

CHAPTER 9502
DEPARTMENT OF HUMAN SERVICES
LICENSING OF DAY CARE FACILITIES

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9502.0315 DEFINITIONS.

[For text of subps 1 to 14, see MR]

Subp. 15. **Agent of a board of health.** “Agent of a board of health” as authorized under Minnesota Statutes, section 145A.04, means the designated representative of the state or board of health authorized to enforce state and local health codes.

[For text of subp 16, see MR]

Subp. 17. **License.** “License” means a certificate issued by the commissioner authorizing the provider to give specified services for a specified period of time in accordance with the terms in parts 9502.0315 to 9502.0445; Minnesota Statutes, chapter 245A; and the rules of the department

[For text of subps 18 to 19a, see MR]

Subp. 19b. **Minnesota Uniform Fire Code.** “Minnesota Uniform Fire Code” means those codes and regulations adopted by the state fire marshal in accordance with Minnesota Statutes, section 299F.011 and contained in chapter 7510.

[For text of subps 20 and 21, see MR]

Subp. 22. **Preschooler.** “Preschooler” has the meaning given in Minnesota Statutes, section 245A.02, subdivision 19, paragraph (e).

[For text of subps 24 to 27, see MR]

Subp. 28. **School age.** “School age” has the meaning given in Minnesota Statutes, section 245A.02, subdivision 19, paragraph (f).

[For text of subps 28a to 29a, see MR]

Subp. 30. **Toddler.** “Toddler” has the meaning given in Minnesota Statutes, section 245A.02, subdivision 19, paragraph (d)

[For text of subp 31, see MR]

Statutory Authority: *MS s 14 386, 14 388*

History: *30 SR 585*

9502.0335 LICENSING PROCESS.

Subpart 1. **License application.** A license to operate a family or group family day care residence must be obtained from the department.

[For text of items A and B, see MR]

C An application for licensure is complete when the applicant completes, signs, and submits all department forms and documentation needed for licensure to the agency and the agency receives all inspection, zoning, evaluation, and investigative reports, documentation, and information required to verify compliance with parts 9502.0315 to 9502.0445 and Minnesota Statutes.

Subp. 2. **Licensing study.** The applicant shall give the agency access to the residence for a licensing study to determine compliance with parts 9502.0315 to 9502.0445

[For text of items A to C, see MR]

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

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the disqualification factors in subpart 6, item A, exist, or that the provider is not physically able to care for the children. These evaluations, conducted by a licensed physician, psychiatrist, psychologist, consulting psychologist, or certified chemical dependency practitioner or counselor 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.

Subp. 4. **Period of licensure; nontransfer.** A license must be issued by the department when the provider fully complies with parts 9502.0315 to 9502.0445. The period of licensure may be up to two years. The license must not be transferred to another provider.

Subp. 5. **Initial license.** An applicant for initial licensure may be granted a license by the department for up to two years if all laws and rules cannot be met immediately, the deviations from parts 9502.0315 to 9502.0445 do not threaten the health, rights, or safety of the children, and which will be corrected within the time specified by the commissioner but not to exceed two years. Failure to correct deviations within the stated time shall be cause for revocation, suspension, or nonrenewal.

Subp. 6. **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:

[For text of item A, see MR]

B. [Repealed, L 1991 c 38 s 2]

C. Refuses to give written consent for the disclosure of criminal history records as specified in Minnesota Statutes, section 245C.09.

D. Has a disqualification under Minnesota Statutes, section 245C.15, that is not set aside under Minnesota Statutes, section 245C.22, or for which a variance has not been granted under Minnesota Statutes, section 245C.30.

[For text of items E and F, see MR]

[For text of subps 8 and 8a, see MR]

Subp. 8b [Repealed, 30 SR 585]

Subp. 9. **License terms.** The license must indicate:

[For text of items A to D, see MR]

Subp. 10. **Posting license.** The provider shall post the license in the residence in a prominent place.

Subp. 11. **Change in license terms.** The following shall apply to changes in the terms of a license.

[For text of items A and B, see MR]

C. A background study must be initiated and completed as required under Minnesota Statutes, chapter 245C.

[For text of subps 12 to 15, see MR]

Statutory Authority: MS s 14 386, 14 388

History: 30 SR 585

9502.0341 NEGATIVE LICENSING ACTIONS.

Subp. 2. **Definitions.** For the purposes of this subpart, negative licensing actions shall mean denial of application for licensure, issuance of a fine, revocation, suspension, or temporary immediate suspension of an existing license.

Subp. 3. **Procedures.** In accordance with Minnesota Statutes, section 245A.06 or 245A.07, failure to comply with parts 9502.0315 to 9502.0445 or the terms of licensure is grounds for a negative licensing action. If the agency recommends a negative licensing action, the agency shall notify the department and the department shall determine if the standards in parts 9502.0315 to 9502.0445 or the terms of licensure have been violated. If the grounds are sufficient, the commissioner shall notify the

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applicant or provider by certified mail unless personal service is required by subpart 9. The notice must be addressed to the name and location shown on the application or license and contain a statement of, and the reasons for, the proposed action. The notice must inform the applicant or provider of the right to appeal the decision within the specified time period. The applicant or provider shall be notified of the specific appeal rights provided under chapter 245A.

Subp. 3a **Fine.** If the commissioner issues a fine, the provider must be informed of the reason for the fine and the right to a contested case hearing under Minnesota Statutes, chapter 14, and parts 1400.8505 to 1400.8612 as provided in Minnesota Statutes, section 245A.07, subdivision 3.

Subp. 4 **Denial.** If the commissioner denies an application for licensure, the applicant must be informed of the reason the application was denied and the right to a contested case hearing under Minnesota Statutes, chapter 14, and parts 1400.8505 to 1400.8612 as provided in Minnesota Statutes, section 245A.05.

Subp. 5 **Revocation.** If the commissioner revokes a license, the provider must be informed of the reason for the revocation and the right to a contested case hearing under Minnesota Statutes, chapter 14, and parts 1400.8505 to 1400.8612 as provided in Minnesota Statutes, section 245A.07, subdivision 3.

Subp. 6 [Repealed, 30 SR 585]

Subp. 7. [Repealed, 30 SR 585]

Subp. 8. **Suspension.** If the commissioner suspends a license, the provider must be informed of the reason for the suspension and the right to a contested case hearing under Minnesota Statutes, chapter 14, and parts 1400.8505 to 1400.8612 as provided in Minnesota Statutes, section 245A.07, subdivision 3.

Subp. 9. **Temporary immediate suspension.** If the provider's actions or failure to comply with applicable law or rule poses an imminent risk of harm to the health, safety, or rights of the children in care, the commissioner shall act immediately to temporarily suspend the license. The provider shall be informed by personal service and informed of the right to an expedited hearing under Minnesota Statutes, chapter 14, and parts 1400.8505 to 1400.8612 as provided in Minnesota Statutes, section 245A.07, subdivisions 2 and 2a.

Subp. 10 **Notice to parents of recommended action.** As soon as the county recommends revocation, suspension, a conditional license, or temporary immediate suspension action, a notice of the circumstances for the action, but not the identity of a child, other than the parent's own, shall be sent by the agency to the parents of children in care. If the provider remains in operation and exercises a right to a hearing, the provider must give a copy of the Notice of and Order for Hearing on the appeal to the parents of any child currently enrolled or seeking admission to the residence.

Subp. 11. **Reapplication after revocation or denial.** A provider whose license has been revoked because of noncompliance with applicable laws or rules, shall not be granted a new license for five years following revocation. When the commissioner initiates an action to revoke a license, the provider may not voluntarily withdraw his or her license without written assurance from the provider that he or she is voluntarily accepting revocation and will not reapply for five years. An applicant whose application was denied shall not be granted a new license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the condition that caused the previous denial.

Statutory Authority: *MS s 14 386; 14 388*

History: *30 SR 585*

9502.0345 AGENCY RECORDS.

Subpart 1. **Agency records.** The agency shall maintain the following records for each provider

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[For text of items A to G, see MR]

H. Arrest, conviction, or criminal history information and substantiated maltreatment information used to disqualify an individual required to have a background study under Minnesota Statutes, chapter 245C

[For text of subp 2, see MR]

Statutory Authority: *MS s 14 386, 14 388*

History: *30 SR 585*

9502.0425 PHYSICAL ENVIRONMENT.

[For text of subps 1 to 18, see MR]

Subp 19. **Smoking prohibited in group family child care home.** Pursuant to Minnesota Statutes, section 144.414, subdivision 2, smoking is prohibited in a group family child care provider's home during hours of operation

Statutory Authority: *MS s 14.386, 14 388*

History: *30 SR 585*