

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF HUMAN SERVICES

**In the Matter of the Immediate
Suspension of the Family Child Care
License of Margaret Rahn**

PROTECTIVE ORDER

This matter is before Administrative Law Judge Steve M. Mihalchick upon the request of the Department of Human Services, Licensing Division, and the Hennepin County Family and Children Services Department (the Department) that the Administrative Law Judge review certain documents prior to disclosure to the Licensee and issue a protective order. No objection has been received from the Licensee.

The Administrative Law Judge has reviewed all of the documents provided by the Department and finds that several of the documents refer in some part to data from an ongoing criminal investigation that also forms the basis for the allegations that were used to support the immediate suspension under appeal here. Thus, those documents are discoverable because they are necessary for Licensee to prepare her defense. Moreover, the Administrative Law Judge finds that the need for providing the documents to Licensee under the conditions set forth in this protective order outweighs any potential harm to the privacy interests of the subject of the data, any provider of the data, and the Department. In all other respects, the Administrative Law Judge finds the objections by the Department to the release of other documents and data are appropriate and that the redactions made by the Department were proper.

Now, therefore, pursuant to Minn. Stat. §§ 13.03, subd. 6, and 14.60, subd. 2, the Administrative Law Judge makes the following:

ORDER

It is hereby ordered that:

1. Licensee shall be provided with all 212 pages of the documents provided to the Administrative Law Judge for *in camera* inspection, except pages 2, 6-8, and 11. The Office of Administrative Hearings shall contact counsel for Licensee to make arrangements for pick-up of the documents. The pages not provided shall be returned to the counsel for the Department and shall remain confidential.

2. Disclosure of not public data permitted by this protective order is limited to parties, counsel of record, employees assisting counsel, and representatives and witnesses of the parties to the extent necessary to prepare and present claims and defenses or as required by further order of the Administrative Law Judge.

3. Licensee and her counsel and any of her representatives or witnesses may not disclose any data encompassed by this order to persons other than those mentioned in the paragraph above, and must return all data released pursuant to this protective order to counsel for the Department at the conclusion of this matter.

4. Notwithstanding Minn. Stat. § 13.46, subds. 3 or 4(e), data identifying victims or witnesses who are children or vulnerable adults shall not become public data by virtue of having been submitted to this proceeding and shall remain not public after the conclusion of this hearing. In preparation for and during the hearing, the parties may refer to names of individual involved and will have access to documents containing private information. Unless the Administrative Law Judge determines that it is in the best interest of the alleged victims or witnesses who are children or vulnerable adults, the record will not be sealed. The Administrative Law Judge's Report and the Commissioner's Order shall use non-identifying initials or aliases in place of the names of any alleged victims and witnesses who are children or vulnerable adults.

5. The hearing in this matter is presumed open. If there is testimony by an alleged victim or witness who is a child or a vulnerable adult, that portion of the hearing shall be closed. If a transcript is ordered, the names of the alleged victims and witnesses who are children or vulnerable adults shall be redacted and replaced by non-identifying initials or aliases.

6. The data encompassed by this protective order may be used only in this proceeding and not for any other purpose including collateral litigation, unless otherwise ordered by a court of law.

7. Except as provided in the first paragraph, this protective order does not authorize the disclosure of active criminal investigation data as defined in Minn. Stat. § 13.82, subd. 5.

8. This protective order does not authorize the disclosure of the identity of reporters of maltreatment under Minn. Stat. §§ 626.556, subd. 11, or 626.557, subd. 12b(c).

9. This protective order does not authorize the disclosure of any videotapes of any child victim or alleged child victim unless the requirements of Minn. Stat. § 611A.90, subd. 2, paragraph (b) have been met. See, Minn. Stat. § 13.03, subd. 6.

Dated July 7, 2000.

STEVE M. MIHALCHICK
Administrative Law Judge