

STATE OF OREGON
OREGON DEPARTMENT OF EDUCATION
OFFICE OF CHILD CARE

In the Matter of)
Lacey McPherson) EMERGENCY ORDER OF SUSPENSION
Emergency Order Suspension of)
Family Child Care Registration)

Lacey McPherson
Petites Child Care & Preschool
23077 SW Main St Unit 29
Sherwood, OR 97140-6313

The Office of Child Care (OCC) is charged with licensing registered family child care homes, pursuant to ORS 329A.250 through 329A.460 and 329A.992, and OAR 414 chapter 250. The Registered Family Child Care Home of Lacey McPherson is suspended under the provisions of ORS 183.430(2), ORS 329A.350(1) and OAR 137-003-0560. According to ORS 183.430(2), "In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee."

According to ORS 183.415(3), "Notice under this section must include: (f) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website."

According to ORS 329A.252, "Provision of care by persons whose enrollment in registry is denied, revoked, or under suspension. (1) Notwithstanding ORS 329A.250 (4), care provided to children other than the children of the person providing the care by a person whose enrollment in the Central Background Registry established by ORS 329A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person's certification or registration while under investigation by the Office of Child Care, is "child care" for purposes of ORS 329A.030 and 329A.250 to 329A.450."

According to ORS 329A.030(2), "Central Background Registry; establishment; enrollment; enrollment required for employment; rules. All subject individuals shall be enrolled in the Central Background Registry established by the Early Learning Council."

According to ORS 329A.030(8)(a), "Central Background Registry; establishment; enrollment; enrollment required for employment; rules. For purposes of this section, "subject individual" means a subject individual as defined by the Early Learning Council by rule or a person who applies to be: The operator or an employee of a child care or treatment program."

According to OAR 137-003-0560(1), "If the agency finds there is a serious danger to the public health or safety, it may, by order, immediately suspend or refuse to renew a license. For purposes of this rule, such an order is referred to as an emergency suspension order. An emergency suspension order must be in writing. It may be issued without prior notice to the licensee and without a hearing prior to the emergency suspension order."

According to OAR 414-205-0000(2)(a), "Registration is required for persons who provide child care: On other than an occasional basis."

According to OAR 414-205-0000(2)(b), "Registration is required for persons who provide child care: To more than three children from more than one family at any one time, other than the person's children subject to the limits in OAR 414-205-0065."

According to OAR 414-205-0040(1)(b), "The registered provider and any substitute provider shall: Have competence, sound judgment and self-control when working with children."

According to OAR 414-205-0040(2), "No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during child care hours."

According to OAR 414-205-0100(2), "The home must be a healthy environment for children."

According to OAR 414-205-0170(2), "The Office of Child Care may immediately, and without prior notice, suspend the child care registration when, in the opinion of OCC, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed."

According to OAR 414-205-0170(3), "A provider whose registration has been suspended must immediately notify, verbally or in writing, all parents of the suspension."

According to OAR 414-205-0170(4), "A provider whose registration has been suspended must immediately provide OCC with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child."

According to OAR 414-205-0170(5), "A provider whose registration has been suspended must post the suspension in the home where it can be viewed by parents and others for the duration of the suspension."

According to OAR 414-205-0170(6), "If necessary to protect children, OCC may give public notice of denial, suspension or revocation action taken. The type of notice will depend on individual circumstances."

According to OAR 414-205-0170(7), "If the provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the registration shall be revoked."

According to OAR 414-205-0170(8), "Registration may be denied or revoked if a registered family child care home fails to meet requirements, provide OCC with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or well-being of children in care."

According to OAR 414-205-0170(9), "A registered family child care home whose registration has been denied or revoked must immediately notify all parents of the closure and shall post a notice of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks."

According to OAR 414-205-0170(10), "The provider has the right to appeal any decision to deny, suspend, or revoke registration or to impose a fine, subject to the provisions of Chapter 183, Oregon Revised Statutes."

THE FACTS

Lacey McPherson (the provider), was originally issued a Registered Family Child Care Home license on January 6, 2011. Pursuant to ORS 329A.330(1) and (2), this license allows a provider to care for up to 10 children, including the provider's own children, in the provider's home.

Based on these circumstances and resulting concerns, OCC made a determination that the provider is not suitable, therefore the provider and Pedro Santos Reyes' enrollment in the Central Background Registry (CBR) has been suspended effective February 14, 2019.

The fact of _____ raises serious concerns for OCC related to the health and safety of the child care children in the provider's care. OCC finds that the continued operation of this registered family child care facility poses a serious danger to the public health and safety.

CONCLUSIONS OF LAW

The provider, Lacey McPherson, is responsible for the operation of the Registered Family Child Care Home including compliance with licensing requirements. OAR 414-205-0010(20). The provider has failed to provide a safe and healthy environment for child care children and has placed children for whom she is responsible at risk.

According to OAR 414-205-0040(1), "The registered provider and any substitute provider shall: (b) Have competence, sound judgment and self-control when working with children."

According to OAR 414-205-0040(2), "No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during child care hours."

According to OAR 414-205-0100(2), "The home must be a healthy environment for children."

As set forth above, OCC finds that the facts surrounding these violations create a serious danger to the public health and safety and that immediate action is necessary to protect children from physical or mental abuse or a substantial threat to health, safety or well-being. Based on the facts the provider's Registered Family Child Care Home license is suspended effective February 14, 2019. ORS 183.430(2), OAR 137-003-0560(1), and OAR 414-205-0170(2).

NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedures Act (chapter 183, Oregon Revised Statutes). Under ORS 329A.360 and OAR 137-003-0560, you have the right to demand a hearing to be held as soon as practicable to contest the emergency suspension order. If you want a hearing, you must make a written request to the OCC no later than 90 days from the date this order was mailed. The request should be sent to the Office of Child Care, 700 Summers St. NE, Salem, OR 97301. The request may also be submitted via fax at (503) 947-1428 or e-mail occ.hearings@state.or.us.

The Department of Human Services and Child Care Resource and Referral Agency will be notified of this suspension action. This suspension order may cause payment vouchers from the Department of Human Services to be discontinued.

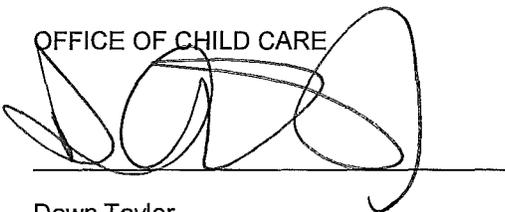
If you request a hearing, you will be notified of the time and place of the hearing. You may be represented by legal counsel at the hearing. Legal aid organizations may be able to assist you if you have limited resources. The Office of Child Care will be represented by an Assistant Attorney General from the Oregon Department of Justice. You will be provided information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be conducted by an administrative law judge from the Office of Administrative Hearings, assigned as required by ORS 183.635.

Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar (1-800-452-8260) or the Oregon Military Department for more information (1-800-452-7500). The United States Armed Forces Legal Assistance Legal Services Locator can be accessed at <http://legalassistance.law.af.mil/content/locator.php>.

If you fail to request a hearing, if you request a hearing and subsequently withdraw your request for hearing, if you fail to appear for the hearing, or if a hearing is scheduled and you later notify the Office that you will not appear at the specified time and place, you will have waived your right to a hearing. OCC designates the relevant portions of its file, including all materials you have submitted, as the record for purposes of this emergency order of suspension.

Dated this 14 day of February, 2019

OFFICE OF CHILD CARE



Dawn Taylor
Director of Child Care

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