

PRELIMINARY STATEMENT

By certified letter dated August 31, 2007, the Department of Children and Family Services (Respondent) notified Ms. Evelyn Figueroa (Petitioner) that her application for licensure to operate a family day care home was denied. The Petitioner filed a request for hearing with the Respondent. The matter was originally scheduled for an informal hearing, but was subsequently referred to the Division of Administrative Hearings for a formal proceeding.

The Petitioner did not attend the hearing. The Respondent presented the testimony of two witnesses and had Exhibits 1 through 6 admitted into evidence.

No transcript of the hearing was filed. The Respondent filed a Proposed Recommended Order.

FINDINGS OF FACT

1. On December 11, 2006, the Petitioner filed an application with the Respondent for licensure to operate a family day care home.

2. The application included the following question:

Has the owner/operator ever had a license denied, revoked, or suspended in any state or jurisdiction or been the subject of a disciplinary action or been fined while employed as a family day care home provider.

3. The application clearly stated that falsification of application information was grounds for denial of the license.

4. The Petitioner responded "no" to the question regarding whether a previous license had ever been denied, revoked or suspended.

5. The Petitioner's response to the question was false.

6. The Petitioner previously operated a licensed family day care home in Osceola County, Florida. The license was revoked in 2003 for the reasons set forth in a Notice of Revocation sent to the Respondent by certified mail dated August 6, 2003.

7. There is no evidence that the Respondent did not receive the Notice of Revocation.

8. The evidence is unclear as to the number of the revoked license number which appears as FO7OS0002 in the August 6, 2003, Notice of Revocation and as FO9OS0002 in the August 31, 2007, Notice of Denial at issue in this proceeding. Nonetheless, the evidence clearly establishes that the family day care home license held by the Petitioner in 2003 was revoked.

CONCLUSIONS OF LAW

9. The Division of Administrative Hearings has jurisdiction over the parties to and subject matter of this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2007).

10. The Petitioner has the burden of establishing entitlement to the licensure sought in this proceeding by a preponderance of the evidence. See Department of Banking &

Finance, Division of Securities & Investor Protection v. Osborne Stern & Company, 670 So. 2d 932, 934 (Fla. 1966); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987); § 120.57(1)(j), Fla. Stat. (2007). Because the Petitioner did not attend the hearing and presented no evidence, the burden has not been met.

11. The evidence establishes that a prior license for a family day care home operated by the Petitioner had been revoked, that the Petitioner was notified of the revocation, and that the Petitioner failed to disclose the information on the application at issue in this proceeding.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Petitioner's application for licensure to operate a licensed family day care home be denied.

DONE AND ENTERED this 14th day of April, 2008, in Tallahassee, Leon County, Florida.

William F. Quattlebaum

WILLIAM F. QUATTLEBAUM
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 14th day of April, 2008.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.