

## FAMILY CHILD CARE Chemical Use Problems Guidelines & Process

The following guidelines are provided to assist in determining what may be considered a chemical use problem if, as required in the family child care rule, an individual is not able to meet the timeline that the applicant, license holder or adult household member be free of chemical use problems for the past twelve months.

**PLEASE NOTE:** for applicants, background studies must be completed (including completion of any requests for reconsideration) for all required individuals prior to requesting a chemical use variance.

***“Chemical use” includes alcohol abuse, abuse of prescription controlled substances, and use of illegal substances.***

To determine if the **applicant, license holder or adult household member** may have a chemical use problem, the following factors should be used as a basis for requesting a chemical health evaluation:

- If the individual has received treatment for alcohol or chemical abuse or chemical dependency within the past twelve months.
- If the individual has used chemicals (as defined above) while providing care and supervision to children in a family child care program to the extent that their use has or may have a negative effect on the basic needs and safety of the children in care.
- If the individual admits that they are actively using illegal drugs in or out of the home.
- If the individual has been charged or convicted of driving while impaired (DWI) within the past twelve months. *(If charged with a felony-level DWI, this would be a background study disqualification and a variance would not be granted unless there is also a disqualification variance granted).*

For any of the above situations, if the individual has previously completed a chemical dependency or abuse evaluation, the licensing agency must ask the individual to sign a consent for release of information to obtain the results of the evaluation.

If a previous evaluation has not been completed, the licensing agency must request that the individual complete a chemical dependency or abuse evaluation by a qualified CD professional to determine if the individual’s chemical use may impact their ability to provide a safe environment for children in care. Collateral information is an important part of a chemical use assessment. We encourage you to specify that collateral information be included in the assessment. The individual must also sign a consent for release of information to allow the agency to obtain a copy of the completed assessment.

If the individual refuses to comply with completing an evaluation or signing a required consent for release of information, the licensing agency must consult with DHS-Family Systems to determine the next action.

### **A variance may be requested:**

- If a CD professional determines there is a chemical use problem, the individual has completed the chemical use problems variance request form, and has demonstrated a period of compliance with all

recommendations from the assessment or the risk of harm is determined to be low. If the individual does not request a variance, further action on the license must be considered, including denial or revocation.

**A variance should not be considered:**

- if the individual has submitted the chemical use problem variance request form but is not complying with recommendations from a chemical health evaluation. The agency cannot ensure the safety of the children in care. The licensing agency must consult with DHS-Family Systems to determine the next action.

**A variance is not required:**

- if the CD professional determines there is not a chemical use problem.
- if the CD professional determines there is not a chemical use problem; however, recommendations are provided as a result of the evaluation:
  - The licensing agency must assess the concerns and complete a new home study assessment update to include the recommendations and the individual's plan for compliance.
  - If there are any additional reports regarding chemical use, another chemical health evaluation must be requested.
  - If the individual refuses to comply with completing a subsequent evaluation, the licensing agency must consult with DHS-Family Systems regarding the situation to determine the next action.

**Process if a variance is requested:**

1. The individual completes the chemical use problems variance request form and sends the completed form and all supporting documentation to the licensing agency.
2. The agency reviews the request and all supporting information (e.g. chemical health evaluation, police reports, BCA, child and/or adult protection reports, evaluations, treatment records, support group attendance, letters of support, etc.).
3. The agency completes the risk of harm (ROH) assessment.
4. Based on a review of all information and the ROH, the agency makes a recommendation to the Department of Human Services (DHS) to either grant or deny the variance, using the Risk of Harm Assessment and Recommendation form.
5. Submit the recommendation and all supporting documentation by email to [dhs.familyystemstechassistance@state.mn.us](mailto:dhs.familyystemstechassistance@state.mn.us) or by mail to:

Minnesota Department of Human Services  
Division of Licensing  
Attention: Family Systems  
P.O. Box 64242  
St. Paul, MN 55164-0242

6. DHS will send written notification to the individual, the license holder and the licensing agency of the final decision.\*

\*The commissioner's decision to grant or deny a variance request is final and not subject to appeal.