

2960.3020 LICENSING PROCESS.

Subpart 1. **License required.** An individual, corporation, partnership, voluntary association, other organization, or controlling individual must not provide foster care without a license from the commissioner of human services or corrections unless an exclusion specified in this chapter or Minnesota Statutes, section 245A.03, subdivision 2, applies.

Subp. 2. **Application.** Application for a license must be made to the county agency in the county where the applicant resides or to a Minnesota-licensed child placing agency on a form approved by the commissioner of human services. Group foster homes licensed by the Department of Corrections under chapter 2925 and Minnesota Statutes, section 241.021, subdivision 2, as of the adoption of this chapter, may apply to the Department of Corrections for a foster care license according to subpart 12. An application for licensure is complete when the applicant signs the license application and submits all of the information required in this subpart.

Subp. 3. **License does not guarantee placement.** Licensure under parts 2960.3000 to 2960.3340 is not an entitlement, a right, or a guarantee that children will be placed in the foster home. The agency responsible for the child retains the right to choose which licensed foster home is best suited for an individual child in need of foster care placement.

Subp. 4. **License not transferable.** A license under parts 2960.3000 to 2960.3340 is not transferable to another person, entity, or site.

Subp. 5. **Commissioner's right of access.** The commissioner of human services' right of access must be according to Minnesota Statutes, section 245A.04, subdivision 5. The commissioner of corrections must have access to a Department of Corrections licensed foster home according to Minnesota Statutes, section 241.021.

Subp. 6. **Limited licensure.** A license holder may be licensed through only one Minnesota-licensed child placing agency or county social services agency at a time. A license holder must not be licensed at the same time by both the Department of Human Services and the Department of Corrections. A license holder must not simultaneously hold a relative foster care emergency license issued according to Minnesota Statutes, section 245A.035, and a separate foster family setting license issued under this chapter.

Subp. 7. **Notice of changes in household conditions.** The license holder must immediately notify the licensing agency of foster home and foster family or household member changes that effect the terms of the license or the ability of the license holder to provide care to children.

Subp. 8. **Roomers and boarders.** A license holder must not have adult roomers or boarders in the foster home without the licensing agency's approval. Roomers or boarders are subject to an applicant background study according to part 2960.3060, subpart 2.

Subp. 9. **Variance standards.** A license applicant or license holder may request, in writing, a variance from rule requirements that do not affect the health, safety, or rights of the child or others. The commissioner of human services or corrections may grant variances according to Minnesota Statutes, section 245A.04, subdivision 9. 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, or health code; and
- E. alternative equivalent measures the foster care applicant or license holder will take to ensure the health and safety of children if the variance is granted.

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. 10. **Other licenses.** A license holder cannot concurrently hold a license for family child care or adult family foster care without a variance from the licensing agency.

Subp. 11. **Denial of license.** The commissioner of human services or corrections shall deny a license if the applicant fails to fully comply with laws or rules governing the program or fails to cooperate with a placing or licensing agency. Failure to fully comply shall be indicated by:

- A. documentation of specific foster home deficiencies that may endanger the health or safety of children;
- B. failure to be approved by fire, building, zoning, or health officials;
- C. 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
- D. any other evidence that the applicant is not in compliance with applicable laws or rules governing the program.

Subp. 12. **Department of Corrections licensed foster homes.** Foster homes licensed by the Department of Corrections under chapter 2925 and Minnesota Statutes, section 241.021, subdivision 2, at the time of the adoption of this chapter, may continue to be licensed as foster homes by the Department of Corrections, acting as the licensing agency. Foster homes that are licensed by the Department of Corrections must meet the standards in parts 2960.3000 to 2960.3340. The Department of Corrections will use the standards in this part to issue or deny a foster care license.

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

History: *28 SR 211*

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