

June 18, 2025

CERTIFIED MAIL

Amanda Frank
104 4th Street
Lyle, MN 55953

License Number 1076652

ORDER OF LICENSE REVOCATION

Dear Ms. Frank:

Based on the recommendation of Mower County Department of Human Services (Mower County) and additional information received, the Department of Human Services (DHS) is revoking your license to provide family child care at 104 4th Street Lyle, 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 a household member was found responsible for maltreatment, because a household member was disqualified, because you failed to provide required supervision, and because a household member sexually abused 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. Disqualification of a household member/individual affiliated with your program.

On May 5, 2025, DHS notified you that a household member had a disqualification and had the right to request reconsideration.

The disqualified individual did not make a timely request for reconsideration, so the correctness of the disqualification is final. Because the disqualified individual's disqualification cannot be set aside, if you appeal this revocation order, the issue of whether they pose a risk of harm to children served will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 245A.04, subdivision 7, paragraph (h).

3. Failure to comply with licensing laws and rules

Mower 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

Mower 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 a factor when it determined that revocation of your license is appropriate.

1. Mower County determined that you failed to initiate a background study for all household members age 13 and over when a household member over age 13 did not have a background study completed.

Statute Violated: Minnesota Statute 245C.03, subd. 1

2. Mower county determined that you failed to provide required supervision when children in care were sexually abused.

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

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

- January 21, 2025, Temporary Immediate Suspension, which determined children were at an imminent risk of harm.

Severity of violations

Because a household member is 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 21, 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 21, 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 maltreatment determination and/or a disqualification of an individual other than the license holder, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, under Minnesota Statutes, section 245A.08, subdivision 2a, paragraph (f).
- 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 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.

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- 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.

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, Unit Manager
Licensing Division
Office of Inspector General

cc: Brady Engelby