OAH 24-1800-40560

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the Appeal by Ashley Achmann of the Order of License Revocation	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION**
License No. 1067007 (Family Child Care)	

This matter came on before Assistant Chief Administrative Law Judge Kristien R. E. Butler for a contested hearing on April 15, 2025, at the Stearns County Administration Center in St. Cloud, Minnesota. A post-hearing conference was held virtually by way of Microsoft Teams on April 22, 2025, and the record closed the same date.

Elizabeth A. Lee, Assistant Stearns County Attorney, appeared on behalf of the Minnesota Department of Human Services (Department). Ashley Achmann (Appellant) appeared self-represented and without legal counsel.

All exhibits offered by Department were received into evidence without objection. Appellant offered no exhibits for receipt.

STATEMENT OF THE ISSUE

Pursuant to Minn. Stat. § 245A.07, subds. 1 and 3 (2024), did Department properly revoke Appellant's family child care license, as detailed in the Amended Order of License Revocation (the Amended Order)[1] issued on February 18, 2025?

SUMMARY OF RECOMMENDATION

Department properly revoked Appellant's license, therefore, it is recommended that the Commissioner (the Commissioner) of Department **AFFIRM** the Amended Order accordingly.

Based upon all the files and proceedings herein and the submissions of the Parties, the Judge now hereby issues the following:

[1] The Judge notes the Amended Order states under Section 3 on page 2 that three violations stemming from the visit County staff made to Appellant's program on January 29, 2025, were not the subject of a prior Correction Order. In fact, these violations were part of the Correction Order issued to Appellant on January 31, 2025.

FINDINGS OF FACT

I. Appellant's License

1. Appellant operates a licensed family child care program out of Appellant's residence at 340 Meadow Street in Holdingford, Stearns County, Minnesota.[2]

2. Appellant was first licensed by Department to operate said program in August 2013.[3]

3. Appellant was the only individual licensed or approved to provide services under Appellant's license.[4]

4. Although licensed by Department, Stearns County Department of Human Services (County) maintains primary direct oversight of Appellant's program and license.[5]

5. The license permits Appellant to care for a maximum of twelve children between the ages of 6 weeks to 10 years old.[6] Of the twelve, a maximum of ten children under school age is permitted.[7] No more than two of the twelve may be an infant or toddler, however, only one infant is permitted.[8]

6. Appellant contends to stand ready to abide by any directions given by Department/County in an effort to maintain Appellant's license.[9] Appellant has been providing childcare services for over ten years.[10] Appellant requires the continued holding of a valid license to continue providing these services.[11] Providing said services is Appellant's primary livelihood.[12]

II. State Licensing Requirements

7. With respect to state-licensed programs such as Appellant's, the applicable age ranges are classified as follows: (1) "infant" is a child between the ages of six weeks and 1 year old; (2) "toddler" is a child between the ages of 1 year and 2 years old; (3) "preschooler" is a child between the ages of 2 years and five years old; and (4) "school age" is a child who is five years old and older.[13]

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[2] Exhibit (Ex.) 1.
[3] Testimony (Test.) of Ashley Achmann.
[4] Test. of Angie DeGrote.
[5] Test. of Sarah Stark; Test. of A. DeGrote.
[6] Ex. 1.
[7] *Id*.
[8] *Id*.
[9] Test. of A. Achmann.
[10] *Id*.
[11] *Id*.
[12] *Id*.
[13] Test. of A. DeGrote; Minn. Stat. § 142B.01, subd. 13 (2024). Chapter 142B of the Minnesota Statutes was enacted by the Minnesota Legislature in 2025; laws once codified in chapter 245A have been renumbered to chapter 142B as a result.

8. The supervision mandates for children served by a licensee's program vary depending on the age of the child being served.[14]

9. For children between the ages of infant and preschooler, a licensee is required to be within sight or hearing of said children at all times and have the capacity to intervene on behalf of the children to protect their health and safety.[15]

10. At a minimum, all other adults residing at the program site must submit to background studies by Department/County; children 13 years or older residing at the program site must also submit to these background studies.[16] If these individuals participate in providing the program services in any way, they must submit to further requirements, such as training or fingerprinting.[17]

11. County conducts required annual, unannounced licensing site visits of those licensed to operate programs such as Appellant's.[18]

12. At these annual visits, County staff go through the components of the required annual checklist with the licensees.[19]

13. Department/County utilizes the Electronic Licensing Inspection Checklist Information (ELICI) tool to complete the annual licensing visits.[20]

14. If County staff encounter any licensing violations during a visit, they input the violation information into ELICI, and ELICI then generates a Correction Order to be issued to the impacted licensee.[21] The Correction Order identifies the precise statute or rule violation for the licensee's information.[22]

15. According to County staff, a licensee may dispute violations identified by County staff during a visit by completing and submitting a form to Department within five business days of the visit.[23] If identified violations are not disputed within this time frame, the generated Correction Order is then issued to the licensee.[24]

16. After a Correction Order is issued, a licensee may request reconsideration of said Order by submitting a written request to Department within twenty calendar days of receipt of the Order.[25]

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[14] Test. of A. DeGrote.
[15] Test. of A. DeGrote; Minn. Stat. § 142B.01, subd. 27 (2024). *See supra* at 2 n.13.
[16] Test. of A. DeGrote; Minn. Stat. § 245A.04, subd. 3; Minn. Stat. § 245C.03, subd. 1 (2024).
[17] Test. of A. DeGrote.
[18] *Id*.
[19] *Id*.
[20] *Id*.
[21] *Id*.
[22] *Id*.
[23] *Id*.
[24] *Id*.
[25] Test. of A. DeGrote; Minn. Stat. §245A.06, subd. 2.

III. Appellant's Correction Orders

17. Appellant was issued eight Correction Orders by Department/County within the past five years.[26]

18. Only one annual visit did not result in a Correction Order being issued to Appellant within the past five years.[27] This visit was during the COVID-19 pandemic when County staff were prohibited from conducting in-person visits.[28] Consequently, this visit was conducted remotely and was an announced one.[29]

19. Appellant did not dispute any of the identified violations related to any of the eight issued Correction Orders.[30]

20. Nor did Appellant request reconsideration of any of the eight Correction Orders upon their issuance.[31]

21. Appellant was issued a Correction Order on June 10, 2021, after a licensing visit conducted on the same date.[32] Appellant was cited for violation of Minn. R. 9502.0435, subp. 5 (2023), for storing a firearm along with its ammunition.[33] Appellant was given until June 14, 2021, to correct this violation.[34]

22. Appellant was issued a Correction Order on June 9, 2022, after a licensing visit conducted on the same date.[35] Appellant was cited for violation of Minn. R. 9502.0425, subp. 18(A) (2023), for not having the appropriate tamper proof shields for electrical receptacles that were accessible to children in Appellant's program.[36] Appellant was given until June 15, 2022, to correct this violation.[37]

23. Appellant was issued a Correction Order on July 19, 2023, after a licensing visit conducted on July 12, 2023.[38] Appellant was cited for violation of Minn. Stat. § 245A.152, (c) (2024), for failing to notify the parents of the children served by Appellant's program about the lack of liability insurance for Appellant.[39] Appellant was given until July 28, 2023, to correct this violation.[40]

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[26] Test. of A. DeGrote.
[27] *Id*.
[28] *Id*.
[29] *Id*.
[30] *Id*.
[31] *Id*.
[32] Ex. 3; Test. of A. DeGrote.
[33] *Id*.
[34] *Id*.
[35] Ex. 4. Test. of A. DeGrote.
[36] *Id*.
[37] *Id*.
[38] Ex. 5; Test. of A. DeGrote.
[39] *Id*.
[40] *Id*.

24. Appellant was issued a Correction Order on June 12, 2024, after a licensing visit conducted on June 4, 2024.[41] Appellant was again cited for violation of Minn. R. 9502.0435, subp. 5, for storing a firearm along with its ammunition.[42] Appellant was ordered to correct the violation immediately.[43] Appellant was cited for the same violation cited in the June 10, 2021, Correction Order.[44]

25. Appellant was issued a Correction Order on August 6, 2024, following visits by County staff on July 30 and August 5, 2024.[45] County staff conducted the visits upon Department/County receiving notice of a child having gone missing from Appellant's program on April 29, 2024.[46] During this visit, Appellant was cited for violation of Minn. R. 9502.0367(C)(2) (2023), for failing to follow the child age requirements of Appellant's license.[47] Appellant was ordered to correct the violation immediately.[48]

26. Related to the August 6, 2024, Correction Order, Appellant was further cited for violation of Minn. R. 9502.0435, subp. 1, for failure to maintain the program site in a sanitary and healthy condition by way of instead maintaining an unsanitary kitchen area, allowing cords to lie free in the middle of the floor and at the bottom of stairs, and having various articles of clothing strewn about the floor.[49] Appellant was ordered to correct the violation immediately.[50]

27. Related to the August 6, 2024, Correction Order, Appellant was cited for violation of Minn. R. 9502.0435, subp. 3, for permitting trash containers to be accessible to the children served by Appellant's program.[51] Appellant was ordered to correct the violation immediately.[52]

28. Lastly, related to the August 6, 2024, Correction Order, Appellant was cited for violation of Minn. R. 9502.0435, subp. 5, for not storing firearm ammunition in a locked area.[53] Appellant was ordered to correct the violation immediately.[54]

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[41] Ex. 6; Test. of A. DeGrote.
[42] Id.
[43] Id.
[44] Test. of A. DeGrote; *see supra* at 4 par.21.
[45] Ex. 7; Ex. 8; Ex. 9; Test. of A. DeGrote.
[46] *Id*.
[47] *Id*.
[48] *Id*.
[49] *Id*.
[50] *Id*.
[51] *Id*.
[52] *Id*.
[53] *Id*.
[54] *Id*.

29. On August 7, 2024, Appellant submitted a written response to the July 30, 2024, Correction Order.[55] In this response, Appellant stated Appellant was no longer in violation of the license's child age requirements, had brought the program site back to a sanitary and healthy condition, and had locked the firearm ammunition away.[56]

30. Appellant was issued a Correction Order on August 27, 2024, following another visit by County staff on August 5, 2024.[57] Appellant was cited for violation of Minn. R. 9502.0365, subp. 5 (2023), for failure to abide by the supervision requirements for the children being served by the program.[58] Appellant was ordered to correct the violation immediately.[59]

31. Related to the August 27, 2024, Correction Order, Appellant was cited for violation of Minn. R. 9502.0375, subp. 2 (2023), for failure to inform Department about a new individual providing services to the children in the program.[60] Appellant was ordered to correct the violation immediately.[61]

32. Related to the August 27, 2024, Correction Order, Appellant was cited for violation of Minn. Stat. § 245.04, subd. 14(b)(1) (2024), for failure to train new individuals (SP2 [Appellant's neighbor] and SP3 [Appellant's spouse]) providing services to the children in the program.[62] Appellant was ordered to correct the violation immediately.[63]

33. Related to the August 27, 2024, Correction Order, Appellant was cited for violation of Minn. Stat. § 245.51, subd. 3(b) (2024), for failure to train SP2 and SP3 on the required emergency preparedness plan.[64] Appellant was ordered to correct the violation immediately.[65]

34. Related to the August 27, 2024, Correction Order, Appellant was cited for violation of Minn. Stat. § 245A.53, subd. 1 (2024), for failure to document when a substitute individual was providing services to the children in the program.[66] Appellant was ordered to correct the violation immediately.[67]

[55] Ex. 12 at Correction Order Fixes.
[56] *Id*.
[57] Ex. 15; Test. of A. DeGrote.
[58] *Id*.
[59] *Id*.
[60] *Id*.
[61] *Id*.
[62] *Id*.
[63] *Id*.
[64] *Id*.
[65] *Id*.
[66] *Id*.
[67] *Id*.

35. Related to the August 27, 2024, Correction Order, Appellant was cited for violation of Minn. Stat. § 245C.03, subd. 1 (2024), for failure to complete and submit background studies to Department as required.[68] Appellant was ordered to correct the violation immediately.[69]

36. Lastly, related to the August 27, 2024, Correction Order, Appellant was cited for multiple violations connected to the required caregiver qualifications and training.[70] The statutes violated and the basis for said violations are as follows: (1) Minn. Stat. § 245A.50, subd. 3(a) (2024), failure to train SP2 and SP3 on the required pediatric first aid; (2) Minn. Stat. § 245.50, subd. 4(a), failure to train SP2 and SP3 on the required pediatric cardiopulmonary resuscitation; (3) Minn. Stat. § 245.50, subd. 5(a), failure to train SP1 (Appellant's child), SP2, and SP3 on the standards of Minn. Stat. § 245A.1435 (2024), regarding reducing the risk of sudden unexpected infant death; (4) Minn. Stat. § 245.50, subd. 5(a), failure to train SP1, SP2, and SP3 on reducing the risk of abusive head trauma; and (5) Minn. Stat. § subd. 245A.50, subd. 9(c), failure to ensure SP2 and SP3 completed the four-hour Basics of Licensed Family Child Care for Substitutes required course.[71] Appellant was ordered to correct all of these violations immediately.[72]

37. Appellant was issued a Correction Order on January 31, 2025, following a licensing visit conducted on January 29, 2025.[73] When asked by County staff, Appellant responded that the program was in operation on January 29, 2025, with children currently being served.[74] Appellant later stated that the program was not operational on this day, and that the child present was there as a playmate of Appellant's own child.[75] The program was open and operational on January 29, 2025.[76]

38. On January 29, 2025, Appellant had a large snowplow attachment in the program's outdoor play area accessible to the children being served.[77] Department cited Appellant for failing to ensure the program's outdoor space was free from hazardous materials in violation of Minn. R. 9502.0425, subp. 2.[78] Appellant was ordered to correct the violation immediately.[79]

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[68] *Id*.
[69] *Id*.
[70] *Id*.
[71] *Id*.
[72] *Id*.
[73] Ex. 20; Ex. 21; Ex. 22; Test. of A. DeGrote.
[74] Ex. 20; Test. of A. Achmann; Test. of A. DeGrote.
[75] Test. of A. Achmann; Test. of A. DeGrote.
[76] Test. of A. Achmann; Proceeding Digital Recording (April 22, 2025) (on file with the Office of Administrative Hearings).
[77] Ex. 20; Ex. 21; Ex. 22; Test. of A. DeGrote.
[78] *Id*.
[79] *Id*.

39. On January 29, 2025, Appellant had child-proof locks installed on the doors of the program site.[80] Appellant was cited for violation of Minn. Stat. § 245A.52, subd. 1(a)(1) (2024), for failure to keep egress doors accessible to the children in the program.[81] Appellant was ordered to correct the violation immediately.[82]

40. Lastly, on January 29, 205, Appellant allowed garbage to be accessible to the children in the program.[83] Department cited Appellant for violation of Minn. R. 9502.0435, subp. 1, for failing to maintain the program site in a sanitary and healthy condition.[84] Appellant was again cited for the same violation cited in the August 6, 2024, Correction Order.[85] Appellant was ordered to correct the violation immediately.[86]

41. Appellant was issued a Correction Order on February 13, 2025, following a follow-up review by Department/County. Appellant was cited for violation of Minn. Stat. § 245C.04, subd. 1(b) (2024), for failing to have SP1 submit to the required background study update within five years.[87] Appellant was ordered to correct the violation immediately.[88] County staff had emailed Appellant in January of 2025 with a reminder about the need for a background study update.[89] Appellant did not respond or comply.[90]

42. In December of 2024, Appellant penned and sent a letter to Department/County in response to the Order of License Revocation issued on December 12, 2024.[91] In said letter, Appellant indicated to having corrected all of the violative issues that were identified.[92]

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[80] *Id*.
[81] *Id*.
[82] *Id*.
[83] *Id*.
[84] *Id*.
[85] *See supra* at 5 n.50.
[86] Ex. 20; Ex. 21; Ex. 22; Test. of A. DeGrote.
[87] Ex. 24; Test. of A. DeGrote.
[88] *Id*.
[89] Ex. 26; Test. of A. DeGrote; Test. of A. Achmann.
[90] *Id*.
[91] Ex. 18; *see infra* at 10 par.55.
[92] *Id*.

IV. April 29, 2024, Incident

43. On April 29, 2024, a 3-year-old child (Child) was receiving services from Appellant's program.[93] At some point, Appellant went to the use the bathroom and left Child alone.[94] While using the bathroom, Appellant heard the inner door of the residence slam shut.[95] Upon leaving the bathroom, Appellant realized Child was no longer in the same location where Appellant left them.[96] Appellant began to look around the residence and the outside yard for Child.[97] Appellant was unable to locate Child.[98] Appellant made contact with Child's parents to inform them of this development.[99]

44. Sometime thereafter, Child was returned to the residence by an adult neighbor of Appellant.[100]

45. Appellant did not notify Department/County about this incident despite having had a visit from County staff on June 12, 2024.[101]

V. Maltreatment & Licensing Violations Joint Investigation

46. Department/County became aware of the April 29, 2024, incident upon the submission of a complaint against Appellant on July 29, 2024.[102]

47. A joint maltreatment/licensing violation investigation was commenced by County staff.[103]

48. County staff interviewed Appellant, Child, Child's parents, Appellant's neighbor who found and brought Child back to Appellant's residence on the day of the incident, and other related parties.[104]

49. Child thought they were left behind by some other children, and Child wanted to go and find them.[105] This desire led to Child walking away from Appellant's residence unattended.[106] Child indicated that an "older boy" had found Child and brought Child back to the program site.[107]

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[93] Ex. 7; Ex. 8; Test. of Sarah Stark; Test. of A. DeGrote.
[94] Test. of S. Stark; Test. of A. DeGrote; Test. of A. Achmann.
[95] Test. of A. Achmann.
[96] *Id*.
[97] *Id*.
[98] *Id*.
[99] *Id*.
[100] Test. of S. Stark; Test. of A. DeGrote; Test. of A. Achmann.
[101] Test. of A. Achmann; Test. of A. DeGrote.
[102] Ex. 7; Test. of S. Stark; Test. of A. DeGrote.
[103] *Id*.
[104] *Id*.
[105] Ex. 7; Test. of S. Stark.
[106] *Id*.
[107] *Id*.

50. Appellant's neighbor was outside when they observed Child walking the street alone.[108] Child was scared.[109] This observation concerned the neighbor, so the neighbor made contact with Child.[110] The neighbor offered to take Child back to where Child was supposed to be, and Child entered the neighbor's vehicle with the neighbor.[111] The neighbor first took Child to a house in the neighborhood where the neighbor thought Child had come from, but, in fact, had not.[112] The neighbor then took Child to Appellant's residence, where Appellant and Child's parents were present.[113] The neighbor had found Child walking alone approximately two blocks away from Appellant's residence.[114] Child was with the neighbor between five to ten minutes.[115]

51. According to Appellant, the entire incident took somewhere between thirty seconds to two minutes.[116] However, according to County staff's investigation, they determined the incident likely took between ten and twenty minutes to transpire.[117] Based on review of the record, it is more likely true than not that the County staff's time span determination is more accurate.

52. The result of the joint investigation concluded with a finding of neglect and inadequate supervision, resulting in a maltreatment determination on the part of Appellant.[118] Licensing violations were also identified and cited.[119] Appellant was made aware of the maltreatment determination on August 19, 2024.[120]

53. As Appellant did not request reconsideration of it by Department, the maltreatment determination was made final.[121]

54. Based on the investigation findings, County staff submitted a detailed recommendation for the revocation of Appellant's license to Department on October 11, 2024.[122]

55. Department issued an Order of License Revocation against Appellant's license on December 12, 2024.[123]

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[108] *Id*.
[109] *Id*.
[110] *Id*.
[111] *Id*.
[112] *Id*.
[113] Ex. 7; Test. of S. Stark; Test. of A. Achmann.
[114] Ex. 7; Test. of S. Stark.
[115] *Id*.
[116] Ex. 7; Test. of S. Stark; Test. of A. Achmann.
[117] Ex. 7; Test. of S. Stark.
[118] Ex. 13; Test. of S. Stark; Test. of A. DeGrote.
[119] *Id*.
[120] Ex. 14; Test. of S. Stark; Test. of A. DeGrote.
[121] Ex. 26; Test. of S. Stark; Test. of A DeGrote.
[122] Ex. 13; Test. of A. DeGrote.
[123] Ex. 17; Test. of A. DeGrote.

56. Appellant timely appealed the Order of License Revocation by correspondence received by Department on December 23, 2024.[124]

57. Department issued an Amended Order of License Revocation on January 17, 2025.[125]

58. Based on the addition of Correction Orders issued to Appellant, County staff submitted a written update to Department on February 3, 2025, with the inclusion of new, relevant information for its consideration regarding Appellant's license.[126]

59. For the same reason as above, County staff again submitted a written update to Department on February 13, 2025, with the inclusion of yet further new, relevant information for its consideration regarding Appellant's license.[127]

60. Department issued the Amended Order on February 18, 2025.[128]

Based upon these Findings of Fact, the Judge now hereby issues the following:

CONCLUSIONS OF LAW

1. The Judge and the Commissioner have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 245A.07 - .08 (2024).

2. Department has complied with all substantive and procedural requirements of statute and rule.

3. The Commissioner may suspend or revoke a license when a licensee fails to comply fully with applicable laws or rules.[129]

4. When determining whether to suspend or revoke a license, the Commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.[130]

[124] Ex. 18; Test. of A. DeGrote.
[125] Ex. 19; Test. of A. DeGrote.
[126] Ex. 23; Test. of A. DeGrote.
[127] Ex. 25; Test. of A. DeGrote.
[128] Ex. 26; Test. of A. DeGrote.
[129] Minn. Stat. § 245A.07, subd. 3(a) (1).
[130] Minn. Stat. § 245A.07, subd. 1(a).

5. Prior to issuing, denying, suspending, revoking, or making license conditional, the Commissioner shall evaluate information gathered pursuant to Minnesota law. The evaluation must consider the applicable requirements of statutes and rules for the program or services for which the applicant holds a license, including the disqualification standards set forth in Minnesota law, and shall evaluate facts, conditions, or circumstances concerning: (1) the program's operation; (2) the well-being of the persons served by the program; (3) any available evaluations of the program by the persons receiving its services; (4) any information about the qualifications of the personnel employed by the licensee; and (5) the licensee's ability to demonstrate competent knowledge of the applicable requirements of statute and rule by which the licensee is licensed.[131]

6. When attempting to revoke a license, the Commissioner may demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits to substantiate the allegations that the licensee failed to comply fully with applicable law or rule. If the Commissioner demonstrates that reasonable cause existed, the burden of proof shifts to the licensee to demonstrate by a preponderance of the evidence that the licensee was in full compliance with those laws or rules the Commissioner alleges the licensee violated, at the time that the Commissioner alleges the violation of statute or rule occurred.[132]

7. Based on the Correction Orders, the maltreatment determination, and the evaluation of Appellant's program, Department has demonstrated reasonable cause to substantiate the cited allegations that Appellant failed to fully comply with all applicable statutes and rules.

8. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to follow the age limits of the license when more than one infant was in Appellant's care.[133]

9. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to maintain the sanitary and healthy condition of the program site.[134]

10. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure garbage containers were inaccessible to the children in Appellant's care.[135]

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[131] Minn. Stat. § 245A.04, subd. 6.
[132] Minn. Stat. § 245A.08, subd. 3.
[133] Minn. R. 9502.0367 (C) (2).
[134] Minn. R. 9502.0435, subp. 1.
[135] Minn. R. 9502.0435, subp.3.

11. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to store firearm ammunition in a locked space making it inaccessible to the children in Appellant's care.[136]

12. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to provide the required supervision of Child as it relates to the April 29, 2024, incident.[137]

13. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to report the suspected abuse or neglect of Child as it relates to the April 29, 2024, incident.[138]

14. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure other staff of the program were trained on the applicable drug policy and allergy prevention plan.[139]

15. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to provide documentation to verify that other staff of the program were trained on the emergency plan.[140]

16. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to provide the documentation required when a substitute individual provides care to children in the program.[141]

17. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to submit the background studies of others providing care in the program.[142]

18. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure others providing care in the program were trained in first aid prior to providing that care.[143]

19. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure others providing care in the program were trained in cardiopulmonary resuscitation prior to providing that care.[144]

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[136] Minn. R. 9502.0435, subp. 5.
[137] Minn. R. 9502.0365, subp. 5.
[138] Minn. R. 9502.0375, subp. 2.
[139] Minn. Stat. § 245A.04, subd. 14(b) (1).
[140] Minn. Stat. § 245A.051, subd. 3(b); Minn. Stat. § 142B.71; *see supra* at 2 n.13.
[141] Minn. Stat. § 245A.53, subd. 1; Minn. Stat. § 142B.74; *see supra* at 2 n.13.
[142] Minn. Stat. § 245C.03, subd. 1.
[143] Minn. Stat. § 245A.50, subd. 3(a); Minn. Stat. § 142B.70; s*ee supra* at 2 n.13.
[144] Minn. Stat. § 245A.50, subd. 4(a); Minn. Stat. § 142B.70; *see supra* at 2 n.13.

20. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure that others providing care in the program were trained on sudden unexpected infant death reduction requirements prior to providing that care.[145]

21. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure others providing care in the program were trained on abusive head trauma prior to providing that case.[146]

22. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure others providing care in the program had completed the Basics of Family Child Care course.[147]

23. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure the program's outdoor play area was free from hazardous materials when Appellant permitted a large snowplow attachment to be kept in the play area accessible to the children being served.[148]

24. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to ensure a second means of escape was available to the children in the program when Appellant installed child-proof locks on the doors of the program site.[149]

25. Department has demonstrated reasonable cause to substantiate the allegation that Appellant failed to maintain the sanitary and healthy condition of the program site when Appellant allowed garbage to be accessible to the children being served.[150]

26. Appellant has not demonstrated by a preponderance of the evidence that Appellant was in full compliance with the statutes and rules the Commissioner alleges were violated by Appellant.

27. Revocation is the appropriate sanction based on the nature, chronicity, or severity of Appellant's violations of statute and rule, and the effect of those violations on the health, safety, or rights of the persons served by Appellant's program.

Based upon these Findings of Fact, Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Judge now hereby issues the following:

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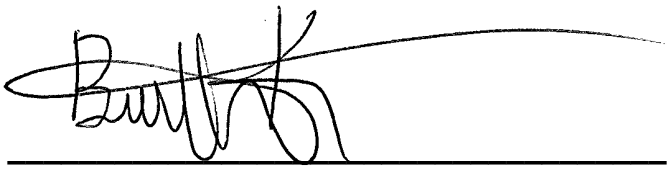
[145] Minn. Stat. § 245A.50, subd. 5(a); Minn. Stat. § 142B.70; *see supra* at 2 n.13.
[146] *Id*.
[147] Minn. Stat. § 245A.50, subd. 9(c); Minn Stat. § 142B.70; *see supra* at 2 n.13.
[148] Minn. R. 9502.0425, subp. 2.
[149] Minn. Stat. § 245A.52, subd. 1(a) (1); Minn. Stat. § 142B.72; *see supra* at 2 n.13.
[150] Minn. R. 9502.0435, subp. 1.

RECOMMENDATION

Department/County correctly determined that Appellant was responsible for maltreatment and all of the cited licensing violations. Accordingly, it is respectfully recommended that the Commissioner **AFFIRM** the Amended Order as issued.

Dated: July 7, 2025



KRISTIEN R. E. BUTLER
Assistant Chief Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services (the Commissioner) will make the final decision after a review of the record. Pursuant to Minn. Stat. § 14.61 (2024), the Commissioner shall not make a final decision until this Report has been made available to the Parties for at least ten calendar days. The Parties may file exceptions to this Report, and the Commissioner must consider the exceptions in making a final decision. Parties should contact Administrative Law Office staff at DHS_AdminLaw@state.mn.us to learn the procedure for filing exceptions or presenting argument.

The record closes upon the filing of exceptions to the Report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the Parties and the Judge of the date the record closes. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision pursuant to Minn. Stat. § 14.62, subd. 2a (2024). In order to comply with this statute, the Commissioner must then return the record to the Judge within ten working days to allow the Judge to determine the discipline to be imposed.

Pursuant to Minn. Stat. § 14.62, subd. 1 (2024), the Commissioner is required to serve a final decision upon each Party and the Judge by first class mail or as otherwise provided by law.

MEMORANDUM

Department is seeking to revoke Appellant's license based on multiple factors, including: (1) Appellant was found responsible for the neglect and inadequate supervision of a 3-year-old child in Appellant's care, and Appellant was found culpable of maltreatment of the child as a result; (2) Appellant has amassed numerous statute and rule violations, demonstrating an inability to remain fully compliant with the applicable

statutes and rules governing Appellant's license; (3) and an evaluation of the nature, chronicity, or severity of the various violations related to Appellant's program reveals a negative effect on the health, safety, or rights of those served by the program.

Within the last five years alone, Appellant has received eight Correction Orders involving multiple violations, with at least two violations being repeated even after prior citation. Appellant did not disagree with or try to appeal any of these citations. Appellant's assertions in the August 7, 2024, Correction Order Fixes note and December 2024 appeal letter notwithstanding, the nature, chronicity, and severity of these eight Correction Orders go to demonstrating Appellant's inability to fully comply with all applicable statutes and rules governing the program. Even after being cited for improper storage of the firearm and ammunition and the lack of healthy and sanitary program site conditions, Appellant still repeated these violations. The Judge understands Appellant is requesting to be shown leniency, and under different circumstances, the Judge could find such a request warranted, but the fact remains that Appellant was given many chances to maintain the license; unfortunately, Appellant did not to take full advantage of those chances.

The April 29, 2024, incident in and of itself is worrisome. As previously stated, Child was only three years old at the time. Child's mental ability was congruent with that of a three-year-old. Applicable examples of this are the fact that Child referred to an adult male as an "older boy," and the fact that Child willingly entered Appellant's neighbor's car without hesitation. It was entirely fortunate that Appellant's neighbor was an individual of good moral character, but Child could just as easily have encountered someone dangerous, and the consequences could have been catastrophic. Under the circumstances, this fact cannot be overlooked.

The Judge understands Appellant is allowed to use the bathroom when necessary, but Appellant was also required to create and execute a plan for Child's care[151]; this was not done. Appellant was the sole provider of the program that day; Appellant was charged with having a care plan in place to account for such as foreseeable as bathroom use.[152]

It is also concerning that Appellant failed to inform Department/County of such a critical occurrence regarding Appellant's program, even when given the opportunity to do so during the June 4, 2024, County staff visit.[153]

Department has demonstrated the nature, chronicity, and severity of Appellant's statute and rule violations have had a deleterious effect on the health, safety, and rights of those served by Appellant's program. Consequently, the Commissioner should **AFFIRM** the Amended Order with correction as mentioned in footnote 1 on page 1.

K. R. E. B.

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[151] *In the Matter of Amanda Restorff*, 932 N.W.2d 12, 21 (Minn. 2019).
[152] *Id*.
[153] The Judge notes that despite having had this opportunity to share the information about the April 29, 2024, incident, in reality, Appellant should have made contact with County immediately following said incident.