

July 11, 2024

Sharmake Ahmed, Authorized Agent
TotalCare Services, LLC
2021 E. Hennepin Ave STE 402-6
Minneapolis, Minnesota, 55413-2700

License Number: 1112315 (245D – HCBS)

CORRECTION ORDER

Dear Sharmake Ahmed:

On June 3, 2024, a licensing review of TotalCare Services, LLC, located at 2021 E. Hennepin Ave STE 402-6, Minneapolis, MN was conducted to determine compliance with state and federal laws and rules governing the provision of home and community-based services to persons with disabilities and age 65 and older under Minnesota Statutes, Chapter 245D. As a result of this licensing review a Correction Order is being issued.

A. Reason for Correction Order

Pursuant to Minnesota Statutes, section 245A.06, if the Commissioner of the Department of Human Services (DHS) finds that the license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the Commissioner may issue a Correction Order to the license holder.

The following violation(s) of state or federal laws and rules were determined as a result of the licensing review. Corrective action for each violation is required by Minnesota Statutes, section 245A.06 and is hereby ordered by the Commissioner of Human Services.

1. Citation: Minnesota Rules, 9544.0030, subpart 1.

Violation: For two of two persons whose records were reviewed (P1 and P2), the license holder did not meet the requirements for positive support strategies as required.

The license holder failed to incorporate in writing positive support strategies to an existing treatment, service, or other individual plan for P1 and P2. Additionally, the license holder failed to evaluate with P1 and P2 the identified positive support strategies at least every six months.

Corrective Action Ordered: Within 60 days of receipt of this order, you must:

- identify positive support strategies for P1 and P2
- evaluate the identified positive support strategies with P1 and P2 at a minimum of every six months, and
- audit all of your person served records to ensure positive support strategies have been developed, and evaluated with the person(s) every six months.

On an ongoing basis, you must maintain compliance as required in this subdivision.

2. Citation: Minnesota Statutes, section 245D.071, subdivision 3, paragraph (b).

Violation: For two persons whose records were reviewed (P1 and P2), the license holder did not meet the requirements of initial service planning as required.

- a. The license holder met with P1, P1's case manager, and other members of the support team or expanded support team within 45 days of service initiation; however, the license holder failed to determine:
 - the scope of the services to be provided to support the person's daily needs and activities;
 - 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;
 - opportunities to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences;
 - opportunities to develop and strengthen personal relationships with other persons of the person's choice in the community; and
 - a discussion of how technology might be used to meet the person'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.
- b. P2's service initiation date was January 10, 2024. The license holder conducted P2's 45 day meeting on March 28, 2024. The license holder failed to hold the 45 day meeting within 45 days of service initiation.

Corrective Action Ordered: Within 60 days of receipt of this order, you must:

- meet with P1 and P1's support team to determine the above-mentioned topics;
- document the determination in P1's support plan addendum; and
- submit this documentation to your licensor.

Additionally, you must conduct these assessments annually at a minimum or within 30 days of written request from the person or the person's case manager. On an ongoing basis, you must maintain compliance as required in this subdivision.

3. Citation: Minnesota Statutes, section 245D.09, subdivision 4a.

Violation: For one of two staff persons whose records were reviewed (SP1), the license holder did not provide training as required.

The license holder failed to provide SP1 with orientation to individual needs before having unsupervised direct contact with a person served by the program.

The license holder failed to provide training and instruction on the following topics:

- the person's support plan or support plan addendum as it relates to the responsibilities assigned to the license holder;
- the person's individual abuse prevention plan; and
- how to implement the person's plan.

Corrective Action Ordered: Within 60 days of receipt of this order, you must:

- provide SP1 with training on the above-mentioned topics; and
- document this training in SP1's training record; and
- submit this training to your licensor.

On an ongoing basis, you must maintain compliance as required in this subdivision.

4. Citation: Minnesota Statutes, section 245D.09, subdivision 5.

Violation: For one staff person whose record was reviewed (SP1), the license holder did not provide annual training as required.

The license holder failed to provide SP1 with annual training on the following required topics:

- data privacy requirements according to Minnesota Statutes, sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPPA), and staff responsibilities related to complying with data privacy practices;
- the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in Minnesota Statutes, section 245D.04;
- sections 245A.65, 245A.66, and 626.557 and 260E, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment;
- the principles of person-centered service planning and delivery as identified in Minnesota Statutes, section 245D.07, subdivision 1a, and how they applied to direct support service provided by the staff person;
- the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;

- staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;
- strategies to minimize the risk of sexual violence, including concepts of health relationships, consent, and bodily autonomy of people with disabilities; and
- other topics determined necessary in the person's support plan by the case manager or other areas identified by the license holder.

Corrective Action Ordered: Within 60 days of receipt of this order, you must:

- provide SP1 with the above-mentioned training, and
- document this training in SP1's training record.

On an ongoing basis, you must maintain compliance as required in this subdivision.

5. Citation: Minnesota Statutes, section 245D.095, subdivision 5.

Violation: For one staff person whose record was reviewed (SP1), the license holder did not maintain personnel records as required.

The license holder failed to include the following in SP1's training documentation:

- the date the training was completed;
- the number of hours per subject area; and
- the name of the trainer or instructor.

Corrective Action Ordered: Within 60 days of receipt of this order, you must:

- document the above-mentioned items in SP1's training document, and
- complete an audit of all personnel records for compliance with the above-mentioned requirements.

On an ongoing basis, you must maintain compliance as required in this subdivision.

6. Citation: Minnesota Statutes, section 245D.081, subdivision 2.

Violation: The license holder did not ensure the coordination and evaluation of individual service delivery by a competent and qualified designated staff person, as required.

The license holder failed to identify a designated coordinator that met the minimal qualifications as required, to provide coordination and evaluation of service delivery of the services provided, including:

- oversight of the license holder's responsibilities assigned in the person's support plan and the support plan addendum;
- taking the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;

- 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.
- evaluation of the effectiveness of service delivery, methodologies, and progress on the persons outcomes based on the measurable and observable criteria for identifying when the desired outcomes has been achieved according the requirements in section 245.07.

The failure to provide coordination, evaluation of individual service delivery is evidenced in citations 1 through 7.

Corrective Action Ordered: Within 30 days of receipt of this order, you must:

- identify and assign a qualified individual to fulfill the role of designated coordinator. This individual must minimally have:
 - a baccalaureate degree in a field related to human services, and one year of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;
 - an associate degree in a field related to human services, and two years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;
 - a diploma in a field related to human services from an accredited postsecondary institution and three years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older; or
 - a minimum of 50 hours of education and training related to human services and disabilities; and
 - four years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older under the supervision of a staff person who meets the qualifications identified in clauses (1) to (3).
- submit this information to this licensor on the designated coordinator designated manager verification form. The designated coordinator designated manager verification form has been emailed to the Authorized Agent.

On an ongoing basis, you must maintain compliance as required in this subdivision.

7. Citation: Minnesota Statutes, section 245D.081, subdivision 3.

Violation: The license holder did not ensure program management and oversight by a qualified staff person as required.

The license holder failed to identify a qualified and competent staff person to serve as the designated manager to ensure the required program management and oversight, including:

- maintaining a 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);
- evaluating satisfaction of persons served by the program, the person's legal representative, if any, and the case manager, with the service delivery and progress towards accomplishing outcomes identified in sections 245D.07 and 245D.071, and ensuring and protecting each person's rights as identified in section 245D.04;
- ensuring staff competency requirements are met according to the requirements in section 245D.09, subdivision 3, and ensure staff orientation and training is provided according to the requirements in section 245D.09, subdivision 4, 4a, and 5; and
- evaluating the information identified in clauses (1) to (6) to develop, document, and implement ongoing program improvements.
- The designated manager must be competent to perform the duties as required and must minimally meet the education and training requirements identified in subdivision 2, paragraph (b), and have a minimum of three years of supervisory level experience in a program providing direct support services to persons with disabilities or persons age 65 and older.

The failure to provide coordination, evaluation of individual service delivery and in addition the failure to provide program management and oversight of services is evidenced in citations 1 through 7.

Corrective Action Ordered: Within 30 days of receipt of this order, you must:

- identify and assign a qualified individual to fulfill the role of designated coordinator
- submit this information to this licensor on the designated coordinator designated manager verification form. The designated coordinator designated manager verification form has been emailed to the Authorized Agent.

If you fail to correct the violations specified in the Correction Order within the prescribed time lines the Commissioner may issue an Order of Conditional License or may impose a fine and order other licensing sanctions pursuant to Minnesota Statutes, sections 245A.06 and 245A.07.

B. Right to Request Reconsideration

If you believe any of the citations are in error, you have the right to request that the Commissioner of Human Services reconsider the parts of the Correction Order that you believe to be in error. The request for reconsideration must be in writing and received by the

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Commissioner within 20 calendar days after receipt of this report. Your request for reconsideration must be sent to:

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

Please note that a request for reconsideration does not stay any provisions or requirements of the Correction Order. The Commissioner's disposition of a request for reconsideration is final and not subject to appeal under Minnesota Statutes, chapter 14.

If you have any questions regarding this Correction Order, please contact me as soon as possible.

Kate Spenger, Senior Human Services Licensor
Licensing Division
Office of Inspector General
651-431-5757