

**9543.0100 NEGATIVE LICENSING ACTIONS.**

Subpart 1. **Basis for recommendation.** When recommending a negative licensing action, the agency shall:

- A. submit to the commissioner the following information:
  - (1) the citation to 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;
  - (6) any evaluations of the program by persons served or their families;
  - (7) relevant facts, conditions, and circumstances concerning the operation of the program, including information identified in part 9543.0040, subpart 5, item C;
  - (8) any relevant information about the qualifications of the applicant or license holder or persons living in the residence; and
  - (9) any aggravating or mitigating factors related to the violation; and
- B. notify the county attorney of the recommendation.

Subp. 2. **Temporary immediate suspension of license.** If the license holder's actions or failure to comply with applicable law or rule poses an imminent risk of harm to the health, safety, or rights of persons served by a program, the agency must take actions described in items A to C:

- A. The agency shall notify the commissioner immediately.
- B. If the commissioner orders a temporary immediate suspension, the agency shall arrange for delivery, by personal service, of written notice of temporary immediate suspension to the license holder. The notice shall state:
  - (1) the reason for the temporary immediate suspension;
  - (2) that the program must discontinue operation immediately;
  - (3) the license holder's right to appeal and an expedited hearing; and
  - (4) that the commissioner has taken the action.
- C. The agency shall make a recommendation for further action to the commissioner.

Subp. 3. **Revocation or denial of license.** Violations that are grounds for recommending license revocation or denial include, but are not limited to:

- A. immediate suspension of a license under subpart 2;
- B. a disqualifying crime or conduct listed in Minnesota Statutes, section 245C.15, that has not been set aside under Minnesota Statutes, section 245C.22, or for which a variance has not been granted under Minnesota Statutes, section 245C.30, or in rules governing the program;
- C. a false statement knowingly made by the license holder, on the license application;
- D. failure or refusal to provide the commissioner access to the physical plant and grounds, documents, persons served, and staff;
- E. recurring failure to comply with discipline standards in rules governing the program;
- F. severe or recurring failure to comply with capacity limits; or
- G. licensing violations that occur while the license is probationary or suspended.

Subp. 4. **License suspension.** The agency may recommend license suspension rather than revocation under subpart 3 if the agency submits information demonstrating:

- A. on the basis of factors in subpart 1, revocation is not warranted; and
- B. suspension rather than revocation:
  - (1) is in the best interests of persons served by the program; and
  - (2) would not pose a risk of harm to persons served by the program.

Subp. 5. [Repealed, 30 SR 585]

Subp. 6. **Notification of licensee of negative licensing action.** The agency shall give written notice to a license holder when the agency recommends a negative licensing action to the commissioner.

Subp. 7. **Notice to parents of negative licensing action.** The agency shall give written notice of a negative licensing action to the parents or guardians of children in the programs as follows:

- A. When the agency recommends a negative licensing action to the commissioner, the agency shall immediately inform parents and guardians that a negative licensing action has been recommended and that they will be informed of the commissioner's action on the recommendation.

B. When the commissioner orders a negative licensing action, the agency shall immediately inform parents and guardians:

(1) that a negative licensing action has been ordered and the circumstances for the action;

(2) the effect of the negative licensing action on the operation of the program;  
and

(3) that an explanation of the appeal process available to the license holder is available upon request.

C. If the commissioner does not order a negative licensing action following the agency recommendation, the agency shall inform parents and guardians when the agency receives the commissioner's decision.

Subp. 8. **Notice of negative licensing action to county.** If a negative licensing action has been ordered against a child foster care program that is supervised by a private agency, the private agency shall notify in writing the county agency in which the program is located and any county that has placements in the home.

**Statutory Authority:** *MS s 14.386; 14.388; 245A.09; 245A.16; 256.01; 256E.05; 257.175; 393.07*

**History:** *15 SR 2105; 17 SR 3412; L 2001 1Sp9 art 14 s 35; 30 SR 585*

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