

# Family Child Care Licensing: Implementation plan for 2023 legislative changes

December 2023

New laws passed by the 2023 Legislature include several provisions that impact family child care. This document outlines an overview of each change, instructions for what providers need to do about the change, the date the change is effective, and guidance on how licensors will monitor these changes.

The hyperlinks within this document direct providers to where the new laws can be found. When reviewing the new laws:

- Text that is stricken with a line through it reflects words that are being removed from the law.
- Text that is underlined reflects words that are being added to the law.
- Text that is unchanged reflects what the law was before and continues to be the law.

## Infant safe sleep

### Overview

New language has been added to Minnesota Statutes, section 245A.1435 to align with the American Association of Pediatrics' (AAP) recommendations for infant safe sleep and to provide greater clarity for providers. When an infant younger than one year of age is placed down to sleep, the infant's pacifier cannot have anything attached to it and the infant's clothing or sleepwear cannot have weighted materials, a hood, or a bib. An infant younger than one year of age may wear a helmet while sleeping if the provider has required documentation. A plain language definition of swaddling has been incorporated into the statute, as well as clarity on the type of sleepwear that is appropriate for swaddling. Providers have the option to request a variance to permit the use of a cradleboard, if requested by a parent or guardian for a cultural accommodation. The language also removes an outdated reference to a waterproof mattress.

**Effective date: January 1, 2024.**

[Minnesota Laws, Chapter 70, Article 8, Sections 4, 19, 20, 21](#) (Minnesota Statutes, sections [245A.02, subd. 5b](#); [245A.1435](#); and [245A.146, subd. 3](#))

## What providers need to do

Providers must not place infants under one year of age down to sleep wearing clothing or sleepwear that has weighted materials, a hood, or a bib. Providers must not place an infant under one year of age down to sleep with a pacifier that has an attachment. For example, the pacifier cannot be attached to the child's clothing or to a stuffed animal.

A swaddle is a one-piece sleepwear that wraps over the infant's arms, fastens securely only across the infant's upper torso, and does not constrict the infant's hips or legs. The provider must ensure that the swaddle is not so tight that it restricts the infant's ability to breathe or so loose that the fabric could cover the infant's nose and mouth. Like other clothing or sleepwear, a swaddle cannot have weighted materials, a hood, or a bib.

If an infant under one year of age requires a helmet for their development and would wear it while being placed down to sleep, providers must use the DHS form to obtain signed documentation from a physician, advanced practice registered nurse, physician assistant, licensed occupational therapist, or licensed physical therapist. The DHS helmet documentation form will be shared in the coming weeks.

If a parent or guardian requests the use of a cradleboard for a cultural accommodation, providers may request a variance to Minnesota Statutes, section 245A.1435. The DHS cradleboard variance request form will be shared in the coming weeks. If a variance is granted, the provider must check the cradleboard not less than monthly to ensure it is structurally sound and there are no loose or protruding parts and maintain written documentation of this review. An optional form to track the monthly safety checks will be shared in the coming weeks.

The commissioner-developed Sudden Unexpected Infant Death Training found on the Develop website will be updated to reflect the new legislative language.

## What licensors need to do

During licensing visits, licensors will monitor compliance with the following:

- Sleeping infants under one year of age are not wearing clothing or sleepwear that has weighted materials, a hood, or a bib.
- Sleeping infants under one year of age do not have a pacifier with an attachment.
- Sleeping infants who are swaddled are limited to using a swaddle that is wrapped over the infant's arms and fastened securely only across the infant's upper torso. The swaddle must not constrict the infant's hips or legs. The swaddle must not be so tight that it restricts the infant's ability to breathe or so loose that the fabric could cover the infant's nose and mouth. Like other clothing or sleepwear, a swaddle cannot have weighted materials, a hood, or a bib.
- Sleeping infants under one year of age who wear a helmet must have signed documentation on DHS' form ordering the use of the helmet from a physician, advanced practice registered nurse, physician assistant, licensed occupational therapist, or licensed physical therapist. The DHS helmet documentation form will be shared in the coming weeks.
- Infants who use a cradleboard for a cultural accommodation must have a variance in the child's file that was approved by DHS to use the cradleboard. If a variance request is submitted, please reach out to DHS for next steps.

## Continuous licenses

*DHS will provide more information to providers and licensors about continuous licenses in the coming months. The information below is a preview of what will change when continuous licenses take effect in January 2025.*

### Overview

#### License renewals

Beginning January 1, 2025, all family child care licenses will be issued on a calendar year (January – December) cycle and will automatically renew after a licensing fee is invoiced and paid before year end rather than expiring after one or two years. Providers will not need to complete a new license application after their initial licensure, but rather will update license information in the provider hub as it changes.

#### Licensing reviews

Annual licensing reviews will no longer align with the provider's license anniversary date.

#### Training

Training requirements will also be tied to a calendar year cycle. For example, if a licensor visits in 2026, they will review training completed between January 1 and December 31, 2025.

Most trainings can be completed at any time during the calendar year, as long as they are completed before December 31. There are two exceptions to this; effective January 1, 2025, first aid and cardiopulmonary resuscitation (CPR) training must be completed before they expire.

#### Licensing fees

The 2023 Legislature appropriated funding to cover licensing fees for family child care providers for 2024 and 2025. Counties will receive \$50 per family child care license to cover the annual licensing fee that may have otherwise been charged to license holders. Counties will receive \$50 (the statutory maximum) even if they do not typically charge family child care providers for a new license.

#### Annual requirements

Existing timelines for completing annual licensing requirements will not change.

#### Effective date: January 1, 2025.

[Minnesota Laws, Chapter 70, Article 8, Sections 27, 28, 29, 30, 31](#) (Minnesota Statutes, [section 245A.50](#), subds. 3, 4, 5, 6, and 9)

## What providers need to do

### License renewals

Beginning January 1, 2025, all family child care licenses will be issued on a calendar year (January – December) cycle and will automatically renew after a licensing fee is invoiced and paid before year end rather than expiring after one or two years. Providers will not need to complete a new license application after their initial licensure, but rather will update license information as it changes. Providers will update their licensing information in the provider hub. Starting in 2025, providers will receive a new license at the beginning of each calendar year if a licensing fee was paid by the due date.

### Licensing reviews

Annual licensing reviews will no longer align with the provider’s license anniversary date. To meet federal requirements, a licensor may make an unannounced visit to a program at any time during the calendar year. For example, a licensor may visit in June 2025 and in November 2026.

### Training

Complete training per usual in 2024.

Starting in 2025, training requirements will be tied to a calendar year cycle instead of your license anniversary date. For example, training that is completed in 2025 will be reviewed during the 2026 licensing visit.

Most trainings can be completed at any time between January 1 and December 31 of each year. There are two exceptions to this; effective January 1, 2025, first aid and CPR trainings must be completed before they expire. That means that first aid and CPR trainings will need to be completed on or before their expiration date.

### Annual requirements

Licensing requirements that currently need to be completed or renewed on an annual basis will not change. Providers do not need to change their timelines for meeting annual requirements.

## What licensors need to do

### License renewals

In 2024, licensors will accept applications and license renewals, per usual. Starting in 2025, licensors will no longer require providers to reapply for a license. Instead, licensors will review a provider’s information in the provider hub to make sure that it is up to date.

### Licensing reviews

Starting in 2025, licensors will review family child care programs for compliance with training requirements based on the previous calendar year, not the time period between license anniversary dates. This means:

- In 2024, licensors will conduct licensing reviews as usual.

- In 2025, licensors will discuss training and remind providers that all caregivers must complete all of the required annual training prior to December 31, 2025.
- In 2026, licensors will look at compliance for training for January – December 2025.

Beginning in 2025, a licensor can visit a family child care program at any time during the calendar year. This means a licensor could visit a program in the summer one year and in the winter the next year. For planning purposes, a licensor may reach out to a provider to ask about their availability in the coming months.

### Training

DHS will provide more guidance on how training will be monitored in the coming months.

### Licensing fees

Family child care licensing agencies should not collect fees for 2024 or 2025 licenses.

Timeline	Action
If an application for a new license is received on December 31, 2023, or earlier	Collect an application fee
If an application for a new license is received on January 1, 2024, or later	Do not collect an application fee
If you are renewing a license that expires December 31, 2023, or earlier	Collect a licensing fee
If you are renewing a license that expires January 31, 2024, or later	Do not collect a licensing fee

### Annual requirements

Licensing requirements that currently need to be completed or renewed on an annual basis will not change. Licensors will continue to monitor annual requirements as before.

## Fire code updates

### Overview

This language codifies the most current, applicable 2020 fire code standards for family child care in Minnesota Statutes, Chapter 245A, including the following changes:

- Updates references to State Fire Code 2020 instead of 2015;

- Updates special family child care language to align with occupancy requirements;
- Corrects date after which homes were required to have smoke alarms in each room used for sleeping children;
- Clarifies that a window’s net clear opening dimensions need to be the result of normal operation of the opening;
- Consolidates heating and ventilation systems requirements in statute; and
- Allows the fire marshal to issue variances to requirements moved to statute.

**Effective date: July 1, 2023.**

[Minnesota Laws, Chapter 70, Article 8, Sections 18 and 32-35](#) and (Minnesota Statutes, sections [245A.14, subd. 4](#); and [245A.52, subds. 1, 3, and 5](#))

### **What providers need to do**

Providers do not need to make any changes.

### **What licensors need to do**

Licensors need to continue to monitor compliance with Minnesota Rules and Minnesota Statutes.

## **Nonprofit controlling individuals**

### **Overview**

This change only applies to special family child care, not other family child care programs. The definitions for **owner** and **controlling individual** changed to include a nonprofit corporation as one type of owner of a licensed program and therefore also a controlling individual. This change also clarifies the definition of a controlling individual by including the president and treasurer of the board of directors of a nonprofit corporation which were previously part of the owner definition.

[Minnesota Laws, Chapter 70, Article 17, Sections 9 and 10](#) (Minnesota Statutes, [section 245A.02](#), subds. 5a and 10b)

**Effective date: July 1, 2023.**

### **What providers need to do**

When the special family child care license holder is a nonprofit corporation, the nonprofit corporation must identify the president and treasurer of the board of directors as controlling individuals on the application and must complete a background study for each of these individuals. If the president or treasurer of the board of directors changes, providers need to update this information.

## What licensors need to do

Licensors will need to submit a 3324 to update the program's information if a president or treasurer of the board of directors changes when the special family child care license holder is a nonprofit corporation.

## Additional information

### ELICI use required for family child care licensors

All county staff who perform family child care licensing functions must use the Electronic Licensing Inspection Checklist Information (ELICI) tool to document information observed and/or determined during a licensing review or investigation.

**Effective date: July 1, 2023.**

[MN Laws, Chapter 70, Article 8, Section 24](#) (Minnesota Statutes, [section 245A.16, subd. 11](#))

### Department of Children, Youth, and Families

The state of Minnesota is working on a transition to create a new Department of Children, Youth, and Families (DCYF). Several programs serving children and youth that are currently the responsibility of the Minnesota Departments of Human Services, Public Safety, and Education will be included in the transfer to the new Department. A commissioner for this new cabinet-level agency will be appointed by July 1, 2024, with the complete transfer of programs completed by July 1, 2025. There are no immediate changes. A [new Implementation Office](#) within Minnesota Management and Budget will guide the transition, in consultation with the relevant departments. DHS Licensing will share more information, as it becomes available.

### Clarification to the terms “annual/annually”

The phrase “at least annually” was replaced with “at least once each calendar year.” The change aligns statute with the current practice of conducting annual reviews each calendar year for licensed and certified child care. This clarification will not have an impact on providers or licensors. Licensors will continue to conduct licensing and certification reviews each calendar year, as is current practice.

[Minnesota Laws, Chapter 70, Article 8, Sections 3 and 8](#) (Minnesota Statutes, sections [245A.02, subd. 2c](#); and [245A.04, subd. 4](#))

## Authority to issue suspension due to pending investigation

DHS has the authority to extend the temporary immediate suspension of a license beyond 90 days if an investigation or related judicial proceedings are incomplete and there continues to be an ongoing imminent risk of harm to the health, safety, or rights of persons served by the program.

**Effective date: July 1, 2023.**

[Minnesota Laws, Chapter 70, Article 17, Sections 14 and 15](#) (Minnesota Statutes, [section 245A.07, subds. 2a and 3](#))

## Prone restraint prohibition

This language applies to all DHS-licensed and -certified programs.

A prone restraint is a physical hold or mechanical restraint that places a person in a face-down position. New requirements for all licensed and certified programs prohibit the use of prone restraints except in very specific brief instances. These exceptions include:

- a person rolling into a prone position during a restraint if the person is restored to a non-prone position as quickly as possible; and
- holding a person briefly in a prone restraint to apply mechanical restraints if the person is restored to a non-prone position as quickly as possible.

[Minnesota Laws, Chapter 70, Article 17, Section 19](#) ([Minnesota Statutes, section 245A.211](#))

**Effective date: July 1, 2023.**

## Background studies

The session law removed outdated language related to family child care background studies. The language referred to counties conducting background studies prior to the implementation of NETStudy 2.0. Removing the outdated language does not impact providers or licensors.

**Effective date: Day following final enactment.**

[Minnesota Laws, Chapter 70, Article 8, Section 21](#) ([Minnesota Statutes, section 245A.16, subd. 1](#))

Other updates on legislative changes related to background studies are posted on the ["What's new" for background studies webpage](#).