC) issued you permit # 1019226 to operate a(n) Licensed General Residential Operation-Residential Treatment Center located at 3001 ELM GROVE RD, WYLIE, TX 75098-6251. This letter shall serve as notice that HHSC intends to revoke that permit.

Tex. Hum. Res. Code §42.072(a) authorizes HHSC to take adverse action against an operation that does not comply with the minimum standards, rules, Chapter 42 of the Texas Human Resources Code, or the specific terms of the permit.

40* Tex. Admin. Code §745.8605 sets forth the circumstances when HHSC may take a form of enforcement action against an operation. HHSC applied this rule to the decision to take enforcement action against your operation as follows:

Subsections (5), (6), and (7) of this rule respectively provide that HHSC may take an enforcement action against an operation because of a single serious deficiency of minimum standards, rules, or laws, including a finding of abuse or neglect; several deficiencies that create an endangering situation; or a repetition or pattern of deficiencies.

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CCL met with your operation on 01/10/2020 to review HHSC's intent to impose Corrective Action Probation based on four separate findings of physical abuse by the Department of Family and Protective Services (DFPS) and related patterns of deficiencies. On the date of the meeting, HHSC had sent you the notification of the most recent of those findings in a letter dated 12/20/2019.

Since that meeting, there have been three additional findings of physical abuse, all related to emergency behavior restraints and/or inappropriate discipline measures:

Following an investigation of allegations reported to DFPS on or about 08/12/2019, HHSC sent you a letter dated 01/28/2020 concerning DFPS's finding that a caregiver abused a child by using a broom to hit the child and pushing the child.

Following an investigation of allegations reported to DFPS on or about 08/18/2019, HHSC sent you a letter dated 01/28/2020 concerning DFPS's finding that a caregiver abused a child when the caregiver used inappropriate physical discipline. The caregiver pushed the child, resulting in the child suffering a laceration.

Following an investigation of allegations reported to DFPS on or about 07/04/2019, HHSC sent you a letter dated 02/02/2020 concerning DFPS's finding that staff abused a child, who received a fractured femur as a result of an inappropriately implemented restraint that was also unwarranted.

Each of these three and the previous four findings of abuse were in themselves a single serious deficiency. Related to these findings were deficiencies related to the child victim's right to be free from abuse, neglect, or exploitation; implementation of emergency behavior intervention; and prohibited punishments. Given that your operation cares for children with significant emotional and behavioral issues, it is vital that caregivers at your operation be able to provide appropriate behavioral intervention. Hence, these repeated serious deficiencies not only form a pattern, but they create an endangering situation for the children in your operation's care.

40* Tex. Admin. Code §745.8654 describes when HHSC may revoke a permit for an issue described in 40* Tex. Admin. Code §745.8605. Based on its application of this rule, HHSC has determined that revocation is the appropriate form of enforcement action to take against your operation:

26 Tex. Admin. Code 745.8654(2) states that HHSC may revoke an operation's permit if HHSC cannot address the risk at your operation by taking corrective action or another type of adverse action. As you know, CCL met with your operation concerning its intent to place your operation on probation due to the first four abuse findings and related deficiencies. But due to

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the additional three findings of abuse, related patterns of deficiencies, and the resulting endangering situation, HHSC has determined that probation or any type of enforcement action other than revocation would not mitigate the risk posed by your operation.

Between 2/10/19 and 2/10/20 your operation received investigations and inspections resulting in 32 deficiencies. Those citations include patterns of deficiencies in the areas of discipline and punishment, emergency behavior intervention, medications and children's rights. Since February of 2019, there have been a total of seven findings of child abuse against caregivers at your operation who were tasked with caring for children requiring treatment services for emotional disorders. In short, HHSC cannot address risk at your operation by implementing a correction plan.

Copies of forms or letters from the inspections or investigations used as a basis for this action are incorporated by reference and are enclosed with this notice. The deficiencies cited during these inspections or investigations are listed below:

An investigation was completed by PENELOPE BALDWIN, Licensing Staff, on 01/12/2020 and the following standard(s) deficiencies were found:

- 748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401
- 748.2463(3) Emergency Behavior Intervention-Never used as a means to get a child to comply
- 748.2551(c)(2) EBI Implementation-Caregiver must use the minimal amount of reasonable and necessary physical force
- 748.685(a)(5) Caregiver responsibility - being able to intervene when necessary to ensure child's safety

An investigation was completed by PENELOPE BALDWIN, Licensing Staff, on 01/09/2020 and the following standard(s) deficiencies were found:

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748.2551(c)(2) EBI Implementation-Caregiver must use the minimal amount of reasonable and necessary physical force

An investigation was completed by PENELOPE BALDWIN, Licensing Staff, on 12/22/2019 and the following standard(s) deficiencies were found:

748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401

748.2307(1) Other Prohibited Punishments-any harsh, cruel, unusual, unnecessary, demeaning, or humiliating discipline/punishment

748.2307(9) Other Prohibited Punishments-submitting a child to abusive or profane language

An investigation was completed by SARAH JACOBSON, Licensing Staff, on 12/13/2019 and the following standard(s) deficiencies were found:

748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401

748.2303(a) Corporal Punishment-May not use/threaten corporal punishment, such as hitting/spanking, forced exercise, holding physical position, unproductive work.

748.2307(9) Other Prohibited Punishments-submitting a child to abusive or profane language

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748.535(1) Child-care administrator responsibilities-Daily supervision and on-site administrative responsibility for the overall operation

An investigation was completed by PENELOPE BALDWIN, Licensing Staff, on 12/05/2019 and the following standard(s) deficiencies were found:

748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401

748.2307(1) Other Prohibited Punishments-any harsh, cruel, unusual, unnecessary, demeaning, or humiliating discipline/punishment

An investigation was completed by TARAS AMIE, Licensing Staff, on 11/02/2019 and the following standard(s) deficiencies were found:

748.2003(b)(5) Administration of prescription medication-Ensure the child has taken the medication as prescribed

An investigation was completed by RHONDA PLUMMER, Licensing Staff, on 09/26/2019 and the following standard(s) deficiencies were found:

748.2101(2) Medication Storage-Keep medication inaccessible other than to employees responsible for stored medication

An inspection was conducted by ASHLEY VALDEZ, Licensing Staff, on 09/25/2019 and the following standard(s) deficiencies were found:

748.1205(a)(10) Admission Documentation-Includes known contraindications to the use of restraint

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- 748.1437(3) Discharge/Transfer
Documentation-Must include name, address, telephone number, and relationship of person to whom child is discharged
- 748.2003(b)(2) Administration of Medication-Store medication in the original container unless there is an additional container with the same label & instructions
- 748.2101(3) Medication Storage-Store medication covered by Schedule II of the Texas Controlled Substances Act under double lock in a separate container
- 748.2151(c)(6) Medication record - must include name & signature of person who administered each medication
- 748.2151(d) Medication Record-must include accurate daily count of each prescribed medication, unless operate on a cottage home model
- 748.3239(d) Evacuation-Must document fire and severe weather drills, including date, time, type of drill, and length of time for evacuation/relocation
- 748.3271(3) First Aid Kits-Each one must be in good condition and not have expired medications or supplies
- 748.3359(1) Bedroom Space-Rooms commonly used for other purposes cannot be used as bedrooms

An investigation was completed by SARAH JACOBSON, Licensing Staff, on 07/12/2019 and the following standard(s) deficiencies were found:

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- 748.2303(a) Corporal Punishment-May not use/threaten corporal punishment, such as hitting/spanking, forced exercise, holding physical position, unproductive work.
- 748.2307(9) Other Prohibited Punishments-subjecting a child to abusive or profane language
- 748.3353(c) Monitoring Devices-Video cameras may not be used to tape the child, and images may not be accessible except to operation employees and caregivers
- 748.685(c)(6) Implement and follow the children's service plans.

An inspection was conducted by MEGAN ROSS, Licensing Staff, on 06/10/2019 and the following standard(s) deficiencies were found:

- 748.3443(a)(4) Food Preparation-Food items must be stored in a container that is protected from insects & rodents

An inspection was conducted by MEGAN ROSS, Licensing Staff, on 03/08/2019 and the following standard(s) deficiencies were found:

- 748.1103(a) Informing child of rights-Review rights with child/parents within 7 days of child's admission; provide child/parents with written copy of rights
- 748.509 TB screening-Caregivers, employees, volunteers, contract service providers screened for TB before having contact with children in care

An investigation was completed by MEGAN ROSS, Licensing Staff, on 02/13/2019 and the following standard(s) deficiencies were found:

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- 748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401
- 748.2461(a)(2) Short Personal Restraint-Caregiver must use minimal amount of reasonable and necessary physical force

An investigation was completed by JACKIE JACKSON-COLLIER, Licensing Staff, on 01/16/2019 and the following standard(s) deficiencies were found:

- 748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401
- 748.1101(b)(4)(B) Children's rights-The right to discipline that is appropriate to the child's age, maturity, and developmental level
- 748.2455(a)(2) Emergency Behavior Intervention-Basis for EBI is an emergency situation or to administer medication
- 748.2551(a) EBI Implementation-Must be an appropriate response to the behavior demonstrated, and de-escalation must have failed

An investigation was completed by MEGAN ROSS, Licensing Staff, on 12/10/2018 and the following standard(s) deficiencies were found:

- 748.1101(b)(1)(B) Children's rights-Adhere to the child's rights to be free of abuse, neglect, and exploitation as defined in Texas Family Code 261.401

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748.2461(a)(2) Short Personal Restraint-Caregiver must use minimal amount of reasonable and necessary physical force

Within five (5) days of receipt of this letter, you must send a copy of this letter by certified mail to the parents or managing conservator of each child currently enrolled in your operation, if any. You must file the copies of the certified receipts with HHSC within five days after you receive them. You must also notify anyone seeking to enroll a child in your operation of this action.

You have the right to request an administrative review if you disagree with the decision to impose adverse action. To request a review, you must send a written statement that includes your reason for dispute to DARLA SHAW, 701 W 51ST ST, AUSTIN, TX 78751 (512) 438-3243 within fifteen(15) days of receipt of this letter. You may also expedite the adverse action by sending a written statement that indicates your decision to waive your right to an administrative review before the 15-day timeframe to submit the request expires. For additional information concerning administrative reviews, please refer to 40* Tex. Admin. Code §745.8809 - 8817.

If you do not request an administrative review, HHSC will issue you a decision notice explaining your remaining due process rights.

You may not apply to HHSC for a child-care permit or be a controlling person at an operation for five (5) years after the date that this adverse action takes effect.

Each controlling person with your operation will be designated as controlling and will receive a letter offering an administrative review on that designation. A person's designation as a controlling person will be sustained when the revocation and the due process for a designated controlling person are final. A sustained controlling person cannot have a permit to operate a child-care operation or be a controlling person for five years.

You must post this notice in a prominent place near all public entrances immediately following receipt.

*Currently, Child Care Licensing rules are located in Title 40 of the Texas Administrative Code. The rules will be transferred to Title 26 at a later date.

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Sincerely,

TONI CANTU
District Director
(361) 878-3208

Enclosure(s):

cc:
Debbie Voyles, CEO
5920 FM 359 RD
RICHMOND, TX 77406-9123