

Minnesota Chapters 245A.143, Family Adult Day Services (FADS) Question & Answers

1) Question: Can an applicant only hold a FADS license or does it have to be in accordance with an AFC license (even if no plans for providing care)?

Answer: *Yes, an applicant can apply for just a FADS license, they do not need to have an AFC license.*

2) Question: I have an applicant for FADS. They are also a licensed Bed and Breakfast at this time. The couple is interested in providing FADS to the DD population (21 years and up) My question is regarding background studies. In clause (6) of 245.03 Subd. 1-an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause. If the answer to #1 is yes, a FADS license can stand alone, would this applicant be allowed to have Bed and Breakfast guests without having a background studies done because there would be no reasonable cause and clients would always be supervised. Or do you think that just by doing a Bed and Breakfast that that is reasonable cause itself?

Answer: *No, having a B&B would not constitute reasonable cause. If the participants are always supervised, and there is no reasonable cause for a BGS (which is likely), the guests would not need a study. If it was AFC also, there may be a different answer, but with FADS alone, the participants aren't residing/sleeping there and the license holder/caregivers are able to provide the supervision as required.*

3) Question: We have some licensed individuals that recently have been questioning strongly our inspections and annual requirements and wanting statutes cited that allow us to do the monitoring we do. This situation lead me to look more closely at 245A.143 Subd. 13 (a), it says state or local fire marshal must inspect the FADS home for compliance with the residential group R-3 occupancy provisions of the State Fire Code. If the home is only licensed for FADS what is a licensors requirement for the home safety checklist? Do we complete it annually or only on the relicensed year? Then if we complete the home safety checklist, are we only looking for the items on the State Fire Code for residential group R-3 occupancy?

Answer: *For a stand-alone FADS program, the home safety checklist is not required. You can use it, but you can't back up its' use with the statute.*

4) Question: Other than 245A.143 are there other statutes I should be familiarizing myself with for this license?

Answer: *245A.143 is the only statute specific to FADS licensing. Rule 13 includes general requirements for all license types.*

5) Question: (For an existing AFC license that now wants to add FADS) Looks like the fire marshal would go again to the house-this time for the FADS part?

Answer: *Not necessarily – see the following:*

1) *If the home has not made any changes that affect the fire safety, a new fire safety inspection would not be required.*

2) *If new or additional areas of the home will now be used that were not used for adult foster care, a fire safety inspection should be completed.*

6) Question: MN Statutes 245A.143 Family Adult Day Services Subdivision (b): States that a license shall only be issued when the services are provided in the license holder's primary residence. Can a variance be granted for this? I have a provider that is licensed as "corporate" for 5 elderly. Wanted to offer FADS.

Answer: *The intent for FADS is for the services to be provided in the LH's primary residence (subd. 1 (b)). However, subd. 14 states "The commissioner may grant a variance to any of the requirements in this section if the conditions in section 245A.04, subd 9, are met." We interpret that to mean that the licensing agency may grant a variance to any part of 245A.143, including that it be provided in the LH's primary residence.*

7) Question: Can counties charge a fee for licensing a FADS program ?

Answer: *No, counties may not charge a fee for licensing since a fee is not specified in statute for FADS.*

8) Question: Is there a minimum age variance for FADS?

Answer: *Yes, you could request a minimum age variance for FADS from DHS. However, there may be restrictions or limits connected to the funding.*

9) Question: Are there any conditions on how much time staff can work vs. the license holder?

Answer: *Minnesota Statutes, section 245A.143, subd. 1. (b) requires that the license holder is the primary provider of care. There isn't a specific definition for that, but common sense dictates that the majority of the "care" be provided by the license holder.*

10) Question: Both of my inquiries are wanting a FADS license but not AFC. Does this affect the capacity or can the provider still care for a max. of 8?

Answer: *FADS can be a stand -alone license, but capacity remains the same – maximum of 8 participants.*

11) Question: The LH needs a policy on smoking in the home. Does the FADS home fall under the "Clean Air Act"?

Answer: *This is a tricky area to address as there is nothing specific in the Minnesota Indoor Clean Air Act (MICAA) to address FADS. In consultation with John Olson, the Enforcement Coordinator for Indoor Air Unit at the Minnesota Department of Health he provided the following:*

"While smoking is technically not prohibited in the home while the client is present, it should be discouraged, spatially separated at the very least."

Ideally, the indoor air act promotes healthy homes that do not allow smoking indoors. It is strongly encouraged that license holders smoke outside of the home at all times, but at the very least, to not smoke indoors during hours of operation of the FADS program.

However, if your agency has granted a variance to allow a corporate FADS program, no smoking is allowed in the home during hours of operation.

12) Question: Now that the age has dropped to 18 from 55, are there any regulations on the provider caring for either DD or Elderly or can they care for both at the same time?

Answer: *There is no language in statute regarding mixing of populations.*

13) Question: Are there regulations for the minimum age of staff members and what they are able to do i.e. pass meds?

Answer: *Because FADS is typically done in conjunction with AFC, 18 would be the minimum age for the license holder and staff. However with a stand-alone license, there is no age requirement in the statute.*

14) Question: Are background checks completed through NETStudy?

Answer: *Yes, same as AFC.*

15) Question: For an existing AFC license, does the provider need to complete the background study again?

Answer: *No, the AFC background study is sufficient since it is not a separate license. If it were a stand-alone FADS license, a new applicant study would be needed.*

16) Question: Some of the initial requirements such as the home study, references, fire marshal report, and disaster plan are things that I collected from the provider during her initial AFC licensing. Do I need to get those again, or can I piggyback on the AFC forms?

Answer: *Social history is not required for FADS. References do not need to be repeated. The disaster plan/emergency procedures should be separate and specific to the FADS piece as it will serve non-residents. Refer to 245A.143, subd. 3.*

17) Question: For providers who are licensed AFC and FADS, do they have to get separate training under both licenses?

Answer: *No, we would accept 12 hours of training (for providers licensed under six years) and six hours of training (for providers licensed six years or more). The training topics for FADS need to be related to the health, nutritional and social needs of the license holders' target population. All staff working in the FADS program are required to complete twelve hours of training. Also, annual vulnerable adult training is required for the license holder(s) and all staff.*

18) Question: Can FADS license holders care for relatives?

Answer: *There is no prohibition for a relative to receive services, however there may be restrictions or limits connected to the funding.*