

January 19, 2024

**CERTIFIED MAIL**

Kyrra Magee  
2312 Southhill Drive  
Roseville, MN 55113-4641

License Number 1105976 FCC

## **ORDER OF CONDITIONAL LICENSE ORDER TO PAY A FINE**

Dear Ms. Magee:

Based on the recommendation from Ramsey County Community Human Services Department (Ramsey County), the Department of Human Services (DHS) is placing your license to provide family child care at 2312 Southhill Drive, Roseville, MN on conditional status for one year beginning January 19, 2024. This means you must meet certain conditions to maintain your license, detailed below. This order is based on your level of noncompliance with family child care services licensing requirements. Our next steps and your options are also provided below.

In addition, DHS is ordering you to pay a fine of \$200. Details of our findings are provided below.

### **REASON FOR THE CONDITIONAL LICENSE**

#### **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 failed to provide required supervision to a child in care that was bitten seven times. DHS has determined that it is appropriate to place your license on conditional status 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**

As a result of previous licensing visits, Ramsey County determined that your program failed to comply with the laws and rules for licensed family child care. DHS has considered the nature, chronicity, and severity of these violations, which are provided below.

Legal Authority: Minnesota Statutes, section 245A.06, subdivision 1.

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

On September 12, 2023, Ramsey County received a report regarding your family child care program. Ramsey County investigated the report and determined that you failed to provide required supervision when you were indoors cooking while children in your care were outdoors on your deck. During this time a child who had just turned one was bitten seven times by another child. You were not capable of intervening to protect the child. You were issued a correction order for this licensing violation.

Rule Violated: Minnesota Rules, part 9502. 0315, subpart 29a and Minnesota Rules, part 9502. 0365, subpart 5.

### ***Severity of violations***

**Due to the serious 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 placed on a conditional status.**

### **Conditional License Terms**

In addition to the licensing rules and statutes for family child care, you are required to comply with the following terms:

1. You must follow and comply with all applicable Minnesota Rules and Laws.
2. No variances to age distribution or capacity will be granted during the conditional period.
3. You must submit a detailed written plan for how you will provide required supervision at all times both indoors and outdoors. The plan must include steps you have taken or changes you have made in the program to ensure children are supervised as required and to prevent further supervision violations. The plan must be submitted to Ramsey County **by February 9, 2024**, and be approved by Ramsey County.
4. You must work with Ramsey County to obtain a mentor to work on ensuring you are following all family child care rules and laws with an emphasis on supervision. The mentor must be obtained **within 30 days** of the issuance of this order. Upon completion of working with the mentor you must submit a summary to Ramsey County of what you learned and changes you will implement into your program to ensure you are following supervision requirements.
5. You must obtain a minimum of six hours of additional training **within 90 days of this order**. The training is in addition to the annual training requirements as listed in Minnesota Statutes, section 245A.50. The training must be in the area of supervision. You must obtain approval from Ramsey County that the training is appropriate, and you must submit documentation of your attendance to Ramsey County.

6. You must either provide a copy of the Order to Pay a Fine and Order of Conditional License to parents of children in care or document that all parents have been given an opportunity to review the order. You must obtain parent signatures of each currently enrolled child, indicating they have either received a copy of the order or had an opportunity to review the order and submit documentation to Ramsey County **by February 9, 2024**. For new families, you must submit documentation of compliance with this term to Ramsey County **within 5 days of any child's admission** to your child care program.

## Ongoing Monitoring

Your Ramsey County licensor will monitor your compliance with these terms and with all of the family child care rules and laws. This will include unannounced visits. If you fail to demonstrate substantial compliance with family child care requirements or with the terms of your conditional license that are provided above, DHS may take an additional licensing sanction, including a revocation of your license.

## REASON FOR FINE

### Supervision Violation

On September 12, 2023, Ramsey County received a report regarding your family child care program. Ramsey County investigated the report and determined that you failed to provide required supervision when you were indoors cooking while children in your care were outdoors on your deck. During this time a child who had just turned one was bitten seven times by another child. You were not capable of intervening to protect the child.

Rule/Statute Violated: Minnesota Rules, part 9502. 0315, subpart 29a and Minnesota Rules, part 9502. 0365, subpart 5.

Fine: \$200

### Total Fine Amount \$200

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c), subparagraph (4)(i).

## YOUR APPEAL/RECONSIDERATION RIGHTS

### If You Wish to Appeal the Fine and the Conditional License, or Just the Fine

You have the right to appeal both the fine and the conditional license, or only the fine. 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 receive 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 receive 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 Wish to Only Appeal the Conditional License**

If you are not appealing the fine, you do not have a right to a contested case hearing. However, you have the right to request reconsideration of the conditional license 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:

Commissioner, Department of Human Services  
Office of Inspector General  
Licensing Division  
Attention: Legal Unit  
PO Box 64242  
St. Paul, MN 55164-0242

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  
Licensing Division  
Attention: Legal Unit  
444 Lafayette Road North  
St. Paul, MN 55155

### **Billing and Payment of the Fine**

DHS will send you an invoice for the \$200 fine. Payment must be made as directed on the invoice.

If you request a contested case hearing, as described above, do not pay the fine at this time. Following the contested case hearing, the Commissioner of DHS will issue a final order on this matter.

Please note, you may not avoid payment of this fine by closing, selling, or otherwise transferring the license to a third party. If this occurs, you are personally responsible for payment.

If you do not pay the fine on or before the date specified on the invoice and you did not request a contested case hearing, as described above, the Commissioner may issue a second fine, may not issue or reissue a license, or may suspend the license until the license holder pays the fine.

### **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 one year from that date. You continue to be required to comply with all family child care laws and rules.

### **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.

## Posting of this licensing action

You are required to place this Order to Pay a Fine and 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.

## Prohibition against providing legally unlicensed child care

**If this action is not reversed on appeal, you will not be allowed to provide legally unlicensed child care to unrelated children. Operating an unlicensed family child care home is a misdemeanor offense.**

## Legal authority for this licensing action

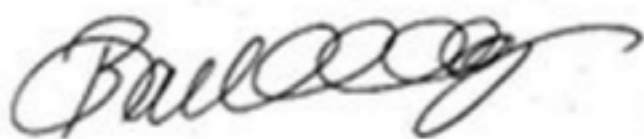
- This action is taken under Minnesota Statutes, section 245A.07, subdivision 1, paragraph (a), which describes under which conditions DHS may impose a fine against a license.
- DHS may impose a \$200 fine for each health, safety, or supervision licensing violation under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(4)(iv).
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(5) states that license holders may not avoid payment of a fine by closing, selling, or transferring a license.
- Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d)(4), states that DHS shall not issue or reissue a license if the applicant, license holder, or controlling individual has an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(2), states that that the license holder shall pay the fine assessed on or before the payment date specified, and if the license holder does not do so the commissioner may issue a second fine or suspend the license until the license holder complies.
- The timeline to request reconsideration of the order of conditional license is provided in Minnesota Statutes, section 245A.06, subdivision 4.
- 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 reconsideration request, the terms of the conditional license are stayed pending a decision by DHS under Minnesota Statutes, section 245A.06, subdivision 4.
- Under Minnesota Statutes, section 245A.06, subdivision 4, if DHS issues a dual order to pay a fine and a conditional license and the license holder appeals both the fine and the conditional license, DHS will not do a separate reconsideration of the conditional license. If the license holder does not appeal the fine but requests reconsideration of the conditional license, then the license holder does not have a right to a hearing and DHS will conduct a reconsideration of the conditional license.
- Operating a prohibited unlicensed family child care program is a misdemeanor offense 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.06, subdivision 8 and Minnesota Statutes, section 245A.07, subdivision 5.

Kyrra Magee  
January 19, 2024  
Page 7

## 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, cursive script.

Barbara Wagner, Unit Manager  
Licensing Division  
Office of Inspector General

cc: Sean Vang, Ramsey County Community Human Services Department