

February 24, 2023

CERTIFIED MAIL

Jerome Djam, Authorized Agent
Creative Home Options, Inc.
11831 North Meadow Curve
Lindstrom, Minnesota 55045

License Number 1103991 (Home and Community-Based Services - 245D)

License Number 1050106 (Adult Foster Care Rule 203)

ORDER OF LICENSE REVOCATION

Dear Jerome Djam:

The Department of Human Services (DHS) is revoking your license to provide Home and Community-Based Services and Adult Foster Care Services at 11831 North Meadow Curve, Lindstrom, Minnesota. This revocation is based on continued non-compliance with relevant Minnesota statutes and rules, continued non-compliance with the terms of the Creative Home Options conditional license, and providing false or misleading information to DHS. Details of our findings are provided below. Our next steps and your options are also detailed.

The revocation goes into effect on March 13, 2023 at 5:00 PM to allow time for delivery of this order and ten days for you to inform the Commissioner whether you intend to appeal the license revocation explained below.

REASON FOR LICENSE REVOCATION

1. Conditional license violations

On November 30, 2022, DHS determined that the license holder failed to follow two of seven terms of the Order of Conditional License that is in place from December 3, 2021 to December 3, 2023.

- a. Term #2 required the license holder to notify current persons receiving services, all parties who refer persons to the program, and all payer sources of the conditional status of their license within 15 days of their receipt of the order. Additionally, term #2 required the license holder to submit a list of the individuals and parties that received the notice within 30 days of their receipt of the order.

In a letter to DHS from the license holder dated December 23, 2021, the license holder reported that the notification of the conditional license was sent out to individual's receiving services, their legal representative, case managers, and counties of financial responsibility. However, the license holder failed to provide this notice to P5, P5's legal representative, and P5's case manager.

- b. Term #3 required the license holder to submit a written plan detailing how the license holder will ensure corrective action required would be completed and submit a written plan detailing how the license holder will audit all participant and staff records for compliance with all applicable rules and statutes.

See the licensing violations contained in this order for how the license holder failed to follow their written plan thereby failing to take corrective action and ensure ongoing compliance with applicable laws and rules.

Legal Authority: Minnesota Statutes, sections 245A.06, subdivision 3; and 245A.07, subdivision 3(a).

Repeat Violation: In a Notice of Noncompliance with Terms of a Conditional License and Correction Order issued by DHS on July 28, 2022, you were previously cited for failing to follow 4 of 7 terms of the Order of Conditional License issued December 3, 2021.

2. False or misleading information

DHS determined that you knowingly withheld relevant information or provided false or misleading information related to your compliance with licensing rules and laws.

A "Notice of Reinspection (NOR)" is a document sent by DHS to license holders to obtain information regarding the license holder's program, including but not limited to: the program's address and contact information, service recipient information, and staff and personnel information. This document included instructions on how to complete each section, including what information needs to be provided. The license holder submitted "Notice of Reinspection (NOR)" forms to DHS on March 11, 2021, March 15, 2022, and November 2, 2022.

The license holder knowingly withheld relevant information regarding their program by failing to include P5 as a service recipient on any of these documents. Documentation maintained in P5's record and information provided to DHS by the license holder showed that P5 received services from the license holder on or around the following dates:

- September 22, 2020 through October 4, 2020;
- July 23, 2021 through July 26, 2021;
- August 12, 2021 through August 21, 2021;
- September 3, 2021 through September 9, 2021;
- December 30, 2021 through January 1, 2022;
- June 9, 2022 through June 15, 2022;
- August 5, 2022 through August 7, 2022;
- September 10, 2022 through September 15, 2022; and
- an unknown amount of days in November 2022.

The licensed capacity for the adult foster care home, license number 1050106, was four. During all of the above dates, the license holder was above the licensed capacity.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3(a)(3).

License holders determined to have knowingly withheld relevant information or provided false or misleading information are required to pay a \$200 fine for each violation. Because license revocation is a more severe sanction against your license, DHS is not imposing this fine.

3. Failure to comply with corrective action ordered in an Order to Pay a Fine

DHS determined that you failed to comply with corrective action ordered in an Order to Pay a Fine issued on July 8, 2022.

In an Order to Pay a Fine issued to the license holder on July 8, 2022, the license holder was ordered to designate a new sensitive information person (SIP) for their program and submit this person's name to their DHS licensor within 10 days of receiving the order. After multiple communications and instructions from DHS, the license holder designated a new SIP on November 4, 2022; however, they did not communicate this action to DHS as required. The license holder failed to designate a new SIP within 10 days of receiving the July 8, 2022 Order to Pay a Fine or to communicate change to DHS licensor of this change as required.

Legal Authority: Minnesota Statutes, section 245A.06, subdivision 3.

4. Failure to comply with licensing laws and rules

DHS determined that your program failed to fully comply with the laws and rules that apply to licensed home and community-based services. DHS has also considered the nature, chronicity, or severity of the violations that led to the revocation of your license.

- Nature:
 - Failure to provide services in compliance with the requirements of Minnesota Statutes, chapters 245A, 245C, and 245D and Minnesota Rules, chapter 9544
 - Failure to meet initial service planning requirements
 - Failure to meet service plan review and evaluation requirements
 - Failure to provide and ensure the exercise and protection of a person's service-related rights
 - Failure to meet health service needs consistent with the person's health needs, including administering medications
 - Failure to provide services in response to the person's identified needs, interests, preferences, and desired outcomes
 - Failure to incorporate and evaluate positive support strategies
 - Failure to maintain and ensure access to service recipient records
 - Failure to inform and provide copies of program policies and procedures, including service recipient rights

- Failure to establish, enforce, and maintain policies and procedures related to health and welfare
 - Failure to maintain personnel records as required
 - Failure to comply with background study requirements, including failure to remove a disqualified individual from direct contact, or access to, persons served by the program
 - Failure to notify the Commissioner of changes to a controlling individual's status
- **Chronicity:** Your program received its license on March 12, 2020. You were previously licensed with the same services and licensing standards since January 1, 2014; however, that license was closed due to the failure to pay an annual renewal fee for 2020. You were previously licensed with the same services and similar licensing standards since March 23, 2009 under Minnesota Statutes, chapter 245B. Chapter 245B was repealed on December 31, 2013 and replaced on January 1, 2014 with the licensing standards found in chapter 245D.

During the times that you held a license, your program has demonstrated a history of noncompliance with licensing rules and statutes. The information below summarizes this history:

- February 22, 2023 Revocation (this order): 26 violations (18 repeat)
- December 14, 2022 Notice of Immediate Background Study Action Required: Failure to remove 1 staff person disqualified from direct contact
- July 28, 2022 Notice of Noncompliance with Terms of a Conditional License and Correction Order: 8 violations (4 repeat), noncompliance with 4 terms of the conditional license, 1 violation for noncompliance with corrective action ordered in an order to pay a fine
- July 8, 2022 Order to Pay a Fine: Failure to submit background studies for 7 staff persons, failure to remove 3 disqualified staff persons from direct contact, and providing false or misleading information to the Commissioner
- December 3, 2021 Conditional License: 28 violations
- January 26, 2017 Correction Order*: 8 violations

- June 13, 2012 Correction Order:** 9 violations (7 repeat)

- May 16, 2012 Order to Pay a Fine** Failure to submit a background study before allowing a staff person to provide direct contact services

- June 10, 2010 Correction Order** 13 violations

*This order was issued to license number 1073274 which had the same name, ownership, address, and authorized services as license number 1103991. License 1073274 expired due to the failure of the license holder to pay a license renewal fee for 2020.

**These orders were issued under license number 1052599 which had the same name, ownership, address, and authorized services as 1073274 and 1103991. License 1052599 was closed on December 31, 2013 when Minnesota Statutes, chapter 245B was repealed and the existing license was converted to license 1073274 under Minnesota Statutes, chapter 245D.

You also hold an adult foster care license, number 1050106, which is located at the same address as your HCBS-245D license. The adult foster care license was issued on January 14, 2008. Licensing actions taken by Chisago County Health and Human Services under delated authority by DHS demonstrate a history of noncompliance with adult foster care licensing rules and statutes. The information below summarizes this history:

- December 1, 2022 Correction Order: 9 violations (8 repeat violations, 1 violation included a recommendation for immediate resolution)

- October 27, 2022 Correction Order: 8 violations

- November 22, 2021 Correction Order: 20 violations (18 repeat violations)

- November 3, 2021 Correction Order 23 violations

- November 17, 2020 Correction Order: 5 violations

- September 8, 2017 Correction Order: 2 violations

- December 3, 2015 Correction Order: 3 violations

- December 2, 2014 Correction Order: 3 violations
 - October 24, 2014 Correction Order: 2 violations
 - January 18, 2012 Order to Pay a Fine: Failure to submit a background study for one individual
- **Severity:** Many of the violations that led to the revocation of your license relate to the health and safety of persons served. Many violations and noncompliance have occurred repeatedly without appropriate corrective action.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3(a)(1).

5. Commissioner's evaluation of program

In determining whether a licensing action is warranted, DHS evaluated the facts, conditions, and circumstances concerning your program's operation. This includes consideration of the well-being of persons served by your program, and information about the qualifications of staff persons that are working in your program. DHS has determined that revocation of your license is appropriate based on the nature, severity, and chronicity of concerns with your program. This includes:

- Failure to comply with the terms of your conditional license.
- Providing false or misleading information to DHS.
- Failure to comply with an Order to Pay a Fine issued on July 8, 2022.
- Failing to conduct background studies as required.
- Serving more persons than your adult foster care licensed capacity allowed.
- Failing to follow DHS instructions to immediately remove a staff person with a disqualifying characteristic and continuing to allow them to provide direct contact services and have access to vulnerable adults and their records.
- Continued non-compliance with applicable licensing laws and rules as determined during a licensing review on November 30, 2022 in which 26 violations were determined and detailed in this order. Eighteen of these violations were repeat violations identified in previous orders issued by DHS.

Legal Authority: Minnesota Statutes, section 245A.04, subdivision 6.

Due to the serious and chronic nature of these violations and the conditions in the program, which impact the health and safety of persons served in your care, your license to provide Home and Community-Based services and Adult Foster Care services is revoked.

LICENSING VIOLATIONS DETERMINED ON NOVEMBER 30, 2022

DHS determined that your program failed to follow licensing rules and statutes, as described below.

PROGRAM COORDINATION, EVALUATION, AND OVERSIGHT

1. **Violation:** The license holder did not meet the requirements of program coordination, evaluation, and oversight.

The license holder failed to ensure that the designated manager (SP4) provided program management and oversight of the services provided by the license holder to ensure corrective action was taken when ordered by the Commissioner and that the terms and conditions of the license were met. SP4's failure to meet this requirement is demonstrated in violations 2 - 26.

Statute Violated: Minnesota Statutes, section 245D.081

Repeat Violation: In the following orders issued by DHS, you were previously found in violation of this same statute:

- Order of Conditional license issued on December 3, 2021
- Notice of Noncompliance with Terms of a Conditional License and Correction Order issued on July 28, 2022

SERVICE RECIPIENT VIOLATIONS

2. **Violation:** For one of five persons whose record was reviewed (P5), the license holder did not provide an orientation to the internal and external reporting procedures related to suspected or alleged maltreatment as required.

P5's record showed that P5 received services from the license holder under their HCBS license number 1103991 since at least September 2020. The license holder failed to provide P5 or P5's legal representative with an orientation to the internal and external reporting procedures related to suspected or alleged maltreatment within 24 hours of admission.

Statute Violated: Minnesota Statutes, section 245A.65, subdivision 1.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

3. **Violation:** For one person whose record was reviewed (P5), the license holder did not provide an orientation to the program abuse prevention plan as required.

The license holder failed to provide P5 or P5's legal representative with an orientation to the program abuse prevention plan within 24 hours of admission.

Statute Violated: Minnesota Statutes, section 245A.65, subdivision 2, paragraph (a).

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

4. **Violation:** For three persons whose records were reviewed (P1, P2, and P5), the license holder did not develop, review, and evaluate the individual abuse prevention plan as required.

Minnesota Statutes, section 245A.02, subdivision 2b defines "annual" or "annually" to mean prior to or within the same month of the subsequent calendar year.

- a. The license holder failed to develop an individual abuse prevention plan for P5 upon service initiation.
- b. The license holder failed to review and evaluate the IAPP for P1, P2, and P5 annually in 2022. P1's IAPP was reviewed on May 28, 2021. P2's IAPP was reviewed on July 30, 2021. An IAPP for P5 was not developed, therefore, had never been reviewed. At the time of the licensing review on November 30, 2022, the license holder had not reviewed P1 and P2's IAPP with their interdisciplinary teams in 2022.

Statute Violated: Minnesota Statutes, section 245A.65, subdivision 2, paragraph (b).

5. **Violation:** For three persons whose records were reviewed (P1, P2, and P5), the license holder did not provide the service recipient rights as required.

- a. The license holder failed to provide P1 and P2 with a written notice that identified the service recipient rights and an explanation of those rights annually in 2022. P1 received a copy of the service recipient rights on May 28, 2021. P2 received a copy of the service recipient rights on July 30, 2021. At the time of the licensing review on November 30, 2022, P1 and P2 had not received a copy of the service recipient rights in 2022.
- b. The license holder failed to provide P5 or P5's legal representative with a written notice that identified the service recipient rights, and an explanation of those rights within 5 working days of service initiation. Additionally, the license holder failed to provide these rights to P5 or P5's legal representative annually thereafter. At the time of the licensing review on November 30, 2022, the license holder had not provided P5 or P5's legal representative with a written notice that identified the service recipient rights.

Statute Violated: Minnesota Statutes, section 245D.04, subdivision 1.

Repeat Violation: In the following orders issued by DHS, you were previously found in violation of this same statute:

- Order of Conditional license issued on December 3, 2021
- Notice of Noncompliance with Terms of a Conditional License and Correction Order issued on July 28, 2022

6. **Violation:** For one person whose record was reviewed (P5), the license holder did not ensure the exercise and protection of the service recipient rights as required.

The license holder failed to ensure the exercise and protection of P5's service-related right to receive services from an individual who was competent and trained. The license holder's failure to develop, document, and implement service plans required by this chapter 245D for P5 demonstrated the license holder's failure to ensure staff persons were competent and trained on P5's individual service recipient needs as required in section 245D.09, subdivision 4a.

Statute Violated: Minnesota Statutes, section 245D.04, subdivisions 2 and 3.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

7. **Violation:** For three persons whose records were reviewed (P2, P4, and P5), the license holder did not maintain documentation on how health needs would be met as required.

- a. The license holder was assigned the responsibility of meeting P2's health service needs in the support plan and support plan addendum. The license holder failed to maintain documentation of how P2's health needs would be met, including a description of the procedures the license holder would follow in order to provide medication setup, assistance, or administration according to chapter 245D and assist with or coordinate medical, dental, and other health service appointments.

P2's support plan stated that the license holder would administer all medications as prescribed as P2 was not able to do this independently. In a document maintained in P2's record titled "Coordinated Service & Support Plan Addendum (CSSP-A)" dated July 30, 2021, the license holder documented in one area that they provide medication administration and in another area that they provide medication assistance. Due to the conflicting documentation, DHS could not determine the license holder's assigned responsibility related to medications; therefore, the license holder failed to maintain documentation of how P2's health needs would be met.

- b. The license holder was assigned responsibility for meeting P4's health needs in P4's support plan and support plan addendum. The license holder failed to maintain documentation on how P4's health needs would be met.

- P4 was diagnosed with epilepsy, had a history of seizures, and was prescribed medication for seizure prevention. The license holder failed to maintain documentation that included a description of the procedures the license holder would follow in order to monitor this health condition according to written instructions from a licensed health professional.
 - A document developed by the license holder and maintained in P4's record titled "Coordinated Service & Support Plan Addendum" indicated that P4's legal representative was responsible for scheduling P4's medical appointments; however, P4's support plan assigned responsibility for setting up medical appointments to the license holder. The license holder failed to maintain documentation that included a description of the procedures the license holder would follow in order to assist with or coordinate medical, dental, and other health service appointments.
- c. The license holder was assigned responsibility for meeting P5's health needs in P5's support plan. The license holder failed to maintain documentation on how P5's health needs would be met, including a description of the procedures the license holder would follow in order to:
- provide medication setup, assistance, or administration according to this chapter;
 - monitor health conditions according to written instructions from a licensed health professional;
 - assist with or coordinate medical, dental, and other health service appointments; and
 - use medical equipment, devices, or adaptive aides or technology according to written instructions from a licensed health professional.

Statute Violated: Minnesota Statutes, section 245D.05, subdivision 1.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

8. Violation: For one person whose record was reviewed (P3), the license holder did not meet requirements for medication administration.
- a. P3's record contained a prescription for a psychotropic medication where the prescriber's instructions stated, "Take 1 tablet by mouth one time a day as needed for agitation." P3's record documented that on November 9, 2022 P3 received two tablets of the medication. The license holder failed to ensure medications were administered to P3 as prescribed.
 - b. The license holder maintained a document in P3's record used to keep count of a psychotropic medication for P3. This document showed that P3 was administered 15 tablets of the medication between November 1, 2022 and November 27, 2022; however, P3's medication administration record only included documentation of 7 tablets administered for the same medication. The license holder failed to document accurate medication administration.

- c. For P3, on November 1, 2022 the license holder reported that all medications were administered; however, the license holder failed to ensure documentation of when the medications were administered in P3's medication administration record.

Statute Violated: Minnesota Statutes, section 245D.05, subdivision 2.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

9. Violation: For one person whose record was reviewed (P2), the license holder did not meet requirements for psychotropic medication use and monitoring.

P2 was prescribed a psychotropic medication. The license holder failed to develop, implement, and maintain documentation that included a description of the target symptoms the psychotropic medication was used to alleviate. Additionally, P2's "Coordinated Service & Support Plan Addendum (CSSP-A)" dated July 30, 2021, stated the license holder would provide P2 and their support team with "Psychotropic Medication Monitoring Data Reports" quarterly. At the time of the review on November 30, 2022, the license holder failed to provide quarterly reports in 2022.

Statute Violated: Minnesota Statutes, section 245D.051, subdivision 1.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

10. Violation: For two persons whose records were reviewed (P2 and P4), the license holder did not provide services in response to the person's identified needs as specified in the support plan and support plan addendum as required.

- a. For P2, the "Coordinated Service & Support Plan Addendum (CSSP-A)," dated July 30, 2021, stated, "a functional assessment will be completed annually and as skill levels change; the assessment will be reviewed to determine what service outcomes and supports need to be developed." The document also stated the date of the last functional assessment was January 1, 2020. At the time of the licensing review on November 30, 2022, a functional assessment for P2 had not been completed since January 1, 2020. The license holder failed to provide services in response to P2's identified needs as specified in the support plan addendum.
- b. P2's support plan stated that the license holder would help P2 manage their money and keep it stored safely; however, the license holder reported during the licensing review on November 30, 2022 that they do not assist P2 with the safekeeping of their funds. The license holder failed to provide services in response to P2's identified needs as specified in the support plan.

- c. For P4, the "Coordinated Service & Support Plan Addendum" specified that the license holder would provide P4, P4's legal representative, and P4's case manager copies of all medical appointments and follow-up summaries. The license holder's failed to provide documents to P4's case manager; therefore, the license holder failed to provide services in response to P4's identified needs as specified in the support plan addendum.

Statute Violated: Minnesota Statutes, section 245D.07, subdivision 1a.

11. Violation: For one person whose record was reviewed (P5), the license holder did not meet initial service planning requirements for basic support services.
 - a. The license holder failed to develop a preliminary support plan addendum based on the support plan for P5 within 15 calendar days of service initiation.
 - b. The license holder failed to, within 60 calendar days of service initiation, review and revise as needed P5's preliminary support plan addendum to document the services that will be provided including how, when, and by whom services will be provided, and the person responsible for overseeing the delivery and coordination of services.

Statute Violated: Minnesota Statutes, section 245D.07, subdivision 2.

12. Violation: For two persons whose records were reviewed (P1 and P2), the license holder did not conduct assessments as required.

Minnesota Statutes, section 245A.02, subdivision 2b defines "annual" or "annually" to mean prior to or within the same month of the subsequent calendar year.

The license holder failed to conduct assessments identified in paragraph (b), clauses (1) through (3) for P1 and P2 annually in 2022. The license holder conducted assessments for P1 on May 28, 2021. The license holder conducted assessments for P2 on July 30, 2021. At the time of the licensing review on November 30, 2022, the license holder had not conducted the assessments identified in paragraph (b), clauses (1) through (3), for P1 and P2 in 2022.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 3, paragraph (b).

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

13. Violation: For two persons whose records were reviewed (P3 and P4), the license holder did not meet requirements for service outcomes and supports as required.

The license holder failed to document the following supports and methods to be implemented to support P3 and P4 and accomplish outcomes related to acquiring, retaining, or improving skills and physical, mental, and emotional health and well-being:

- the methods or actions that will be used to support the person and to accomplish the service outcomes, including information about:
 - any changes or modifications to the physical and social environments necessary when the service supports are provided;
 - any equipment and materials required; and
- techniques that are consistent with the person's communication mode and learning style;
- the measurable and observable criteria for identifying when the desired outcome has been achieved and how data will be collected;
- the projected starting date for implementing the supports and methods and the date by which progress towards accomplishing the outcomes will be reviewed and evaluated; and
- the names of the staff or position responsible for implementing the supports and methods.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 4, paragraph (b).

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

14. Violation: For four persons whose records were reviewed (P1-P4), the license holder did not meet requirements for service plan review and evaluation.

- a. The license holder failed to, at least once per year, meet with P1 and P2, their legal representative, if applicable, their case manager, and other people as identified by the person or their legal representative, and participate in service plan review meetings, to determine whether changes are needed to the service plan based on the assessment information, the license holder's evaluation of progress toward accomplishing outcomes, or other information provided by the support team or expanded support team. Additionally, the license holder failed to:
 - discuss how technology might be used to meet the person's desired outcomes and maintain a summary of this discussion in the person's support plan addendum that includes a statement regarding any decision made related to the use of technology and a description of any further research that must be completed before a decision regarding the use of technology can be made;
 - discuss options for transitioning out of a community setting controlled by a provider and into a setting not controlled by a provider and maintain a summary of this discussion in the person's support plan addendum that includes a statement about any decision made regarding transitioning out of a provider-controlled setting and a description of

any further research or education that must be completed before a decision regarding transitioning out of a provider-controlled setting can be made; and

- summarize the person's status and progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in subdivision 4 in a report available at the time of the progress review meeting.

The license holder met with P1 and their interdisciplinary team on May 28, 2021. The license holder met with P2 and their interdisciplinary team on July 30, 2021. At the time of the licensing review on November 30, 2022, the license holder had not met with or completed the requirements identified above for P1 and P2 in 2022.

- b. The license holder met with P3 and their support team on September 28, 2022. The license holder failed to send the support plan addendum to P3's case manager within ten working days of the progress review meeting. At the time of the licensing review on November 30, 2022, the license holder had not sent the support plan addendum to P3's case manager.
- c. The license holder failed to summarize P4's status and progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in section 245D.071, subdivision 4, in a report available at the time of the progress review meeting. P4's support plan required the license holder to provide semi-annual reports to P4 and their interdisciplinary team. At the time of the licensing review on November 30, 2022, the license holder had not provided any reports to P4's interdisciplinary team.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 5.

Repeat Violation: In the following orders issued by DHS, you were previously found in violation of this same statute:

- Order of Conditional license issued on December 3, 2021
- Notice of Noncompliance with Terms of a Conditional License and Correction Order issued on July 28, 2022

15. Violation: For one person whose record was reviewed (P5), the license holder did not maintain a service recipient record as required.

The license holder failed to maintain the following in P5's service recipient record:

- an admission form signed by the person or the person's legal representative;
- service information, including service initiation information and the date of admission;
- health information, including medical history and special dietary needs;
- a signed statement authorizing the license holder to act in a medical emergency when the person's legal representative cannot be reached or is delayed in arriving;

- the person's current support plan or that portion of the plan assigned to the license holder;
- a copy of the individual abuse prevention plan;
- documentation of orientation to service recipient rights according to section 245D.04, subdivision 1; and
- documentation of orientation to maltreatment reporting policies and procedures according to section 245A.65, subdivision 1, paragraph (c).

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 3.

Repeat Violation: In the following orders issued by DHS, you were previously found in violation of this same statute:

- Order of Conditional license issued on December 3, 2021
- Notice of Noncompliance with Terms of a Conditional License and Correction Order issued on July 28, 2022

16. **Violation:** For two persons whose records were reviewed (P4 and P5), the license holder did not ensure access to persons served records as required.

- a. On multiple dates between December 2021 and September 2022, P4's case manager requested documentation regarding P4 from the license holder. At the time of the licensing review on November 30, 2022, the license holder had not provided the requested documentation to P4's case manager. The license holder failed to ensure P4's case manager had access to P4's service recipient record.
- b. Due to the license holder's failure to develop content required by the applicable laws and rules of their HCBS license for P5 and maintain this content in P5's record, the license holder failed to ensure staff providing services to P5 had access to P5's service recipient record, including required content that was relevant to carrying out the support plan.

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 4.

17. **Violation:** For one person whose record was reviewed (P5), the license holder did not inform and provide copies of the policies and procedures affecting a person's rights as required.

The license holder failed to inform and provide P5 or P5's legal representative and P5's case manager with copies of the following policies and procedures affecting a person's rights under section 245D.04 within five working days of service initiation:

- grievance policy and procedure;
- service suspension policy and procedure;
- service termination policy and procedure; and

- emergency use of manual restraints policy and procedure.

Statute Violated: Minnesota Statutes, section 245D.10, subdivision 4, paragraph (b).

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

18. Violation: For three persons whose records were reviewed (P1, P2, and P5), the license holder did not incorporate and evaluate positive support strategies as required.

- a. The license holder failed to incorporate, in writing, positive support strategies to an existing treatment, service, or other individual plan for P5.
- b. The license holder failed to evaluate the identified positive support strategies with P1, P2, and P5 to determine whether the identified positive support strategies currently meet the standards in subpart 2, at least every six months; and, based upon the results of the evaluation, determine whether changes were needed in the positive support strategies used, and, if so, make appropriate changes.

Rule Violated: Minnesota Rules, part 9544.0030, subpart 1.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

19. Violation: For one person whose record was reviewed (P5), the license holder did not obtain written acknowledgement of being notified of the license holder's policy about the emergency use of manual restraint at the time of service initiation as required.

The license holder failed to obtain written acknowledgement from P5 or P5's legal representative of being notified of the license holder's policies and procedures related to the emergency use of manual restraints.

Rule Violated: Minnesota Rules, part 9544.0080, subparts 1 and 2.

STAFFING STANDARDS

20. Violation: The license holder failed to maintain personnel records as required.

During the licensing review on November 30, 2022, DHS licensors requested staff training records for the annual year 2022. DHS licensors were provided with a 3-ring binder labelled "2022 Staff Training" that contained information from staff meetings held in January and February 2022; however, no other training information was in the binder. A DHS licensor

requested records specific to each staff person currently employed by the program; however, the license holder stated they should be “somewhere,” but that they were not able to locate them. The license holder failed to maintain a personnel record of each employee to document and verify staff orientation and training, including the date the training was completed, the number of hours per subject area, and the name of the trainer or instructor. Additionally, due to the license holder’s failure to provide staff training records to DHS licensors, DHS licensors were unable to adequately monitor compliance related to staff training during the licensing review.

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 5.

Repeat Violation: In an Order of Conditional license issued by DHS on December 3, 2021, you were previously found in violation of this same statute.

PROGRAM POLICIES AND PROCEDURES VIOLATIONS

21. Violation: The license holder failed to notify the Commissioner before making changes to the license holder’s controlling individual as required.

Section 245A.02, subdivision 5a, defines “Controlling individual” to include an owner of a program or service provider licensed under this chapter and, if applicable, each officer of the organization, including the chief executive officer and chief financial officer.

The license holder identified SP8 as the program’s “Chief Financial Officer;” however, the license holder failed to notify the Commissioner before making a change to the license holder’s controlling individual as defined in section 245A.02, subdivision 5a. At the time of the licensing review, SP8 was not identified as a controlling individual on the license holder’s HCBS license number 1103991.

Statute Violated: Minnesota Statutes, section 245A.04, subdivision 7a, paragraph (b).

22. Violation: The license holder did not enforce policies and procedures related to health service coordination and care as required.

The license holder’s “Health Service Coordination Policy” stated that the license holder will maintain documentation on how the person’s health needs will be met when assigned the responsibility for meeting the person’s health needs. See violation 7 of this order evidence of the license holder’s failure to enforce this policy.

Statute Violated: Minnesota Statutes, section 245D.11, subdivision 2, clause (2).

23. Violation: The license holder did not establish, enforce, and maintain policies and procedures related to the review of incidents and emergencies as required.

The license holder's policy, "Incident Response, Reporting, and Review," detailed the procedures the license holder would follow for the review of incidents and emergencies. This policy identified SP3 as the person who would conduct a review of incidents and emergencies to identify patterns, and corrective action if any for the program; however, SP3 was disqualified from having direct contact or access to persons served by the program. The license holder was unable to enforce this policy and procedures as written.

Statute Violated: Minnesota Statutes, section 245D.11, subdivision 1.

Repeat Violation: In an of Noncompliance with Terms of a Conditional License and Correction Order issued by DHS on July 28, 2022, you were previously found in violation of this same statute.

24. Violation: The license holder did not enforce policies and procedures related to admission criteria and continuity of care as required.

The license holder's "Admission Criteria Policy" stated that the license holder would provide each person or each person's legal representative with a written notice that identified the service recipient rights under section 245D.04, and an explanation of those rights annually. See violation 5 of this order as evidence of the license holder's failure to enforce this policy.

Statute Violated: Minnesota Statutes, section 245D.11, subdivision 4.

BACKGROUND STUDY VIOLATIONS

25. Violation: The license holder failed to request background studies for three staff persons (SP1, SP2, and SP8) before they began working in a position allowing direct contact with persons served by the program.

- a. SP1 was hired and began working in a position allowing direct contact with persons served by the program on August 4, 2022. SP1's employment with the program ended on October 13, 2022. The license holder failed to submit a background study request to DHS before allowing SP1 direct contact with, or access to, persons served by the program. According to the license holder's roster on NETStudy 2.0, there was no valid background study for SP1 during the time of SP1's employment with the program.

The license holder failed to request a background study for SP2 before they began working in a position allowing direct contact with or access to persons served by the program. The license

holder was previously fined by DHS for failing to submit a background study for SP2 in an Order to Pay a Fine dated November 5, 2021 and again in an Order to Pay a Fine dated July 8, 2022. At the time of the licensing review on November 30, 2022, there was no valid background study for SP2.

- b. The license holder failed to request a background study for SP8 before they began working in a position allowing direct contact with or access to persons served by the program. The license holder was previously fined by DHS for failing to submit a background study for SP8 in an Order to Pay a Fine dated November 5, 2021 and again in an Order to Pay a Fine dated July 8, 2022. At the time of the licensing review on November 30, 2022, there was no valid background study for SP8.

Statute Violated: Minnesota Statutes, section 245C.04, subdivision 1, paragraph (g).

Repeat Violation: In the following orders issued by DHS, you were previously found in violation of this same statute:

- Order to Pay a Fine issued on November 5, 2021
- Order to Pay a Fine issued on July 8, 2022

26. Violation: The license holder failed to remove a disqualified individual (SP3) from direct contact or access as required.

The license holder failed to remove SP3 from direct contact with or access to person's served by the program after being notified of SP3's disqualification. On March 8, 2022 the license holder was notified that SP3 was disqualified and the license holder had to immediately remove SP3 from any position allowing direct contact with, or access to, persons served by the program.

During a licensing review on March 22, 2022, DHS licensors observed SP3 in the licensed facility, having direct contact with and access to persons served by the program. DHS again ordered the license holder to immediately remove SP3.

On March 23, 2022, a DHS licensor called and spoke with the license holder. The license holder told the DHS licensor that SP3 was currently at the program despite the order from DHS the previous day.

During a licensing review on November 30, 2022, DHS licensors observed SP3 at the program. A DHS licensor again informed the license holder that SP3 must be immediately removed from direct contact or access to person served by the program. Further information provided to DHS licensors, some of which was provided by the license holder, confirmed that SP3 had direct contact or access to persons served by the program until November 30, 2022.

On December 13, 2022, DHS received information that SP3 had direct contact or access to persons served by the program on December 5, 2022. On December 14, 2022, DHS issued

another Notice of Immediate Background Study Action Required, ordering the license holder again to immediately remove SP3 from direct contact or access to persons served by the program.

The license holder's failure to comply with the multiple notices from DHS ordering the license holder to remove SP3 continued to place vulnerable adults in the care of a person with a disqualifying background study characteristic.

Statute Violated: Minnesota Statutes, section 245C.18.

Repeat Violation: In an Order to Pay a Fine issued by DHS on July 8, 2022, you were previously found in violation of this same statute.

License holders determined to have a background study violation are required to pay a \$200 fine for each violation. Because license revocation is a more severe sanction against your license, DHS is not imposing this fine.

YOUR RIGHT TO APPEAL

You have the right to appeal the revocation. Your request must be in writing and clearly state that you are requesting a contested case hearing for this matter. Your request must be made before the deadlines provided below. If you do not meet this deadline, you lose your right to an administrative appeal. The timeline to appeal began when you received this order.

If you are mailing your request, it must be sent by certified mail and postmarked within 10 calendar days from when you received this order. Please send it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attention: Licensing Legal Unit
PO Box 64953
St. Paul, MN 55164-0953

If your request is being personally delivered, it must be received by DHS within 10 calendar days from when you received this order. Please bring it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attention: Licensing Legal Unit
444 Lafayette Road North
St. Paul, MN 55155

Upon DHS' receipt of your timely appeal, your case would be scheduled for a contested case hearing in front of an Administrative Law Judge. Following this hearing, the Commissioner of DHS will issue a final order. If you do not appeal or if the order is affirmed by the Commissioner following a hearing, DHS is prohibited from issuing you and the controlling individuals a license for five years. In addition, any additional licenses held by you or the controlling individuals shall also be revoked.

Legal representation at the contested case hearing:

You do not need a lawyer to appeal. However, a lawyer can help you with your appeal. The state or county will not get you a lawyer and will not pay for a lawyer. If you cannot afford a lawyer, you may be able to get free legal advice or help with your appeal. To find out if free help is available, contact: Volunteer Lawyers Network at 612-752-6677; Central Minnesota Legal Services at 612-332-8151; Southern Minnesota Legal Services at 651-222-4731; or go to www.lawhelpmn.org to find a local legal services program that may be able to help you.

You can also find information on contested cases from the Office of Administrative Hearings website at <https://mn.gov/oah/self-help>. Click on Administrative Law Overview, then click on Administrative Law Contested Case Hearing Guide for a list of frequently asked questions.

Operating the program pending the outcome of the appeal:

If you file an appeal within the timeframes described above, you may continue to operate pending the outcome of your appeal. If you continue to operate, you must do so in full compliance with all licensing laws and rules. Failure to follow a law or rule that may impact the health or safety of persons served by your program could result in the immediate suspension of your license.

Legal authority for this licensing action

- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- The timeline to appeal a revocation order is provided in Minnesota Statutes, section 245A.07, subdivision 3(b).
- "Controlling individual" is defined under Minnesota Statutes, section 245A.02, subdivision 5a.
- License holders have a right to appeal licensing actions and request a contested case hearing, under Minnesota Statutes, chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.
- If a license holder files a timely appeal of a revocation order, the license holder may continue to operate the program pending a final order of the appeal under Minnesota Statutes, section 245A.07, subdivision 1(b).
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (3), the Commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has had a license issued under this chapter revoked within the past five years.
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (5), when a license issued under this chapter is revoked under clause (1) or (3), the license holder and controlling individual

Jerome Djam, Authorized Agent

February 24, 2023

Page 22

may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

Questions

If you have any further questions regarding this matter, you may contact Christala Culhane, HCBS Unit Supervisor, at 651-431-6541.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Slaikeu", enclosed in a thin black rectangular border.

Jill Slaikeu, HCBS Unit Manager

Licensing Division

Office of Inspector General