

2960.0030 ADMINISTRATIVE LICENSING.

Subpart 1. **Scope.** The administrative licensing requirements of this part apply to facilities licensed under parts 2960.0010 to 2960.0290 and programs certified under parts 2960.0300 to 2960.0710.

Subp. 2. **Application and license requirements.**

A. Except as provided in Minnesota Statutes, section 241.021 or 245A.03, subdivision 2, a person, corporation, partnership, voluntary association, controlling individual, or other organization may operate a program if it is licensed by the appropriate licensing authority. A license is not transferable to another individual, corporation, partnership, voluntary association, other organization, controlling individual, or another location.

B. An applicant must provide the information in subitems (1) to (7) to the appropriate licensing authority before a license application will be processed.

(1) The applicant must submit a license and certification application, on a form provided by the commissioner of human services or corrections, that includes:

- (a) the applicant's name and address;
- (b) the name and location of the program;
- (c) the geographic area to be served, if applicable;
- (d) the type of license or certification being requested;
- (e) the requested license capacity; and
- (f) the age limits of persons served by the applicant, if applicable.

(2) 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.

(3) A program operating in Minnesota which has headquarters outside of the state must provide the name of the Minnesota license holder.

(4) The applicant must provide statement of intended use for the facility, a description of the services to be offered, the program's service philosophy, the target population to be served, and program outcomes.

(5) The applicant must:

- (a) document approval of the facility by the Department of Health or local health inspector, local building code inspector, and local zoning authority; and

(b) document inspection and approval of the facility according to Minnesota Statutes, section 299F.011, and the Uniform Fire Code by the state fire marshal or a local fire code inspector who is approved by the state fire marshal; or

(c) document that an appropriate waiver has been granted to the inspections and approvals in units (a) and (b).

If the commissioner of human services or corrections has reason to believe that a potentially hazardous condition may exist, or if a license holder seeks to increase the capacity of a licensed program, the commissioner of human services or corrections may require the license holder to obtain renewed inspections and approvals required under units (a) and (b).

(6) The applicant must perform and document an analysis of the community where the facility will be located. The analysis must include a description of the neighborhood surrounding the applicant's proposed facility, which must describe the relevant neighborhood demographic characteristics. The following nonexclusive list of topics could be analyzed by the applicant: race; socioeconomic characteristics of area residents; crime statistics; vehicle traffic on streets near the proposed facility; proximity of the proposed facility to schools, day care providers, public transportation, public and private recreation facilities, and the type and location of neighborhood religious and spiritual organizations; and information about local business groups, community groups, block clubs, and service organizations.

(7) The license holder must discuss with the county social services agency of the county in which the facility is located, the facility's policy regarding the county's role in screening facility residents. The facility must document the contact with the county and any agreement between the county and the facility regarding the county's role in screening facility residents.

C. An application for licensure is complete when the applicant signs the license application and submits the information required in this subpart.

D. In addition to the requirements in item C, an applicant for Department of Human Services licensure or certification must pay a licensing fee which is calculated according to parts 9545.2000 to 9545.2040.

E. A license holder must meet the management and programming standards requirements of Laws 1995, chapter 226, article 3, section 60, subdivision 2, to obtain a license.

Subp. 3. **Licensure and certification by Department of Corrections.** License and certification applicants who meet the criteria in this subpart must submit a completed application to the Department of Corrections Licensing Unit. The applicant must plan to:

- A. primarily serve delinquent children who are at least ten years old, but younger than 21 years old, in a residential setting;
- B. operate a detention or group residential facility for children alleged to be delinquent;
- C. be certified to provide residential program services for residents who need correctional programming; or
- D. operate a foster care home and have been licensed as a foster care home by the Department of Corrections under chapter 2925 at the time of the adoption of this chapter.

Subp. 4. **Licensure and certification by Department of Human Services.** License and certification applicants who meet the criteria in this subpart must submit a completed application to the Department of Human Services Licensing Division according to Minnesota Statutes, section 245A.04. The applicant must plan to:

- A. serve children through the age of 19 in a residential setting if the license holder meets the criteria in Minnesota Statutes, section 245A.04, subdivision 11, paragraph (b);
- B. operate a group residential program;
- C. obtain certification to provide residential program services for residents who need chemical dependency treatment, treatment for severe emotional disturbance, shelter services, or transitional services; or
- D. operate a foster home.

Subp. 5. **Multiple program certifications.** If an applicant intends to provide multiple treatment services that are licensed or certified by both the Department of Human Services and the Department of Corrections, according to subparts 3 and 4, then the Department of Human Services and the Department of Corrections shall determine which commissioner will license or certify the applicant.

Subp. 6. **Variance standards.** An applicant or license or certificate 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:

- 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, zoning, or health code; and

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

A variance issued by the Department of Human Services must meet the requirements of Minnesota Statutes, section 245A.04, subdivision 9. A variance issued by the Department of Corrections must meet the requirements of Minnesota Statutes, section 241.021. The decision of the commissioner of human services or corrections to grant or deny a variance request is final and not subject to appeal under Minnesota Statutes, chapter 14.

Subp. 7. **County notification.** Prior to submitting the initial application for licensure or certification to the licensing agency, the applicant shall notify the county board of the county in which an applicant intends to operate a program that the applicant will submit an application form to the commissioner of human services or corrections. The applicant shall include information about the intended use of the applicant's facility in the notice to the county.

Subp. 8. **Denial of application.** The commissioner of human services or corrections shall deny a new license or certificate application if the applicant fails to fully comply with laws or rules governing the program. Failure to fully comply shall be indicated by:

A. documentation of specific facility or program deficiencies that endanger the health or safety of residents;

B. failure to correct a hazardous condition or be approved by fire, building, zoning, or health officials;

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

D. failure to obtain approval of an on-site school from the Department of Education;

E. documentation of a disqualification of the applicant for licensure or relicensure, or the controlling individual regarding a background study which has not been set aside; or

F. failure to submit a completed application.

An applicant whose application was denied by either agency must not be granted a license by either the Department of Corrections or the Department of Human Services for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial. A negative determination by one agency is proof of denial for both agencies.

Subp. 9. **Drug or alcohol use prohibited.** An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for residents, from abusing prescription medication or being in any manner under the influence of a chemical that impairs or could impair the person's ability to provide services or care for a resident. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy.

Subp. 10. **Policy and procedure review.** The license holder must submit the facility's program policies and procedures to the commissioner of human services or corrections for review.

Subp. 11. **License and certification terms.** If the commissioner of human services or corrections determines that the program complies with all applicable rules and laws, the commissioner of human services or corrections 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 person that may reside at the program;
- F. any special conditions of licensure; and
- G. any certification which is granted to the program.

Subp. 12. **Licensing actions.** The Department of Human Services shall take licensing actions according to Minnesota Statutes, chapter 245A. The Department of Corrections shall take licensing actions according to Minnesota Statutes, section 241.021.

Statutory Authority: *L 1995 c 226 art 3 s 60; MS s 241.021; 245A.03; 245A.09*

History: *28 SR 211*

Published Electronically: *August 5, 2008*