

September 18, 2023

CERTIFIED MAIL

Kayla Arens
1249 Gowan Avenue Southwest
Waverly, MN 55390

License Number 1088208 FCC

ORDER OF LICENSE REVOCATION

Dear Ms. Arens:

Based on the recommendation of Wright County Health and Human Services (Wright County), the Department of Human Services (DHS) is revoking your license to provide family child care at 1249 Gowan Avenue Southwest, Waverly, 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, you failed to comply with the terms of your Conditional License when you violated term #1, term #8 and term #9 as outlined below. Because you continue to remain out of compliance with your conditional license, 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. Conditional license violations

DHS issued you an Order of Conditional License from July 12, 2022, through July 11, 2024. You appealed the order of Conditional License. In an order dated May 15, 2023, DHS issued you a revised Conditional Order for one year ending May 14, 2024. Wright County determined that you failed to comply with three terms of the Conditional Order as follows.

Term #1- You were to follow and comply with all applicable Minnesota Rules and Laws.

You failed to comply with term #1 when you failed to complete the following training as is required annually. You were issued a correction order for these licensing violations on August 7, 2023.

- You failed to provide documentation of annual child development and learning or behavior guidance training.
- You failed to provide documentation of annual sudden unexpected infant death (SUID) and abusive head trauma (AHT) training.
- You failed to provide documentation of active supervision training.
- You failed to provide documentation of 10 hours of annual training.

Term #8- You were to work with Wright County to obtain a mentor within 30 days of the issuance of the Conditional Order. The deadline to obtain a mentor was August 13, 2023.

As of the date of this letter, you have yet to work with a mentor despite the fact that Wright County provided you with specific agency contact information to arrange for one, thus you have failed to comply with term #8. .

Term #9- You were to complete the training, *Supervising for Safety* and Wright County orientation within 90 days of the issuance of the Conditional Order.

You failed to complete these trainings as required, thus failed to comply with term #9.

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

3. Failure to comply with licensing laws and rules

Wright County determined that you failed to fully comply with the laws and rules that apply to licensed family child care program. 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 August 7, 2023, Wright County issued you a correction order for the following licensing violations:

- You failed to provide documentation of annual child development and learning or behavior guidance training.
- You failed to provide documentation of annual SUID and AHT training.
- You failed to provide documentation of active supervision training.
- You failed to provide documentation of 10 hours of annual training.

Previously, Wright County issued you a correction order on August 25, 2022, for the following licensing violations:

- You failed to ensure that your water temperature was at or below 120 degrees Fahrenheit.
- You failed to provide documentation of an updated emergency preparedness plan.
- You failed to provide documentation of annual child development and learning and behavior guidance training.
- You failed to provide documentation of six hours of ongoing annual training.

Severity of violations

Due to the serious and chronic nature of these violations and the conditions in the program, which impact the health and safety of children served in your care, your license to provide family child care services 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 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 children served by your program could result in the immediate suspension of your license.

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 April 27, 2022, DHS issued an Order of Temporary Immediate Suspension of 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

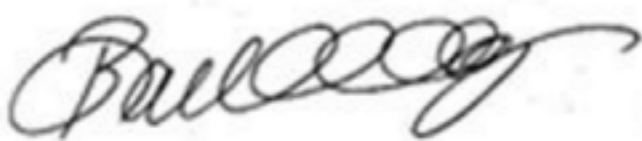
- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- Minnesota Statutes, section 245.095 defines which programs administered by DHS are included in the exclusion provision, and further defines “excluded,” “individual,” 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,



Barbara Wagner, Unit Manager
Licensing Division
Office of Inspector General

cc: Becky Domjahn, Wright County Health and Human Services