

August 22, 2024

**CERTIFIED MAIL**

Rachael Gomez  
546 North 2<sup>nd</sup> Street  
La Crescent, MN 55947

License Number 1036571 FCC

## **ORDER OF LICENSE REVOCATION**

Dear Ms. Gomez:

Based on the recommendation of Houston County Department of Human Services (Houston County), the Department of Human Services (DHS) is revoking your license to provide family child care at 546 North 2<sup>nd</sup> Street, La Crescent, MN. Details of our findings are provided below. Our next steps and your options are also detailed.

### **REASON FOR LICENSE REVOCATION**

#### **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 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 program was clean, sanitary, and free of clutter and hazards, because you failed to ensure your outdoor play space was safe and free of litter, rubbish, and toxic materials, because you failed to ensure that your interior walls and ceilings had an approved flame spread rating, because you failed to use extension cords properly, because you failed to ensure that combustible items were the proper distance from the furnace, because you failed to ensure that smoke detectors and carbon monoxide detectors were properly installed, because you failed to ensure that all steps had handrails as required, because you failed to supervise children as required, because you failed to ensure that all equipment was safe and in good repair, because you failed to ensure your deck was splinter free, because you failed to ensure that children did not have access to construction and remodeling areas, because you failed to ensure there were two emergency exits in rooms used for sleeping and because you failed to cooperate with the licensing investigation when you refused to grant the county access to your program. DHS has determined that revocation of your license is appropriate 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**

Houston County determined that you failed to fully comply with the laws and rules that apply to licensed family child care. DHS has considered the nature, chronicity, or severity of the violations that led to the revocation of your license.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (a), subparagraph (1).

### **Nature, history and severity of violations**

#### ***New violations determined***

On June 14, 2024, Houston County conducted a licensing review at your licensed program. The following are new violations that have not been the subject of a previous correction order. If you appeal this order, the following violations *will* be reviewed as a part of the appeal. DHS considered these violations as a factor when it determined that revocation of your license is appropriate.

- You failed to ensure the program was clean and safe for children when the program was cluttered and unsanitary.

Rule Violated: Minnesota Rules, part 9502.0435, subpart 1

- You failed to ensure your outdoor play space was safe when children had access to litter, rubbish, and toxic materials.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 2

- You failed to ensure that hazardous materials and toxic substances were inaccessible to children in care when children had access to plastic bags, cleaning supplies, insulation, exposed wires, and other hazardous items.

Rule Violated: Minnesota Rules, part 9502.0435, subpart 4 and subpart 6

- You failed to ensure the interior walls had a flame spread rating of 200 or less when you had unfinished walls and ceilings.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 15

- You failed to properly use extension cords when you had one continuously plugged in to a space heater in the basement.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 18, items C and D

- You failed to ensure combustible items were the proper distance away from the furnace when you had paint cans near the furnace.

Statute Violated: Minnesota Statute, section 245A.52, subdivision 3

- You failed to ensure that smoke alarms were installed properly.

Statute Violated: Minnesota Statute, section 245A.52, subdivision 5(b)

- You failed to ensure that all stairs equipped with three or more steps had handrails.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 10, item A

- You failed to ensure that a carbon monoxide detector was within ten feet of each room used for sleeping.

Statute Violated: Minnesota Statute, section 245A.52, subdivision 5a

- You failed to provide required supervision to children in care when a child was shutting another child in a cabinet. The licenser had to step in to ensure the child got out and to redirect the behavior.

Rule Violated: Minnesota Rules, part 9502.0315, subpart 29a and Minnesota Rules, part 9502.0365, subpart 5.

- You failed to provide safe equipment when your outdoor play set was not installed properly and was not safe.

Rule Violated: Minnesota Rules, part 9502.0415, subpart 3

- You failed to ensure that your deck was free of splinters.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 11

- You failed to ensure that children did not have access to dangerous remodeling and/or construction areas when the inside and outside of your residence has been under construction for an extended period of time.

Rule Violated: Minnesota Rules, part 9502.0425, subpart 14

- You failed to ensure that there was at least one emergency escape route separate from the main exit in each room used for sleeping. You slept children in an unfinished bathroom. When asked how you would get children out in an emergency you indicated that you would crawl through an opening in the wall. There are windows in this bathroom, but the licenser was unable to verify if they would meet the minimal standards for escape as you refused to cooperate with the investigation after the issuance of the temporary immediate suspension.

Statute Violated: Minnesota Statute, section 245A.52, subdivision 1 (a) 1

### ***Previous licensing actions***

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 licensing actions and correction orders for further details on these violations. If you do not have copies of these orders, contact your Houston County licensor for assistance. DHS also considered this history as a factor when it determined that revocation of your license is appropriate.

- June 14, 2024, Temporary Immediate Suspension, which determined children were at an imminent risk of harm.
- June 16, 2022, Correction Order that cited you for failing to obtain written permission prior to administering medicine, diapering products, sunscreen lotions, or insect repellents.

### ***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 in your care, your license to provide family child care services is revoked.**

## **Closure of license**

On June 25, 2024, you notified Houston County of your request to close your license to provide family child care. Please note that failure to reapply or closure of a license by the license holder before an investigation is complete does not preclude DHS from issuing a licensing action at the conclusion of the investigation.

Legal Authority: Minnesota Statutes, section 245A.07, subd. 1, paragraph (d).

## **YOUR RIGHT TO APPEAL**

You have the right to appeal the revocation. 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 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 55164-0953

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  
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 do not appeal or if the order is affirmed by the Commissioner following a hearing, DHS is prohibited from issuing you a license for five years. In addition, any additional licenses held by you shall also be revoked.

### **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](http://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.

### **Operating the program pending the outcome of the appeal:**

On June 14, 2024, DHS issued an Order of Temporary Immediate Suspension on your family child care license. Because the immediate suspension of your license remains in effect, if you appeal the revocation, you continue to be prohibited from operating pending a final order from the Commissioner of DHS.

### **Questions about CCAP**

If you are a provider registered to receive Child Care Assistance Program (CCAP) payments, this [revocation/suspension/decertification] order could impact your ability to receive CCAP funding. If your CCAP registration is closed or denied as a result of this Licensing action, you will get a separate notice(s).

If you have questions about:

- Your CCAP registration, and you get a notice telling you your registration is being closed or denied, contact the agency that sent the notice.
- Billing or payments for specific children, contact the county or CCAP agency where the children get CCAP.

## **Prohibition against providing legally unlicensed child care**

**On June 14, 2024, DHS issued an Order of Temporary Immediate Suspension to your family child care program, which disqualified you from providing legally unlicensed child care. You remain prohibited from providing legally unlicensed child care even if you appeal this order.**

### **Posting of this Licensing Action**

You are required to place this Order of License Revocation 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.

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

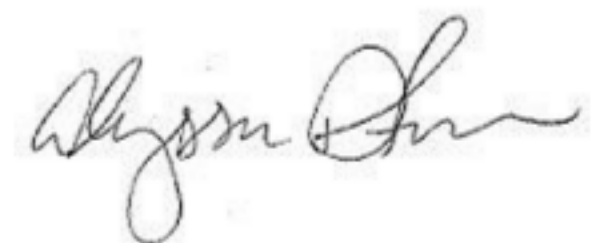
- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- Minnesota Statutes, section 245.095 defines which programs administered by DHS are included in the exclusion provision, and further defines “excluded,” “individual,” and “provider.”
- License holders have a right to appeal licensing actions and request a contested case hearing, under Minnesota Statutes, chapter 14, Minnesota Rules, parts 1400.8505 to 1400.8612, and Minnesota Statutes, section 245A.08.
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (3), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has had a license issued under this chapter revoked within the past five years.
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (5), when a license issued under this chapter is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.
- Minnesota Statutes, section 245A.03, subdivision 2a provides that an applicant for licensure who has received a license revocation that has not been reversed on appeal may not operate as a legally unlicensed child care provider.
- Operating an unlicensed family child care is a misdemeanor 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.07, subdivision 5.

Rachael Gomez  
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## Questions

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

Sincerely,

A handwritten signature in black ink, appearing to read "Alyssa Dotson". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Alyssa Dotson, Deputy Inspector General  
Licensing Division  
Office of Inspector General

cc: Lauren Solum, Houston County Department of Human Services