

February 16, 2024

**CERTIFIED MAIL**

Nur Abdullahi Mohamed, Authorized Agent  
South Star Care  
3517 18<sup>th</sup> Avenue Northwest  
Rochester, Minnesota 55901-1408

License Number: 1106851 (245D – HCBS)

## **ORDER OF CONDITIONAL LICENSE**

Dear Nur Abdullahi Mohamed:

The Department of Human Services (DHS) is placing your licenses to provide Home and Community-Based Services (HCBS), located at 2203 18<sup>th</sup> Avenue Southeast, Rochester, Minnesota, on conditional status for two years, beginning February 16, 2024. This means you must meet certain conditions to maintain your licenses, detailed below. This order is based on your noncompliance with HCBS 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 January 9, 2024, DHS licensors conducted a licensing review at your facility and program located at 3517 18<sup>th</sup> Avenue Northwest, Rochester, Minnesota. As a result of these licensing visits, DHS determined that your program failed to comply with the laws and rules that apply to licensed home and community-based services, citing 13 violations. DHS has considered the nature, chronicity, and severity of these violations, as well as the health, safety, and rights of persons served by the program.

- **Nature:** Many of the violations cited in this Order of Conditional License are violations of law or rule affecting the health, safety, or rights of persons served by the program. The licensing violations include:
  - Failure to provide notice that identified the service recipient rights and an explanation of those rights
  - Failure to provide orientation to the maltreatment reporting policies and procedures
  - Failure to provide orientation to the program abuse prevention plan (PAPP)
  - Failure to develop individual abuse prevention plans
  - Failure to provide admission and discharge register
  - Failure to maintain documentation of health needs
  - Failure to meet the requirements for medication set up
  - Failure to meet the requirements for psychotropic medication administration

- Failure to incorporate and evaluate positive support strategies
  - Failure to meet initial service planning for intensive support services
  - Failure to meet annual service plan review and evaluation requirements
  - Failure to develop service outcomes and supports
  - Failure to provide information on policies and procedures that affect a person's rights
  - Failure to provide orientation training to staff persons
  - Failure to provide annual training to staff persons
  - Failure to ensure the designated manager and designated coordinator provided program management and oversight of the services
- **Chronicity:** Your program received its license on January 1, 2021. When providing services to people under a DHS-issued license it is the expectation of DHS and the service recipients that all services will be provided in full compliance with licensing rules and laws. DHS has determined that immediately upon service initiation you were not providing services according to applicable rules and laws. Since that time, your program has demonstrated noncompliance with licensing rules and statutes. The information below summarizes this history:
    - October 22, 2021: Technical Assistance review
    - March 6, 2023 Correction Order: 13 violations
    - July 10, 2023 Notice of Noncompliance and Correction Order: 8 violations
    - September 21, 2023:
      - DHS had a phone conference with the license holder and the designated coordinator and designated manager (SP2) to discuss the violations in the Notice of Noncompliance and Correction order where compliance had not been achieved.
    - December 4, 2023 Notice of Noncompliance and Correction Order: 4 violations
    - January 9, 2024 Conditional License (this order): 13 violations (11 repeat)
- **Severity:** Many of the violations that has led to this Order of Conditional License relate to the health and safety of persons served.

**Due to the serious and chronic nature of these violations, and the conditions in the program, which impact the health and safety of persons served in your care, your licenses to provide Home and Community-Based Services and Adult Foster Care Services are placed on conditional status.**

## Licensing Violations

DHS determined that your program failed to follow licensing rules and statutes, as described below.

## Program Coordination, Evaluation, and Oversight Violation

1. **Violation:** The license holder did not ensure the designated coordinator and the designated manager (SP2) provided program management and oversight of the services provided by the license holder as required.
  - a. See citations 2 through 13 regarding SP2's failure to:
    - provide oversight of the license holder's responsibilities assigned in the person's coordinated service and support plan (CSSP) and coordinated service and support plan addendum (CSSPA);
    - take the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;
    - provide instruction and assistance to direct support staff implementing the support plan and the service outcomes, including direct observation of service delivery sufficient to assess staff competency; and
    - evaluate the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcomes has been achieved according to the requirements in section 245D.07.
  - b. See citations 2 through 13 regarding SP2's failure to:
    - maintain current understanding of the licensing requirements sufficient to ensure compliance throughout the program as identified in section 245A.04, subdivision 1, paragraph (e), and when applicable, as identified in section 256B.04, subdivision 21, paragraph (b);
    - ensure the duties of the designated coordinator are fulfilled according to the requirements in subdivision 2;
    - ensuring staff competency requirements are met according to the requirements in section 245D.09, subdivision 3, including ensuring periodic performance evaluations of the direct support staff's ability to perform the job functions based on direct observation are completed by the license holder; and
    - evaluate the information identified in clauses (1) to (6) to develop, document, and implement ongoing program improvements.

**Statute Violated:** Minnesota Statutes, section 245D.081.

**Repeat Violation:** The license holder was cited for a similar violation in a correction order dated July 10, 2023. The license holder was required to submit the name of the person or persons that was identified to perform the duties of the designated manager and designated coordinator and a detailed description of how they are qualified to perform those duties. The license holder submitted a plan to DHS on September 8, 2023, detailing how SP2 would be responsible for performing the required duties as the

designated manager and designated coordinator to provide program management and oversight of the services provided.

### Service Recipient Violations

2. Violation: For one person whose record was reviewed (P2), the license holder did not provide the person with a written notice that identified the service recipient rights and an explanation of those rights as required.

The license holder failed to provide P2 with a written notice that identified the service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days of service initiation.

Statute Violated: Minnesota Statutes, section 245D.04, subdivision 1.

Repeat Violation: The license holder was cited for a similar violation in a correction order dated March 6, 2023.

3. Violation: For one person whose record was reviewed (P2), the license holder did not maintain documentation of how the person's health needs would be met as required.

The license holder was assigned the responsibility of meeting P2's health needs in the support plan. The license holder failed to maintain documentation on how P2's health needs would be met, including a description of the procedures the license holder would follow in order to:

- monitor health conditions according to written instructions from a licensed health professional; and
- assist with or coordinate medical, dental, and other health service appointments.

Statute Violated: Minnesota Statutes, section 245D.05, subdivision 1.

Repeat Violation: The license holder was cited for similar violations in the following licensing actions:

- Correction order dated March 6, 2023; and
- Notice of Noncompliance and Correction Order dated July 10, 2023.

4. Violation: For one person whose record was reviewed (P2), the license holder did not meet service planning and assessment for intensive services as required.

The license holder failed to complete assessments for P2 in the following areas before the 45-day planning meeting:

- the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, seizures, special

- dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;
- the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and
- the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 3.

Repeat Violation: The license holder was cited for similar violations in the following licensing actions:

- Correction order dated March 6, 2023;
- Notice of Noncompliance and Correction Order dated July 10, 2023; and
- Notice of Noncompliance and Correction Order dated December 4, 2023.

5. Violation: For one person whose record was reviewed (P2), the license holder did not meet the requirements for initial service planning as required.

The license holder failed to meet with P2, P2's case manager, and other members of P2's support team to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

- the scope of the services to be provided to support the person's daily needs and activities;
- the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;
- the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;
- whether the current setting is the most integrated setting available and appropriate for the person;
- opportunities to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences;
- opportunities for community access, participation, and inclusion in preferred community activities;
- opportunities to develop and strengthen personal relationships with other persons of the person's choice in the community;
- opportunities to seek competitive employment and work at competitively paying jobs in the community; and

- how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.
- a discussion of how technology might be used to meet the P2's desired outcomes. The coordinated service and support plan or support plan addendum must include a summary of this discussion. The summary must include:
  - a statement regarding any decision that is made regarding the use of technology; and
  - a description of any further research that needs to be completed before a decision regarding the use of technology can be made.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 3, paragraphs (c)

Repeat Violation: The license holder was cited for similar violations in the following licensing actions:

- Correction order dated March 6, 2023;
- Notice of Noncompliance and Correction Order dated July 10, 2023; and
- Notice of Noncompliance and Correction Order dated December 4, 2023.

6. Violation: For one person whose record was reviewed (P2), the license holder did not meet the requirements for service outcomes and supports as required.

The license holder failed to develop a service plan that documented the service outcomes and supports based on the assessments and person-centered planning for P2. The outcomes failed to document the following:

- the methods or actions that will be used to support the person and to accomplish the service outcomes, including information about:
  - any changes or modifications to the physical and social environments necessary when the service supports are provided;
  - any equipment and material required; and
  - techniques that are consistent with the person's communication mode and learning style;
- the measurable and observable criteria for identifying when the desired outcome has been achieved and how data will be collected; and
- the names of the staff or position responsible for implementing the supports and methods.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 4.

Repeat Violation: The license holder was cited for similar violation in the following licensing actions:

- Correction order dated March 6, 2023;
- Notice of Noncompliance and Correction Order dated July 10, 2023; and

- Notice of Noncompliance and Correction Order dated December 4, 2023.

7. Violation: For one person whose record was reviewed (P1), the license holder did not meet the requirements for annual service plan review and evaluation as required.

The license holder failed to meet with P1, P1's case manager, and other members of the support team to participate in the ongoing review and development of the service plan and methods used to support the person and accomplish outcomes. The annual review failed to include the following:

- a discussion about how technology might be used to meet the person's desired outcomes;
  - the support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision made related to the use of technology and a description of any further research that must be completed before a decision regarding the use of technology can be made; and
- a discussion about options for transitioning out of a community setting controlled by a provider and into a setting not controlled by provider;
  - the support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision made related to transitioning out of a provider controlled-setting and a description of any further research or education that must be completed before a decision regarding the transitioning out of a provider-controlled setting can be made.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 5.

Repeat Violation: The license holder was cited for similar violation in the following licensing actions:

- Correction order dated March 6, 2023;
- Notice of Noncompliance and Correction Order dated July 10, 2023; and
- Notice of Noncompliance and Correction Order dated December 4, 2023.

8. Violation: For one person whose record was reviewed (P2), the license holder did not provide written or electronic copies of policies and procedures as required.

P2's services were initiated on September 26, 2023. The license holder failed to inform P2's case manager of the following policies and procedures affecting a person's rights under section 245D.04, and provide copies of those policies and procedures, within five working days of service initiation:

- grievance policy;
- temporary service suspension policy;
- service termination policy;

- emergency use of manual restraints policy; and
- data privacy policy.

Statute Violated: Minnesota Statutes, section 245D.10, subdivision 4.

Repeat Violation: The license holder was cited for a similar violation in a correction order dated March 6, 2023.

9. Violation: For one person whose record was reviewed (P2), the license holder did not meet the requirements for positive support strategies as required.

The license holder failed to incorporate positive support strategies into P2's existing treatment, service or other individual plan required of the license holder.

Rule Violated: Minnesota Rules, part 9555.0030.

Repeat Violation: The license holder was cited for a similar violation in a correction order dated March 6, 2023.

### Staffing Standards Violations

10. Violation: For one of one staff person whose record was reviewed (SP1), the license holder did not provide orientation to the program requirements as required.

SP1 was hired on February 3, 2023. The license holder failed to provide SP1 the following within 60 days of hire:

- the job description and how to complete specific job functions, including:
  - responding to and reporting incidents as required under section 245D.06, subdivision 1;
  - following safety practices established by the license holder and as required in section 245D.06, subdivision 2; and
- the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures.

Statute Violated: Minnesota Statutes, section 245D.09, subdivision 4.

Repeat Violation: The license holder was cited for a similar violation in a correction order dated March 6, 2023.

11. Violation: For one staff person whose record was reviewed (SP1), the license holder did not provide orientation to individual service recipient needs as required.

The license holder failed to provide orientation to the individual service recipient needs to SP1. SP1 had unsupervised direct contact with a person served without this training. At the time of the license review on January 9, 2024, SP1 had not received this training.

Statute Violated: Minnesota Statutes, section 245D.09, subdivision 4a.

Repeat Violation: The license holder was cited for a similar violation in a correction order dated March 6, 2023.

## Record Requirements Violations

12. Violation: The license holder did not maintain an admission and discharge register of all persons served by the program as required.

The license holder failed to maintain a written or electronic register, listing in chronological order the dates and names of all persons served by the program who have been admitted, discharged, or transferred, including service terminations initiated by the license holder.

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 2.

13. Violation: For one person whose record was reviewed (P2), the license holder did not maintain service recipient records as required.

The license holder failed to maintain the following documentation in P2's service recipient record including:

- an admission form signed by the person's legal representative that includes:
  - identifying information including the person's address and telephone number; and
  - the name, address, and telephone number of a primary emergency contact, the case manager, and family members or others as identified by the person or case manager; and
- service information, including service initiation information, verification of the person's eligibility for services, documentation verifying that services have been provided as identified in the coordinated service and support plan or coordinated service and support plan addendum according to paragraph (a), and date of admission or readmission; and

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 3.

## **Immediate corrective action required**

You must immediately correct the violations cited above. Compliance with this order will be reviewed onsite ongoing. If you fail to demonstrate substantial compliance with HCBS 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.

## **CONDITIONAL LICENSE TERMS**

In addition to the Home and Community-Based Services licensing rules and statutes, you are required to comply with the following terms:

1. Within 15 days of receiving this order, you must notify current persons receiving services, all parties who refer persons to the program, and all payer sources of the conditional status of your license. The notification must be approved by DHS Licensing prior to being sent to persons receiving services and all other parties. Therefore, the draft notice must be submitted to DHS for approval within 10 days of receiving this order. The notification must specify the length of time of the conditional status of your license, the reasons your license was made conditional, and it must include either a copy of the Order of Conditional License or an offer to provide a copy of the order upon request.

While the license is on conditional status, you must notify new persons receiving services, referral sources, and payer sources that the license is on conditional status before they begin receiving services. The notification to new persons receiving services must specify the length of time of the conditional status of the license, the reasons the license was made conditional, and it must include either a copy of the Order of Conditional License or an offer to provide a copy of the order upon request.

Within 30 days of receiving this order, you must submit to the DHS Licensing Division a list of the individuals and parties that received the notice.

2. Within 30 days of receiving this order, you must:
  - Submit the name(s) and qualifications for the person(s) who will fulfill the duties and responsibilities of your designated coordinator and designated manager for DHS review and approval. It is your responsibility to ensure that these persons meet the necessary qualifications. Changes to these positions may not be made without prior notification and approval by DHS.

The same person may perform both functions if the work and education requirements outlined in section 245D.081, subdivisions 2 and 3 are met.

**At the time of the licensing review on January 9, 2024, the license holder informed DHS that SP2 was no longer fulfilling the duties of the designated coordinator and designated manager. The license holder informed DHS that a designated coordinator and designated manager,**

**other than SP2 was designated the responsibility of delivery, evaluation, and providing program management and oversight of services provided by the license holder.**

3. Within 60 days of receiving this order, you must:
  - Submit a written plan to DHS detailing how you will ensure the corrective action ordered in this order is completed.
  - Submit a written plan to DHS detailing how you will audit all participant and staff records for compliance with all applicable rules and statutes.
4. Within 60 days of receiving this order, you must:
  - Complete an audit of all participant and personnel records according to your written plan.
  - Submit the results of the audit to your DHS licensor.
  - Submit the date to your DHS licensor that all participant and personnel records will be brought into compliance based on the results of your audit.
5. You may not admit new participants to your program from the date of this order until you have successfully demonstrated to DHS compliance with the terms of the conditional license and have maintained substantial compliance with all licensing standards. Program is defined by section 245D.02, subdivision 26 meaning either the nonresidential or residential programs as defined in 245A.02, subdivisions 10 and 14. **At a minimum, you may not admit new participants to your program for a period of six months from the date of this conditional license. Admission of any new participant during the duration of the conditional license is only allowed with prior approval from DHS.**
6. You may not apply for other DHS-issued licenses without prior approval from DHS for the duration of this conditional license.
7. You may not add additional services to your HCBS license without prior approval from DHS for the duration of this conditional license.

Submissions required as part of a corrective action ordered must be sent to your DHS licensor at:

Commissioner, Department of Human Services  
ATTN: Amber Nielsen c/o Licensing Division  
PO Box 64242  
St. Paul, MN 55164-0242

## **YOUR RIGHT TO REQUEST RECONSIDERATION**

You have the right to request reconsideration of this order 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  
Legal Counsel's Office  
Attention: Licensing Legal Unit  
PO Box 64953  
St. Paul, MN 55164-0053

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

### **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. You continue to be required to comply with all Home and Community-Based Services laws and rules.

### **Legal authority for this licensing action**

- This action is taken under Minnesota Statutes, section 245A.06, subdivision 1.
- Home and Community-Based Services are required to follow Minnesota 245A, 245C, 245D, and Minnesota Rules, chapter 9544.

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- The timeline to request reconsideration of the order is provided in Minnesota Statutes, section 245A.06, subdivision 4.
- 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 Christala Culhane, HCBS Unit Supervisor, at 651-431-6541.

Sincerely,

A handwritten signature in black ink that reads "Jill Slaikeu". The signature is written in a cursive style with a large, looped initial "J" and a long horizontal stroke at the end.

Jill Slaikeu, HCBS Unit Manager  
Licensing Division  
Office of Inspector General