

April 11, 2025

CERTIFIED MAIL

Barbara Kappauf
307 Fremont Street
Hokah, MN 55941-7728

License Number 1122963 FCC

ORDER OF LICENSE REVOCATION

Dear Ms. Kappauf:

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 307 Fremont Street, Hokah, 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 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 are responsible for maltreatment of a child, because you are disqualified, because you failed to submit a background study as required, because you repeatedly failed to provide required supervision, because you failed to use appropriate behavior guidance with a child in care, because you failed to retain records as required, because you repeatedly provided false or misleading information, and because you failed to ensure that toxic substances were inaccessible to children in care. 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 6.¹

The Office of the Revisor of Statutes recently updated its website to reflect 2024 legislative changes to Minnesota statutes. The Revisor's website states that parts of Chapter 245A have been renumbered to Chapter 142B. Despite this language on the Revisor's website, parts of Chapter 245A (2023), as referenced in this document, remain effective until DHS formally transfers power and responsibility for parts of chapter 245A to the Minnesota Department of Children, Youth, and Families. The anticipated transfer date is July 1, 2025. Laws 2024, chapter 80, article 8, section 72; Laws 2023, chapter 70, article 12, section 30.

2. False and misleading information or knowingly withheld relevant information

Houston County determined that you knowingly withheld relevant information or provided false or misleading information to the Commissioner during an investigation when:

- During an investigation, you stated that a bus never came and dropped off a child for your care. Houston County determined that the bus did drop the child off at the scheduled time and you were not available.
- You stated that an individual was not a household member as they were only in the home on the weekends. Houston determined that the individual was living in the home and present during the week at times.
- You told Houston County you only had one in house cat. During the investigation you admitted there were three cats in your home.

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

3. Determination that the license holder is responsible for maltreatment

February 21, 2025, Maltreatment Determination

On February 21, 2025, Houston County determined that you were responsible for maltreatment of a minor by neglect and threatened injury. Specifically, Houston County determined that you failed to provide supervision and you admitted to threatening physical injury to a child in care.

You were informed of your right to request reconsideration of the maltreatment determination. Because you did not make a timely request for reconsideration, the agency's maltreatment determination is final. If you appeal this revocation order, as explained below, the underlying maltreatment determination will not be reviewed as a part of the contested case hearing.

Statute Violated: Minnesota Statutes, section 260E.03.

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

License holders found responsible for maltreatment are required to pay a \$1000 fine for each determination of maltreatment of a minor. Because license revocation is a more severe sanction against your license, DHS is not imposing this fine. If the revocation is rescinded, DHS may impose the fine at that time.

4. Disqualification of the license holder or a household member/individual affiliated with your program.

On March 6, 2025, DHS notified you that you were disqualified, and of the right to request reconsideration. The disqualification was for recurring maltreatment.

You did not make a timely request for reconsideration, so the correctness of the disqualification is final and will not be reviewed as part of the contested case hearing if you appeal this revocation order, as described below. In addition, the issue of whether you pose a risk of harm to children served by the program will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (a), subparagraph (2); Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d) (1).

5. 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 program. 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 January 28, 2025, Houston County conducted a licensing investigation 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 well as the maltreatment determination described above, as a factor when it determined that revocation of your license is appropriate.

1. You provided false or misleading information during an investigation as follows:
 - You stated that you only had one cat indoors. It was determined that you had three cats that were indoors and access to children in care.
 - You stated that a bus never came and dropped off a child for your care. Houston County determined that the bus did drop the child off at the scheduled time and you were not available.
 - You stated that an individual was not a household member. Houston determined that the individual was living in the home.

Statute Violated: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (a), subparagraph (3).

2. You failed to provide required supervision to children in care on two occasions as follows:
 - When a child in care showed his/her private parts to another child in care and you were not aware that this occurred.
 - When a child got off the bus after school at your program and you were not available so that child walked home unattended when the door was locked to your program and he/she could not get in. You never notified anyone that child had not gotten off the bus nor did you look for the missing child.

Rule Violated: Minnesota Rules, part 9502. 0315, subpart 29a and Minnesota Rules, part 9502. 0365, subpart 5.

3. You failed to submit a background study for a household member as required.

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

4. You failed to provide documentation of vaccination records for two cats as required.

Rule Violated: Minnesota Rules, part 9502.0435, subpart 12, C.

5. You failed to provide documentation of records for two children. You stated that you threw the paperwork away because the children no longer attended your care. You were required to maintain records for five years following termination of care.

Statute Violated: Minnesota Statutes, section 245A,041, subdivision 3.

6. You failed to ensure that toxic substances were inaccessible when cigarettes and bottles of alcohol were observed to be accessible to children in care.

Rule Violated: Minnesota Rules, part 9502.0435, subpart 4.

7. You failed to report that a child in your care was missing as required.

Rule Violated: Minnesota Rules, part 9502.0375.

8. You failed to provide appropriate behavior guidance to a child in care when you threatened the child with physical harm.

Rule Violated: Minnesota Rules, part 9502.0395, Subpart 2A.

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 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.

- January 30, 2025, Temporary Immediate Suspension, which determined children were at an imminent risk of harm.

Severity of violations

Because you are responsible for maltreatment of a child, because you are disqualified from any position allowing direct contact with, or access to, persons served by DHS-licensed programs, and due to the serious

and chronic nature of the licensing 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 services is revoked.

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 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 January 30, 2025, 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 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 January 30, 2025, 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.
- When a revocation of a license is based on a maltreatment determination and/or a disqualification for which reconsideration was timely requested and which was not set aside, the scope of the contested case hearing for the revocation shall also include the maltreatment and/or disqualification and set aside under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (a).

- When a revocation of a license is based on a disqualification for which reconsideration was timely requested and which was not set aside, the scope of the contested case hearing for the revocation shall also include the risk of harm review under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (g).
- When a revocation of a license is based on a disqualification that cannot be set aside, the scope of the contested case hearing for the revocation shall not include whether the disqualification may be set aside, under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (g), and Minnesota Statutes, section 245C.24, subdivision 2, paragraph (a).
- Minnesota Statutes, section 245C.29, subdivision 1 states that a maltreatment determination is final if the commissioner has issued a final order following an appeal, the individual did not request reconsideration of the maltreatment determination, or the individual did not request a hearing of the maltreatment determination.
- Minnesota Statutes, section 245C.29, subdivision 2 states that a disqualification is final if the commissioner or court has issued a final decision, the individual did not request reconsideration on the basis the disqualification was incorrect, or the individual did not timely request a hearing after being given the right to do so.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c), clause (4) states that license holders shall pay a \$1000 fine for each determination of maltreatment under section 260E.
- 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.

Barbara Kappauf

April 11, 2025

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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 "Alexandra Keys". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Alexandra Keys, Family Child Care Unit Manager
Licensing Division
Office of Inspector General

cc: Lauren Solum, Houston County Department of Human Services