

**CHAPTER 9543**  
**DEPARTMENT OF HUMAN SERVICES**  
**LICENSURE**

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**9543.1000 APPLICABILITY.**

Subpart 1 **Applicability.** Parts 9543 1000 to 9543 1060 apply to residential and non-residential programs subject to licensure under Minnesota Statutes, chapter 245A, except child foster care, adult foster care, and family day care programs. The licensure of child foster care, adult foster care, and family day care programs is governed by parts 9543 0010 to 9543 0150.

Subp 2 **Compliance with other laws.** Parts 9543 1000 to 9543 1060 set forth requirements for licensure under Minnesota Statutes, chapter 245A. In addition to the requirements under Minnesota Statutes, chapter 245A, license holders must comply with federal, state, and local laws, ordinances, and codes that regulate or govern a program.

**Statutory Authority:** *MS s 245A 09*

**History:** *18 SR 2748*

**9543.1010 DEFINITIONS.**

Subpart 1 **Scope.** As used in parts 9543.1000 to 9543 1060, the following terms have the meaning given them:

Subp 2 **Abuse.** "Abuse" has the meaning given it in Minnesota Statutes, section 626.557, subdivision 2, paragraph (d).

Subp. 3. **Administrative licensing action.** "Administrative licensing action" means issuing a correction order, imposing a fine, or placing a program on probation due to a license violation.

Subp 4 **Applicant.** "Applicant" has the meaning given it in Minnesota Statutes, section 245A 02, subdivision 3.

Subp 5 **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 6 **Consumer.** "Consumer" has the meaning given it in Minnesota Statutes, section 245A 04, subdivision 4.

Subp 7 **Controlling individual.** "Controlling individual" has the meaning given it in Minnesota Statutes, section 245A 02, subdivision 5a.

Subp 8 **Imminent danger.** "Imminent danger" means a child or vulnerable adult is threatened with immediate and present abuse or neglect that is life-threatening or likely to result in abandonment, sexual abuse, or serious physical injury.

Subp 9 **License.** "License" has the meaning given it in Minnesota Statutes, section 245A 02, subdivision 8.

Subp 10 **License holder.** "License holder" has the meaning given it in Minnesota Statutes, section 245A 02, subdivision 9.

Subp 11 **Maltreatment.** "Maltreatment" has the meaning given it in Minnesota Statutes, section 626 556, subdivision 10e, paragraph (a).

Subp 12 **Negative licensing action.** "Negative licensing action" means the denial of a license application, suspension, revocation, or immediate suspension of an existing license.

Subp. 13 **Neglect.** "Neglect" has the meaning given it in Minnesota Statutes, section 626 557, subdivision 2, paragraph (e).

Subp 14 **Nonresidential program.** "Nonresidential program" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 10.

Subp 15 **Program.** "Program" means a residential program or nonresidential program.

Subp 16 **Residential program.** "Residential program" has the meaning given it in Minnesota Statutes, section 245A.02, subdivision 14

Subp 17 **Volunteer.** "Volunteer" means an individual who provides program services for a resident under the direction of the license holder but is not compensated for providing those program services

**Statutory Authority:** *MS s 245A 09*

**History:** *18 SR 2748*

### 9543.1020 APPLICATION AND LICENSE REQUIREMENTS.

Subpart 1 **License required.** Except as provided in Minnesota Statutes, section 245A.03, subdivision 2, no person, corporation, partnership, voluntary association, controlling individual, or other organization may operate a program unless licensed by the commissioner

Subp 2 **Information required before application is processed.** An applicant must provide the following information to the department before a license application will be processed

A The applicant must submit a license application, on a form provided by the department, that includes

- (1) the applicant's name and address,
- (2) the name and location of the program,
- (3) the geographic area to be served, if applicable,
- (4) the type of license being requested,
- (5) the requested license capacity, if applicable, and
- (6) the age limits of persons served by the applicant, if applicable

B The applicant must provide the names and addresses of the owners, board members, or controlling individuals, and an organizational chart depicting organizational authority over the program

C A program operating in Minnesota with headquarters outside of the state shall have a license holder within the state

D The applicant must provide a description of the services to be offered, the program's service philosophy, and target population, if any

E The applicant must document compliance with applicable building codes, fire and safety codes, health rules, zoning ordinances, or document that an appropriate waiver has been granted

F The applicant must provide a copy of the program's grievance procedure and timelines for addressing grievances. The program's grievance procedure must permit persons served by the program and their authorized representatives to bring a grievance to the highest level of authority in the program

G The applicant must submit a nonrefundable license fee according to the annual fee schedule in part 9545.2020. When a license is issued for less than one year, the department shall prorate the annual licensing fee. When a license is issued for 12 or more months, the applicant must submit the annual licensing fee for months one to 12 with the license application. The annual licensing fee for months 13 to 24 must be submitted by the license holder before the beginning of the 13th month in the licensure period. When the licensure period is greater than 12 months but less than 24 months, the department shall prorate the annual fee for those months remaining in the licensure period.

Subp 3 **Completed application.** An application for licensure is complete when the applicant signs the license application and submits the information and licensing fees required in subpart 2

Subp 4 **Licensing study.** Before an applicant is issued a license, the commissioner must complete a licensing study that includes

- A a background study under parts 9543.3000 to 9543.3090,
- B an inspection of the physical plant, if applicable,
- C an inspection of program records and documents,

D an evaluation of the program by consumers served by the program, if available,  
and

E an observation of the program in operation

If items C to E cannot be completed because a program is not operational, a provisional license may be issued under subpart 10. The licensing study requirements under this subpart apply to programs required to be licensed under Minnesota Statutes, chapter 245A but items B and E do not apply to service locations that are not under the control of the program.

**Subp 5 Variance standards.** An applicant or license holder may request, in writing, a variance from rule requirements that do not affect the health, safety, or rights of persons receiving services. A variance request must include the following information:

A the part or parts of the rule for which a variance is sought,

B the reason why a variance from the specified provision is sought,

C the period of time for which a variance is requested,

D written approval from the fire marshal, building inspector, or health authority when the variance request is for a variance from a fire, building, or health code, and

E alternative equivalent measures the applicant or license holder will take to ensure the health and safety of persons served by the program if the variance is granted.

The commissioner's decision to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

**Subp 6 Additional requirements before granting a residential license.** When determining whether to grant a residential license, the commissioner must consider the requirements under Minnesota Statutes, section 245A.11.

**Subp 7 Additional requirements before granting a nonresidential license.** When determining whether to grant a nonresidential license, the commissioner must consider the requirements under Minnesota Statutes, section 245A.14.

**Subp 8 Issuance of a license, license terms.** If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. The license must state:

A the name of the license holder,

B the address of the program,

C the effective date and expiration date of the license,

D the type of license,

E the maximum number and ages of persons that may receive services from the program; and

F any special conditions of licensure.

**Subp 9 Proposed changes, commissioner approval required.** A license holder must notify the commissioner and obtain the commissioner's approval before making any changes that would alter the license information listed under subpart 8.

**Subp 10 Initial license.** An applicant for initial licensure shall be granted a provisional license by the commissioner for a period up to one year.

**Subp 11 Period of licensure.** The maximum period of licensure is governed by items A to C:

A The commissioner shall issue the subsequent license that immediately follows the initial license for a period up to one year.

B Upon completion of the license period in item A, the commissioner shall issue each subsequent license for a period up to two years except as provided in item C.

C When a license holder is fined, placed on probation, or has a license suspended, the commissioner shall issue subsequent licenses as follows:

(1) upon payment of the fine or successful completion of probation, the commissioner shall issue subsequent licenses for up to one year until the license holder successfully completes a licensing period without being fined, being placed on probation, or having a license suspended, and

(2) following a license suspension, the commissioner shall issue subsequent licenses for up to one year until the license holder successfully completes two consecutive

licensing periods without being fined, being placed on probation, or having a license suspended.

When the requirements in subitems (1) and (2) are met, the commissioner shall issue the next subsequent license for up to two years. The commissioner shall continue to issue subsequent licenses for up to two years unless the license holder is fined, placed on probation, or has a license suspended during the license period, in which case, subitems (1) and (2) apply.

**Subp. 12 Subsequent license.** Application for a subsequent license must be made on forms provided by the department. The license holder must submit an application for a subsequent license at least 30 days prior to the expiration date of the existing license.

**Subp. 13. Access to program.** The license holder must grant the commissioner access to the program as required under Minnesota Statutes, section 245A.04, subdivision 5.

**Subp. 14 Drug or alcohol use, prohibited.** To become licensed or to remain licensed, an applicant or license holder shall have a policy and provide training on that policy for individuals, employees, subcontractors, and volunteers that prohibit such individuals while directly responsible for individuals served by the program from abusing prescription medication or being under the influence of a controlled substance under Minnesota Statutes, chapter 152, or alcohol in any manner that impairs or could impair the person's ability to provide care or services.

**Subp. 15 Residential programs, handling resident funds and property.** The license holder must ensure that residents retain the use and availability of personal funds or property unless restrictions are justified in the resident's treatment plan.

A The license holder must ensure separation of resident funds from funds of the license holder, the residential program, or program staff.

B Whenever the license holder assists a resident with the safekeeping of funds or other property, the license holder must

(1) document receipt and disbursement of the resident's funds or other property, including the signature of the resident, conservator, or payee,

(2) provide a statement, at least quarterly, itemizing receipts and disbursements of resident funds or other property; and

(3) return to the resident upon the resident's request, funds and property in the license holder's possession subject to restrictions in the resident's treatment plan, as soon as possible, but no later than three working days after the date of request.

C License holders and program staff must not

(1) borrow money from a resident,

(2) purchase personal items from a resident,

(3) sell merchandise or personal services to a resident,

(4) require a resident to purchase items for which the license holder is eligible for reimbursement, or

(5) use resident funds in a manner that would violate part 9505.0425, subpart

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**Statutory Authority:** *MS s 245A.09*

**History:** *18 SR 2748*

### 9543.1030 DENIAL OF APPLICATION.

**Subpart 1 Denial of application.** The commissioner shall deny a license application if the applicant fails to fully comply with laws or rules governing the program or variance requirements. Failure to fully comply shall be indicated by:

A documentation of specific facility or program deficiencies that endanger the health or safety of persons served by the program,

B documentation of any disqualifications under parts 9543.3000 to 9543.3090 that have not been set aside,

C reports from fire, building, or health officials identifying deficiencies that endanger the health or safety of persons served by the program, or

D any other evidence that the applicant is not in compliance with applicable laws or rules governing the program.

Subp 2. **Notice of denial.** The commissioner must give an applicant notice of denial of the license application by certified mail. The notice must state

- A the reason the application was denied,
- B the time the applicant has to appeal the denial,
- C the procedure to appeal the denial, and
- D the applicant's right to a contested case hearing under Minnesota Statutes, sections 14 57 to 14 69

Subp 3. **Hearings on license denials.** Hearings on license denials shall be conducted according to Minnesota Statutes, sections 14 57 to 14 69 and 245A 08

**Statutory Authority:** *MS's 245A 09*

**History:** *18 SR 2748*

#### **9543.1040 LICENSING ACTIONS FOR FAILURE TO COMPLY WITH RULE.**

A license holder's failure to comply with applicable laws or rules governing the program may be cause for an administrative licensing action under part 9543 1050 or a negative licensing action under part 9543 1060

**Statutory Authority:** *MS's 245A.09*

**History:** *18 SR 2748*

#### **9543.1050 ADMINISTRATIVE LICENSING ACTIONS.**

Subpart 1 **Issuance of correction orders.** The commissioner may issue a correction order for a license violation rather than probation or a negative licensing action if all of the following conditions are met

- A. the violation does not imminently endanger the health, safety, or rights of persons served by the program, and
- B the violation will be corrected within a reasonable time

Subp 2 **Contents of correction order.** The correction order must state

- A the conditions that constitute a violation of law or rule,
- B the specific law or rule violated, and
- C the time allowed to correct each violation

Subp 3 **Reconsideration of correction orders.** A license holder may request reconsideration of a correction order according to Minnesota Statutes, section 245A 06, subdivision 2

Subp 4. **Failure to comply with correction order.** A license holder who fails to comply with a correction order may be subject to a fine or a negative licensing action as authorized under Minnesota Statutes, section 245A.06, subdivision 3

Subp 5 **Fines.** The commissioner may impose a fine on a licensed program for failure to comply with licensing requirements under Minnesota Statutes, section 245A.06, subdivision 6

Subp 6 **Notice of fine; appeal.** A license holder ordered to pay a fine must be notified as required under Minnesota Statutes, section 245A 06. The license holder may appeal the order to forfeit a fine under Minnesota Statutes, section 245A 06, subdivision 4

Subp 7 **Probation.** The commissioner may place a license holder on probation rather than initiating a negative licensing action under part 9543 1060 if the conditions in items A to C are met

A. After consideration of the following factors, the commissioner determines that revocation, immediate suspension, or suspension of the license is not warranted

- (1) the laws or rules that have been violated,
- (2) the nature and severity of each violation,
- (3) whether the violation is recurring or nonrecurring,
- (4) the effect of the violation on persons served by the program;
- (5) an evaluation of the risk of harm to persons served by the program,
- (6) any evaluations of the program by persons served or their families,

(7) relevant facts, conditions, and circumstances concerning the operation of the program, and

(8) any aggravating or mitigating factors related to the violation

B The commissioner believes that continued operation of the program

(1) is in the best interest of persons served by the program, and

(2) would not pose an unacceptable risk of harm to persons served by the program

program

C The license holder agrees to comply with the terms of probation

Subp 8 **Notice of probation.** The commissioner shall give a license holder notice of probation as required under Minnesota Statutes, section 245A 07, subdivision 3

Subp. 9 **Reconsideration of probation.** The license holder may request reconsideration of probation under Minnesota Statutes, section 245A 07, subdivision 3, paragraph (b)

**Statutory Authority:** *MS s 245A 09*

**History:** *18 SR 2748*

### 9543.1060 NEGATIVE LICENSING ACTIONS.

Subpart 1 **Negative licensing action.** A license holder's failure to comply with program requirements or the terms of licensure may be cause for a negative licensing action. Negative licensing actions shall be taken according to Minnesota Statutes, chapter 245A

Subp 2 **Information to be considered before imposing a negative licensing action.** The commissioner shall consider the following information before issuing a negative licensing action

A the laws or rules that have been violated,

B the nature and severity of each violation,

C whether the violation is recurring or nonrecurring,

D the effect of the violation on persons served by the program,

E an evaluation of the risk of harm to persons served by the program,

F any evaluations of the program by persons served or their families,

G relevant facts, conditions, and circumstances concerning the operation of the program, and

H any aggravating or mitigating factors related to the violation.

Subp 3 **Immediate suspension of license.** If the commissioner has cause to believe the health, safety, or rights of persons served by a program are in imminent danger, the commissioner shall immediately order the suspension of the license. The notice of immediate suspension must state

A the reason for the immediate suspension,

B that the program must discontinue operation immediately,

C the license holder's right to appeal under Minnesota Statutes, section 245A.07, subdivision 2,

D the time the license holder has to appeal the immediate suspension; and

E the license holder's right to a contested case hearing under Minnesota Statutes, sections 14 57 to 14 69, if a timely appeal is filed

Appeal of an immediate suspension does not stay the suspension

Subp 4 **Revocation of license.** The commissioner shall revoke a license when continued operation of the program is not in the best interest of persons served by the program and would pose an unacceptable risk of harm to persons served by the program. Violations that are grounds for license revocation are

A immediate suspension of a license under subpart 3,

B a disqualification under the applicant background study under parts 9543 3000 to 9543.3090,

C substantiated abuse, neglect, or maltreatment,

D documented program deficiencies that endanger the health or safety of persons served by the program,

E a false statement knowingly made by the license holder on the license application,

F failure or refusal to provide the commissioner access to the physical plant and grounds, documents, persons served, and staff, or

G licensing violations that occur while the license is probationary or suspended

**Subp 5 Suspension of license.** The commissioner may suspend rather than revoke a license under subpart 4, if based on the factors in subpart 2, suspension rather than revocation is in the best interests of persons served by the program and would not pose a risk of harm to persons served by the program

When a license holder fails to pay the license fee required in part 9543 1020, subpart 2, item G, the commissioner shall suspend the license until the license fee is paid

**Subp 6 Notice of revocation or suspension.** The commissioner shall give a license holder whose license is revoked or suspended notice of the action by certified mail. The notice must state

A the reason the license was revoked or suspended,

B the license holder's right to appeal the revocation or suspension under Minnesota Statutes, section 245A 07, subdivision 3, paragraph (a),

C the time the license holder has to appeal the revocation or suspension, and

D the license holder's right to a contested case hearing under Minnesota Statutes, sections 14 57 to 14 69, if a timely appeal is filed

**Subp 7 Hearings on license revocation or suspension.** Hearings on license revocation or suspension shall be conducted according to Minnesota Statutes, sections 14 57 to 14 69 and 245A 08. Suspension or revocation of a license shall be stayed pending the commissioner's final order on a timely filed appeal unless the notice was for an immediate suspension

**Subp 8 Return of license to commissioner.** When a license holder stops providing services, or if a license is revoked, suspended, or immediately suspended, the license holder must return the license to the commissioner. The license holder cannot surrender its license as a way of avoiding a negative licensing action

**Statutory Authority:** *MS s 245A 09*

**History:** *18 SR 2748*