

Date issued: January 24, 2025

Date reissued: March 4, 2025

CERTIFIED MAIL

Daniel Pollen, Authorized Agent
Excellence H&CBS
5529 Aldrich Drive North
Brooklyn Center, MN 55430

License Number 1114726 (HCBS)

AMENDED ORDER OF LICENSE DENIAL

NOTICE: This Amended Order of License Denial supersedes the Order of License Denial dated January 24, 2025. This document is amended to change the date of the Order of License Denial. On the date of the original Order of License Denial the manager who signed did not have a delegation from the Commissioner. As of the date of this Amended Order of License Denial, March 4, 2025, the manager has the delegation. You have the right to appeal the denial. You have already appealed the original Order of License Denial dated January 24, 2025, so you do not need to submit a new appeal request. Your case will 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. The original Order of License Denial must be destroyed.

Dear Daniel Pollen:

The Department of Human Services (DHS) is denying your application for a Home and Community Based Services license at 5529 Aldrich Drive North, Brooklyn Center, MN. This denial is based on False and Misleading Information. Details of our findings are provided below. Our next steps and your options are also detailed.

REASON FOR LICENSE DENIAL

1. Failure to submit a substantially complete application

You submitted an application for a license to provide home and community-based services on June 23, 2022 at 5529 Aldrich Drive North, Brooklyn Center, Minnesota. On November 15, 2024, DHS sent you a Notice of Incomplete Application, notifying you that your application was incomplete and that you had 45 days to submit additional information. As of December 12, 2024, DHS determined your application continued to be substantially incomplete in the following ways:

- You failed to provide a qualified Designated Coordinator and Designated Manager (“DC and DM”) as required under Minnesota Statutes, section 245D.081. DHS determined the

individuals you identified as your program's DC and DM did not meet the required qualifications.

- You failed to submit a compliant Maltreatment of Minors Reporting Policy and Internal Review Policy (MOMA Policy).

Legal Authority: Minnesota Statutes, section 245A.05, subdivision (a)(1).

2. False and misleading information

DHS determined that you knowingly withheld relevant information or provided false or misleading information related to your license application. As a part of your application, you are required to identify the individual(s) who will serve as the DC and DM of your program by submitting a Designated Coordinator and Designated Manager Verification Form (DC/DM form). The DC/DM form required you to verify that the individuals in these positions have the required qualifications. By signing the form you verified that the people listed for the DC and DM positions met the qualifications for these roles through their employment. DHS determined you provided false and misleading information regarding the qualifications of the DC and DM of your program.

Designated Coordinator

- The DC/DM form, signed by you and SP1, verified that SP1 met the qualifications for the DC position through his/her employment at two different programs. Minnesota Statutes, section 245D.081, requires SP1 to have four years full time work experience providing direct care services to persons with disabilities or age 65 and older.
- First program: You documented that you verified that SP1 was employed at a home and community-based program from February 4, 2019 to October 11, 2022, as a CNA/TMA. DHS contacted this provider to verify employment. The employer stated that SP1 was never employed by them. A review of NETStudy 2.0 showed there was no background study for SP1 with that employer. Yet, the DC/DM form indicated SP1 was employed there for three years, eight months.
- Second program: You documented on the DC/DM form that SP1 was employed by another HCBS program from July 12, 2022, to present (DC/DM form signed on November 21, 2024) as a CNA/TMA. DHS contacted this provider to verify employment. The employer stated that SP1 was employed from July 25, 2024 to present. DHS reviewed this program's NETStudy 2.0 records, which confirmed SP1 began working there on July 25, 2024. The DC/DM form stated SP1 was employed there for two years and four months, yet SP1 was employed there for under four months.
- Between the two programs, the DC/DM form indicated SP1 had four years of full-time employment, meeting the four year requirement of Minnesota Statutes, section 245D.081. However, DHS verified that between the two programs, SP1 was employed for four months. Without the additional years of work, SP1 would not have met the requirements for the DC position.

Designated Manager

- The DC/DM form stated that SP2 would be the DM. SP2 is a controlling individual because the application identified SP2 as the Authorized Agent, as defined by Minnesota Statutes, section 245A.02, subdivision 5a, (a)(2)(3). The Authorized Agent is responsible for communicating with DHS on all matters related to licensing. Minnesota Statutes, section 245D.081, requires DMs to have three years of supervisory experience and four years of direct care experience in a program providing direct care services to persons with disabilities or age 65 and older. By signing the DC/DM form, SP2 verified that s/he met the qualifications for the DM position.
- SP2 signed the DC/DM form, stating s/he worked at a home and community-based program from January 1, 2019 to present (DC/DM form signed November 21, 2024), - five years and ten months. DHS called the employer who stated SP2 was employed there but was unable to provide any documentation indicating when SP2 began working. A review of NETStudy 2.0 showed there was no background study for SP2 with that employer.
- SP2 stated that s/he had over five years of full-time employment providing direct care services and supervisory experience, meeting the requirements of Minnesota Statutes, section 245D.081. However, the evidence shows SP2 was never employed by the program. Without the additional work experience SP2 provided on the DC/DM form, SP2 would not have met the requirements of the DM position.

Based on these findings, DHS determined that you knowingly provided false and misleading information when you represented that SP1 met the requirements for the DC position, and that SP2, met the qualifications of the DM position.

Legal Authority: Minnesota Statutes, section 245A.05, subdivision (a)(3).

3. 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 program's operation, the well-being of persons that served by your program, available evaluations of the program by persons receiving services, information about the qualifications of staff persons that are working in your program, and the applicant's ability to demonstrate competent knowledge of the applicable requirements of statutes and rules. DHS has determined that the denial of your license is appropriate based on the violations identified above and the program evaluation.

Every licensed HCBS program is required to have a qualified DC and DM. These positions provide management and oversight of the program and are responsible for ensuring the program operates in compliance with the licensing rules and statutes. Your failure to identify a qualified individual for each position indicates that you are either unable to comply with the licensing requirements. Further, you failed to submit compliant maltreatment of minor policies and procedures. Successful submission of maltreatment policies ensures your staff understand maltreatment laws and how to report

maltreatment, which is essential for protection of vulnerable people. As a result, DHS is concerned about your ability to provide for the health and safety of vulnerable persons you seek to serve.

DHS relies on applicants to be complete, accurate and truthful in their applications. Because DHS has determined that you knowingly provided false and misleading information, DHS cannot be assured that you will be transparent as a provider to vulnerable people, many of whom may be unable to advocate for themselves. License holders must demonstrate an ability to effectively partner with DHS to ensure they are providing person-centered services in compliance with licensing standards.

Due to the serious and chronic nature of these violations, which impact the health and safety of persons served in your care, your license to provide home and community-based services is denied.

Legal Authority: Minnesota Statutes, section 245A.04, subdivision 6.

YOUR RIGHT TO APPEAL

You have the right to appeal the denial. You have already appealed the original Order of License Denial dated January 24, 2025, so you do not need to submit a new appeal request. Your case will 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.

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.

Legal authority for this licensing action

- This action is taken under Minnesota Statutes, section 245A.05, subdivision (a), which describes under which conditions DHS may deny a license.
- 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.

Daniel Pollen, Authorized Agent

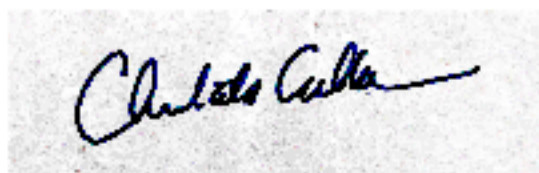
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Questions

If you have any further questions regarding this matter, you may contact Troy Goudy, Supervisor, at 651-431-6639.

Sincerely,

A handwritten signature in black ink on a light-colored background. The signature is cursive and appears to read "Christala Culhane".

Christala Culhane, Unit Manager

Licensing Division

Office of Inspector General