

April 12, 2024

CERTIFIED MAIL

Nichole Stodola
13364 Jay Street Northwest
Andover, MN 55304

License Number 1097302 FCC

ORDER OF CONDITIONAL LICENSE ORDER TO PAY A FINE

Dear Ms. Stodola:

Based on the recommendation of Anoka County Human Services Division (Anoka County), the Department of Human Services (DHS) is placing your license to provide family child care at 13364 Jay Street Northwest, Andover, MN on conditional status for one year, beginning April 12, 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 licensing requirements. Our next steps and your options are also provided below.

In addition, DHS is ordering you to pay a fine of \$400. 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 ensure that your home was clean and sanitary when you had dog feces on the floor accessible to children, because you failed to obtain training as required, because you failed to maintain immunization records as required, because you failed to maintain documentation of crib safety information as required, and because you failed submit a background study as required. 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, Anoka 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

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 Anoka County licensor for assistance. DHS also considered this history as a factor when it determined that a Conditional License is appropriate.

- December 18, 2023, Correction Order which cited you for the following violations:
 - You failed to ensure animal feces were inaccessible to children when there were dog feces next to a pack and play in licensed space.
 - You failed to provide documentation of annual child development and learning and behavior guidance training as required.
 - You failed to provide documentation of sudden unexpected infant death (SUID) and abusive head trauma (AHT) training as required.
 - You failed to initiate a background study for an individual prior to them moving into your home when you allowed an adult to move in on October 23, 2023, and you did not initiate a background study until December 14, 2023. When asked about this you provided false and misleading information to the county licensing agency when you indicated you had initiated a study and that an appointment was scheduled.
 - You failed to provide documentation of 16 hours on ongoing training as required when you only completed 6 hours of training.
 - You failed to provide documentation of at least two hours of active supervision training as required.
 - You failed to provide documentation of Health and Safety I and Health and Safety II training as required.
 - You failed to maintain children's records as required when you did not have updated immunization records for a preschool age child in care.
 - You failed to maintain crib documentation when you did not document the brand name and model number of two pack and plays that you use and are accessible to children in care.
- December 12, 2022, Correction Order which cited you for the following licensing violations:
 - You failed to provide supervision as required when you slept an infant in a room with a closed door and no monitoring device.
- December 9, 2022, Correction Order which cited you for the following licensing violations:

- You failed to repeat Pediatric First Aid every two years as required.
- You failed to repeat Pediatric Cardiopulmonary Resuscitation (CPR) every two years as required.
- January 3, 2020, Correction Order which cited you for the following licensing violations:
 - You failed to ensure animal feces were inaccessible to children when there were dog feces in the play area.
 - You failed to ensure your water temperature was at or below 120 degrees Fahrenheit when your water temperature was 140 degrees Fahrenheit.
- November 19, 2019, Correction Order which cited you for the following licensing violations:
 - You failed to ensure that toxic substances were inaccessible to children in care when there were cleaning supplies under the kitchen sink and the magnetic lock was not engaged.
 - You failed to ensure that hazardous materials were inaccessible to children when a knife, scissors, thumb tacks, and plastic garbage bags were accessible to children in care.
 - You failed to ensure your water temperature was at or below 120 degrees Fahrenheit when your water temperature was 123.6 degrees Fahrenheit.

Severity 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 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 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 work with Anoka County to obtain a mentor to work on ensuring you are following all family child care rules and laws. The mentor must be obtained **within 30 days** of the issuance of this order and must be approved by Anoka County. Upon completion of working with the mentor you must submit a summary to Anoka County of what you learned and changes you will implement into your program to support required compliance with licensing regulations including paperwork and cleanliness of your program.
4. You must complete 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 health and safety and professionalism. You must obtain approval from Anoka County that the training is appropriate, and you must submit documentation of your attendance to Anoka County.

5. 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 of compliance with this term to Anoka County **within 30 days of this order**. For new families, you must submit documentation of compliance with this term to Anoka County **within 5 days of any child's admission** to your child care program.

Ongoing Monitoring

Your Anoka 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

1. Failure to Comply with Correction Order

Anoka County determined that you failed to correct violations that were cited in a correction order issued to you previously.

- On December 18, 2023, you were issued a Correction Order for animal feces being accessible to children. You were previously issued a Correction Order for animal feces being accessible to children on January 3, 2020. This is a repeat violation.
- On January 3, 2020, you were issued a Correction Order for your water temperature being 140 degrees Fahrenheit. You were previously issued a Correction Order on November 19, 2019, for your water temperature being 123.6 degrees Fahrenheit. This is a repeat violation.

Statute Violated: Minnesota Statutes, section 245A.06, subdivision 3.

Fine: \$200

2. Background Study Violation

Anoka County determined you failed to initiate a background study for an individual who is affiliated with your family child care program and subject to a study.

Specifically, when you allowed an adult to move into your residence on October 23, 2023, and you did not initiate a background study until December 14, 2023.

Statute Violated: Minnesota Statutes, section 245C.04, subdivision 1, paragraph (f)

Fine: \$200

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 \$400 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 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 of Conditional License and Order to Pay a Fine 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.

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- 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.
- Minnesota Statutes, Chapter 245A.03, subdivision 2b, subdivision 1 states that a child care provider who has received a fine or a conditional license under Minnesota Statutes, Section 245A.06 that has not been reversed on reconsideration or appeal may not provide unlicensed child care to non-relatives.
- 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.

Questions

If you have any further questions regarding this matter, you may contact me at 651-431-6565.

Sincerely,

A handwritten signature in black ink, appearing to be 'BD', written in a cursive style.

Beth Donahue, Supervisor
Licensing Division
Office of Inspector General

cc: Marisa Stark, Anoka County Human Services Division