



BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS FILED
STATE OF GEORGIA
OSAH


DEC 18 2014

JERNEICEY STALLINGS-BROWN,
Petitioner,

v.

GEORGIA DEPARTMENT OF EARLY
CARE AND LEARNING, BRIGHT
FROM THE START,
Respondent.

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:
:
: Docket No.:
: OSAH-DECAL-CCLC-1458128-11-Teate


Kevin Westray, Legal Assistant

INITIAL DECISION

I. INTRODUCTION

Jerneicey Stallings-Brown (hereinafter “Ms. Brown”) requested a hearing in response to Bright from the Start’s (hereinafter “DECAL”) denial of her license application for change of ownership to operate a child care learning center at 4060 Napier Avenue, Macon, GA. At a hearing held on November 24, 2014, Ms. Brown represented herself and Clare Michaud, Esq. represented DECAL. For reasons indicated, the denial of Ms. Brown’s application is **AFFIRMED**.

II. FINDINGS OF FACT

1. Charlotte Perkins, Ms. Brown’s mother, owned and operated Charlotte’s Webb Learning Center (hereinafter “the facility”), a child care learning center that was located at 4060 Napier Avenue in Macon, Georgia where Ms. Brown now seeks to operate another child care learning center under her direction with no involvement of her mother in the operation.

2. An emergency closure of Ms. Perkins’s child care learning center was affirmed on April 24, 2014. The following rule violations were established incident to the emergency closure and the revocation:

- (1) The Center failed to ensure that a child was not left unattended on a vehicle in violation of Ga. Comp. R. & Regs. 591-1-1-.36(10);
- (2) The Center failed to document in writing with a check mark or other mark/symbol on the passenger checklist each time a child enters and exits the Center’s vehicle in violation of Ga. Comp. R. & Regs. 591-1-1-.36(7)(c)2;
- (3) The Center failed to ensure that a thorough vehicle check of the vehicle by the driver occurred after children were unloaded from the vehicle in violation of Ga. Comp. R. & Regs. 591-1-1-.36(6)(d)1
- (4) The Center failed to ensure that a thorough check of the vehicle was conducted by a second designated staff member in violation of Ga. Comp. R. & Regs. 591-1-1-.36(7)(d)2;

- (5) The Center failed to ensure that all children were properly supervised at all times in violation of Ga. Comp. R. & Regs. 591-1-1-.32(6);
- (6) The Center failed to ensure that children were kept clean, dry, and comfortable in violation of Ga. Comp. R. & Regs. 591-1-1-.17(2);
- (7) The Center failed to immediately notify parents when a child experienced symptoms of moderate discomfort in violation of Ga. Comp. R. & Regs. 591-1-1-.07(2);
- (8) The Center failed to seek prompt emergency medical treatment when a medical emergency arose involving a child in violation of Ga. Comp. R. & Regs. 591-1-1-.07(4);
- (9) The Center failed to cooperate with a Department investigation in violation of Ga. Comp. R. & Regs. 591-1-1-.37(c).

(Official notice of *Charlotte Perkins d/b/a Charlotte's Webb Learning Center v Georgia Department of Early Care and Learning*, OSAH-DECAL-CCLC-1448445-11-Teate).

3. Ms.. Brown was intermittently employed at Ms. Perkin's facility and was so employed during the investigation and closure of that facility.¹ At the closure hearing, she was identified as an assistant director and she testified regarding the facility's transportation procedures. See *Charlotte Perkins d/b/a Charlotte's Webb Learning Center v Georgia Department of Early Care and Learning*, OSAH-DECAL-CCLC-1448445-11-Teate).

4. Ms. Perkins transferred ownership of the facility to Ms. Brown, her daughter, on April 24, 2014, the date the emergency closure of Ms. Perkin's facility was affirmed. (Respondent Exhibit 2),

5. In a license application dated April 30, 2014, Ms. Brown sought a license as owner/operator to operate a child care center at the facility location under a different name and signed a new lease for the facility. DECAL received the application on May 2, 2014. (Respondent Exhibit 1).

6. DECAL reviewed Ms. Brown's application and issued a notice of denial of her application for a license on May 29, 2014 referencing DECAL Rules 591-1-1-.38(a)(1) and 591-1-1-.38(a)(4) as legal basis of the denial. (Respondent Exhibit 3).

7. With regard to DECAL's discretion to refuse a license upon a showing of non-compliance with its rules related to children's health and safety, DECAL noted that Ms. Brown was the assistant director of her mother's facility that was closed due to a serious violation that jeopardized the health and safety of children in care with a specific instance of a five-year-old child being left unattended on vehicle for approximately four hours after being transported from school to the center. DECAL noted that Ms. Brown was the assistant director of her mother's facility and that she was part of the staff that failed to fully co-operate with the investigation of the facility. DECAL further concluded that Ms. Brown was an agent and/or alternate ego for Ms. Perkins and that the transfer was made to avert the revocation of the license. (Respondent

¹ Ms. Brown's dates of alternate employment for another employer are not clearly specified. (Testimony of Ms. Brown). She testified that she was dismissed from that employment during an unspecified probation period because she took off too many days during her probation to help her mother. (Testimony of Ms. Brown).

Exhibit 3; Testimony of Carla Kirby, DECAL application reviewer).

8. Ms. Brown insists without any corroboration that her involvement with the facility was limited since she was employed elsewhere and that the transfer was not made to avert the revocation that occurred. (Testimony of Ms. Brown).

III. CONCLUSIONS OF LAW

1. DECAL is authorized to refuse to issue any license upon a showing of noncompliance with its rules related to children's health and safety. Ga. Comp. R. & Regs. 591-1-1-.38(a)(1). Inasmuch as Ms. Brown was assistant director of her mother's facility and was so employed at the time a complaint was filed and during the investigation, DECAL reasonably inferred that she was not compliant with its rules relating to children's health and safety as established during the emergency closure.

2. DECAL is authorized to refuse a license upon a showing that the applicant or alter ego of the applicant or agent of the applicant has transferred ownership or governing authority of a center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension or revocation of a license. Ga. Comp. R. & Regs. 591-1-1-.38(a)(4). Under circumstances presented, it is reasonable to assume that Ms. Brown was an agent of her mother and the transfer occurred within a year of the date of the application,. Ms. Brown's testimony the contrary is uncorroborated by any other witness. The transfer occurred within a year of the date of the application prior to actual revocation of Ms. Perkin's license following emergency closure. DECAL's conclusion is reasonable.

3. An applicant for a license, Ms. Brown bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07. The standard of proof is a preponderance of evidence. Ga. Comp. R. & Regs. 616-1-2-.21. Ms. Brown relies entirely on her own uncorroborated testimony to refute DECAL's legal basis for the denial of her application. Ms. Brown has failed to meet her burden.

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, DECAL'S denial of Ms. Brown's application for a license on May 29, 2014 is hereby **AFFIRMED**.

SO ORDERED, this 17th day of December 2014.



Steven W. Teate
Administrative Law Judge