

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Family Day Care, Adult

4 Foster Care, and Child Foster Care Licensing Functions of County

5 and Private Agencies

6

7 Rules as Adopted

8 9502.0335 LICENSING PROCESS.

9 Subpart 1. License application. A license to operate a
10 family or group family day care residence must be obtained from
11 the department.

12 [For text of items A and B, see M.R.]

13 C. An application for licensure is complete when the
14 applicant completes, signs, and submits all department forms and
15 documentation needed for licensure to the agency and the agency
16 receives all inspection, zoning, evaluation, and investigative
17 reports, documentation, and information required to verify
18 compliance with parts 9545.0315 to 9545.0445 and Minnesota
19 statutes.

20 [For text of subp 2, see M.R.]

21 Subp. 3. [See Repealer.]

22 [For text of subps 4 to 13, see M.R.]

23 Subp. 14. [See Repealer.]

24 [For text of subp 15, see M.R.]

25 Subp. 16. [See Repealer.]

26 9543.0010 PURPOSE AND APPLICABILITY.

27 Subpart 1. Purpose. The purpose of parts 9543.0010 to
28 9543.0150, is to promote uniform enforcement of rules governing
29 licensure of family day care, adult foster care, and child
30 foster care programs and to establish minimum standards for
31 performing licensing functions related to those rules.

32 Subp. 2. Full applicability to county agencies. Parts
33 9543.0040 to 9543.0130 apply in their entirety to county
34 agencies.

35 Subp. 3. Limited applicability to private agencies. Parts

1 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130
2 apply to private agencies authorized by the commissioner to
3 perform licensing functions related to child foster care.

4 9543.0020 DEFINITIONS.

5 Subpart 1. **Scope.** As used in parts 9543.0010 to
6 9543.0150, the following terms have the meaning given them.

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

10 Subp. 3. **Agency.** "Agency" means a county agency as
11 defined in subpart 9 or a private agency as defined in subpart
12 17.

13 Subp. 4. **Applicant.** "Applicant" means an applicant as
14 defined in Minnesota Statutes, section 245A.02, subdivision 3,
15 who has completed and signed a license application form.
16 Applicant includes a current license holder who is seeking
17 relicensure.

18 Subp. 5. **Authorized.** "Authorized" means that a private
19 agency is in compliance with parts 9543.0040 to 9543.0070,
20 9543.0090 to 9543.0110, and 9543.0130 and has been licensed by
21 the commissioner to perform the child foster care program
22 licensing functions under part 9543.0030, subpart 2.

23 Subp. 6. **Certification.** "Certification" means the
24 commissioner's written notice to a county agency performing
25 licensing functions delegated under part 9543.0030, subpart 1,
26 that the county agency is in compliance with the requirements in
27 parts 9543.0040 to 9543.0130.

28 Subp. 7. **Commissioner.** "Commissioner" means the
29 commissioner of the Minnesota Department of Human Services or
30 the commissioner's designated representative.

31 Subp. 8. **Complaint.** "Complaint" means a report of an
32 alleged license violation made to the agency about a program.

33 Subp. 9. **County agency.** "County agency" has the meaning
34 given it in Minnesota Statutes, section 245A.02, subdivision 6.

35 Subp. 10. **Department.** "Department" means the Minnesota

1 Department of Human Services.

2 Subp. 11. **Imminent danger.** "Imminent danger" means a
3 child or vulnerable adult is threatened with immediate and
4 present abuse or neglect that is life-threatening or likely to
5 result in abandonment, sexual abuse, or serious physical injury.

6 Subp. 12. **License.** "License" has the meaning given it in
7 Minnesota Statutes, section 245A.02, subdivision 8.

8 Subp. 13. **License holder.** "License holder" has the
9 meaning given it in Minnesota Statutes, section 245A.02,
10 subdivision 9.

11 Subp. 14. **Maltreatment.** "Maltreatment" has the meaning
12 given it in Minnesota Statutes, section 626.556, subdivision 10e.

13 Subp. 15. **Negative licensing action.** "Negative licensing
14 action" means denial of a license application or probation,
15 suspension, revocation, or immediate suspension of an existing
16 license.

17 Subp. 16. **Neglect.** "Neglect" has the meaning given it in
18 Minnesota Statutes, sections 626.556, subdivision 2, paragraph
19 (c) and 626.557, subdivision 2, paragraph (e).

20 Subp. 17. **Private agency.** "Private agency" has the
21 meaning given it in Minnesota Statutes, section 245A.02,
22 subdivision 12.

23 Subp. 18. **Program.** "Program" means family day care, child
24 foster care, or adult foster care programs.

25 Subp. 19. **Prospective applicant.** "Prospective applicant"
26 means a person who expresses interest to an agency in applying
27 for a license to provide a program but who has not submitted a
28 signed application form to the agency.

29 Subp. 20. **Variance.** "Variance" means written permission
30 from the commissioner for a license holder to depart for a
31 specified time from a standard specified in rule.

32 Subp. 21. **Violation.** "Violation" means failure to comply
33 with applicable laws or rules governing a program.

34 9543.0030 LICENSING FUNCTIONS.

35 Subpart 1. **Delegation to county agencies.** County agencies

1 are delegated responsibility to perform the following functions
2 related to licensure of programs:

- 3 A. accept and process license applications;
- 4 B. conduct inspections, studies, and evaluations of
5 programs;
- 6 C. recommend approval or denial of applications for
7 licensure;
- 8 D. process variance requests;
- 9 E. monitor compliance with applicable licensing
10 rules;
- 11 F. investigate allegations of license violations;
- 12 G. investigate unlicensed programs;
- 13 H. issue correction orders;
- 14 I. recommend forfeiture orders and negative licensing
15 actions;
- 16 J. enforce orders of the commissioner; and
- 17 K. represent the commissioner in contested case
18 proceedings conducted under Minnesota Statutes, chapter 14.

19 Subp. 2. **Delegation to private agencies.** Private agencies
20 must be authorized by the commissioner to perform the following
21 functions related to the licensure of child foster care programs:

- 22 A. accept and process license applications;
- 23 B. conduct inspections, studies, and evaluations of
24 programs;
- 25 C. recommend approval or denial of applications for
26 licensure;
- 27 D. process variance requests;
- 28 E. monitor compliance with child foster care
29 licensing rules;
- 30 F. investigate allegations of license violations;
- 31 G. issue correction orders;
- 32 H. recommend forfeiture orders and negative licensing
33 actions;
- 34 I. enforce orders of the commissioner; and
- 35 J. assist and cooperate with the commissioner and
36 attorney general in contested case proceedings.

1 9543.0040 LICENSE APPLICATION PROCEDURES.

2 Subpart 1. Licensure information. The agency shall
3 provide information on license application procedures to
4 prospective applicants according to items A to E D.

5 A. The agency shall provide in writing to all
6 prospective applicants, the information in subitems (1) to (3):

7 (1) a summary of license requirements;

8 (2) a description of the agency's licensing study
9 process; and

10 (3) the agency's timelines for processing license
11 applications.

12 B. The agency shall ~~immediately~~ provide the license
13 application form prescribed by the commissioner to every
14 prospective applicant who requests an application.

15 C. An agency that requires prospective applicants to
16 attend an informational meeting before receiving a license
17 application form must ensure that meetings take place at least
18 every two months on either a group or individual basis.

19 D. Upon receiving a completed and signed license
20 application form, the agency shall provide the applicant a copy
21 of the program rules.

22 Subp. 2. Licensing study. The agency shall perform a
23 licensing study of the applicant that includes:

24 A. a background study performed according to subpart
25 3;

26 B. a written record of a home study that includes:

27 (1) on-site inspection of the residence;

28 (2) home visits necessary to fully evaluate the
29 applicant's qualification for licensure; and

30 (3) when an applicant has been operating a
31 program:

32 (a) ~~an observation-of-the-program-in~~
33 operation in-home visit to observe compliance with program
34 requirements;

35 (b) documented requests for program

1 evaluations from parents or legal guardians of children in
2 family day care; and

3 (c) evaluations from placement workers for
4 foster care;

5 C. three letters of reference;

6 D. where the agency has knowledge the applicant was
7 previously licensed, a reference from that previous agency;

8 E. reports from the fire marshal, building officials,
9 and health officials that are required by rules governing the
10 program;

11 F. for foster care licensing applicants, the
12 information in part 9543.0060, subpart 4; and

13 G. any other reports or evaluations necessary to
14 fully evaluate the applicant's qualifications for licensure and
15 compliance with applicable laws and rules.

16 Subp. 3. **Background study.** The agency shall conduct a
17 background study according to items A to E D.

18 A. The study shall include the following individuals:

19 (1) the applicant;

20 (2) all individuals over age 13 living in the
21 household; and

22 (3) any other individuals specified in Minnesota
23 Statutes, section 245A.04, subdivision 3, paragraph (a).

24 B. The study shall include the following records:

25 (1) conviction records of the Minnesota Bureau of
26 Criminal Apprehension;

27 (2) county agency records of substantiated abuse
28 or neglect of vulnerable adults and maltreatment of minors;

29 (3) juvenile court records of delinquency
30 proceedings held within the five years preceding application or
31 five years preceding the 18th birthday of anyone over age 13
32 living in the household, whichever time period is longer; and

33 (4) any other information, including arrest and
34 investigation records maintained by the Minnesota Bureau of
35 Criminal Apprehension, county attorneys, county sheriffs,
36 courts, county agencies, local police, and the national criminal

1 record repository, and criminal records of other states, if
2 there is reasonable cause to believe the information is
3 pertinent to disqualification of the individual under part
4 9543.3070.

5 C. If the individual has lived in the county for less
6 than five years, the study under item B shall include records
7 from the previous county or counties of residence for the past
8 five years.

9 D. When a background study indicates a subject is
10 disqualified under part 9543.3070, the agency shall:

11 (1) notify the applicant in writing that:

12 (a) the study indicates a subject is
13 disqualified;

14 (b) the subject has the right to request
15 reconsideration from the commissioner as provided in part
16 9543.3080; and

17 (c) the application will be denied unless
18 the commissioner sets aside the disqualification; and

19 (2) make a recommendation to the commissioner
20 whether the disqualification should be set aside.

21 Subp. 4. **Completed application.** An application is
22 completed when all studies, reports, and evaluations in subparts
23 2 and 3 have been completed and received by the agency.

24 Subp. 5. **Licensing recommendation.** The agency shall
25 forward its licensure recommendation to the commissioner within
26 20 working days after an application is completed. The agency
27 shall make its recommendation according to items A to C:

28 A. The agency shall recommend that the commissioner
29 issue a license when the agency determines that the applicant
30 fully complies with laws and rules governing the program and is
31 qualified for licensure.

32 B. The agency may recommend that the commissioner
33 issue a license and grant a variance according to part 9543.0050.

34 C. The agency shall recommend that the commissioner
35 deny a license application if the agency determines the
36 applicant fails to fully comply with laws or rules governing the

1 program and variance requirements. The agency shall submit
2 evidence to support its recommendation. Evidence may include:

3 (1) documentation of specific facility
4 deficiencies that endanger the health or safety of persons
5 served by the program;

6 (2) documentation of any disqualification that
7 has not been set aside;

8 (3) reports of agency investigations and on-site
9 observations;

10 (4) reports from law enforcement agencies;

11 (5) reports from county child or adult protection
12 services;

13 (6) reports from fire, building, or health
14 officials;

15 (7) complaints that relate to the program; or

16 (8) any other evidence that the applicant is not
17 in compliance with applicable laws or rules governing the
18 program.

19 Subp. 6. License renewal. Before the expiration date of a
20 license, the agency shall:

21 A. at least 30 days before the license expiration
22 date, provide an application form and notice of the license
23 expiration date to the license holder;

24 B. conduct a licensing renewal study that includes
25 information under subpart 2, items A, B, E, and F; and

26 C. make a licensing recommendation to the
27 commissioner.

28 Subp. 7. License extension. Before the expiration date of
29 a program that is being investigated or a program that is
30 appealing an order of revocation or suspension, the agency shall
31 request the commissioner to extend the license pending
32 disposition of the investigation or appeal.

33 Subp. 8. Tracking licensing progress. The agency shall
34 track the progress of each application for licensure on a form
35 approved by the commissioner including:

36 A. the dates and documentation of all events

1 described in subparts 2 to 7;

2 B. the status of the license application 120 calendar
3 days after receipt of a signed application form;

4 C. the date and circumstances when a license
5 application is withdrawn or a license is returned or not renewed
6 by the license holder;

7 D. the date the license is issued or denied; and

8 E. if a license is issued, the date the license is
9 effective and the expiration date of the license.

10 9543.0050 VARIANCE REQUESTS.

11 Subpart 1. Variance information. A variance request must
12 include the following information:

13 A. the part or parts of the rule for which a variance
14 is sought;

15 B. the reasons why a variance from the specified
16 provisions is sought;

17 C. the period of time for which a variance is
18 requested;

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

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

25 Subp. 2. Variance procedures. Except as provided in
26 subpart 3, a request for a variance must be submitted in writing
27 by the applicant or license holder.

28 Except for variance authority granted to a county agency
29 under part 9502.0335, subpart 8b, the agency shall forward to
30 the commissioner within ten working days of receipt of the
31 request the information in subpart 1 and the agency's
32 recommendation to approve or deny the request.

33 The commissioner shall send a written decision to grant or
34 deny the variance request to the applicant or license holder and
35 to the agency.

1 Subp. 3. Foster care capacity variance at request of
2 agency. The agency may orally request from the commissioner a
3 variance from child foster care capacity limits on behalf of a
4 license holder. If the commissioner grants the variance, the
5 agency shall submit to the commissioner the information in
6 subpart 1 within five working days after the variance is granted.

7 9543.0060 LICENSING FOSTER CARE PROGRAMS.

8 Subpart 1. Additional foster care licensing requirements.
9 Agencies that perform foster care licensing functions shall
10 comply with the requirements in subparts 2 to 6, in addition to
11 other applicable requirements.

12 Subp. 2. Program information. The agency shall provide
13 prospective applicants with information about foster care to
14 enable the prospective applicant to decide whether to apply for
15 licensure. The information must include:

16 A. the types of individuals the agency places in
17 foster care;

18 B. the responsibilities of foster care license
19 holders and of the agency; and

20 C. the agency's policies governing foster care.

21 Subp. 3. Orientation and preplacement training. The
22 agency shall provide applicants the orientation and preplacement
23 training required in rules governing the program.

24 Subp. 4. Foster care licensing study. In addition to the
25 licensing study under part 9543.0040, subpart 2, the licensing
26 study of an applicant for foster care must include:

27 A. in-person interviews with all family members and
28 other adults living in the household;

29 B. social history information; and

30 C. an evaluation of whether the individual meets the
31 specific qualifications required in Minnesota Rules governing
32 child foster care or adult foster care.

33 A written report of the foster care licensing study must be
34 kept in the applicant's record.

35 Subp. 5. Duties of agency. The agency shall:

1 A. enter into a foster parent agreement with the
2 license holder for child foster care;

3 B. coordinate with placement workers to ensure that
4 the license holder is visited by a placement worker or the
5 licenser at least monthly for the first six months after the
6 first placement in child foster care;

7 C. provide the license holder a copy of the annual
8 relicensing evaluation report;

9 D. establish a grievance mechanism for resolving
10 differences between the agency and the license holder and
11 provide the license holder with a written description of
12 grievance procedures;

13 E. ensure that the foster care provider has a means
14 of contacting the agency 24 hours per day, seven days per week;
15 and

16 F. ensure that training is available to enable
17 license holders to meet the training requirements in rules
18 governing foster care programs.

19 Subp. 6. Notice of closure. When a foster care program is
20 closed, the agency shall notify the commissioner on forms
21 prescribed by the commissioner.

22 9543.0070 INVESTIGATIONS OF LICENSED PROGRAMS.

23 Subpart 1. Reports of abuse or neglect of persons served
24 by licensed programs. If an agency receives a complaint
25 alleging abuse or neglect of persons served by a program, the
26 agency shall follow the procedures in items A to C.

27 A. The agency shall immediately report the complaint
28 to the county child or adult protection unit where the program
29 is located.

30 B. The agency shall cooperate with the county child
31 or adult protection unit as requested in conducting the
32 investigation required under part 9555.7300 or 9560.0222.

33 C. Upon completion of the investigation, the agency
34 shall take the appropriate licensing action indicated by the
35 findings of the investigation.

1 Subp. 2. **Timelines.** Except for reports of abuse, neglect,
2 or maltreatment, the agency shall investigate all complaints of
3 licensing violations received about programs for which it
4 performs licensing functions. The agency shall investigate the
5 complaints according to items A to C:

6 A. A complaint that alleges imminent danger or
7 recurring physical injury to persons served by the program must
8 be:

9 (1) reported according to subpart 1; and

10 (2) reported to the commissioner immediately.

11 B. Investigation of a complaint that does not
12 indicate imminent danger to persons served by the program but
13 that may result in a negative licensing action under part
14 9543.0100 must begin within three working days after the agency
15 receives the complaint.

16 C. Investigation of a complaint that does not involve
17 an issue of safety under item A or B for persons served by the
18 program must begin within ten working days after the agency
19 receives the complaint.

20 Subp. 3. **Determination.** The agency shall gather
21 sufficient information about every complaint to:

22 A. make a determination that a licensing violation
23 occurred, did not occur, or no determination can be made; and

24 B. if a violation occurred, issue a correction order
25 or recommend a negative licensing action.

26 Subp. 4. **Reports of death.** The agency shall ensure that
27 the death of a person served by a program is reported to the
28 medical examiner or coroner and ombudsman as required in
29 Minnesota Statutes, sections 626.556, subdivision 9, and
30 626.577, subdivision 9.

31 Subp. 5. **Recording complaints and investigations.** The
32 agency shall:

33 A. maintain a register for recording complaints about
34 licensed programs and tracking the status of each investigation;

35 B. record in the license holder's file the
36 disposition of each complaint involving the license holder; and

1 C. maintain the records according to Minnesota
2 Statutes, section 13.46.

3 9543.0080 COUNTY INVESTIGATION OF UNLICENSED PROGRAMS.

4 Subpart 1. Unlicensed family day care and adult foster
5 care. When a county agency learns that a family day care or
6 adult foster care program required to be licensed is operating
7 without a license, the county shall, within five working days,
8 notify the operator in writing that a license is required or the
9 program must discontinue operation.

10 A. If the operator discontinues the unlicensed
11 operation, no further action is required.

12 B. If an operator who is eligible for licensure fails
13 to sign an application form within 30 calendar days after notice
14 that a license is required or fails to cooperate in the
15 licensing study, the county agency shall:

16 (1) ask the county attorney to take legal action
17 to halt the continued operation of the program or obtain
18 misdemeanor prosecution of the operator; and

19 (2) inform the commissioner of the unlicensed
20 program.

21 C. Nothing in items A and B prevents a county agency
22 from immediately asking the county attorney to seek a court
23 order against the continued operation of an unlicensed program.

24 Subp. 2. Unlicensed child foster care. The agency shall
25 report to the county child protection unit when it learns of a
26 child in an unlicensed foster care program that is required to
27 be licensed.

28 9543.0090 CORRECTION ORDERS.

29 Subpart 1. Correction order, training. An agency shall
30 not issue correction orders unless licensors have been trained
31 by the department on procedures for issuing correction orders.
32 A correction order must be on forms prescribed by the
33 commissioner. A copy of the correction order must be kept in
34 the license holder's file.

35 Subp. 2. Criteria for issuing correction orders. A

1 correction order may be issued if all of the following
2 conditions are met:

3 A. the violation does not imminently endanger the
4 health, safety, or rights of persons served by the program;

5 B. the violation is not listed in part 9543.0100,
6 subpart 3;

7 C. the violation is not serious or chronic; and

8 D. the violation will be corrected within a
9 reasonable time.

10 Subp. 3. Time limitation. A correction order must include
11 a specific time period for correcting the violation.

12 Subp. 4. Compliance with correction order. The agency
13 shall ensure that license holders provide evidence of compliance
14 with a correction order or, if appropriate, recommend further
15 action to the commissioner.

16 9543.0100 RECOMMENDING NEGATIVE LICENSING ACTIONS.

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

19 A. submit to the commissioner the following
20 information:

21 (1) the citation to laws or rules that have been
22 violated;

23 (2) the nature and severity of each violation;

24 (3) whether the violation is recurring or
25 nonrecurring;

26 (4) the effect of the violation on persons served
27 by the program;

28 (5) an evaluation of the risk of harm to persons
29 served; the agency may use the risk assessment completed under
30 part 9560.0222, subpart 9;

31 (6) any evaluations of the program by persons
32 served or their families;

33 (7) relevant facts, conditions, and circumstances
34 concerning the operation of the program, including information
35 identified in part 9543.0040, subpart 5, item C;

1 (8) any relevant information about the
2 qualifications of the applicant or license holder or persons
3 living in the residence; and

4 (9) any aggravating or mitigating factors related
5 to the violation; and

6 B. notify the county attorney of the recommendation.

7 Subp. 2. Immediate suspension of license. If the agency
8 has reasonable cause to believe that the health, safety, or
9 rights of persons served by a program are in imminent danger,
10 the agency must take actions described in items A to C:

11 A. The agency shall notify the commissioner
12 immediately.

13 B. If the commissioner orders an immediate
14 suspension, the agency shall arrange for delivery, by personal
15 service, of written notice of immediate suspension to the
16 license holder. The notice shall state:

17 (1) the reason for the immediate suspension;

18 (2) that the program must discontinue operation
19 immediately;

20 (3) the license holder's right to appeal and a
21 contested case hearing; and

22 (4) that the commissioner has taken the action.

23 C. The agency shall make a recommendation for further
24 action to the commissioner.

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

28 A. immediate suspension of a license under subpart 2;

29 B. a disqualification in part 9543.3070, as proposed
30 at 15 State Register 486, August 27, 1990, and as later adopted,
31 or in rules governing the program;

32 C. a false statement knowingly made by the license
33 holder, on the license application;

34 D. failure or refusal to provide the commissioner
35 access to the physical plant and grounds, documents, persons
36 served, and staff;

1 E. recurring failure to comply with discipline
2 standards in rules governing the program;

3 F. severe or recurring failure to comply with
4 capacity limits; or

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

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

10 A. on the basis of factors in subpart 1, revocation
11 is not warranted; and

12 B. suspension rather than revocation:

13 (1) is in the best interests of persons served by
14 the program; and

15 (2) would not pose a risk of harm to persons
16 served by the program.

17 Subp. 5. License probation. The agency may recommend
18 probation rather than revocation or suspension if:

19 A. on the basis of factors in subpart 1, the agency
20 demonstrates that revocation or suspension is not warranted.

21 B. the agency demonstrates that continued operation
22 of the program:

23 (1) is in the best interests of persons served by
24 the program; and

25 (2) would not pose a risk of harm to persons
26 served by the program; and

27 C. the agency submits to the commissioner a plan for
28 monitoring the program to ensure the safety of persons served
29 during the probationary period.

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

34 Subp. 7. Notice to parents of negative licensing action.
35 The agency shall give written notice of a negative licensing
36 action to the parents or guardians of children in the programs

1 as follows:

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

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

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

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

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

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

20 Subp. 7- 8. Notice of negative licensing action to county.
21 If a negative licensing action has been ordered against a child
22 foster care program that is supervised by a private agency, the
23 private agency shall notify in writing the county agency in
24 which the program is located and any county that has placements
25 in the home.

26 9543.0110 ENFORCING ORDERS OF COMMISSIONER.

27 Subpart 1. Agency enforcement of commissioner orders. The
28 agency shall enforce and defend all orders of the commissioner,
29 including immediate suspension, suspension, and revocation.

30 Subp. 2. Sanctioned programs. If the agency has knowledge
31 that a program whose license has been immediately suspended,
32 revoked, or suspended continues to operate, the agency shall
33 immediately report the operation to the county attorney and the
34 commissioner.

35 Subp. 3. Programs on probation. The agency shall monitor

1 programs on probation for compliance with the plan developed
2 under part 9543.0100, subpart 5. If a program fails to comply
3 with the terms of its probation, the agency shall immediately
4 report the noncompliance to the commissioner.

5 9543.0120 REPRESENTING THE COMMISSIONER IN CONTESTED CASE
6 PROCEEDINGS.

7 Subpart 1. **Contested case proceedings.** The county agency
8 shall represent the commissioner in contested case appeals of
9 negative licensing actions involving license holders supervised
10 by the county agency. The county agency shall:

11 A. arrange for legal consultation and representation
12 by the county attorney;

13 B. prepare all documents necessary for the contested
14 case proceeding;

15 C. within 30 days after receipt of the appeal packet
16 from the department, arrange with the Office of Administrative
17 Hearings for the services of an administrative law judge and a
18 timely date and location for the hearing;

19 D. serve the notice of and order for hearing as
20 provided in part 1400.5600; and

21 E. send a copy of the notice of and order for hearing
22 to the commissioner.

23 Subp. 2. **Appeals involving private agencies.** The attorney
24 general represents the commissioner in contested case appeals of
25 licensing actions involving license holders licensed based on
26 the recommendation of a private agency.

27 Subp. 3. **Informal dispositions, stipulated agreements.** In
28 making an informal disposition of a contested case, the county
29 agency shall follow the procedures in items A to D:

30 A. The county agency shall obtain preliminary
31 approval from the commissioner to discuss an informal
32 disposition of the contested case.

33 B. Before entering into any settlement agreement with
34 an applicant or license holder appealing an order of the
35 commissioner, the county agency shall discuss the terms of the

1 proposed agreement with the commissioner.

2 C. If the commissioner approves of the proposed
3 terms, the county agency shall:

4 (1) draft an agreement and obtain signatures of
5 the party appealing and county representatives;

6 (2) submit the signed agreement to the
7 commissioner for approval and signatures; the agreement is not
8 effective until signed by the commissioner; and

9 (3) monitor the program for compliance with the
10 terms of the agreement.

11 D. If the commissioner or parties are unable to reach
12 a settlement, the county agency shall schedule a contested case
13 hearing.

14 9543.0130 ADMINISTRATIVE REQUIREMENTS.

15 Subpart 1. **Maintaining records.** The agency must maintain
16 a record file of each applicant and license holder that includes:

17 A. all records required by the rules governing the
18 program;

19 B. a record of all investigations and dispositions of
20 all investigations according to Minnesota Statutes, section
21 13.46;

22 C. dates and reports of all licensing studies; and

23 D. a list of all persons currently being served by
24 the foster care license holder.

25 Subp. 2. **Commissioner access.** The agency shall provide
26 the commissioner access to and, if requested, copies of all
27 records and documents in an applicant or license holder's file.

28 Subp. 3. **Training requirements.** The agency shall require
29 that licensors receive six hours of training each calendar year.

30 Training must be relevant to licensing functions or to
31 licensed programs.

32 The agency must keep a record of completed training in each
33 licensor's personnel file.

34 Subp. 4. **Conflict of interest.** The agency shall ensure
35 that no agency employee or board member who applies for

1 licensure or who is licensed to operate a program based on the
2 agency's recommendation is involved in any licensing
3 recommendation or action related to that employee or board
4 member.

5 9543.0140 COUNTY CERTIFICATION.

6 Subpart 1. County agency certification. The commissioner
7 shall biennially determine whether a county agency is in
8 compliance with parts 9543.0040 to 9543.0130. When the county
9 agency is in compliance with parts 9543.0040 to 9543.0130, the
10 commissioner shall certify the county agency for two years.

11 Subp. 2. Notification of noncompliance. The commissioner
12 shall notify the county agency when the county agency has failed
13 to comply with parts 9543.0040 to 9543.0130. The notice must
14 include:

15 A. the deficiencies in the county agency's licensing
16 procedures;

17 B. the corrective action necessary to correct the
18 deficiencies; and

19 C. the time frame for correction of the deficiencies.

20 Subp. 3. County compliance. Within 30 calendar days after
21 receiving a notice of noncompliance, the county shall:

22 A. demonstrate compliance with parts 9543.0040 to
23 9543.0130; or

24 B. submit to the commissioner for approval a
25 corrective action plan.

26 Subp. 4. Review of corrective action plan. The
27 commissioner shall review and approve or disapprove the
28 corrective action plan within 30 calendar days after receiving
29 the plan.

30 Subp. 5. Provisional certification. If the county agency
31 does not fully comply with parts 9543.0040 to 9543.0130, but the
32 failure to comply does not constitute a risk to persons served
33 by licensed programs, the commissioner may issue a provisional
34 certification of the county agency upon approval of the
35 corrective action plan submitted under subpart 3, item B.

1 Subp. 6. County agency decertification based on
2 demonstrated risk of harm to program participants. When the
3 commissioner determines that a county agency's failure to comply
4 with parts 9543.0040 to 9543.0130 demonstrates a risk of harm to
5 persons served by licensed programs, the commissioner shall
6 immediately revoke certification of the county agency and
7 initiate sanctions as provided in subpart 7.

8 Subp. 7. Funding sanction. If the county agency is
9 decertified, the commissioner shall certify a funding reduction
10 according to Minnesota Statutes, section 245A.16, subdivision 6.

11 Subp. 8. Expiration of certification. A certification
12 issued to a county agency expires at 12:01 a.m. on the day after
13 the expiration date stated on the certification.

14 Subp. 9. Contracting licensing functions. A county agency
15 must receive prior approval from the commissioner before
16 contracting with an authorized private agency or another county
17 agency to perform licensing functions delegated under part
18 9543.0030, subpart 1, and remains subject to the certification
19 provisions in part 9543.0140. This subpart does not apply to
20 purchase of service contracts which have as their primary
21 purpose to provide foster care services for individual clients.

22 9543.0150 PRIVATE AGENCY AUTHORIZATION.

23 Subpart 1. Private agency authorization. The commissioner
24 shall at least biennially determine private agencies' compliance
25 with parts 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and
26 9543.0130. When a private agency is in compliance with parts
27 9543.0040 to 9543.0070, 9543.0090 to 9543.0110, and 9543.0130,
28 the commissioner shall authorize the private agency to perform
29 licensing functions delegated under part 9543.0030, subpart 2,
30 for a period up to two years. The authorization shall specify
31 the effective and expiration dates of the authorization.

32 Subp. 2. Revocation of private agency's authorization.
33 When the commissioner determines that a private agency's failure
34 to comply with parts 9543.0040 to 9543.0070, 9543.0090 to
35 9543.0110, and 9543.0130 demonstrates a risk of harm to persons

1 served by licensed programs, the commissioner shall revoke the
2 private agency's authorization to perform licensing functions
3 under part 9543.0030, subpart 2. Revocation of a private
4 agency's authorization is grounds for negative licensing action
5 against a license issued under parts 9545.0750 to 9545.0830.
6 Revocation of authorization or a negative licensing action may
7 be appealed according to Minnesota Statutes, sections 245A.07
8 and 245A.08.

9

10 REPEALER. Minnesota Rules, parts 9502.0335, subparts 3,
11 14, and 16; 9502.0341, subparts 1 and 9a; 9545.0020, subparts 3
12 and 9; 9555.5415; and 9555.6145, subpart 6, are repealed.

13

14 EFFECTIVE DATE. Parts 9543.0010 to 9543.0150 and the
15 repealer are effective ~~January 1~~ March 29, 1991.