

November 29, 2023

**CERTIFIED MAIL**

Nicole Lee  
15875 Danville Avenue West  
Rosemount, MN 55068-1570

License Number 1102599 FCC

## **ORDER OF LICENSE REVOCATION**

Dear Ms. Lee:

Based on the recommendation of Dakota County Community Services (Dakota County), the Department of Human Services (DHS) is revoking your license to provide family child care at 15875 Danville Avenue West, Rosemount, 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 you repeatedly failed to demonstrate your ability to provide appropriate behavior guidance to children in care, because you put children in timeout in an unlicensed area of your home, because you failed to provide documentation of training, because you failed to ensure that toxic substances were inaccessible to children in care, because you failed to maintain your fire extinguisher, because you failed to provide documentation of crib safety inspections and because you failed to maintain your water temperature. 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. Failure to comply with licensing laws and rules**

Dakota 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**

### ***New violations determined***

The following are new violations that have not been the subject of a previous correction order. If you appeal this order, the following violations will be reviewed as a part of the appeal. DHS considered these violations, as a factor when it determined that revocation of your license is appropriate.

On August 30, 2023, Dakota County received reports regarding your family child care program. Dakota County started a licensing investigation of your licensed program. During the investigation, on August 31, 2023, you were issued a temporary immediate suspension of your license. You appealed the temporary immediate suspension; however, your appeal was untimely. The temporary immediate suspension remains in effect.

As a result of the licensing investigation, Dakota County determined that you failed to use appropriate behavior guidance when on multiple occasions you:

- Used behavior guidance practices that were not constructive, positive, or suited to the ages of the children in care, in violation of Minnesota Rules, part 9502.0395, subpart 1 B.
- Subjected children in care to emotional abuse, in violation of Minnesota Rules, part 9502.0395, subpart 2 A.
- Inappropriately separated children from the group for behavior guidance purposes, in violation of Minnesota Rules, part 9502.0395, subpart 2 D.
- Separated a child from the group for a period longer than ten minutes, in violation of Minnesota Rules, part 9502.0395, subpart 2 F.

You have repeatedly failed to demonstrate your ability to provide behavior guidance to children in care that is constructive, positive, and suited to the age of the child.

### ***Previous licensing actions***

The following violations summarize the nature of your previous licensing violations. Because these violations are now conclusive, the individual violations are not within the scope of your appeal rights. Please refer to the previously issued correction orders for further details on these violations. If you do not have copies of these orders, contact your Dakota County licensor for assistance. DHS also considered this history as a factor when it determined that revocation of your license is appropriate.

On May 15, 2023, as the result of a follow up review, you were issued a correction order for failure to provide documentation of annual training.

On February 28, 2023, as the result of a licensing review, Dakota County issued you a correction order for the following licensing violations:

- You failed to provide documentation of monthly crib safety inspections.

- You failed to provide documentation of annual cribs safety recalls.
- You failed to ensure that your fire extinguisher was maintained.
- You failed to ensure that toxic substances were inaccessible to children in care when children had access to personal care products, powder, hair products, mouthwash, and face medication.
- You failed to ensure that your water temperature was at or below 120 degrees Fahrenheit.

On March 14, 2022, as the result of a licensing review, you were issued a correction order for the following licensing violations:

- You failed to provide documentation of immunization records for children in care.
- You failed to provide documentation of monthly crib safety inspections.
- You failed to provide documentation of annual cribs safety recalls.
- You failed to ensure that your water temperature was at or below 120 degrees Fahrenheit.

Previously, on January 19, 2022, DHS issued you an Order to Pay a Fine when you failed to submit a background study for a household member as required and when you failed to follow sudden unexpected infant death (SUID) reduction requirements when you admitted to sleeping infants on a couch or the floor.

On November 30, 2021, Dakota County made a licensing investigation visit to your family child care program. As a result of the investigation, you were issued a correction order for the following licensing violations:

- You failed to submit a background study for a household member as required.
- You failed to follow SUID reduction requirements when you admitted to sleeping infants on the couch or floor.
- You failed to report a change in household membership to Dakota County as required.

On October 27, 2021, Dakota County made a licensing investigation visit to your family child care program. As a result of the investigation, you were issued a correction order for smoking during child care hours.

### ***Severity and Chronicity 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.**

Legal Authority: Minnesota Statutes, section 245A.07, subd. 1, paragraph (d).

## **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 August 31, 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 August 31, 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

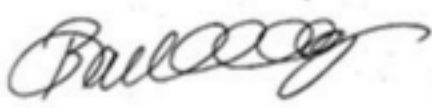
- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- Minnesota Statutes, section 245.095 defines which programs administered by DHS are included in the exclusion provision, and further defines “excluded,” “individual,”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

Nicole Lee  
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## 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", with a stylized flourish at the end.

Barbara Wagner, Unit Manager  
Licensing Division  
Office of Inspector General

cc: Amy Novak, Dakota County Community Services