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Mary P. Castelli  
Senior Division Director

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF OPERATIONS SUPPORT  
*BUREAU OF LICENSING & CERTIFICATION*

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April 21, 2014

Ann E. Mitchell, Applicant  
Annie's Place-Children's Learning Center  
81 Riverwood Drive  
New Hampton, New Hampshire 03256

**ORDER TO REVOKE A CHILD CARE  
LICENSE AND DIRECTING THAT THE  
OPERATION OF THE PROGRAM  
TERMINATE EFFECTIVE IMMEDIATELY  
IN ACCORDANCE WITH RSA 170-E:13, III  
EFFECTIVE APRIL 25, 2014**

Dear Ms. Mitchell:

The Department of Health and Human Services, Bureau of Licensing and Certification, Child Care Licensing Unit (hereinafter, "the department") hereby issues this Notice that your license to operate a child care program is revoked, in accordance with the provisions of RSA 170-E:12, II,III, IX, and He-C 4002.09(j)(3) and (7) and He-C 4002.09(q). Furthermore, the department has determined that the continued operation of your child care program would violate the minimum standards prescribed by the law and rules governing licensed child care programs and would jeopardize the health, safety or welfare of children served by your program. Consequently, pursuant to RSA 170-E:13, III your program must cease operating at the end of the business day on **April 25, 2014**. The reasons for this action are set forth below.

**STATEMENT OF FACTS SUPPORTING REVOCATION AND DENIAL**

In order to assure that you are informed of the facts that support this order, the department offers the following:

1. Endangering the health and welfare of children, and the use of mechanical restraint, which is a form of corporal punishment, as a means to control children's behavior-per RSA 170-E:4-II, He-C 4002.(09)(j)(3),(7), He-C 4002.25(e)(2), and He-C 4002.01(o)(14) and (17):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for endangering the health and welfare of children by covering the head of an infant and or child with a sheet or blanket which presents a suffocation hazard and an increased risk of Sudden Infant Death Syndrome (SIDS). Further, the applicant has endangered the health and welfare of children by the use of tightly tucked blankets, restrictive clothing, and the act of covering an infant and/or child with a fitted sheet which constitutes a mechanical restraint. In addition, restraining an infant and/or child limits their mobility and prevents them from being able to choose a comfortable position. The provider also failed to comply with a previous corrective action plan regarding the use of mechanical restraint. These actions by the applicant have endangered the physical and emotional health and well-being of children and show a lack of understanding of the physical and emotional needs of young children specifically to feel safe, respected, cared for, and valued.

2. Failure to place infants on their backs to sleep to reduce the risk of SIDS per He-C 4002.23(g):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failure to place infants on their backs to sleep, which has the likelihood to endanger the health and safety of infants, and shows a lack of understanding of the physical and developmental needs of infants.
3. Failure to provide parents unannounced access to their children at all times per He-C 4002.24(a):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failure to allow parents unannounced access to their children at all times by locking the doors and posting a notice requiring parents to call between the hours of 1:00-3:00 PM.
4. Yelling at children per He-C 4002.25(e)(3)(e):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for yelling at children. These actions by the applicant have the likelihood to endanger the emotional health well-being of children and show a lack of understanding of the emotional needs of young children specifically to feel safe, respected, cared for, and valued.
5. Disciplining children for not resting and failure to accommodate the individual sleeping patterns of infants and children per He-C 4002.25(e)(10) and He-C 4002.23(c) and (d):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for endangering the health and welfare of infants and children by the use of force and restraint as a means to get infants and young children to conform to her designated sleep or rest period instead of accommodating the individual sleeping patterns of infants and young children. These actions by the applicant endanger the physical and emotional health well-being of children and show a lack of understanding of the physical and emotional needs of young children specifically to feel safe, respected, cared for, and valued.
6. Use of isolation and punitive disciplinary techniques per He-C 4002.25(e)(7) and He-C 4002.25(d)(2)(a) and (b):
  - The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for inappropriate and punitive disciplinary techniques by using force to isolate a child in the bathroom as a means of discipline and by using time out in a manner which is punitive rather than a means for children to regain control as evidenced by statements by staff and children as referenced in the statement of findings. The applicant's actions caused children to perceive themselves or others as "naughty" or bad". These actions by the applicant have the likelihood to endanger the emotional health and well-being of children and show a lack of understanding of the emotional needs of young children specifically to feel safe, respected, cared for, and valued.
7. Use of corporal punishment, rough handling, per He-C 4002. 25(e)(2 and He-C 4002.01(o)(15):

- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for the use of corporal punishment by roughly handling children as a means to control children's behavior. These actions by the applicant have the likelihood to endanger the physical and emotional health well-being of children and show a lack of understanding of the emotional needs of young children specifically to feel safe, respected, cared for, and valued.
8. Failure to check on sleeping infants at least every 10 minutes per He-C 4002.23(h):
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant's staff for failure to check on sleeping infants at least every 10 minutes, which has the likelihood to jeopardize the health and safety of infants, and shows a lack of understanding of the physical and developmental needs of infants.
9. Failure to have child care space inspected and approved by the Department per He-C 4002.19(k)(3):
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for using a room not previously approved by the Department as child care space. The Department determined the rooms would not meet Department approval as child care space due to the lack of windows or two means of safe egress for young infants and toddlers since the only exits were up a long flight of stairs and through the provider's private residence, or through a door and through the entire length of a classroom. In addition, the room had an unprotected stairway and toxic items in reach of children. Use of unapproved child care space lacking a safe means of egress and containing unprotected stairway and toxic items in reach of children has the likelihood to jeopardize the health and safety of children.
10. Failure to supervise children per He-C 4002.19(a):
- NOTE: Throughout this document, a playpen is referred to as a crib, playpen, porta-crib, and pack and play. All three terms are describing the same item; a portable, mesh-sided, folding crib with a thin mattress.*
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failure to supervise children by the practice of placing awake children in porta-cribs in a room behind closed doors away from staff and having insufficient staff coverage resulting in staff taking breaks or leaving their shift for the day, thereby leaving children in classrooms without staff present, which has the likelihood to jeopardize the health and safety of children.
11. Failure to provide infants and toddlers with opportunities to practice a wide range of movement appropriate to their developmental level, by confining infants and toddlers for extended periods of time per He-C 4002.24(e)(30) and He-C 4002.24(f)(3):
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failure to provide opportunities for

infants and toddlers to practice a wide range of movements and confining infants and toddlers for extended periods of time, which jeopardized the health, safety and well-being of the children, and shows a lack of understanding of the physical and developmental needs of infants.

12. Failure to individualize toilet learning per He-C 4002.28(m)(1),(2),(3),(4):

- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for reprimanding young children beginning toilet training for accidents and failure to allow children to use the bathroom as needed, by forcing children to wait or have consequences, resulting in children having toileting accidents. These practices jeopardized the health, safety, and well-being of the children, and show a lack of understanding of the physical and developmental needs of young children.

13. Failure to allow the individual hired by the applicant and approved by the Department as center director to be responsible for the daily operation of the child care program and to assure compliance with He-C 4002 per He-C 4002.32(c)(1):

- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failing to allow the individual she hired and represented to the Department as center director, to act in that role in order to assure compliance with He-C 4002.

14. Failure to provide an environment free of hazardous conditions per He-C 4002.14(j), He-C 4002.14(b)(16) and He-C 4002.14(aa)(2)(a):

- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for allowing Windex and Lysol spray, considered toxic items, to be in areas accessible to children, which has the likelihood to jeopardize the health and safety of children.
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for failure to assure that children under the age of three are kept from open stairways, which has the likelihood to jeopardize the health and safety of children.
- The Statement of Findings for the March 5 and 11, 2014 complaint visit which is hereto attached and made part of this order, cites the applicant for that the self-latching gate on the playground was not functioning properly, which has the likelihood to jeopardize the health and safety of children.

15. In accordance with RSA 170-E:12, II the department has the legal authority to deny an application for a license or revoke a license if the licensee does not comply with the rules adopted under this subdivision relative to the supervision of children in care.

16. In accordance with RSA 170-E:12, III and He-C 4002.09(j)(7) the department has the legal authority to deny an application for a license or revoke a license if the licensee violates any of the provisions of RSA 170-E or He-C 4002. The statements of findings referenced above reflect numerous violations of He-C 4002.

17. In accordance with RSA 170-E:12, IX, the department has the legal authority to deny an application for a license or revoke a license if the licensee, if the licensee fails to provide, maintain, equip and keep in safe and sanitary conditions premises established or used for child day care as required under standards prescribed by rules adopted under RSA 541-A or as otherwise required by any law, rule, ordinance, or term of the license applicable to the location of such facility. As indicated above, the applicant has failed to maintain the child care in a safe condition.
18. The Department has determined that the treatment of children in the program rises to the level of disregard for the health, safety, and welfare of the children in care. Additionally, staff employed by the applicant were unable to address these issues resulting in the children continuing to experience harsh treatment and developmentally inappropriate, punitive actions by the applicant. Because the actions were conducted by the applicant/licensee, who has been the person responsible for the day-to-day operation of the program, the Department has determined that allowing the program to continue operating presents an unacceptable risk of harm to the children in care. All the violations cited on the March 5 and 11, 2014 statement of findings demonstrate the applicant's failure to comply with RSA 170-E and He-C 4002. Consequently, for the reasons set forth above, in accordance with RSA 170-E:13 III, the department hereby revokes the applicant's child care program license and orders the applicant to cease operating Annie's Place Children's Learning Center program **at the close of business on Friday, April 25, 2014.**

## **RIGHT TO BE HEARD**

In accordance with RSA 541-A:30, III the applicant has the right to a hearing within 10 working days of the date this order was issued. A hearing has been scheduled for **May 5, 2014 at 1:30pm** at the Administrative Appeals Unit, Hugh Gallen Office Complex, 105 Pleasant Street, Main Bldg., Concord, NH 03301. If you have any questions regarding the hearing process, or if you wish to waive your right to a hearing, you may contact Lynne Smith at the Administrative Appeals Unit. Ms. Smith can be reached at 271-4292.

## **NOTICE REQUIREMENTS**

**In accordance with He-C 4002.09(t), upon receipt of notice of the department's intent to revoke, suspend, deny or refuse to issue or renew a license or permit, the applicant or licensee receiving the notice shall immediately provide the department with a list of the names, addresses and phone numbers of the parents whose children are currently enrolled in the program and staff who are currently employed by the program. Upon receipt of the list of parents, the department shall notify the parents of children currently enrolled in the program, and staff currently employed by the program that the department has initiated action to revoke, suspend the license, or deny an application for a license renewal. In addition, the department shall send a notice equivalent to the notice specified above to the following entities:**

- (1) The health officer and fire inspector serving the town in which the program is located;**
- (2) The resource and referral agency which covers the town in which the program is located; and**
- (3) The state office of the United States Department of Agriculture child and adult food program.**

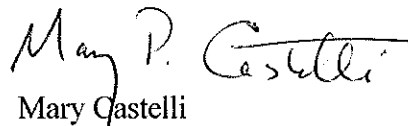
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**In order to comply with He-C 4002.09(t) the applicant must immediately (within 24 hours) send a list of the names, addresses and phone numbers of the parents whose children are currently enrolled in the program and staff who are currently employed by the program. The list may be sent to:**

**Melissa Clement, Unit Chief  
Department of Health and Human Services  
Bureau of Licensing and Certification  
Child Care Licensing Unit  
129 Pleasant Street  
Concord NH 03301  
Fax (603) 271-4782**

If you have any questions regarding this matter, please contact John Martin, Manager of Bureau of Licensing and Certification, at 271-9256.

Sincerely,



Mary Castelli  
Senior Division Director  
Department of Health and Human Services  
Office of Operations Support

Enclosure

cc: John B. Martin, Manager, Bureau of Licensing and Certification  
Melissa Clement, Unit Chief  
Theresa Peck, Supervisor  
Kathleen MacKenzie, Licensing Coordinator  
Michelle Deyermond, Licensing Coordinator  
Robert F. Berry, Jr., Esquire, Department Counsel  
Lynne Smith, Administrative Appeals Unit

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