

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

NEW BEGINNINGS GROUP HOME,

Petitioner,

vs.

Case No. 18-5520

DEPARTMENT OF CHILDREN AND  
FAMILIES,

Respondent.

\_\_\_\_\_ /

RECOMMENDED ORDER

Administrative Law Judge D. R. Alexander conducted a final hearing in this matter by video teleconference on January 7, 2019, at sites in Tampa and Tallahassee, Florida.

APPEARANCES

For Petitioner: Michaelle A. Streeter, pro se  
9804 North Oklawaha Avenue  
Tampa, Florida 33417-4534

For Respondent: Deanne Cherisse Fields, Esquire  
Department of Children and Families  
9393 North Florida Avenue, Room 902  
Tampa, Florida 33612-7907

STATEMENT OF THE ISSUE

The issue is whether Petitioner's application for a child caring agency license should be denied for the reasons stated in the Department of Children and Families' (Department) letter dated September 25, 2018.

PRELIMINARY STATEMENT

On September 25, 2018, the Department informed Petitioner by letter that its application for a child caring agency license was denied. Petitioner timely requested a hearing to contest this action and the matter was referred to the Division of Administrative Hearings to conduct a formal hearing.

At the hearing, Petitioner was represented by its owner, Michaelle Streeter, who testified on its behalf. Petitioner's Exhibits A through C were accepted in evidence. The Department presented the testimony of five witnesses. Department Exhibits 1 through 16 were accepted in evidence.

A transcript of the hearing was not prepared. Proposed findings of fact and conclusions of law were filed by the parties, and they have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. The Department is the state agency responsible for regulating the licensing of child caring agencies. A child caring agency is defined in section 409.175(2), Florida Statutes (2018), as an agency that "provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged." Regulations governing this type of facility are found in Florida Administrative Code Chapter 65C-14.

2. A child caring agency, also known as a foster care group home, serves extremely vulnerable children who have been removed from their parents' home for various reasons, such as physical abuse or substance abuse by the parent. Because the children are extremely traumatized, the operator of a facility must have a high degree of skill, training, and experience. For this reason, the Department reviews applications for a child caring agency in a careful and deliberative manner.

3. The proposed child care agency will be owned and operated by Michaelle Streeter. She is a licensed registered nurse who works as a travel nurse throughout the United States.<sup>1/</sup> If the application is approved, she will no longer accept travel nurse assignments. From 2013 until 2017, she was licensed by the Agency for Persons with Disabilities (APD) to operate a group home in Lakeland, Florida.

4. In May 2017, Ms. Streeter filed an application with the Department seeking licensure to operate a child caring facility. After a lengthy review of the application, which included numerous discussions with Ms. Streeter, the Department denied the application on December 11, 2017, because she was unable to meet the financial requirements outlined in rule 65C-14.006(10).  
Resp't Ex. 5. Petitioner did not challenge that denial.

5. After denying the application, the Department informally recommended to Ms. Streeter that she consider becoming a foster parent. However, Ms. Streeter opted to pursue her application for a child caring facility. On an undisclosed date in 2018, she filed a second application. On September 25, 2018, the Department again denied the application, this time for the following reasons:

Compliance concerns noted while being licensed as a provider with a different licensing entity around the time frame of June 2016. [§] 409.175, Fla. Stat.;

Concerns around the ability to show and maintain financial stability of an owned or rented property after a notice of foreclosure was filed in 2017. During the licensing process there were several concerns on the money that was being reported as viable income to meet the FAC financial requirements for license. (Florida Administrative Code 65C-14.006);

[Y]ou were granted an exemption on a previous criminal charge which allowed you to continue but did not guarantee becoming a licensed provider. After reviewing the circumstances of this criminal charge, the Department is not comfortable moving forward with issuing you a child caring agency license.

Resp't Ex. 16. Petitioner requested a hearing to contest the Department's decision.

6. The Department's letter stated that the denial was not based solely on the concerns stated above. However, the letter was never amended, and, prior to the hearing, Petitioner was not

given notice of any additional concerns. Therefore, only the reasons cited in the letter have been considered.<sup>2/</sup>

A. Compliance Concerns While Operating Another License

7. Citing section 409.145, the Department asserts it has "[c]ompliance concerns" based upon the operation of an APD facility by Ms. Streeter "around the time frame of June 2016." Section 409.145 generally requires that children in foster care be provided "quality parenting." The essence of the charge is that Ms. Streeter failed to meet standards for operating a less-restrictive APD facility that had only two clients, and along with the other concerns cited in the letter, collectively, they support a determination that she is not qualified for licensure.

8. As noted earlier, Ms. Streeter operated an APD group facility from 2013 until 2017. According to Ms. Streeter, the facility closed in 2017 when the "partnership ended" and her partner removed all clients from the home.

9. Because APD facilities receive Medicaid funds, they are reviewed periodically by Qlarant, formerly known as the Delmarva Foundation (Delmarva), a state contractor, to determine if the facility is complying with APD standards. The results of the review are found in a Provider Discovery Review (PDR) Report, which assigns a score to each provider. The record is silent, however, as to what score is necessary in order to have a satisfactory review.

10. Delmarva's review findings for the period June 1, 2015, through May 31, 2016, are found in Respondent's Exhibit 1. The PDR Report indicates that overall, the facility received a score of 65.1 percent and a compliance score of 75.4 percent.

11. The PDR Report contains multiple health and safety concerns, such as improperly stored medication, lack of required oversight by a behavioral analyst, and billing discrepancies of \$12,986.26, which represents a significant portion of total reimbursed funds of \$46,597.39. Also, Ms. Streeter engaged in physical "takedowns" of clients without approval of a medical doctor, proof that she was trained to conduct takedowns, or documentation of when and why these takedowns occurred. Improperly used takedowns present a risk of physical injury to the client.

12. Ms. Streeter disputed the findings in the PDR Report and requested reconsideration of the billing discrepancies. After Delmarva considered her objections, reconsideration was denied and all findings remain as originally reported.

13. The criticisms noted in Delmarva's PDR Report are legitimate concerns and should be considered in the licensing process.

B. Financial Concerns

14. A second concern by the Department centers around the applicant's "ability to show and maintain financial stability of

an owned or rented property after a notice of foreclosure was filed in 2017. During the licensing process there were several concerns on the money that was being reported as viable income to meet the FAC financial requirements for licensure." According to the Department's regional licensing manager, this concern is a very important piece of the Department's decision to deny the application.

15. An applicant for licensure must demonstrate "[s]atisfactory evidence of financial ability to care for children in compliance with licensing requirements." § 409.175(5)(b)8., Fla. Stat. Also, rule 65C-14.006(10) requires an applicant to "provide written documentation that it has sufficient funds to meet all requirements for licensure. Facilities beginning operation shall provide evidence of sufficient funding for operation of the program for at least six (6) months."

16. To satisfy the foregoing requirement, the Department requires an applicant to estimate the facility's first year operating expenses and to have on-hand cash or a line of credit that equals one-half of estimated annual operating expenses.

17. Ms. Streeter estimated her first year operating expenses to be \$292,200.00. Resp't Ex. 3. This meant she needed around \$146,000.00 in cash or a line of credit to meet the Department's requirement. A bank statement was not provided, but

Ms. Streeter submitted a letter from a lending institution stating that her application for a cash-out refinance (second mortgage) on her residence had been approved in the amount of \$160,000.00. Resp't Ex. 4. However, the Department does not consider a second mortgage to be a source of capital.

18. Besides a lack of an adequate source of capital to operate the facility, Ms. Streeter filed a Suggestion of Bankruptcy in June 2017 under chapter 13 of the United States Bankruptcy Code. Resp't Ex. 7. On December 1, 2017, the Bankruptcy Court issued an Order Granting [the Trustee's] Motion to Dismiss Chapter 13 Case on the ground Ms. Streeter failed to comply with the Trustee's Order. Resp't Ex. 8.

19. At hearing, Ms. Streeter provided earnings statements for 2017 and 2018 related to her employment as a travel nurse. Although she was well paid for her services, the preponderance of the evidence shows that Petitioner has failed to satisfy the financial stability requirement.

#### C. Prior Criminal Charges

20. The denial letter states that after "reviewing the circumstances of [a previous] criminal charge, the Department is not comfortable moving forward with issuing [Petitioner] a child caring agency license." The specific criminal charge is not identified in the denial letter.



21. Testimony by a Department licensing official indicates that the Department is concerned with "a domestic violence history" on the part of Ms. Streeter. On August 21, 2000, she pled nolo contendere to a charge of battery (domestic violence), a first degree misdemeanor at that time. Resp't Ex. 14. Adjudication was withheld by the court, and she was placed on 12 months' probation, which she successfully completed in August 2001. The details of the incident are unknown. There is no other evidence of "a domestic violence history."

22. The record also contains evidence of several criminal charges in the State of Massachusetts, which occurred in the early 1980s, or almost 40 years ago, when Ms. Streeter was in her 20s. Resp't Ex. 13. These incidents are so dated that they should not play a role in the Department's decision.

23. In November 2012, Ms. Streeter's name was submitted "for recognition of an honorable deed performed in the community's interest and for [her] assistance to the Hillsborough County Sheriff's Office." Pet'r Ex. C.

24. On September 14, 2007, the Department of Health granted Ms. Streeter an exemption from disqualification for employment as a registered nurse.

25. On January 19, 2011, the Florida Board of Nursing granted Ms. Streeter an exemption from disqualification to serve as a registered nurse.

26. On January 30, 2012, APD granted Ms. Streeter an exemption from disqualification for employment/licensing in a caretaker position working with children or vulnerable adults.

27. On February 5, 2018, the Department granted Ms. Streeter an exemption from disqualification for employment/licensing in a caretaker position working with children or vulnerable adults.

28. Although APD granted Ms. Streeter an exemption from disqualification to operate a facility licensed by that agency, the Department does not consider that exemption to be binding on its determination here. The Department did not explain or otherwise address the exemption that it granted her in February 2018.

#### CONCLUSIONS OF LAW

29. Section 409.175(9) provides that the Department may deny an application for licensure as a child caring agency for a "violation of the provisions of this section or of licensing rules promulgated pursuant to this section."

30. In an initial license application case, the Department has the burden of proving the licensee's lack of fitness to hold a license by a preponderance of the evidence. If it does, Petitioner must prove by a preponderance of the evidence that its application should be approved, notwithstanding any violations that are proven. Fla. Dep't of Child. & Fams. v. Davis Fam. Day

Care Home, 160 So. 3d 854, 857 (Fla. 2015) (Canady, J., dissenting).

31. Rule 65C-14.006(10) requires that a child caring agency "shall provide written documentation that it has sufficient funds to meet all requirements for licensure. Facilities beginning operation shall provide evidence of sufficient funding for operation of the program for at least six (6) months." See also § 409.175(5)(b)8., Fla. Stat.

32. By a preponderance of the evidence, the Department has established that Ms. Streeter has not provided written documentation demonstrating that she has sufficient funds to meet all requirements for licensure.

33. Section 409.175(5)(b)3. requires in part that a child caring agency meet standards that provide for the "physical comfort, care, and well-being of the children served."

34. By a preponderance of the evidence, the Department has established that while operating an APD group home, the health and safety of Ms. Streeter's clients were placed in jeopardy. Therefore, the Delmarva criticisms should be considered in determining whether to grant licensure.

35. Finally, Ms. Streeter's history of domestic violence consists of only one misdemeanor in 2000, while her criminal history in Massachusetts dates back to the early 1980s. The fact that four agencies, including the Department, have granted her an

exemption from disqualification from employment supports a conclusion that "the circumstances of [her] criminal charge" should play no role in the licensing process.

36. Ms. Streeter should be commended for her efforts in reforming her life and moving on in a law-abiding manner. Her work as a travel nurse is impressive. Nonetheless, for the reasons previously given, the undersigned concludes that the evidence does not support a conclusion that she currently meets all requirements for licensure. Accordingly, her application should be denied.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Children and Families enter a final order denying Petitioner's application for a child caring agency license.

DONE AND ENTERED this 24th day of January, 2019, in  
Tallahassee, Leon County, Florida.

*D. R. Alexander*

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D. R. ALEXANDER  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 24th day of January, 2019.

ENDNOTES

<sup>1/</sup> A travel nurse accepts assignments throughout the United States to fill in for other nurses who are on leave or absent for any purpose. In all, Petitioner has worked in more than 20 states.

<sup>2/</sup> At hearing, the Department presented the testimony of a Tampa Police Department detective. However, the subject of his testimony is not mentioned in the denial letter, Ms. Streeter was not given prior notice regarding the issue raised in his testimony, and no charges were filed against her. The detective's testimony has not been considered in the disposition of the application.

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.