

July 18, 2024

**CERTIFIED MAIL**

Tyler Nyhus, Authorized Agent  
Twin Ports Children Services Inc  
230 W Superior St  
Ste 700  
Duluth, Minnesota 55802-4011

License Numbers: 1085851 (Home and Community-Based Services)  
1113286 (Home and Community-Based Services-Community Residential Setting) Kirkus  
1115749 (Home and Community-Based Services-Community Residential Setting) Morgan  
1114240 (CFRS) Morgan  
1090916 (CFRS) Kirkus  
1116371 (CFRS) Swan Lake  
1121787 (CFRS) Martin

License Complaint Report Number: 202401724

## **ORDER LIFTING TEMPORARY IMMEDIATE SUSPENSION AND ORDER OF CONDITIONAL LICENSE**

Dear Tyler Nyhus:

In an order dated March 4, 2024, the Commissioner of the Department of Human Services issued a temporary immediate suspension on your licenses 1115749 and 114240 to provide services at your dually licensed child foster residence setting (CFRS) and community residential setting (CRS) at 1402 Morgan Street due to a determination that the health, safety, and rights of individuals in your care were at imminent risk of harm.

Based on the recommendation of St. Louis County Public Health and Human Services Department, the Department of Human Services is lifting the previous Order of Temporary Immediate Suspension. Therefore, effective immediately, you may resume the operation of your licensed community residential setting and child foster residence setting program located at 1402 West Morgan Street, Duluth, Minnesota, in accordance with the terms of your conditional license.

The Department of Human Services (DHS) is also placing your licenses to provide home and community-based services for Twin Ports Children Services Inc., on conditional status for two years, beginning July 30, 2024. This Order of Conditional License applies to all of your 245D services and service sites because the nature and severity of the violations call into question your ability to ensure the health, safety, and rights of all people you serve. This order includes all your licensed community residential settings, child foster residence settings, and Home and Community-Based Services (HCBS), which

include positive supports, foster care, supportive living, and community residential services. This means you must meet certain conditions to maintain your licenses, detailed below. This order is based on the recommendation of St. Louis County and your noncompliance with HCBS, child foster residence setting, and community residential setting 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 April 3-5, 2024, DHS licensors conducted a licensing review and licensing investigation at your facility located at 1707 Maple Grove Road, Duluth, Minnesota. 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 home and community-based services (HCBS), citing 25 violations. In addition, following the March 4, 2024 temporary immediate suspension of your Morgan Street program licenses, St. Louis County conducted licensing investigations on your programs which resulted in correction orders and additional licensing violations. DHS has considered the nature, chronicity, and severity of these violations, as well as the health, safety, and rights of persons by the program.

- Nature: Many of the violations cited in the 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 program coordination, evaluation, and oversight by a designated coordinator and a designated manager
  - Failure to provide orientation to the internal and external reporting procedures of alleged or suspected maltreatment of minors
  - Failure to ensure the exercise and protection of rights
  - Failure to ensure the service site was safe and hazard free when the license holder was owner, lessor, or tenant of the service site
  - Failure to meet the requirements for the completion of the assessments for persons served
  - Failure to evaluate positive support strategies as required
  - Failure to meet the requirements for intensive service planning and delivery
  - Failure to meet health service needs consistent with the person's health needs, including administering medications
  - Failure to provide persons served with an orientation to and an explanation of the service recipient rights
  - Failure to maintain service recipient records
  - Failure to provide required orientation and annual training to staff persons
  - Failure to provide person centered planning and service delivery
  - Failure to respond to incidents
  - Failure to provide orientation to the program's abuse prevention plan
  - Failure to provide a safe home
  - Failure to provide a smoke-free environment
  - Failure to provide basic needs

- Failure to report suspected maltreatment
- Chronicity:
  - You have held your HCBS license since April 24, 2017.
  - A licensing review by DHS was conducted on January 9, 2019, resulted in 8 licensing violations.
  - On March 4, 2024, DHS issued a temporary immediate suspension on license numbers 1114240 and 1115749, at 1402 West Morgan Street, Duluth, Minnesota because it was determined there was imminent risk to the people being served in those programs.
  - On April 3-5, 2024, DHS conducted a licensing review and licensing investigation. DHS determined that you were non-compliant across many areas of licensed service delivery. The identified violations were not isolated to one area of concern. See above for areas of non-compliance and violations detailed below.
  - A fine order was issued on July 1, 2024, for 14 background study violations
  - Between December 2021 and April 2024, St. Louis County issued the following correction orders for several of your CFRS and CRS licensed programs:
    - On December 6, 2021 and March 20, 2023, St. Louis County issued correction orders for license number 1113286, located at 21 Kirkus Street, Duluth, Minnesota for home safety checklist violations.
    - On July 24, 2023, St. Louis County issued a correction order for license number 1115749, located at 1402 W Morgan Street, Duluth, Minnesota for home safety checklist violations.
    - On February 4, 2024, and March 29, 2024, St. Louis County issued correction orders for license number 1090916, located at 21 Kirkus Street, Duluth, Minnesota for home safety checklist violations.
    - On March 20, 2024, St. Louis County issued correction orders for license number 1116371, located at 1801 Swan Lake Road, Duluth, MN for home safety checklist violations.
    - On April 22, 2024, St. Louis County notified you that you failed to correct the violations issued in March for 1801 Swan Lake Road and 21 Kirkus Street, Duluth, Minnesota.
- Severity: Many of the violations that led to the Order of Conditional License relate to the health, safety, and rights 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, community residential settings, and child foster residence settings are placed on a conditional status.**

## Licensing Violations

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

### Program Coordination and Oversight Violations

1. Violation: The license holder did not meet the requirements for program coordination, evaluation, and oversight.
  - a. The license holder failed to ensure that the designated coordinator (SP6) provided coordination of service delivery and evaluation for each person served by the program. See violations 2 through 25 for the designated coordinator's failure to provide supervision, support, and evaluation of activities including:
    - oversight of the license holder's responsibilities assigned in the person's coordinated service and support plan and support plan addendum;
    - taking the action necessary to facilitate the accomplishment of 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; and
    - evaluation of 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 outcome has been achieved, according to the requirements in 245D.07.
  - b. The license holder failed to ensure that the designated manager (SP7) provided program management and oversight of the services provided by the license holder. See violations 2 through 25 for the designated manager's failure to:
    - maintain a current understanding of the licensing requirements sufficient to ensure compliance throughout the program;
    - ensuring the duties of the designated coordinator are fulfilled; and
    - ensuring staff competency requirements are met according to the requirements in section 245D.09, subdivision 3.

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

### Service Recipient Violations

2. Violation: For three of five persons whose records were reviewed (P1, P2, and P4), the license holder did not provide orientation to the program abuse prevention plans (PAPP) as required.

For P1, P2, and P4, the license holder failed to provide the person and the person's legal representative as applicable, with an orientation to the license holder's PAPP within 24 hours of service initiation.

Statute Violated: Minnesota Statutes, section 245A.65, subdivision 2.

3. Violation: For one person whose record was reviewed (P3), the license holder did not meet the requirements for an individual abuse prevention plan (IAPP) as required.

Minnesota Statutes, section 245A.02, subdivision 2b defines "annual" or "annually" to mean prior to or within the same month of the subsequent calendar year.

The license holder failed to review P3's IAPP with all members of P3's interdisciplinary team annually in 2022, 2023, and 2024.

Statute Violated: Minnesota Statutes, section 245A.65, subdivision 2.

4. Violation: For four persons whose records were reviewed (P1-P4), the license holder did not provide a written notice that identified the service recipient rights as required.

Minnesota Statutes, section 245A.02, subdivision 2b defines "annual" or "annually" to mean prior to or within the same month of the subsequent calendar year.

- a. The license holder failed to provide P1 and their legal representative a written notice that identified the service recipient rights and an explanation of those rights in 2023. Additionally, the license holder failed to provide P1 and their legal representative with a written notice that identified the right to access personal possessions at any time, including financial resources.
- b. The license holder failed to provide P2 and their legal representative a written notice that identified the service recipient rights and an explanation of those rights in 2023 and 2024.
- c. The license holder failed to provide P3 and their legal representative a written notice that identified the service recipient rights and an explanation of those rights annually from 2020 through 2024.
- d. The license holder failed to provide P4 and their legal representative a written notice that identified the service recipient rights and an explanation of those rights within five working days of service initiation.

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

5. Violation: For five persons whose records were reviewed (P1-P5), the license holder did not ensure the protection of the person's rights in the services provided.

a. For P1 through P5, the license holder failed to ensure one or more of the following service and protection related rights:

- engage in chosen activities;
- access personal possessions at any time, including financial resources;
- a setting that is free from hazards that threaten the person's health or safety;
- have use of and free access to common areas;
- be free from restraint, time out, seclusion or other prohibited procedures identified in 245D.06;
- have daily, private access to and use of a non-coin-operated telephone;
- choose the person's visitors and time of visits;
- be treated with courtesy and respect;
- receive services from an individual who is competent and trained and who meets additional qualifications identified in the person's support plan or support plan addendum; and

b. The license holder had "House Rules" posted in community residential settings (CRS) Swan Lake 1116371 and Kirkus 1090916/1113286. The document contained rules and guidelines that limited or restricted individual rights for all persons in the facility.

Statute Violated: Minnesota Statutes, section 245D.04, subdivisions 2 and 3.

6. Violation: For two persons whose records were reviewed (P2 and P3), the license holder did not enforce policies and procedures that promote health and welfare, including reporting and responding to incidents as required

a. The license holder failed to establish and maintain a record-keeping system for incident and emergency reports.

b. As part of the licensing review, DHS licensors reviewed behavior intervention reporting forms, daily log notes and behavior tracking documents for P2 and P3. On multiple dates, P2 and P3's documents included information that identified an incident, as defined in section 245D.02, subdivision 11, had occurred. The license holder failed to maintain an incident report for each of these occurrences that included:

- the name of the person or persons involved in the incident;
- the date, time, and location of the incident or emergency;
- a description of the incident or emergency;
- a description of the response to the incident or emergency and whether a person's support plan addendum or program policies and procedures were implemented as applicable;
- the name of the staff person or persons who responded to the incident or emergency; and

- the determination of whether corrective action is necessary based on the results of the review.

c. During the licensing review, DHS licensors requested information regarding when incidents involving P2 and P3 were reported to their legal representatives and case managers.

For multiple incidents that occurred regarding P2 and P3 the license holder failed to report incidents to P2 and P3's legal representative and case manager within 24 hours. Additionally, the license holder failed to maintain information about when and to whom each incident that occurred was reported.

Statute Violated: Minnesota Statutes, section 245D.06, subdivision 1, and section 245D.11, subdivision 2, clauses (6) and (7).

7. Violation: For two persons whose records were reviewed (P2 and P3), the license holder used a prohibited procedure as a behavioral or therapeutic program to reduce or eliminate behavior.

a. During the licensing review conducted on April 3-5, 2024, DHS licensors determined the program implemented seclusion, use of time out, and other deprivation procedures while providing support services to P2 and P3 as a substitute for a behavioral or therapeutic program to reduce or eliminate behavior, as punishment, or for staff convenience.

b. DHS licensors determined the program implemented manual restraint while providing support services to P3 as a substitute for a behavioral or therapeutic program to reduce or eliminate behavior.

Statute Violated: Minnesota Statutes, section 245D.06, subdivision 5.

8. Violation: For one person whose record was reviewed (P4), the license holder did not meet the requirements for initial service planning as required for intensive support services.

P4's services were initiated on January 3, 2024. The license holder failed to complete a preliminary support plan addendum based on the support plan within 15 days of service initiation.

Statute Violated: Minnesota Statutes, section 245D.071, subdivision 3, paragraph (a).

9. Violation: For two persons whose records were reviewed (P1 and P4), the license holder did not meet complete assessment required for intensive service planning as required.

a. Regarding P1 and P4, the license holder failed to meet the requirements in one or more of the following areas:

- Complete assessments in the following areas before the 45-day 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, allergies, seizures, choking, 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.
  - assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms.
- Meet with the person and the person's case manager within 45 days of service initiation to determine the following:
  - 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 service 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;
  - 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; 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. The license holder failed to complete assessments that produce information about P3 that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms.

**Repeat Violation:** In a correction order that DHS issued on January 23, 2019, you were previously found in violation of this same statute.

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

10. **Violation:** For two persons whose records were reviewed (P3 and P4), the license holder did not develop a service plan that documents the service outcomes and supports based on the assessments completed under subdivision 3 and the requirements in section 245D.07, subdivision 1a, as required.

The license holder failed to document the following information in P3's and P4's current supports and methods for current outcomes:

- any changes or modifications to the physical and social environments necessary when the service supports are provided;
- techniques that are consistent with the person's communication mode and learning style; and
- the date by which progress towards accomplishing the outcomes would be reviewed and evaluated.

**Repeat Violation:** In a correction order that DHS issued on January 23, 2019, you were previously found in violation of this same statute.

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

11. **Violation:** For two persons whose records were reviewed (P2 and P3), the license holder did not meet the requirements for service plan review and evaluation as required.

a. The license holder failed to give P2, P3, their legal representatives and case managers, and other members of their support team, an opportunity to participate in the ongoing review and development of the methods used to support the person and accomplish outcomes identified in assessments and service outcomes and supports.

Additionally, the license holder failed to discuss the following topics, at least once per year, in coordination with P2, P3, their legal representatives and case managers, and other members of their support team:

- 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:
  - technology and any further research that must be completed before a decision regarding the use of technology can be made.
- options regarding transitioning out of a provider-controlled setting and into a setting not controlled by a provider. The support plan addendum must include a summary of this discussion. The summary must include:
  - controlled setting, and further research or education that must be completed before a decision regarding transitioning out of a provider-controlled setting can be made.

b. The license holder failed to summarize P3's status and progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in subdivision.

Statute Violated: Minnesota Statute, section 245D.071, subdivision 5, paragraphs (a), (b), (c), (d), and (g).

12. Violation: Violation: For one person whose records were reviewed (P3), the license holder did not meet the requirements for positive support strategies and person-centered planning as required.

The license holder failed to evaluate with P3 the identified positive support strategies at least every six months.

Rule Violated: Minnesota Rules, part 9544.0030, subpart 1.

13. Violation: For one person whose record was reviewed (P5), the license holder used a prohibited procedure as a behavioral or therapeutic program to reduce or eliminate behavior.

The license holder maintained a document in P5's record titled, "Handle With Care Protocol." Part of the protocol instructed staff to utilize a script when P5 displayed behaviors after 9:30 pm. The script stated the following:

"[P5], it is 10:15pm and others are sleeping, I am setting a timer for 15 minutes and if the behavior does not decrease in that amount of time, we will engage in a hold for your safety and safety of others."

The license holder used this script to speak to P5 in a manner which threatened the use of a prohibited procedure.

Rule Violated: Minnesota Rules, part 9544.0060, subpart 2, item C.

## Health Needs Violations

14. Violation: For three persons whose records were reviewed (P2, P3, and P4), the license holder did not meet health services needs as required.
- a. The license holder was assigned the responsibility of meeting P2, P3, and P4's health service needs. The license holder failed to maintain documentation on one or more of the following areas how each person's health needs will be met, including as applicable, a description of the procedures the license holder will follow in order to:
    - provide medication setup, assistance, or administration according to this chapter. Unlicensed staff responsible for medication setup or medication administration under this section must complete training according to section 245D.09, subdivision 4a, paragraph (d);
    - monitor health conditions according to written instructions from a licensed health professional;
    - assist with or coordinate medical, dental, and other health service appointments; or
    - use medical equipment, devices, or adaptive aides or technology safely and correctly according to written instructions from a licensed health professional.
  - b. The license holder was assigned health service needs for P3. P3 was prescribed Denta 5000 Plus Cream. The license holder failed to facilitate an appointment with P3's dentist, which resulted in the inability to refill the medication. P3 did not receive this medication from September 1, 2023 through October 18, 2023. The medication was then discontinued by the license holder on October 19, 2023 without a doctor's order.

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

15. Violation: For one person whose record was reviewed (P1, P2, P3 and P5), the license holder did not meet the requirements for medication administration as required.

The license holder was assigned medication administration for P1-P3 and P5. The license holder failed to document a notation of when a medication was administered.

- a. P1 was prescribed multiple medications. In the months of February 2024 and March 2024, there were 24 instances where there was no documentation of administration for one or more of P1's medications.
- b. P2 was prescribed multiple medications. There were seven instances where there was no documentation of administration for one or more of P2's medication on P2's MARs for January 2024 and March 2024.
- c. P3 was prescribed multiple medications. For the months of June 2023 through August 2023, there were 11 instances where there was no documentation of administration of one medication on P3's MAR.

- d. P5 was prescribed multiple medications. In the month of March 2024, there were ten instances where there was no documentation of administration of one or more medications on P5's medication administration record (MAR).

Statute Violated: Minnesota Statutes, section 245D.05, subdivision 2, paragraph (c), clause (6).

16. Violation: For three persons whose records were reviewed (P1, P2, and P3), the license holder did not review and report medication and treatment issues as required.

- a. The license holder was assigned responsibility for administration of medication in P1-P3's support plan addendums. The license holder failed to ensure information maintained in the medication administration record was regularly reviewed at a minimum of every 3 months.
- b. The license holder failed to report medication errors as they occurred to P3's legal representative and case manager.

Statute Violated: Minnesota Statutes, section 245D.05, subdivision 4, paragraphs (a) and (b).

17. Violation: For two persons whose records were reviewed (P2 and P4), the license holder did not develop and maintain documentation regarding psychotropic medications as required.

P2 and P4 were prescribed multiple psychotropic medications. The license holder was assigned medication administration in P2 and P4's support plan addendums. The license holder failed to develop and maintain documentation that included a description of the target symptoms that each psychotropic medication was to alleviate.

Repeat Violation: In a correction order that DHS issued on January 23, 2019, you were previously found in violation of this same statute.

Statute Violated: Minnesota Statutes, section 245D.051, subdivision 1, paragraph (b).

## Staff Violations

18. Violation: For three staff persons whose record were reviewed (SP2, SP3, SP4, and SP5), the license holder did not provide orientation training as required.

The license holder failed to provide SP2, SP3, SP4, and SP5 with an orientation to one or more of the following within 60 days of hire:

- the license holder's current policies and procedures required under Minnesota Statutes, chapter 245D;
- data privacy requirements according to MN Statutes, sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 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 section 245D.04;
- orientation training to VA Maltreatment Reporting within 72 hours of first providing direct contact;

- orientation training to Maltreatment of Minors Reporting within 72 hours of first providing direct contact;
- orientation to the license holder's Program Abuse Prevention Plan within 72 hours of first providing direct contact;
- 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;
- basic first aid; and
- strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities.

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

19. Violation: For two staff persons whose records were reviewed (SP4 and SP5), the license holder did not provide medication administration training as required.

The license holder was assigned the responsibility for medication administration for individuals served by the program. The license holder failed to provide medication administration training to SP4 and SP5.

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

20. Violation: For three staff person whose record was reviewed (SP1, SP3, and SP4), the license holder did not provide annual training as required.

The license holder failed to provide SP1, SP3, and SP4 with annual training in one or more of the following areas:

- data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 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 section 245D.04;
- sections 245A.65, 245A.66, 626.556, and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;
- the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply 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 or successor provisions, 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, or successor provisions, why such procedures are not effective for

reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;

- basic first aid; and
- strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities.

Statute Violated: Minnesota Statutes, section 245D.09, subdivision 5.

21. Violation: The license holder did not provide adequate supervision of staff having direct contact as required.

The license holder failed to provide adequate supervision of staff providing support to ensure the health, safety, and protection of rights of each person and implementation of the responsibilities assigned to the license holder in each person's support plan or support plan addendum. See citations 1-25 for evidence to support this citation.

Statute Violated: Minnesota Statutes, section 245D.09, subdivision 2.

## Record Requirement Violations

22. Violation: For one person whose records was reviewed (P3), the license holder did not maintain documentation in the service recipient records as required.

The license holder failed to maintain the following information in P3's service recipient record:

- current orders for medication and treatments;
- a medical appointment schedule; and
- a current support plan or that portion of the plan assigned to the licensor.

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

23. Violation: The license holder did not maintain an admission and discharge register as required.

The license holder failed to keep 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 and deaths.

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

24. Violation: For two staff persons whose records were reviewed (SP2 and SP5), the license holder did not maintain personnel records as required.

a. The license holder failed to document the number of training hours per subject area in SP2's personnel record.

b. The license holder failed to document the date the training was completed for each required subject area in SP5's record. Additionally, the license holder failed to maintain documentation in SP5's personnel record, sufficient to determine the employee's date of hire.

Statute Violated: Minnesota Statutes, section 245D.095, subdivision 5.

### **Policy and Procedures Violations**

25. Violation: The license holder failed to establish policies and procedures that promote health and welfare as required.

The license holder, who provides intensive support services, failed to establish a safe medication assistance and administration policy, according to the requirement in section 245D.05.

Statute Violated: Minnesota Statutes, section 245D.11, subdivision 2.

### **St. Louis County Licensing Violations**

In addition, St. Louis County determined as a result of their licensing investigation from March 2024 through June 2024 that you failed to fully comply with the laws and rules that apply to licensed child foster residence settings and community residential settings.

### **St. Louis County licensing violations for CFRS 114240 and CRS 1115749 (Morgan)**

26. Violation: The license holder failed to document training hours correctly for staff who work in your CFRS facility.

Rule violated: Minnesota Rules, part 2960.3210, subparagraph 3.

27. The license holder failed to ensure employees were not under the influence of chemicals while providing care to the individuals served.

Statute violated: Minnesota Statute, 245A.04, subdivision 1, paragraph (c).

28. Violation: The license holder failed to maintain compliance with the home safety checklist when there were broken windows, numerous holes in the walls throughout the home, mold/mildew in the bathroom, and a furnace was in disrepair.

Statute and Rule violated: Minnesota Statute, section 245D.21, subdivision 2, paragraph (b), item (2); Minnesota Rules, part 2960.3050, subpart 1.

29. Violation: The license holder did not provide basic services when the home conditions were not safe and the children were exposed to chemical use in the home.

Rule violated: Minnesota Rules, part 2960.3050, subpart 1, paragraph a.

30. Violation: The license holder did not follow a smoke-free home as outlined in the foster parent agreement when staff were smoking on the property.

Rule violated: Minnesota Rules, part 2960.3100, subpart 1, paragraph B.

31. Violation: The license holder failed to report possible maltreatment when a staff person brought a controlled substance into the home that was accessible to children in the program and child protection or law enforcement was not notified.

Statute violated: Minnesota Statute, 260E.06, subdivision 1.

32. Violation: A staff person used a prone restraint on a child in care.

Statute violated: Minnesota Statutes, section 245A.211

### **St. Louis County licensing violations for CFRS 1090916 and CRS 1113286 (Kirkus)**

33. Violation: The license holder failed to document training hours correctly for staff who work in your CFRS facility.

Rule violated: Minnesota Rules, part 2960.3210, subparagraph 3.

34. The license holder failed to ensure employees were not under the influence of chemicals while providing care to the individuals served.

Statute violated: Minnesota Statute, 245A.04, subdivision 1, paragraph (c).

35. Violation: The license holder did not provide basic services when the home conditions were not safe and the children were exposed to chemical use in the home.

Rule violated: Minnesota Rules, part 2960.3050, subpart 1, paragraph a.

36. Violation: The license holder failed to report possible maltreatment when a controlled substance was found in the home and child protection or law enforcement was not notified.

Statute violated: Minnesota Statute, 260E.06, subdivision 1.

### **Corrective action required**

You must immediately correct the violations cited above. Compliance with this order will be reviewed onsite on an ongoing basis. **If you fail to demonstrate substantial compliance with Home and Community-Based Services, Community Residential Setting, and Child Foster Residence Setting 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.**

### **CONDITIONAL LICENSE TERMS**

In addition to the Home and Community-Based Services, Community Residential Setting, and Child Foster Residence Setting 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 service recipients currently receiving home and community-based services from your program;
- a copy of the notification must also be provided to legal representatives, as applicable, and case managers of all persons receiving service;
- 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; and
- 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 from receipt of this Order, you must submit a copy of the notice and a list of all persons that received the notice to your DHS licensor.

2. Within 30 days of receiving this order, you must:

- designate a staff person, other than SP6, who is responsible for delivery and evaluation of services provided by the license holder;
- designate a managerial staff person, other than SP7, to provide program management and oversight of the services provided by the license holder; and
- submit the names and qualifications to your DHS licensor for review and approval.

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

3. Within 30 days of receiving this order, you must submit the following to your St. Louis County licensors for review and approval:

- a detailed plan on how you are going to ensure general maintenance and cleaning are addressed timely for all programs;
- review and revise as needed your smoke-free policy that includes no smoking, including cannabis in the home or garage;
- review and revise as needed your drug and alcohol policy;
- a plan on how your program will ensure employees are not under the influence of a chemical while caring for the individuals in the home, including that all staff have been trained on the smoke-free policy and drug and alcohol policy; and
- a plan to ensure your program properly maintains records for all incidents in your programs.

3. Within 45 days of receiving this order, you must:

- submit a written plan to your DHS licensor detailing how you will ensure the corrective action ordered in this order is completed; and
  - submit a written plan to your DHS licensor detailing how you will audit all participant and personnel records for compliance with all applicable rules and statutes.
4. Within 60 days of receiving this order, you must:
    - complete the audit of all participant and personnel records according to your written plan;
    - submit the results of the audit to your DHS licensor; and
    - submit the date that all participant and personnel records will be brought into compliance based on the results of your audit to your DHS licensor.
  5. You may not admit new participants to your program from the date of this order without prior approval from your DHS and St. Louis County licensors.
  6. You may not apply for additional licenses during the duration of the conditional license.
  7. You may not request to add new HCBS services to your HCBS license.

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

1. By secure email at [nicole.m.riley@state.mn.us](mailto:nicole.m.riley@state.mn.us); or
2. If you are unable to submit submissions ordered securely through email, please mail or fax using the information below:

Commissioner, Department of Human Services

ATTN: Nicole Riley

c/o Licensing Division

PO Box 64242

St. Paul, MN 55164-0242

Fax: 651-431-7673

## **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

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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


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

- This action is taken under Minnesota Statutes, section 245A.06, subdivision 1.
- Home and Community-Based Services license holders are required to follow Minnesota Statutes, Chapters 245A, 245C, and 245D and Minnesota Rules, Chapter 9555.
- 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,

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

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cc: Theresa OHalloran-Johnson, St. Louis County Public Health and Human Services Department

Kathy Esson, St. Louis County Public Health and Human Services Department