

January 24, 2024

Anthony James Riccardi, Authorized Agent
Little Newtons Operating, LLC
12325 Highway 55
Plymouth, MN 55441-4750

License Number: 1111725 (Child Care Center)

ORDER OF CONDITIONAL LICENSE

Dear Anthony James Riccardi:

The Department of Human Services (DHS) is placing your license to provide child care services at Red Balloon Childcare, located at 12601 Birch Ave, Becker, MN 55308-8809, on conditional status for two years, beginning February 3, 2024. 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 November 7, 2023, DHS licensors conducted a licensing review at your facility located at 12601 Birch Ave, Becker, MN 55308-8809. 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 26 violations which raised concerns about the operation of the program. 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 November 7, 2023, a DHS licensor determined 26 licensing violations. Twelve of the twenty-six 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 (addressed in a separate order to Pay a Fine on December 12, 2023)
 - Failure to maintain staff-to-child ratios
 - Failure to maintain staff distribution requirements
 - Failure to adequately supervise children
 - Failure to comply with cleanliness requirements
 - Failure to comply with diaper changing requirements
 - Failure to comply with children's file requirements
 - Failure to comply with medication requirements

- **Chronicity:** Your program received its license on October 3, 2022. Since that time, your program has demonstrated a history of noncompliance with licensing rules and statutes. The information below summarizes this history:
 - January 24, 2024 -Conditional License (this order): 26 violations (12 repeat)
 - December 12, 2023- Order to Pay a Fine 1 background study violation (\$200)
 - November 2, 2023 - Correction Order: 11 violations (10 repeat)
 - July 26, 2023 - Correction Order: 25 violations (13 repeat)
 - May 10, 2023 - Correction Order: 25 violations
 - November 8, 2022 – Correction Order: 1 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 served in your care, your license to provide child care services 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:** The required staff-to-child ratios were not maintained.

At approximately 10:37 a.m., four staff persons were supervising 20 infants in the Infant classroom. A fifth staff person was required. (Infant classroom)

At approximately 10:35 a.m., two staff persons were supervising 23 children in the Preschool 1 classroom. A third staff person was required. (Preschool 1 classroom)

At approximately 11:03 a.m., there were two staff persons supervising 22 children in the Preschool 2 classroom. A third staff person was required. (Preschool 2 classroom)

Rule Violated: Minnesota Rules, part 9503.0040, subpart 1

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

- A Correction Order dated November 2, 2023
- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

2. **Violation:** Staff distribution requirements were not maintained.

At approximately 10:35 a.m., two teachers were supervising 23 children in the Preschool 1 classroom. An additional aide qualified staff person was required. (Preschool 1 classroom)

At approximately 11:03 a.m., there were two teachers supervising 22 children in the Preschool 2 classroom. A third aide qualified staff person was required. (Preschool 2 classroom)

At approximately 10:37 a.m., a teacher, two assistant teachers, and an aide were supervising 20 infants in the Infant classroom. An additional teacher qualified staff person was required. (Infant classroom)

Rule Violated: Minnesota Rules, part 9503.0040, subpart 2

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

- A Correction Order dated November 2, 2023
- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

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

At approximately 10:57 a.m., a staff person in the Toddler 2 classroom was supervising children in both the classroom and the attached bathroom. One staff person supervising children in two separate spaces does not allow the staff person to intervene to protect the health and safety of children in both spaces. (Toddler 2 classroom)

At approximately 10:35 a.m., a staff person was supervising 3 children in the attached bathroom, leaving the other 20 children unsupervised, out of sight of the staff person, in the classroom. (Preschool 1 classroom)

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.

Statute/Rule Violated: Minnesota Statutes, section 245A.02, subdivision 18 and Minnesota Rules, part 9503.0045, subpart 1, item A

Repeat Violation: The license holder was cited for a similar violation in a Correction order dated May 10, 2023.

FOOD AND WATER

4. Violation: The program did not comply with refrigeration requirements. Because there was no thermometer in the kitchen refrigerator, it could not be determined that the refrigerator was maintaining a temperature of 40 degrees Fahrenheit or less. (Facility)

Rule Violated: Minnesota Rules, part 9503.0145, subpart 3

MEDICATION/FIRST AID

5. Violation: Medication did not have a legible label with the child's first and last name.

A container of lotion in the Preschool 1 classroom was not labeled with a child's first and last name.
(Preschool 1 classroom)

A bottle of children's pain reliever stored in the office was not labeled with a child's first and last name.
(Facility)

Rule Violated: Minnesota Rules, part 9503.0140, subpart 7, item C

Repeat Violation: The license holder was cited for a similar violation in a Correction Order dated November 2, 2023.

6. Violation: The record of medication administration form did not include the name and signature of the person dispensing the medication.

The record of medication administration was stored on the program's online app. The app form did not include a space for the full name and signature of the staff person administering the medication.
(Facility)

Rule Violated: Minnesota Rules, part 9503.0140, subpart 7, item C

7. Violation: Products to control diaper rash were not labeled with the child's first and last name.

There were three packages of diaper wipes that were not labeled with a child's first and last name in the Preschool 1 classroom bathroom. (Preschool 1 classroom)

Rule Violated: Minnesota Rules, part 9503.0140, subpart 7, item D

Repeat Violation: The license holder was cited for a similar violation in a Correction Order dated May 10, 2023.

FACILITY

8. Violation: The program did not comply with cleanliness requirements; the indoor space was not clean.

The step stool in the shared toddler bathroom was visibly dirty with a black substance. (Toddler 2 classroom)

The step stool in the School Age classroom was visibly dirty with a black material. (School Age classroom)

As defined in Minnesota Rules, part 9503.0005, subpart 9, clean means 'free from dirt or other contaminants that can be detected by sight, smell, or touch.'

Rule Violated: Minnesota Rules, part 9503.0140, subpart 9

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

- A Correction Order dated November 2, 2023
- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

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

The Preschool 4 classroom, licensed for 16 children, was not set up for children, however, it was determined through conversations with staff persons that children from the Preschool 2 classroom walk through this space to access the playground. Chairs were stacked on top of the table in the Preschool 4 classroom creating a hazard for children walking through the space.

Statute/Rule Violated: Minnesota Statutes, section 245A.66, subdivision 2, paragraph (e) and Minnesota Rules, part 9503.0140, subpart 17

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

- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

10. Violation: A rug or rugs were curled or had frayed edges and had hazardous wrinkles.

The alphabet rug in the Infant classroom was curled up along one corner. (Infant classroom)

The alphabet rug in the Preschool 1 classroom had hazardous wrinkles. (Preschool 1 classroom)

Rule Violated: Minnesota Rules, part 9503.0140, subpart 20

Repeat Violation: The license holder was cited for a similar violation in a Correction dated July 26, 2023.

11. Violation: The temperature of the water in the hand sinks exceeded 120 degrees Fahrenheit. The temperature of the water tested at a hand washing sink used by children in the Toddler 2 classroom was 132 degrees Fahrenheit. (Facility)

Rule Violated: Minnesota Rules, part 9503.0155, subpart 18, item D

Repeat Violation: The license holder was cited for a similar violation in a Correction Order dated July 26, 2023.

12. **Violation:** A minimum of 35 square feet of indoor space was not available for each child in attendance.

There were 23 children in the Preschool 1 classroom. The classroom has enough square footage for a maximum of 21 children. (Preschool 1 classroom)

There were 22 children in the Preschool 2 classroom. The classroom has enough square footage for a maximum of 20 children. (Preschool 2 classroom)

Rule Violated: Minnesota Rules, part 9503.0155, subpart 9

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

- A Correction Order dated November 2, 2023
- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

13. **Violation:** Outside doors and windows used for ventilation were not screened.

One of the windows in the Toddler 1 classroom did not have a screen. (Toddler 1 classroom)

The window in the back section of the School Age classroom did not have a screen. (School Age classroom)

Rule Violated: Minnesota Rules, part 9503.0155, subpart 17

PROGRAM PRACTICES

14. **Violation:** The posted procedures for emergencies and accidents were:

- missing primary and secondary exits (Infant classroom, Toddler 2 classroom and Toddler 1 classroom);
- missing location of tornado shelter area (Infant classroom, Toddler 2 classroom and Toddler 1 classroom);
- missing building evacuation routes (Infant classroom, Toddler 2 classroom and Toddler 1 classroom); and
- not posted in a visible place (Preschool 1 classroom, Preschool 3 classroom, and Preschool 4 classroom).

Rule Violated: Minnesota Rules, part 9503.0140, subpart 21

INFANT AND TODDLER CARE

15. Violation: The program did not comply with diaper changing area requirements. The diaper change area did not have a hand sink equipped with hot and cold running water within three feet of the diaper changing surface (Preschool 1 classroom).

The hand sink closest to the diaper changing area in the Preschool 1 classroom was five feet away.

Rule Violated: Minnesota Rules, part 9503.0140, subpart 11

16. Violation: The program did not comply with diaper changing procedure requirements. Diaper changing procedures were not posted in the diaper changing area.

Diaper changing procedures were not posted in the diaper changing area in the Preschool 1 classroom. (Preschool 1 classroom)

Rule Violated: Minnesota Rules, part 9503.0140, subpart 12

PROGRAM PLAN/INTEREST AREAS

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

- creative arts and crafts interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom);
- construction interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom);
- dramatic or practical life activities interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom);
- science interest area (Toddler 1 classroom, Preschool 4 classroom and Toddler/Preschool Combination classroom);
- music interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom);
- fine motor activities interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom);
- large muscle activities interest area (Preschool 4 classroom and Toddler/Preschool Combination classroom); and
- sensory stimulation activities interest area (School Age classroom, Preschool 4 classroom and Toddler/Preschool Combination classroom).

In addition, the Toddler/Preschool, Preschool 4, and the School Age classrooms did not provide areas for both quiet and active activities and each interest area lacked a variety of equipment and materials for children to use.

Rule Violated: Minnesota Rules, part 9503.0045, subpart 2

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

- A Correction Order dated November 2, 2023
- A Correction Order dated July 26, 2023
- A Correction Order dated May 10, 2023

RISK REDUCTION PLAN

18. **Violation:** The yearly review of the risk reduction plan did not include consideration of incidents that occurred in the program since the last review, including incidents that caused injury or harm to a child. It was determined through conversations with an administrative staff person that a yearly analysis of accidents, injuries, and incidents was not completed.

Statute and Rule Violated: Minnesota Statutes, section 245A.66, subdivision 3, paragraph (b); and Minnesota Rules, part 9503.0110, subpart 3, item J.

STAFF TRAINING

19. **Violation:** The required in-service training had not been completed for 1 of 3 (SP3) individuals (director, staff persons, substitutes, or unsupervised volunteers) for the previous concluded calendar year.

There was no documentation that SP3 completed in-service training for 2022. Six hours of in-service training was required. (SP3)

Statute Violated: Minnesota Statutes, section 245A.40, subdivision 7

CHILDREN'S RECORDS

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

- 3 of 9 (C6, C7 and C8) children's files reviewed did not contain written authorization for the center to act in an emergency or when the parent cannot be reached or is delayed;
- 1 of 9 (C2) children's files reviewed did not contain documentation of any individual child care program needs for the child; and
- 5 of 6 (C2, C3, C5, C6 and C8) children's files reviewed did not contain the dates of parent conferences and a summary of conference information.

The enrollment form for C2 did not indicate if the child had special needs. This section on the enrollment form was left blank.

The conference summary form for C2 did not include all required information. A summary of the child's social, emotional, cognitive, and physical development was required. The conference form also did not indicate the date that the conference was offered or if a parent/guardian attended. (C2)

There was no documentation on site of a conference summary for C3, C5, C6, and C8, or that conferences had been offered over the past year. C3, C5, C6, and C8 have been enrolled in the program since October of 2022.

The form in the file for C6, C7, and C8 granting authorization for the center to act in an emergency, or when a parent cannot be reached or is delayed was for the former license holder. A new form granting the new license holder authorization for the center to act in an emergency, or when a parent cannot be reached or is delayed was required.

Rule Violated: Minnesota Rules, part 9503.0125

21. Violation: Two of nine (C1 and C7) children's files reviewed did not contain documentation of a current physical examination received within 30 days of enrollment.

C1 was enrolled at the program in August of 2023. Documentation of a current physical examination was not received until November of 2023. Documentation of a current physical examination is required within 30 days of enrollment. (C1)

C7 was enrolled in August of 2023. The health care summary in the child's file was dated July of 2021. Documentation of a current physical examination was required. (C7)

Rule Violated: Minnesota Rules, part 9503.0125, item G; and part 9503.0140, subpart 3

22. Violation: One of one (C8) children's files reviewed did not contain documentation of an updated physical examination after advancing to a new age category (C8).

C8 was enrolled as a preschooler in October of 2022. C8 moved to school age in 2023. The health care summary in the file for C8 was dated January of 2021. An updated physical examination record was required when C8 moved to a new age category. (C8)

Rule Violated: Minnesota Rules, part 9503.0125, item G; and part 9503.0140, subpart 4

23. Violation: Two of nine (C1 and C2) 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.

C1 was enrolled at the program in August of 2023. Documentation of a current immunization record was not received until November of 2023. Documentation of a current immunization record is required upon a child's enrollment. (C1)

C2 was enrolled at the program in December of 2022. Documentation of a current immunization record was not received until November of 2023. Documentation of a current immunization record is required upon a child's enrollment. (C2)

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

24. Violation: The program did not develop an Individual Child Care Program Plan for 1 of 1 (C6) children's files reviewed for a child with a known allergy.

C6 has been enrolled since October of 2022. The paperwork completed upon enrollment indicated that the child had an amoxicillin allergy. The program did not develop an ICCPP for this child's allergy until the day of the licensing visit. (C6)

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

25. Violation: There was not a written individual child care program plan on file for 2 of 3 (C3 and C6) children with special needs that specifies methods of implementation.

The health care summary for C3 indicated that a fever could result in an emergency and parents should be notified immediately. The program had not developed an ICCPP for this child's special need. (C3)

The health care summary for C6 indicated that the child had a special need that requires food accommodations. The program did not develop an ICCPP for this child's special need. (C6)

Rule Violated: Minnesota Rules, part 9503.0065, subpart 3

FIRE AND SAFETY CODES

26. Violation: The facility floor plan did not indicate planned use of each area.

The floor plan posted in the School Age classroom identified the current Preschool 1 classroom as the ball room and the current Toddler/Preschool Combination classroom as the Toddler 3 classroom. Floor plans posted in the program must be current and accurately document the planned use of each area.

Rule Violated: Minnesota Rules, part 9503.0155, subpart 4

Repeat Violation: The license holder was cited for a similar violation in a Correction Order dated May 10, 2023.

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 licensing 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 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. 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.

3. On a monthly basis while your license is on conditional status, you must complete staffing patterns that identify every staff person and his/her job title included in the staff-to-child ratio for each classroom and maintain all completed staffing patterns onsite. The staffing information must be documented on the enclosed form titled "Staffing Patterns," must be completed separately for each classroom, and must include the total number of children in attendance each hour for each classroom. The documentation must include the time each person takes their break, if applicable, and identify the name of the person who replaces them. Staffing patterns must be completed at the beginning of each month and made immediately available to the Commissioner upon request.
4. You must develop a system that includes using a checklist to ensure you have a record onsite for every child enrolled in your program and each record maintains all required information as specified under Minnesota Rules, part 9503.0125. Within 30 days from receipt of this order, you must submit a copy of the checklist you will use to ensure each child has a record and contains all required documentation. On an ongoing basis while your license is on conditional status, you must complete the checklist for each child enrolled in your program and maintain a copy of the completed checklist in each child's file.

YOUR RIGHT TO REQUEST RECONSIDERATION

If you choose to request reconsideration of this order, you must use the Provider Hub (<https://providerhub.dhs.mn.gov/>) to submit your request. The timeline to request reconsideration began when this order was issued in the Provider Hub. Your request for reconsideration must be submitted in the Provider

Hub within 10 calendar days from the date of issue. If you do not meet this deadline, you lose your right to request reconsideration.

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 651-431-6030, extension 4013.

Sincerely,



Peggy Cunningham, Unit Manager
Licensing Division
Office of Inspector General

Anthony James Riccardi, Authorized Agent

January 24, 2024

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