

August 16, 2023

CERTIFIED MAIL

Mai Yang Lee  
4546 Aldrich Avenue North  
Minneapolis, MN 55412-1421

License Number 235813 FCC

## ORDER OF LICENSE REVOCATION

Dear Ms. Lee:

Based on the recommendation of Hennepin County Human Services and Public Health Department (Hennepin County), the Department of Human Services (DHS) is revoking your license to provide family child care at 4546 Aldrich Avenue North, Minneapolis, MN. Details of our findings are provided below. Our next steps and your options are also detailed.

### REASON FOR LICENSE REVOCATION

#### 1. 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 children served in your program, available evaluations from consumers of your program, and information about the qualifications of caregivers working in your program. Specifically, because a household member was disqualified and did not request reconsideration. DHS has determined that revocation of your license is appropriate based on the violations identified below and the program evaluation.

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

#### 2. Determination that a household member is responsible for maltreatment

##### ***May 8, 2023, Maltreatment Determination***

On May 8, 2023, Hennepin County determined that a household member was responsible for maltreatment of a minor by sexual abuse.

The household member was informed of their right to request reconsideration of the maltreatment determination. Because they did not make a timely request for reconsideration, the agency's maltreatment

determination is final. If you appeal this revocation order, as explained below, the underlying maltreatment determination will not be reviewed as a part of the contested case hearing.

Statute Violated: Minnesota Statutes, 260E.03.

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

### **3. Disqualification of a household member**

On July 13, 2023, DHS notified you that a household member had a disqualification and had the right to request reconsideration.

The disqualified individual did not make a timely request for reconsideration, so the correctness of the disqualification is final. Because the individual's disqualification cannot be set aside, if you appeal this revocation order, the issue of whether they pose a risk of harm to children served will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (a), subparagraph (2) and Minnesota Statutes, section 245A.04, subdivision 7, paragraph (e)].

### **4. Failure to comply with licensing laws and rules**

Hennepin County determined that you failed to fully comply with the laws and rules that apply to licensed family child care. DHS has considered the nature, chronicity, or severity of the violations that led to the revocation of your license.

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

#### **Nature, history and severity of violations**

On March 16, 2023, Hennepin County received a report regarding your family child care program. The report alleged a serious incident of abuse by an individual who had access to children in your care. As the result of the report, on March 17, 2023, DHS issued a temporary immediate suspension of your license.

Hennepin County investigated the report. As a result of the investigation, on May 8, 2023, Hennepin County determined that a household member was responsible for maltreatment of a minor by sexual abuse. Subsequently, on July 13, 2023, DHS notified you that the household member had a disqualification and had the right to request reconsideration. The disqualification was the result of the determination that the maltreatment was serious.

#### **Severity of violations**

Because a household member is responsible for maltreatment of a child and because the household member is disqualified from any position allowing direct contact with, or access to, persons served by DHS-licensed

programs, and in order to protect the health, safety, and rights of children in your care, your license to provide family child care is revoked.

## **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 a license for five years. In addition, any additional licenses held by you 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](http://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:**

On March 17, 2023, DHS issued an Order of Temporary Immediate Suspension on your family child care license. Because the immediate suspension of your license remains in effect, if you appeal the revocation, you continue to be prohibited from operating pending a final order from the Commissioner of DHS.

### **Questions about CCAP**

If you are a provider authorized to receive Child Care Assistance Program (CCAP) payments, this revocation order could impact your ability to receive CCAP funding. If you have questions about CCAP, contact the County or CCAP agencies where you are authorized to receive CCAP funds.

### **Prohibition against providing legally unlicensed child care**

On March 17, 2023, DHS issued an Order of Temporary Immediate Suspension to your family child care program, which disqualified you from providing legally unlicensed child care. You remain prohibited from providing legally unlicensed child care even if you appeal this order.

### **Posting of this Licensing Action**

You are required to place this Order of License Revocation in a place that is clearly noticeable to the people receiving services and all visitors to the facility for two years, even if you appeal.

### **Legal authority for this licensing action**

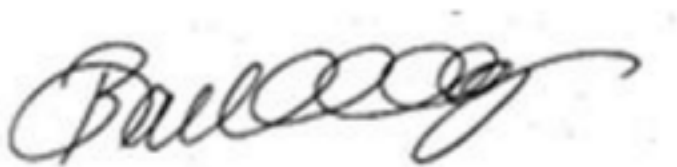
- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- When a revocation of a license is based on a maltreatment determination and/or a disqualification of an individual other than the license holder, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (f).
- When a revocation of a license is based on a disqualification that cannot be set aside, the scope of the contested case hearing for the revocation shall not include whether the disqualification may be set aside, under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (g), and Minnesota Statutes, section 245C.24, subdivision 2, paragraph (a).
- Minnesota Statutes, section 245C.29, subdivision 2 states that a disqualification is final if the commissioner or court has issued a final decision, the individual did not request reconsideration on the basis the disqualification was incorrect, or the individual did not timely request a hearing after being given the right to do so.

- Minnesota Statutes, section 245.095 defines which programs administered by DHS are included in the exclusion provision, and further defines "excluded," "individual," and "provider."
- License holders have a right to appeal licensing actions and request a contested case hearing, under Minnesota Statutes, chapter 14, Minnesota Rules, parts 1400.8505 to 1400.8612, and Minnesota Statutes, section 245A.08.
- 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 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.
- Minnesota Statutes, section 245A.03, subdivision 2a provides that an applicant for licensure who has received a license revocation that has not been reversed on appeal may not operate as a legally unlicensed child care provider. Operating an unlicensed family child care is a misdemeanor under Minnesota Statutes, section 245A.03, subdivision 3.
- The requirement to post this order in a clearly visible location is required under Minnesota Statutes, section 245A.07, subdivision 5.

## Questions

If you have any further questions regarding this matter, you may contact Beth Donahue, Supervisor at 651-431-6565.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara Wagner", written in a cursive style.

Barbara Wagner, Unit Manager  
Licensing Division  
Office of Inspector General

cc: Azur Walters, Hennepin County Human Services and Public Health Department