

SAMPLE:

NEGATIVE ACTION RECOMMENDATION: Conditional

January 14, 2016

Ms. Emily Piper, Commissioner
Minnesota Department of Human Services
Office of Inspector General
Licensing Division
P.O. Box 64242
St. Paul, MN 55164-0242

Attention: Regina Wagner, Director
Licensing Division

Re: Ms. Provider
1000 Compliance Lane
Metropolis, MN 12345

Dear Commissioner Piper:

It is the recommendation of the Family County Human Services Department that the family child care license of Ms. Provider, 1000 Compliance Lane be placed on conditional status due to the following rule and statute violations:

Minnesota Statutes, section 245A.06 CORRECTION ORDER AND CONDITIONAL LICENSE.

Subd. 1. **Contents of correction orders and conditional licenses.** (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order and an order of conditional license to the applicant or license holder. When issuing a conditional license, 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. The correction order or conditional license must state: (1) the conditions that constitute a violation of the law or rule; (2) the specific law or rule violated; (3) the time allowed to correct each violation; and (4) if a license is made conditional, the length and terms of the conditional license. (b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or conditional license.

Minnesota Statutes , section 245A.04 APPLICATION PROCEDURES.

Subd. 6. **Commissioner's evaluation.** Before issuing, denying, suspending, revoking, or making conditional a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, available consumer evaluations of the program, and information about the qualifications of the personnel employed by the applicant or license holder.

Minnesota Rules, part 9502.0315 DEFINITIONS.

Subp. 14. **Helper.** "Helper" means a person at least 13 years of age and less than 18 years of age who assists the provider with the care of children.

Subp. 29. **Substitute.** "Substitute" means an adult at least 18 years of age who assumes the responsibility of the provider as specified in part 9502.0365, subpart 5.

Subp. 29a. **Supervision.** "Supervision" means a caregiver being within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver is capable of intervening to protect the health and safety of the child. For the school age child, it means a caregiver being available for assistance and care so that the child's health and safety is protected.

Minnesota Rules, part 9502.0365 LICENSED CAPACITY, CHILD/ADULT RATIOS, AGE DISTRIBUTION RESTRICTIONS.

Subp. 5. **Supervision and use of substitutes.** A licensed provider must be the primary provider of care in the residence. Children in care must be supervised by a caregiver. The use of a substitute caregiver must be limited to a cumulative total of not more than 30 days in any 12-month period.

Violation: On March 1, 2010, Family County received a complaint that Ms. Provider had left four children with her twelve-year-old child while she went to the neighbor's house to pick up a cup of sugar. She claimed that the children were only alone for a maximum of fifteen minutes while they were napping. Ms. Provider also stated that her twelve-year-old frequently baby-sits and is aware of what to do in case of an emergency.

Ms. Provider does not have an approved substitute to contact in case of emergencies such as these. She was issued a correction order for leaving children in care under the supervision of a twelve-year-old. See March 1, 2010, correction order. To date she has not responded to this correction order.

Minnesota Rules, part 9502.0435 SANITATION AND HEALTH.

Subp. 5. **Firearms.** All firearms must be unloaded and inaccessible to children. Ammunition and firearms must be stored in separate locked areas.

Violation: On January 3, 2010, during Ms. Provider's relicensing visit, the Family County licensing worker observed three guns in the living room on top of the TV cabinet. Ms. Provider stated that her husband and two sons had just returned from a hunting trip and were in the process of putting away their equipment. There was no ammunition in or near the guns. Ms. Provider was asked to secure the firearms during the visit and she was also issued a correction order. See correction order dated January 3, 2010.

Minnesota Statutes, section 245A.146 CRIB SAFETY REQUIREMENTS.

Subd. 2. **Documentation requirement for license holders.** (a) Effective January 1, 2006, all licensed child care providers must maintain the following documentation for every crib used by or that is accessible to any child in care:

(1) the crib's brand name; and

(2) the crib's model number.

(b) Any crib for which the license holder does not have the documentation required under paragraph (a) must not be used by or be accessible to children in care.

Subd. 4. **Crib safety standards and inspection.** (a) On at least a monthly basis, the license holder shall perform safety inspections of every crib used by or that is accessible to any child in care, and must document the following:

Violation: During the complaint investigation on March 1, 2010, the licensing worker requested to see Ms. Provider's crib log. Ms. Provider was unable to provide a current log. Ms. Provider stated that she knows her cribs are safe and does not feel it necessary to complete the log. The licensing worker explained the requirement and requested that they do the log together. The licensing worker had a form with her. Together they were unable to find a model number for the crib and noticed tears in the fabric of non-full size cribs the provider was using.

Ms. Provider was issued a correction order. To date Family County has not received a response from Ms. Provider.

Minnesota Rules, part 9502.0435 SANITATION AND HEALTH.

Subp. 12. **Pets.** All pets housed within the residence shall be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, mice, and birds if the birds are clear of chlamydia psittaci. The provider shall ensure that:

Violation: During the January 3, 2010, relicensing review the Family County licensor found that Ms. Provider had three Geckos as pets. Ms. Provider stated that she was unaware that this was a rule violation. The county licensor reviewed the portion of the rule that indicates Geckos are not included on the approved pet list. Ms. Provider was concerned about this violation as her children are highly allergic to most animals and she feels that it is unfair to them that they can not have the Geckos. The licensor explained that she may request reconsideration of the correction order that cited this violation. See January 3, 2010, correction order.

Minnesota Rules, part 9502.0435 SANITATION AND HEALTH.

Subp. 1. **Sanitation and cleanliness.** The residence must be free from accumulations of dirt, rubbish, or peeling paint.

Subp. 4. **Toxic substances.** All medicines, chemicals, detergents, poisonous plants, alcoholic beverages, and other toxic substances must be inaccessible to children. They must be stored away from food products. Equipment or toys which are mouthed or may be chewed must be free of lead-based paint. Toys and equipment with chipped, cracked, or peeling paint must be tested to verify the absence of lead or be replaced

Subp. 6. **Hazardous activity materials.** Knives, matches, plastic bags, and other potential hazards must be kept out of the reach of infants, toddlers, and preschoolers. The use of potentially hazardous materials and tools must be supervised.

Subp. 13. **Diapers.** Children in diapers shall be kept clean and dry. The following sanitary procedures must be used to reduce the spread of communicable disease.

- A. An adequate supply of clean diapers must be available for each child and stored in a clean place inaccessible to children. If cloth diapers are used, parents must provide a change of the outer plastic pants for each fecally soiled diaper change. Cloth diapers, except those supplied by a commercial diaper service, and plastic pants, if supplied by parents, must be labeled with the child's name.

Violations: During the January 3, 2010, relicensing visit Ms. Provider had a litter box on the kitchen floor within three feet of the kitchen table. The litter box had two small toys in it and children had access to the litter box. Also, there were two knives and a scissors on the kitchen counter. There was a small stool next to the counter, which allowed the children to have access to the hazardous materials.

During the complaint investigation on March 1, 2010, the Family County licensor found clean and dirty diapers sitting on the kitchen counter. There were also clean diapers strewn about the living room, some had been ripped apart, and the cat was laying on one. Ms. Provider was issued a correction order dated March 1, 2010. To date she has not responded to this correction order. See attached.

Minnesota Statutes, section 245A.06 CORRECTION ORDER AND CONDITIONAL LICENSE.

Subd. 3. **Failure to comply.** If the commissioner finds that the applicant or license holder has not corrected the violations specified in the correction order or conditional license, the commissioner may impose a fine and order other licensing sanctions pursuant to section 245A.07.

Violation: Ms. Provider has not responded to the March 1, 2010, correction order. On April 9, 2010, a Family County licensor conducted an unannounced visit to check compliance with the March 1, 2010, correction order. She had not corrected all of the violations. No other violations were noted. She was given another copy of the March 1, 2010, correction order.

Family County Human Services is recommending that Ms. Provider's license to provide family child care be placed on conditional status for one year. She has had a history of rule violations that have not been corrected by issuing a correction order. We feel it important to closely monitor Ms. Provider's care over the next twelve months to promote compliance with licensing regulations.

Family County Human Services would like the following conditions included in Ms. Provider's conditional license.

1. Ms. Provider will comply with all applicable rules and laws.
2. No variances granted during the conditional period of the license.
3. Ms. Provider will submit a detailed, written plan for supervision. The plan must include an identified substitute care provider. The plan must be approved by Family County Human Services.
4. Ms. Provider will use only approved sleeping equipment for children in care. The cribs must have the model number and be reviewed monthly using the crib checklist. This documentation must be submitted to Family County Human Services by the 5th of each month.
5. Ms. Provider will obtain six additional hours of training in the areas of child development and supervision.
6. Ms. Provider will submit a detailed, written plan as to how she will monitor storage of firearms so they are locked up at all times.

Please feel free to contact me with any questions. I can be reached at 651-555-5555.

Thank you,

Linda Licensor
Child Care Licensor
Family County