

September 13, 2023

CERTIFIED MAIL

Filsan Ismail, Authorized Agent
Rise N Shine Childcare Center, Inc.
4749 Hiawatha Ave S
Minneapolis, MN 55406

License Number: 1064171 (Rule 03)

ORDER OF CONDITIONAL LICENSE

Dear Filsan Ismail:

The Department of Human Services (DHS) is placing your license to provide at Rise N Shine Childcare Center Inc, 4749 Hiawatha Ave S, Minneapolis, MN 55406, on conditional status for two years, beginning September 25, 2023. This means you must meet certain conditions to maintain your license, detailed below. This order is based on your noncompliance with Child Care Center licensing requirements. Details of our findings are also provided below. Our next steps and your options are also detailed.

REASON FOR THE CONDITIONAL LICENSE

On June 21, 2023, DHS licensors conducted a licensing review at your facility located at 4749 Hiawatha Ave. S, Minneapolis, MN. As a result of this licensing visit, the DHS licensors determined that your program failed to comply with the laws and rules that apply to licensed child care centers, citing 30 violations. DHS has considered the nature, chronicity, and severity of these violations, as well as the health, safety, and rights of children served by the program.

- **Nature and Severity:** On June 21, 2023, DHS licensors determined 30 licensing violations. Additionally, 13 of the 30 violations are repeat violations for which you were previously cited. Numerous violations related to the health and safety of children, including:
 - Failure to comply with background study requirements
 - Failure to supervise children
 - Failure to comply with requirements related to infant care including infant safe sleep requirements.
 - Failure to maintain staff distribution requirements
 - Failure to comply with nutritional requirements of the United States Department of Agriculture (USDA)

- Failure to keep hazardous items away from children
- Failure to maintain children's files

- **Chronicity:** Your program has demonstrated a history of noncompliance with licensing rules and statutes. The information below summarizes this history:
 - September 13, 2023 Conditional License (this order): 30 violations (13 repeat violations)
 - June 27, 2022 Correction Order: 19 violations (2 repeat violations)
 - June 30, 2023 Order to Pay a Fine: 1 background study violation
 - January 30, 2019 Correction Order: 29 violations (21 repeat violations)
 - June 5, 2019 Correction Order: 22 violations (16 repeat violations)
 - December 2, 2021 Order to Pay a Fine: 1 background study violation
 - August 9, 2019 Order to Pay a Fine: 1 background study violation

Due to the serious and chronic nature of these violations, and the conditions in the program, which impact the health and safety of children in your care, your license to provide child care is placed on a conditional status.

Licensing Violations

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

PROGRAM PRACTICES

1. **Violation:** Staff distribution requirements were not maintained. A teacher or assistant teacher did not directly supervise an aide.

At approximately 7:29 p.m., the DHS licensor observed an aide working alone in the infant classroom. A teacher qualified staff person was required to meet staff distribution requirements.

Citation: Minnesota Rules, part 9503.0034, subpart 1; and part 9503.0040, subpart 2, item D

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated June 5, 2019
- A Correction Order dated January 30, 2019

2. **Violation:** During the program's regular hours of operation, infants were mixed with other age categories.

At approximately 5:45 pm, two toddler age children were present in the infant classroom with one infant. (Infant classroom)

Citation: Minnesota Rules, part 9503.0040, subpart 3, item B, (1)

SUPERVISION

3. Violation: Staff did not supervise the children at all times.

During the visit, one child continued to go between the preschool and school age 2 classroom, alone and unsupervised.

At approximately 6:31 p.m., the DHS licensors observed two preschool age children run into the infant classroom alone and unsupervised.

At approximately 5:17 p.m., the DHS licensor observed children alone and unsupervised in the kitchen.

Supervision occurs when a program staff person is accountable for the child's care and is within sight and hearing of a child at all times, so that the program staff person can intervene to protect the health and safety of the child.

Citation: Minnesota Statutes, section 245A.02, subdivision 18 and Minnesota Rules, part 9503.0045, subpart 1, item A

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated July 14, 2022
- A Correction Oder dated June 5, 2019
- A Correction Oder dated January 30, 2019

FOOD AND WATER

4. Violation: Meals did not comply with the nutritional requirements of the USDA.

The children were served a chicken pasta dish for dinner. To meet USDA requirements a fruit and vegetable or two different vegetables were required. (Preschool classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 4

5. Violation: The program did not comply with refrigeration requirements. The refrigerator was not maintaining a temperature of 40 degrees Fahrenheit or less.

The temperature of the refrigerator being used to store food was at 53 degrees Fahrenheit. (Facility)

Citation: Minnesota Rules, part 9503.0145, subpart 3

6. Violation: The program did not provide single service drinking cups.

The DHS licensors observed a group of children drinking out of the same bottle of Sprite. (School Age 2 classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 8

7. Violation: Menus did not comply with the nutritional requirements of the USDA. Menus did not include:
- fluid milk;
 - at least one whole grain rich food per day; and
 - the type of milk (whole, 1%, skim).

Citation: Minnesota Rules, part 9503.0145, subpart 2

8. Violation: Water bottles were used to provide drinking water to children and the program did not have a policy for cleaning and sanitizing water bottles.

A water bottle containing milk, was sitting on the counter in the preschool classroom. The program does not have a water bottle policy. Milk cannot be served in reusable water bottles. (Preschool classroom)

Citation: Minnesota Statutes, section 245A.14, subdivision 17

PHYSICAL ENVIROMENT

9. Violation: Equipment and furniture were not in good repair.

- One highchair was missing the safety straps. (Infant classroom)
- The cabinet door near the sink was broken and coming off the hinges. (School Age 2 classroom)

Citation: Minnesota Rules, part 9503.0140, subpart 19

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated July 14, 2022
- A Correction Order dated June 5, 2019

10. Violation: Areas used by the children were not in good repair.

- The rubber floor base trim was detached from the wall near the main door in the toddler classroom. (Toddler classroom)

- The girl's bathroom did not have any working lights. (Facility)

Citation: Minnesota Rules, part 9503.0140, subpart 20

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated July 14, 2022
- A Correction Order dated June 5, 2019

11. Violation: A rug or rugs had hazardous wrinkles.

- The ABC area rug was wrinkled, posing a potential tripping hazard for children. (Toddler classroom)
- The United States area rug and road map area rug were wrinkled, posing a potential tripping hazard for children. (Preschool classroom)

Citation: Minnesota Rules, part 9503.0140, subpart 20

Repeat Licensing Violation: The license holder was cited for a similar violation in a Correction Order dated July 14, 2022.

HAZARDS

12. Violation: A hazardous area was accessible to the children. At approximately 5:17 p.m., the DHS licensors observed children alone in the kitchen which exposed children to hazardous objects. (Facility)

Citation: Minnesota Rules, part 9503.0155, subpart 15

13. Violation: The DHS licensor observed that hazardous objects were accessible to children.

- Clorox wipes were stored on the counter and were accessible to children. (Preschool classroom)
- The DHS licensor observed a staff person set her purse on the floor next to a group of children.. (Preschool classroom)
- Plastic bags were stored on the bottom shelves of two changing tables accessible to children in the toddler classroom. (Toddler classroom)

Citation: Minnesota Statutes, section 245A.66, subdivision 2, paragraph € and Minnesota Rules, part 9503.0140, subpart 17

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated June 5, 2019
- A Correction Order dated January 30, 2019

INFANT AND TODDLER CARE

14. Violation: The program did not comply with diaper changing procedure requirements. Diaper changing procedures were not posted in the diaper changing area within the classroom (Toddler classroom).

Citation: Minnesota Rules, part 9503.0140, subpart 12

15. Violation: Daily written reports were not provided to parents.

Daily reports for infants were not complete. On the day of the visit, three children were present, however, there were no completed daily reports for the DHS licensor to review. (Infant classroom)

Citation: Minnesota Rules, part 9503.0090, subpart 2, item D

16. Violation: Each infant's feeding schedule was not available in the food preparation area.

Although the program had a designated board where infant feeding schedules could be posted, there was no information available for staff to follow or the DHS licensor to review. (Infant classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 7, item B

17. Violation: Each infant's bottle was not labeled with the child's first and last name.

An infant's bottle was labeled with a child's first name only. (Infant classroom)

Citation: Minnesota Rules, part 9503.0145, subpart 7, item D

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated July 14, 2022
- A Correction Order dated June 5, 2019
- A Correction Order dated January 30, 2019

18. Violation: All crib brand names and model numbers were not checked annually against the U.S. Consumer Product Safety Commission website listing of unsafe cribs.

Crib brand names and model numbers were not checked in 2022. There was no date documented for cribs 4, 5, 6, and 7. (Infant classroom)

“Annual or “annually” means prior to or within the same month of the subsequent calendar year.

Citation: Minnesota Statutes, section 245A.146, subdivision 3

Repeat Licensing Violation: The license holder was cited for a similar violation in a Correction Order dated July 14, 2022.

19. Violation: The program did not place all infants to sleep on their backs and did not have documentation from an infant's physician or advanced practice registered nurse directing an alternative sleeping position.

It was determined through a conversation with a staff person that infants are placed in the crib on their sides to sleep.

Citation: Minnesota Statutes, section 245A.1435, paragraph (a)

20. Violation: The program allowed an infant under six months of age who independently rolled onto his/her stomach after being placed to sleep on his/her back to remain sleeping on his/her stomach and did not have a signed statement from the parent indicating that the infant regularly rolls over at home.

It was determined through a conversation with a staff person that children under the age of six months remain sleeping on their stomachs.

Citation: Minnesota Statutes, section 245A.1435, paragraph (a)

PROGRAM PLAN/INTEREST AREAS

21. Violation: The program did not provide the children access to interest areas on a daily basis. Children were not provided daily access to a:

- science interest area (Preschool classroom and School Age 2 classroom); and
- sensory stimulation activities interest area (Preschool classroom).

There were no science or sensory stimulation areas or equipment to support those activities in the Preschool and School Age 2 classrooms.

Citation: Minnesota Rules, part 9503.0045, subpart 2

Repeat Licensing Violation: The license holder was cited for a similar violation in a Correction Order dated July 14, 2022.

REPORTING REQUIREMENTS

22. Violation: The program did not comply with the reporting requirements for abuse and neglect; staff persons were not aware of the reporting requirements for abuse and neglect.

Three out four staff persons were not aware of reporting requirements for abuse and neglect.

Citation: Minnesota Rules, part 9503.0130, subpart 1

Repeat Licensing Violation: The license holder was cited for a similar violation in a Correction Order dated June 5, 2019.

BACKGROUND STUDIES

23. Violation: One of one (SP4) individuals (director, staff persons, substitutes, or unsupervised volunteers) who had received a background study notice requiring supervision were not provided continuous direct supervision by an individual with a cleared background study.

SP4 was alone in the School Age 3 Classroom supervising seven children and was not directly supervised by an individual with a cleared background study.

Citation: Minnesota Statutes, section 245C.13, subdivision 2, paragraph (a), clause (1), (ii)

STAFF QUALIFICATIONS AND TRAINING

24. Violation: The program did not have documentation on site to show that 1 of 5 (SP4) staff persons met the education requirements of the teacher job classification for which the staff person was employed (SP4).

Citation: Minnesota Rules, part 9503.0032, subpart 2; and part 9503.0120, item B

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated June 5, 2019
- A Correction Order dated January 30, 2019

25. Violation: The program did not have documentation on site to show that 1 of 1 (SP10) staff persons met the:

- education requirements of the assistant teacher job classification for which the staff person was employed (SP10); and
- experience requirements of the assistant teacher job classification for which the staff person was employed (SP10).

Citation: Minnesota Rules, part 9503.0033, subpart 2; and part 9503.0120, item B

26. Violation: The program did not comply with requirements for an allergy-related Individual Child Care Program Plan (ICCPP). Documentation was not available to show that staff persons reviewed an allergy-related ICCPP. There was no documentation available to show that 1 of 1 (SP4) staff persons had reviewed an allergy-related ICCPP for a child.

Citation: Minnesota Statutes, section 245A.41, subdivision 1, paragraph (b)

CHILDREN'S RECORDS

27. Violation: Each child's record did not contain all required information:

- One of one (C4) children's files reviewed did not contain the name, current home address, and telephone number of both parents and/or legal guardians;
- One of one (C3) children's files reviewed did not contain the names, addresses, and telephone numbers of the child's source of regular medical and dental care and source of emergency medical and dental care; and
- For children age six weeks to 33 months, 3 of 3 (C3, C4 and C5) children's files reviewed did not contain a description of the child's eating, sleeping, toileting, communication habits, and effective methods for comforting the child.

Citation: Minnesota Rules, part 9503.0125

Repeat Licensing Violation: The license holder was cited for a similar violation in the following orders:

- A Correction Order dated June 5, 2019
- A Correction Order dated January 30, 2019

28. Violation: Five of five (C1, C2, C3, C4 and C5) children's files reviewed did not contain a current immunization record, a signed notarized statement of parental objection to the immunization, or a medical exemption.

Citation: Minnesota Rules, part 9503.0125, item G; and part 9503.0140, subpart 5

29. Violation: The program did not comply with allergy prevention requirements.

- Before admitting a child with a known allergy, the program did not obtain documentation from the child's parent or medical source (C1); and
- The program did not maintain information about a child's allergy in the child's record (C1).

Citation: Minnesota Statutes, section 245A.41, subdivision 1, paragraph (a)

EMERGENCY PREPAREDNESS

30. Violation: The license holder did not review and update the emergency plan annually.

There was no documentation to verify that an annual review and update of the center's emergency plan was done in 2022.

"Annual" or "annually" means prior to or within the same month of the subsequent calendar year.

Citation: Minnesota Statutes, section 245A.41, subdivision 3, paragraph (d)

Repeat Licensing Violation: The license holder was cited for a similar violation in a Correction Order dated July 14, 2022.

Immediate corrective action required

You must immediately correct the violations cited above. Submit documentation to your licensor within 30 days from when you received this order explaining how you have corrected the violations. If you fail to demonstrate substantial compliance with child care center requirements or with the terms of your conditional license that are provided below, DHS may take an additional licensing action, including revocation, against your license.

Additionally, DHS will not approve a request to increase your childcare services from the date of this order until the time your conditional license expires.

CONDITIONAL LICENSE TERMS

In addition to the Child Care Center licensing rules and statutes, you are required to comply with the following terms:

1. Within 15 days from receipt of this order, you must provide written notification of the conditional status of your license to all parents/legal guardians. Prior to providing the written notification to all parents/legal guardians, you must submit the written notice to your DHS licensor for approval. The notification must specify the length of time of the conditional status of your license, the reasons your license was made conditional, and must include either a copy of the Order of Conditional License or an offer to provide a copy of the order upon request.
2. On an ongoing basis while your license is on a conditional status, you must maintain a list of all newly hired employees who will have direct contact with children served by the program. The documentation required under this term must be maintained onsite and made immediately available to DHS upon request. For each individual on the list, you must document the following:
 - the individual's full name;
 - the individual's job title;
 - the date of hire;
 - the date the individual first had direct contact with children served by the program; and
 - the date the background study request was submitted to DHS.
3. You must develop a detailed supervision plan to ensure that children will be supervised by program staff persons at all times, consistent with the definition of supervision under Minnesota Statutes, section 245A.02, subdivision 18, and in compliance with the risk reduction plan requirements under Minnesota Statutes, section 245A.66, subdivision 2, paragraph (f), (1) through (6). Within 30 days from receipt of this order, you must submit the supervision plan to your licensor for approval.

Within 30 days after the supervision plan is approved by your licensor, you must provide training to all staff on the supervision plan and maintain documentation of the training in each staff person's personnel record. You must also ensure new hires receive the same training and document the training in each new hire's personnel record.

4. You must develop a system to ensure written dietary instructions are obtained from the parent or legal guardian of each infant and a feeding schedule for each infant is available in the food preparation area. Within 30 days from receipt of this order, you must submit your plan to your licensor for approval.

YOUR RIGHT TO REQUEST RECONSIDERATION

You have the right to request reconsideration of this order and the cited violations. Your request must:

- Be in writing
- Clearly state that you are requesting reconsideration of the conditional license
- List each citation you are challenging and identify what is inaccurate or incomplete about the information in the order
- Supply information that is accurate or more complete
- State why you believe your license should not be on a conditional status
- Be made before the deadlines provided below

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. If you do not meet this deadline, you lose your right to request reconsideration. The timeline to appeal began when you received this order. Please send it to:

Office of Inspector General
Legal Counsel's Office
Attn: 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

Office of Inspector General
Legal Counsel's Office
Attn: Licensing Legal Unit
444 Lafayette Road North
St. Paul, MN 55155

Conditional license stayed pending reconsideration

If you request reconsideration within the timeframes described above, the terms of the conditional license will not take effect until a decision is issued by DHS. If the conditional license is affirmed on reconsideration, the terms would take effect on the date of the reconsideration decision, and run for two from that date. You continue to be required to comply with all child care laws and rules.

Posting of this licensing action

You are required to place this Order of Conditional License 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.06, subdivision 1.
- Child care centers are required to follow Minnesota Rules, parts 9503.0005 to 9503.0170; and Minnesota Statutes, Chapters 245A, 245C, and 260E.
- The timeline to request reconsideration of the order is provided in Minnesota Statutes, section 245A.06, subdivision 4.
- The requirement to post this order in a clearly visible location is required under Minnesota Statutes, section 245A.06, subdivision 8.
- If a license holder files a timely reconsideration request, the terms of the conditional license are stayed pending a decision by DHS under Minnesota Statutes, section 245A.06, subdivision 4.
- Minnesota Statutes, section 245A.06, subdivision 3 states that DHS may impose additional licensing actions against a license holder that does not correct the violations cited in a conditional license order.

Questions

If you have any further questions regarding this matter, you may contact Meg Holmen, Supervisor, at 651-431-6534.

Sincerely,



Peggy Cunningham, Unit Manager
Licensing Division
Office of Inspector General