

January 23, 2024

CERTIFIED MAIL

Scott Holtzleicer, Authorized Agent
Create
2200 E Franklin Ave, Ste 200A
Minneapolis, MN 55404

License Number 800287

ORDER TO PAY A FINE FOR BACKGROUND STUDY VIOLATIONS

Dear Scott Holtzleicer:

The Department of Human Services (DHS) is ordering you to pay a fine of \$400 for 2 background study violations. Details of our findings are provided below. Our next steps and your options are also detailed.

Reason for the Fine

DHS is issuing this fine order based on your failure to comply with the following background study requirement:

Background Study Violation Determined on January 9, 2024:

1. When reviewing your request for a variance, a DHS licensor determined that you failed to submit a background study request to DHS for a staff person (SP) (SP1 and SP2) who previously had a cleared study that expired.
 - a. SP1 was hired and began working in a position allowing direct contact with persons served by the program on March 1, 2021. At the time of the variance review on January 9, 2024, the license holder had not submitted a background study request to the commissioner using the electronic system known as NetStudy 2.0 before the individual continued in a position allowing direct contact.
 - b. SP2 was hired and began working in a position allowing direct contact with persons served by the program on March 29, 2021. At the time of the variance review on January 9, 2024, the license holder had not submitted a background study request to the commissioner using the electronic system known as NetStudy 2.0 before the individual continued in a position allowing direct contact.

Statute Violated: Minnesota Statutes, section 245C.04, subdivision 1, paragraphs (a) and (b).

Fine: \$400 (two violations at \$200 per fine)

Corrective action required

You must comply with all background study requirements in Minnesota Statutes, chapter 245C.

Billing and Payment of the Fine

DHS will send you an invoice for the \$400 fine. Payment must be made as directed on the invoice.

If you request a contested case hearing, as described below, 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, each controlling individual is personally and jointly 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 below, 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.

Your Right to Appeal

You have the right to appeal 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
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 receive this order. Please bring it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attn: 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.

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.

Legal Authority for this Licensing Action

- DHS may impose a \$200 fine for each background study violation under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(4)(iv).
- The exception that allows a license holder who self-corrects a background study violation to avoid a fine does not apply when the license holder was cited for the same violation within the past 365 days, under Minnesota Statutes, section 245A.07, subdivision 3, paragraph (d).
- 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.
- 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.
- NetStudy 2.0 is defined by Minnesota Statutes, section 245C.02, subdivision 13e.

Questions

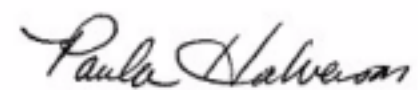
If you have any further questions regarding this matter, you may contact Maura McGarry, Supervisor, at 651-431-6671.

Scott Holtzleicher, Authorized Agent

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Sincerely,

A handwritten signature in cursive script that reads "Paula Halverson".

Paula Halverson, Unit Manager

Licensing Division

Office of Inspector General