

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

In Re the Indefinite Suspension of  
the Family Child Care License of  
Pamela Larson-Johnson

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on Wednesday, July 9, 2003, at the Isanti County Human Services Building in Cambridge, Minnesota. The record closed on August 11, 2003, with the receipt of the County's memorandum of law.

Thomas D. Wedes, Assistant Isanti County Attorney, Isanti County Attorney's Office, 555 18<sup>th</sup> Avenue Southwest, Cambridge, Minnesota 55008, appeared on behalf of Isanti County Family Services (ICFS) and the Minnesota Department of Human Services (Department). David Spear, Attorney at Law, Spear & Swanson Law Office, 615 3<sup>rd</sup> Avenue Southwest, Pine City, Minnesota 55063, appeared on behalf of the Licensee, Pamela Larson-Johnson.

**NOTICE**

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services will make the final decision after a review of the record and may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Commissioner. Parties should contact the Commissioner of the Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155; telephone 651/296-4473.

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 under Minn. Stat. § 14.62, subd. 2a. 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 Administrative Law Judge of the date on which the record closes.

**STATEMENT OF ISSUES**

The primary issue presented in this case is whether the Department demonstrated that reasonable cause existed for recommending an indefinite suspension of the Licensee's family child care license based upon allegations that the Licensee's husband, who lives in the day care residence and is chemically dependent, has not had 12 months of verified abstinence from alcohol as required for caregivers

and that his use of alcohol was apparent during child care hours in violation of Minnesota Rule 9502.0335, subp. 6A. If the Department demonstrated that reasonable cause did exist to recommend an indefinite suspension, the further issue is whether the Licensee demonstrated by a preponderance of the evidence that she was in full compliance with all of the rules and statutes governing her child care license.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. The Licensee, Pamela Johnson, is licensed as a family child care provider. The Licensee holds a Class C2 license and was first licensed approximately 22 years ago. A Class C2 license with one adult caregiver allows for a maximum capacity of 12 children with no more than two infants and toddlers.<sup>[1]</sup>

2. Ms. Johnson operates her day care out of her home from approximately 7:00 a.m. to 5:30 p.m. Ms. Johnson's home has four levels, including the basement. The Johnson's master bedroom is on the third floor level. The master bedroom is equipped with a small refrigerator and a bathroom. Ms. Johnson uses the main floor, the second floor and the third floor's baby/napping room for child care purposes. The master bedroom is not used for day care purposes.<sup>[2]</sup>

3. Heidi Grissman is a Licensed Social Worker with Isanti County Family Services (ICFS). Ms. Grissman and her co-worker, Janet Erickson, are responsible for licensing and monitoring day care providers in Isanti County. Ms. Johnson is one of the licensed day care providers that Ms. Grissman monitors.<sup>[3]</sup>

4. Sometime in the year 2000, Brad Johnson began living with the Licensee in her home. Mr. Johnson is an alcoholic. He also has been diagnosed with Hepatitis C. Mr. Johnson entered and completed treatment for chemical dependency sometime in late 1999.<sup>[4]</sup>

5. On July 25, 2000, Brad Johnson signed and submitted an Initial Licensing Evaluation form to ICFS. Mr. Johnson was required to fill out the form because he had begun living with the Licensee at the day care residence. Mr. Johnson did not apply for licensure himself and he is not named on Ms. Johnson's license. At the time that he filled out the evaluation form, Mr. Johnson was working full-time for Federated Co-op.<sup>[5]</sup>

6. Section three of Initial Licensing Evaluation form governs potential disqualifying factors and is required to be filled out by any person providing care to children or who is present during day care hours. Mr. Johnson filled out this section and answered "No" to the question: "Has any person had treatment for chemical dependency? (drugs/alcohol)."<sup>[6]</sup>

7. On March 21, 2002, Isanti County Child Protection received a report that Mr. Johnson was drunk or drinking every night.<sup>[7]</sup>

8. In September 2002, Mr. Johnson was admitted to a hospital for two days for detoxification due to his drinking. Mr. Johnson left the hospital against medical advice when he was advised to enter inpatient chemical dependency treatment.<sup>[8]</sup>

9. The Licensee married Brad Johnson in September 2002. Mr. Johnson is currently unemployed.<sup>[9]</sup>

10. The Licensee's primary backup caregiver for the day care is Rachel Fritche. She has also used Sonia and Cynthia Fiedler as backup caregivers. The Licensee has not used her husband Brad as a backup caregiver and Mr. Johnson has not received training to be a caregiver.<sup>[10]</sup>

11. Brad Johnson has limited interaction with the Licensee's day care children. He occasionally grills hamburgers and hot dogs for the children's lunches and picks up toys in the back yard. He also greets the children when he comes and goes from the house. Mr. Johnson does not provide care to the Licensee's day care children.<sup>[11]</sup>

12. On January 11, 2003, a doctor with the Cambridge Allina Medical Center called Isanti County Dispatch requesting that a deputy go out to the Johnson residence to check on Brad Johnson's welfare. The doctor expressed concern that Brad Johnson had missed a medical appointment and might be abusing alcohol.<sup>[12]</sup>

13. On January 12, 2003, Isanti County Sheriff's Investigator Kory Erickson received a report from a confidential informant alleging alcohol abuse and possible marijuana use at the Johnson residence. The informant was concerned about the welfare of the children in the Licensee's day care, as well as the physical well being of Brad Johnson. Officer Erickson advised the informant to notify Ms. Grissman of the alleged chemical abuse occurring at the Licensee's day care home.<sup>[13]</sup>

14. On January 16, 2003, Ms. Grissman, Investigator Erickson, Isanti County Sheriff's Deputy Dave Matchinsky and Judy Wilkening, a Licensed Social Worker and Isanti County chemical dependency counselor, visited the Johnson's home to check on Brad Johnson's welfare and to determine whether to commit him to a hospital on a 72 hour hold. The Licensee answered the door and allowed everyone into her home. She had five children in her day care that day. Investigator Erickson explained to the Licensee that he and the others were there to conduct a welfare check on Brad Johnson. Investigator Erickson asked Ms. Johnson if they could speak to Brad. The Licensee stated that her husband was not feeling well and that he was upstairs in their bedroom. The Licensee stated that she would go get him. When the Licensee came back downstairs she said that Brad had been sleeping and that he would come down in a few minutes. Mr. Johnson came downstairs about 15 minutes later. Investigator Erickson talked with Mr. Johnson on the stairs. Mr. Johnson's breath smelled of alcohol and he had a black eye. Mr. Johnson admitted that he had had a drink at noon, but denied that he was drunk. Mr. Johnson was coherent and his speech was not slurred. He was, however, very weak and shaky.<sup>[14]</sup>

15. After talking on the stairs, Investigator Erickson accompanied Mr. Johnson back upstairs to the master bedroom where Mr. Johnson called his medical clinic and made an appointment to see his doctor on January 21, 2003. Investigator Erickson was convinced that Mr. Johnson was not in imminent danger of injuring himself and, given the Licensee's presence in the home, he and the other Isanti County workers decided against issuing a 72-hour hold.<sup>[15]</sup>

16. Investigator Erickson saw no evidence of marijuana or other illegal drugs in the Johnson home.<sup>[16]</sup>

17. On January 16, 2003, ICFS issued a Correction Order to the Licensee requiring that she and Mr. Johnson submit to chemical dependency evaluations based on reports of chemical abuse. The order was issued pursuant to Minnesota Rule 9502.0335, subd. 2D.<sup>[17]</sup>

18. On January 22, 2003, Mr. Johnson went to the ICFS office to sign a release of information form for his chemical dependency evaluation. He smelled strongly of alcohol and appeared to be intoxicated. Investigator Erickson met with Mr. Johnson in the hallway and discussed the possibility of committing him for chemical dependency treatment. Mr. Johnson indicated that he did not want to go into treatment and that he would not cooperate.<sup>[18]</sup>

19. On January 28, 2003, Five County Mental Health sent the chemical dependency evaluations to ICFS. The Licensee's evaluation stated that she was not chemically dependent. Mr. Johnson's evaluation stated that he had an alcohol dependency. It was recommended that Mr. Johnson completely abstain from using alcohol and enter a chemical dependency treatment program if he drank again.<sup>[19]</sup>

20. In a letter dated January 31, 2003, Ms. Grissman informed the Licensee that Mr. Johnson's diagnosis of chemical dependency and lack of one year of proven sobriety meant that she had a disqualification under the rules governing her license. Accordingly, Ms. Grissman notified Ms. Johnson that ICFS would recommend to the Department of Human Services that it suspend Ms. Johnson's day care license.<sup>[20]</sup>

21. The Department never sent Mr. Johnson a notice of disqualification following his background study or chemical dependency evaluation.

22. In a letter to the Department's Licensing Division dated February 5, 2003, Ms. Grissman recommended that the Licensee's child day care license be indefinitely suspended. The recommendation was based on a determination that Mr. Johnson's alcohol abuse was a disqualifying factor under Minnesota Rule 9502.0335, subp. 6. Under this rule, the license of a provider shall be revoked or suspended if the Licensee or "any other person living in the day care residence" uses alcohol "to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care." After summarizing Mr. Johnson's welfare check and chemical dependency evaluation, Ms. Grissman closed the letter by stating that ICFS was unable to ensure that the children in the Licensee's day care were receiving the minimum levels of care, service and protection.<sup>[21]</sup>

23. On February 27, 2003, Mr. Johnson entered Isanti County's Relapse Prevention/Aftercare Program. The program is designed to help people stay chemically free and recognize a relapse before it happens.<sup>[22]</sup>

24. On March 14, 2003, the Department issued an Order of Indefinite Suspension to the Licensee. The Department cited Minnesota Rule 9502.0335, subpart 6 as the reason for the indefinite suspension order.<sup>[23]</sup>

25. The Licensee appealed the indefinite suspension of her day care license and requested a hearing.

26. On May 12, 2003, the Department served the Licensee with a Notice of and Order for Hearing. According to the notice, the issues to be considered at the hearing were limited to the violation of Minnesota Rule 9502.0335, subp. 6A.<sup>[24]</sup>

27. On June 12, 2003, Mr. Johnson successfully completed Isanti County's Relapse Prevention/Aftercare Program.<sup>[25]</sup>

28. There is no evidence that Mr. Johnson has consumed alcohol since January 2003.<sup>[26]</sup>

29. The hearing in this matter took place on July 9, 2003, at Isanti County Family Services.

30. Any Conclusions that are more accurately described as Findings are hereby adopted as such.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Commissioner of Human Services have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 245A.08.

2. Proper notice of the hearing was timely given and all relevant substantive and procedural requirements of statutes and rules have been fulfilled.

3. Minnesota Rule 9502.0315, Subp. 6, defines "caregiver" as "the provider, substitute, helper, or another adult giving care in the residence."

4. Minnesota Rule 9502.0335, subp. 6, provides as follows:

**Disqualification factors.** An applicant or provider shall not be issued a license or the license shall be revoked, not renewed or suspended if the applicant, provider or any other person living in the day care residence or present during the hours children are in care, or working with children:

A. Abuses prescription drugs or uses controlled substances . . . or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care. Caregivers who have abused prescription drugs or have been dependent on controlled substances . . ., or alcohol, such that the use, abuse, or dependency has had a negative effect on the ability to give care, was apparent during the hours children are in care, or required treatment or therapy, must have 12 months of verified abstinence before licensure.

5. Minnesota Rule 9502.0335, subp. 2, governs Licensing Studies and Item D provides as follows:

D. The Commissioner or agency may require, prior to licensure, or anytime during the licensed term of day care, a physical, mental illness, or chemical dependency or abuse evaluation of any caregiver or person living in the residence or present during the hours children are in care if

the agency has reasonable cause to believe that any of the disqualification factors in subpart 6, item A or B, exist, or that the provider is not physically able to care for the children. These evaluations . . . may be used to verify physical or mental illness, chemical dependency or chemical abuse, or behavior that would reflect on the ability of the provider to give day care.

6. Minnesota Rule 9502.0385, subp. 5 governs training for adult caregivers and helpers. The rule provides as follows:

Each adult caregiver, other than the provider, who is employed in the residence on a regular basis, must participate in a minimum of six hours of training in a subject area specified in subpart 4 within one year after the date of initial employment, and a minimum of six hours of training every year after that, as long as the adult is employed. . . .

7. Minn. Stat. § 245A.07, subd. 3, authorizes the Commissioner to “suspend or revoke a license, or impose a fine if a license holder fails to comply fully with applicable laws or rules.” The statute further provides that, “[w]hen applying sanctions authorized under this section, 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.”<sup>[27]</sup>

8. Pursuant to Minn. Stat. § 245A.08, subd. 3, the Commissioner has the burden of proof to demonstrate that reasonable cause existed for the indefinite suspension of Ms. Johnson’s family child care 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. When such a showing is made, the burden of proof shifts to the Licensee to demonstrate by a preponderance of the evidence that she is in full compliance with the laws and rules that the Commissioner alleges were violated at the time the alleged violations occurred.

9. The Department has failed to establish that Brad Johnson was a “caregiver” as defined by Minnesota Rule 9502.0315, subp. 6.

10. Because Mr. Johnson was not a caregiver at the Licensee’s day care, he was not required to have 12 months of verified abstinence under Minnesota Rule 9502.0335, subp. 6A.

11. The Department failed to establish that Mr. Johnson’s alcohol dependence had a negative effect on the Licensee’s ability to give care.

12. The Department failed to establish that Mr. Johnson’s alcohol use or abuse was apparent during the hours the children were in care.

13. The Department failed to establish reasonable cause to believe that the Licensee violated Minnesota Rule 9502.0335, subp. 6A.

14. The Department did not demonstrate reasonable cause to indefinitely suspend the Licensee’s child care license.

15. Any Findings that are more accurately described as Conclusions are hereby adopted as such.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED:

That the indefinite suspension of Pamela Larson-Johnson's family child care license be DISMISSED.

Dated: September 8, 2003

/s/ Barbara L. Neilson  
\_\_\_\_\_  
BARBARA L. NEILSON  
Administrative Law Judge

Reported: Tape recording transcribed by Jean Brennan, Brennan & Associates  
(1 volume).

### **NOTICE**

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law. If the Commissioner fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.61, this report becomes a final decision. In order to comply with Minn. Stat. § 14.62, subd. 2a, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed.

### **MEMORANDUM**

The Department issued an order indefinitely suspending Pamela Larson-Johnson's family child care license based on her husband's alcohol dependency and abuse, which the Department contends is a disqualifying factor under Minnesota Rule 9502.0335, subp. 6A. Pursuant to this rule, a provider's license must be revoked or suspended if the provider or "any other person living in the day care residence":

A. Abuses prescription drugs or uses controlled substances . . . or alcohol, to the extent that the use or abuse has or may have a negative effect on the ability of the provider to give care or is apparent during the hours children are in care. Caregivers who have abused prescription drugs or have been dependent on controlled substances . . . , or alcohol, such that the use, abuse, or dependency has had a negative effect on the ability to give care, was apparent during the hours children are in care, or required treatment or therapy, must have 12 months of verified abstinence before licensure.

As an initial matter, it is necessary to address the scope of the issues to be determined in this case. The Administrative Procedure Act requires that the agency's Notice of Hearing state the issues involved in the contested case proceeding.<sup>[28]</sup> Should the agency seek to amend its notice after the start of the hearing, the rules of the Office

of Administrative Hearings governing contested case proceedings require approval by the Administrative Law Judge.<sup>[29]</sup> No such amendments were sought in this case. Therefore, the issues to be determined in this matter are limited to those specified in the Department's Notice of and Order for Hearing. That Notice identified the issues to be considered as those set forth in the Department's Order of Indefinite Suspension, which was attached as Exhibit A. That Order was based solely on the allegation that Mr. Johnson's chemical dependency and lack of verified sobriety were disqualifying factors under Minnesota Rule 9502.0335, subp. 6A. Although the record mentioned other possible statutory or rule violations, they were not identified in the Notice of Hearing and thus cannot properly be considered as a basis for the indefinite suspension.

The Department contends that Mr. Johnson is a caregiver at the Licensee's day care and that his failure to have 12 months of verified abstinence from alcohol use constitutes a violation of this rule. The Department further maintains that Mr. Johnson's use of alcohol was apparent during the hours the children were in the Licensee's, which is also a violation of this rule. The Licensee argues that Mr. Johnson was not a caregiver and that his use of alcohol was never apparent during child care hours.

The only evidence the Department presented to support its claim that Mr. Johnson was a caregiver at the daycare was a licensing evaluation form that Mr. Johnson filled out once he moved into the Licensee's home. Although Ms. Grissman testified that Mr. Johnson filled out this form as an application to become a caregiver, she later conceded that all household members of home day care providers are required to fill out the form.<sup>[30]</sup> Moreover, on the front page of the form, Mr. Johnson marked the box labeled "other" and not the box labeled "application" to describe the purpose of the form. And, in filling out the form, Mr. Johnson answered only identifying and background information but specifically left blank all questions regarding day care methods and experience. Apart from this form, the Department presented no other evidence demonstrating that Mr. Johnson provided care to children in Ms. Johnson's day care. The Licensee, on the other hand, testified that Mr. Johnson's interaction with the day care children is limited to occasionally grilling food for their lunch, picking up toys in the yard, and greeting them when he came and left the home. In addition, the Licensee pointed out that when Mr. Johnson filled out the licensing evaluation form, he was working more than full-time at Federated Co-op. Given his work schedule, it is unlikely that Mr. Johnson would have been available to act as a caregiver. Based on the record presented, the ALJ finds that the Department failed to establish that Mr. Johnson is or was a caregiver at the Licensee's day care. Because the ALJ finds that Mr. Johnson was not a caregiver at Ms. Johnson's day care, the fact that he does not have 12 months verified abstinence from alcohol is not a violation of Minnesota Rule 9502.0335, subp. 6A.

The remaining issues to be determined are whether Mr. Johnson's alcohol abuse had a negative effect on the Licensee's ability to give care or was apparent during the hours the children were in her care. The Department presented no evidence that Mr. Johnson's alcohol abuse negatively affected the Licensee's ability to provide care. In its post-hearing brief, the Department concedes this point<sup>[31]</sup> but it maintains that it has shown that Mr. Johnson's alcohol use was apparent during the hours the children were in care. According to the Department, Investigator Erickson's testimony established that

Mr. Johnson was inebriated on January 16, 2003 during the hours when day care children were in the Licensee's home.

When Investigator Erickson and ICFS staff stopped by the Johnson home on January 16, 2003, Brad Johnson was sleeping in the third floor master bedroom. Mr. Johnson has Hepatitis C, which is a serious liver disease. According to Ms. Johnson's testimony, Mr. Johnson routinely stays in the master bedroom when he is not feeling well. The bedroom is equipped with a refrigerator and bathroom, making it unnecessary for Mr. Johnson to go downstairs to the first or second floor where the day care activities take place. At Investigator Erickson's request, Pamela Johnson went upstairs to the master bedroom and asked Brad to come downstairs. According to Investigator Erickson's testimony and report, Brad Johnson appeared very weak and very shaky on January 16, 2003. Mr. Johnson told Investigator Erickson that he missed his doctor appointment that morning because he felt too weak and did not want to get out of bed. Investigator Erickson could smell alcohol on Mr. Johnson's breath and Mr. Johnson admitted to having had a drink. Investigator Erickson noted, however, that Mr. Johnson was coherent, his speech was not slurred, he was able to walk on his own, and he appeared to understand everything that was going on.<sup>[32]</sup>

It is a violation of Minnesota Rule 9502.0315, subp. 6A, if Mr. Johnson used or abused alcohol "to the extent that the use or abuse . . . is apparent during the hours children are in care." The American Heritage dictionary defines "apparent" to mean "readily seen; visible" or "readily understood; clear or obvious."<sup>[33]</sup> Based on the record presented, the Administrative Law Judge finds that the Department failed to establish that Mr. Johnson's use of alcohol was apparent (clearly obvious or visible) during the hours children were in the Licensee's care. First, Mr. Johnson was removed from the children, resting in the master bedroom on the third floor of the day care residence. Moreover, when he was summoned downstairs by Investigator Erickson and the ICFS staff, he was coherent, his speech was not slurred and he was able to walk on his own. Contrary to the Department's claim, Investigator Erickson's testimony did not establish that Mr. Johnson was inebriated on January 16, 2003. And the fact that Mr. Johnson appeared shaky and weak could just as likely be explained by his serious liver disease as by his alcohol consumption. While it is apparent that Mr. Johnson has a serious alcohol dependency, which the Licensee seems to minimize, the rules do not make alcoholism alone a ground for indefinite suspension. Given Mr. Johnson's reasonable appearance and behavior during the welfare check, the ALJ cannot find that his alcohol use or abuse was "apparent" on January 16, 2003, in violation of Minnesota Rule 9502.0315, subp. 6A.

The Department has failed to advance sufficient evidence establishing reasonable cause to believe that Ms. Johnson violated Minnesota Rule 9502.0335, subp. 6A. Accordingly, the Department's indefinite suspension of Ms. Johnson's license should be dismissed.

B.L.N.

---

<sup>[1]</sup> Testimony of Johnson at 47, 72-73; Minn. Rule 9502.0367. The Licensee testified that she no longer uses the surname Larson-Johnson.

<sup>[2]</sup> Testimony of Johnson at 58, 70-72

<sup>[3]</sup> Testimony of Grissman at 13-14.

<sup>[4]</sup> Ex. 12; Testimony of Johnson at 49.

<sup>[5]</sup> Ex. 8; Testimony of Johnson at 49, 62.

<sup>[6]</sup> Ex. 8; Testimony of Grissman at 33-34.

<sup>[7]</sup> Ex. 7. The reporter also alleged that an intoxicated Brad Johnson pointed an unloaded gun at an 18 year old friend of the family and pulled the trigger. However, there is no evidence that this allegation was ever formerly investigated or substantiated and the Department did not rely in any way on this allegation in ordering the indefinite suspension.

<sup>[8]</sup> Ex. 3 at 3.

<sup>[9]</sup> Ex. 13; Testimony of Johnson at 73.

<sup>[10]</sup> Testimony of Johnson at 57-58.

<sup>[11]</sup> Testimony of Johnson at 49, 73-74.

<sup>[12]</sup> Ex. 5.

<sup>[13]</sup> Exs. 3, 5 and 6; Testimony of Erickson at 37.

<sup>[14]</sup> Testimony of Erickson at 38-42: Exs. 3, 9.

<sup>[15]</sup> Exs. 3 and 9; Testimony of Erickson at 39-44, Testimony of Johnson at 52.

<sup>[16]</sup> Testimony of Erickson at 46.

<sup>[17]</sup> Ex. 4.

<sup>[18]</sup> Ex. 3 at 3; Ex. 6 addendum.

<sup>[19]</sup> Exs. 12 and 13.

<sup>[20]</sup> Ex. 2.

<sup>[21]</sup> Ex. 3.

<sup>[22]</sup> Ex. 15.

<sup>[23]</sup> Ex. 1.

<sup>[24]</sup> In its letter to the Department recommending that Ms. Johnson's license be indefinitely suspended, the County mentioned that Mr. Johnson had denied, in his Initial Licensing Evaluation, that he had ever been in treatment for chemical dependency and thereby failed to comply with Minn. Stat. § 245A.05. However, in its Order of Indefinite Suspension, the Department did not assert a violation of this statute and instead limited the basis for its Order to an alleged violation of Minnesota Rules 9502.0335, subp. 6A. Accordingly, the issues as defined in the Notice of and Order for Hearing do not encompass any claim that Mr. Johnson violated Minn. Stat. § 245A.05 by giving false information in his licensing evaluation form. See Exs. 3 and 8.

<sup>[25]</sup> Exs. 14 and 15.

<sup>[26]</sup> Testimony of Grissman at 35.

<sup>[27]</sup> Minn. Stat. § 245A.07, subd. 1 (2002).

<sup>[28]</sup> Minn. Stat. § 14.58.

<sup>[29]</sup> Minnesota Rule 1400.5600, subp. 5.

<sup>[30]</sup> Testimony of Grissman at 34.

<sup>[31]</sup> ICFS/Department brief at 2.

<sup>[32]</sup> Ex. 9.

<sup>[33]</sup> American Heritage College Dictionary 65 (3<sup>rd</sup> ed. 1997).