



# **Department of Human Services Licensing Division: Support to Counties**

**2024 Evaluation Report**

**Program Evaluation Division  
Office of the Legislative Auditor  
State of Minnesota**

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February 2024

Members of the Legislative Audit Commission:

The Department of Human Service (DHS) supports and oversees county agencies that process licenses for certain programs that serve children and vulnerable adults. DHS has supported county licensors in many ways, and the county licensors who responded to our survey were generally satisfied with the resources and guidance that DHS has provided.

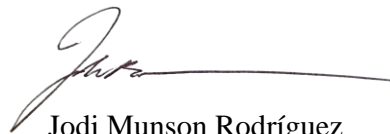
Nevertheless, we suggest a number of improvements, including that DHS provide better support for county licensors who process licenses for certain residential facilities that serve older or vulnerable adults (Community Residential Settings). Further, we recommend that the new Department of Children, Youth, and Families consider the recommendations in this report when it assumes DHS's licensing responsibilities related to children's services.

Our evaluation was conducted by Sarah Delacueva (project manager), Gretchen Becker, Hannah Geressu, and Kaitlyn Schmaltz. DHS cooperated fully with our evaluation, and we thank them for their assistance.

Sincerely,



Judy Randall  
Legislative Auditor



Jodi Munson Rodríguez  
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## Summary

February 2024

# Department of Human Services Licensing Division: Support to Counties

The Department of Human Services (DHS) has generally done a good job supporting county licensurers. Nevertheless, there is room for improvement, especially given upcoming structural changes at the state level.

### Report Summary

#### DHS Support to County Licensing Agencies

The staff of county licensing agencies—“county licensurers”—rely on support from DHS for numerous reasons, such as training, guidance on new licensing policies, or assistance in emergent situations. DHS supports county licensurers through trainings, optional meetings, newsletters, and by responding to county licensurer questions submitted via telephone or e-mail (known as “triage”).

- Both the county licensurers and DHS staff who responded to our surveys generally agreed that DHS has, overall, provided effective support to county licensurers. (p. 16)
- Most county licensurers and DHS staff who responded to our surveys reported favorable opinions of DHS’s communication of licensing requirements. (pp. 17-18)
- DHS has provided a range of supports to county licensurers across programs, but has provided less support targeted to those who license Community Residential Settings (CRS). (pp. 14-15)

**Recommendation** ► DHS should improve the support it provides for CRS licensurers. (p. 22)

- While most county licensurers who responded to our survey noted that DHS’s triage responses were timely, some CRS licensurers reported that it took significant time to receive responses from DHS. (pp. 18-19)

**Recommendations** ► DHS should (1) develop a formal policy and establish a timeframe in which staff must respond to triage inquiries, and (2) track how long it takes staff to respond to inquiries. (p. 22)

- DHS has not put certain guidance in writing, making it difficult for county licensurers to obtain consistent and timely information. (pp. 20-21)

**Recommendation** ► DHS should provide written guidance that is easily accessible to all county licensurers. (pp. 22-23)

### Background

DHS licenses individuals and businesses that provide care for children and vulnerable adults. DHS is exclusively responsible for the licensing activities related to many types of human services programs.

For other programs, DHS delegates certain licensing responsibilities to county governments, as allowed by Minnesota statutes. These programs include: (1) Family Child Care; (2) Child Foster Care; (3) Adult Foster Care; and (4) Community Residential Settings, which are residential facilities that serve adults with disabilities.

For programs with county-delegated licensing, county licensing agencies determine whether applicants meet licensing requirements. DHS’s Licensing Division then issues licenses or sends denial letters based on county recommendations. Similarly, county licensing agencies monitor providers on an ongoing basis, and DHS sanctions providers (as needed) based on county recommendations.

## DHS-County Partnership

The county-delegated licensing system requires DHS and county licensors to work together to license service providers and perform other licensing functions. Significant changes, however, are on the horizon. In 2023, the Legislature created a new Department of Children, Youth, and Families (DCYF), and DHS's licensing of child care and child foster care services will be transferred to DCYF once the new department is operating.

- Two-thirds of county licensors reported that the partnership between DHS and county licensors is strong. (pp. 25-26)
- Most county licensors and DHS staff that we surveyed had favorable opinions of DHS's process for regularly reviewing the work of county licensing agencies (the "Rule 13" review process). (p. 32)
- DHS has made consistent efforts to inform and engage county licensors as it implemented changes to programs with county-delegated licensing. (pp. 33-37)
- DHS has sometimes been slow to issue licensing actions when providers do not comply with program requirements, which can negatively impact the department's relationship with county licensors. (pp. 29-31)

**Recommendations** ► DHS should (1) establish timeframes for processing licensing actions that are uniform across programs with county-delegated licensing, and (2) ensure that it addresses all recommendations for licensing actions within those timeframes. (p. 31)

- While most county licensors indicated that DHS had provided clear guidance on the division of licensing roles, some licensors expressed frustration about the delineation between those roles. (pp. 27-28)

**Recommendation** ► DHS and DCYF should take extra care to provide clear and consistent guidance on the respective roles of state agencies and county licensors, especially in light of the upcoming division of licensing oversight between the two departments. (p. 38)

**Recommendation** ► DCYF should adopt the recommendations from this report that are relevant to its activities. (p. 38)

### Summary of Agency Response

In a letter dated February 15, 2024, Commissioner Jodi Harpstead said that DHS appreciated OLA's review and is "pleased that the recommendations align with our plans for improvement, which we are working to implement thanks to the investment of resources by the governor and 2023 Legislature." She stated that DHS is already using the additional resources to hire staff, and that filling those positions is "likely to help address many of the concerns about support" for CRS licensors. She said that as DHS prepares to transition programs to DCYF, the two departments are working closely to "ensure that licensing functions will continue without interruption, and that all partners, including county licensors, will have clear guidance on the respective roles of DHS and DCYF."

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# Introduction

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The State of Minnesota requires licensing for many professions to ensure that the members of those professions—and the services that they provide—meet minimum standards. When people or businesses provide certain services related to caring for children or vulnerable adults, the Department of Human Services (DHS) Licensing Division oversees their licensure.

While DHS staff oversee the licensure and compliance of many programs, the department delegates some licensing responsibilities to county governments for certain programs, including in-home child care (known as Family Child Care), Adult Foster Care, Child Foster Care, and certain residential facilities (known as Community Residential Settings) that serve individuals with disabilities. For each of these programs, county licensing agencies are responsible for processing applications and monitoring providers; DHS is responsible for issuing licenses and sanctioning providers (as needed) based on recommendations from counties.

In May 2023, the Legislative Audit Commission directed the Office of the Legislative Auditor to evaluate the DHS Licensing Division’s support to counties. Our evaluation addressed the following questions:

- **To what extent has the DHS Licensing Division communicated effectively with county partners about licensing requirements?**
- **How well has the DHS Licensing Division supported county staff as they carry out licensing requirements?**
- **How can the DHS Licensing Division ensure a strong state-county partnership?**

We used a number of methods to evaluate DHS’s communication with and support to county licensors. We surveyed county licensors and the DHS staff who support them. We also conducted focus groups of county licensors from across the state. We interviewed DHS licensing managers and staff; reviewed past DHS communications, training materials, and technical assistance logs related to licensing questions; and observed trainings and monthly meetings that DHS conducted for county licensors.

Additionally, we reviewed state statutes, rules, and session laws; DHS inspection and county review checklists; DHS’s website; and other relevant documents and resources. We also analyzed DHS licensing data.

We focused our evaluation on the relationship between the DHS Licensing Division and county licensors. Thus, we did not evaluate DHS’s relationship with the license holders that actually provided services to Minnesotans. We also did not evaluate whether county licensors made appropriate licensing decisions, nor whether license holders provided appropriate services. Further, we did not exhaustively evaluate DHS’s compliance with licensing laws; we focused on those related to supporting counties. Finally, while criminal history checks on service providers (known as “background studies”) are a part of the licensing process, they are conducted by a separate division within DHS, and were therefore outside the scope of this evaluation.



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# Chapter 1: Background

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Hundreds of thousands of Minnesotans entrust the care of their loved ones—whether young children or vulnerable adults—to licensed care providers. Human services licensing protects the health, safety, and rights of those service recipients by ensuring that service providers meet minimum standards. At the time this report was published, the Department of Human Services (DHS) was the state agency that oversaw the licensure of individuals and businesses that care for children and vulnerable adults.<sup>1</sup>

In this chapter, we give an overview of human services licensing, including its structure, types of programs, and numbers of license holders (whom we refer to as “providers”). We then describe the processes that DHS and others follow when licensing human services providers.

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## Licensing Overview

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DHS’s Licensing Division is part of the department’s Office of the Inspector General. The Licensing Division consists of several units that either directly license or oversee the licensing of more than 20 types of providers serving children and vulnerable adults. As of the end of Fiscal Year 2023, there were more than 21,000 providers operating with licenses issued by the DHS Licensing Division.

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**DHS directly licenses providers in some programs; for other programs, the department delegates certain licensing responsibilities to county governments.**

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Minnesota statutes allow DHS to delegate certain licensing responsibilities to county governments.<sup>2</sup> Historically, DHS has delegated some responsibilities—such as application processing—for child care and foster care services that take place in a license holder’s own home.<sup>3</sup> DHS, on the other hand, directly licenses most larger, commercial settings. For example, county licensing agencies process applications for *Family Child Care* settings, in which the child care typically takes place in the

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<sup>1</sup> The 2023 Legislature established a new state agency: the Department of Children, Youth, and Families. *Laws of Minnesota* 2023, chapter 70, art. 12, sec. 14, codified as *Minnesota Statutes* 2023, 142A.02, subd. 1. Relevant programs will move to the new department during Fiscal Year 2025. After the transition, the Licensing Division units that perform or oversee licensing related to children’s services will move to the new department (either in whole or in part). DHS will continue to perform or oversee licensing for adult services. We discuss the implications of this new department further in Chapter 3.

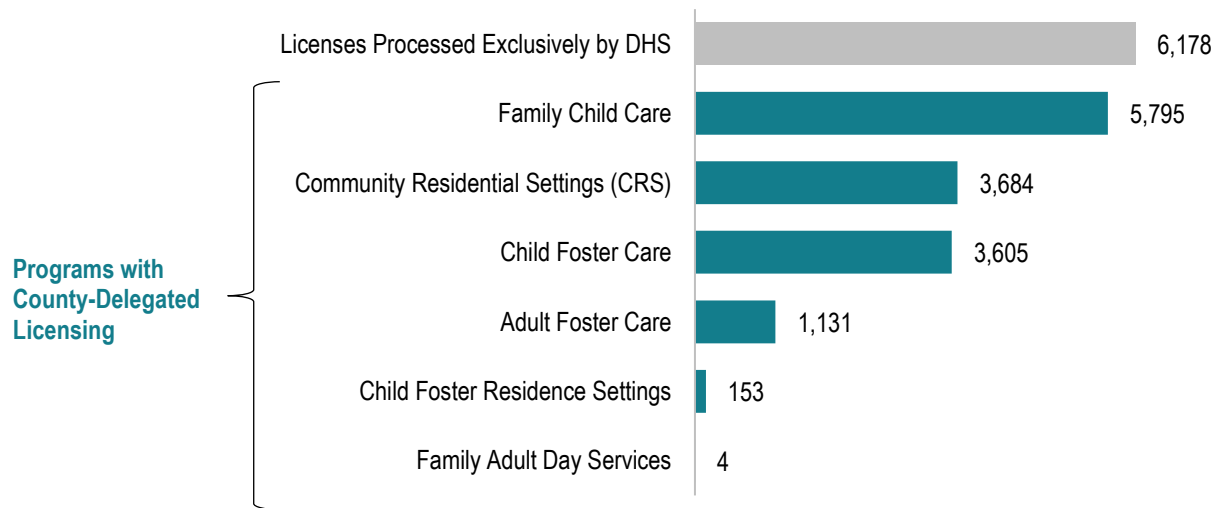
<sup>2</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a). Throughout this report, we refer to the county departments—often human services or social services departments—that perform a county’s licensing work as “county licensing agencies.” We also use the term to refer to multicounty cooperative organizations that undertake licensing activities on behalf of their members.

<sup>3</sup> County licensing agencies also handle licensing activities for some similar care settings that serve small numbers of individuals but for which the license holder does not reside in the facility, such as Child Foster Residence Settings, Community Residential Settings, and Special Family Child Care (which includes certain instances of nonresidential child care taking place in locations such as schools, churches, or commercial buildings).

provider's home. DHS, however, undertakes all licensing responsibilities related to larger *Child Care Centers*, which generally care for children in commercial settings.

County licensing agencies processed 70 percent of all active licenses overseen by the DHS Licensing Division as of the end of Fiscal Year 2023. The following chart compares the number of active licenses in each program for which counties processed the licenses, compared with the number from the remaining programs that DHS processed directly.

### Active Human Services Licenses, June 2023



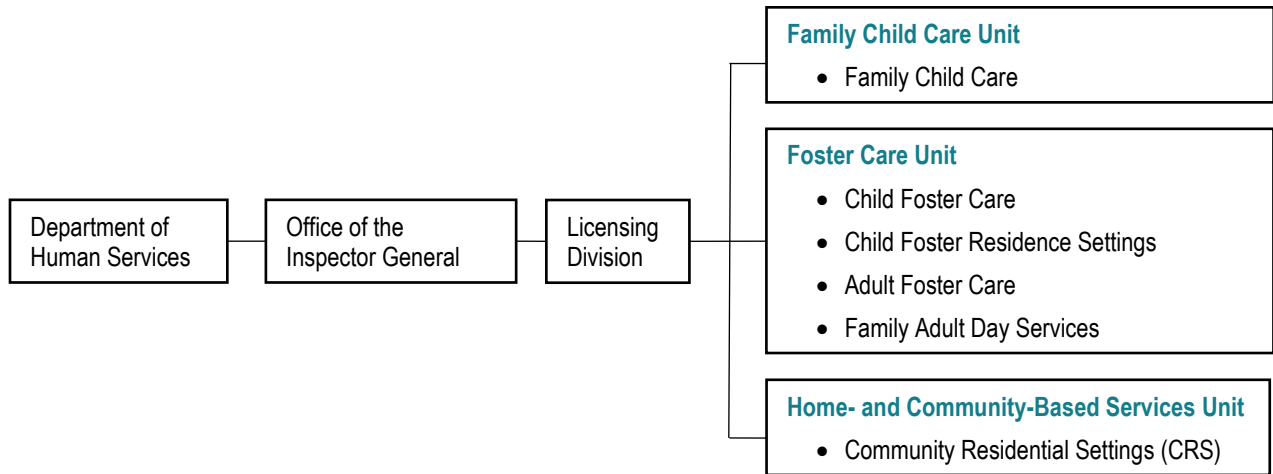
Notes: The chart excludes licenses for providers that had permanently closed or were otherwise suspended from operating. The gray bar represents the sum of all licenses processed exclusively by DHS across nearly 20 programs, including Child Care Centers, Mental Health Clinics, and Substance Use Disorder Treatment Facilities, among others.

Source: Office of the Legislative Auditor, analysis of DHS licensing data, June 30, 2023.

The programs with county-delegated licensing fall under the oversight of one of three units within the DHS Licensing Division, as shown in the organizational chart that follows. As of mid-2023, the DHS Licensing Division had 11 staff in its Foster Care Unit and 10 staff in its Family Child Care Unit. While there were 21 staff in the Home- and Community-Based Services Unit, this unit has historically dedicated only 1 staff member to Community Residential Settings licensing.<sup>4</sup>

<sup>4</sup> Home- and Community-Based Services include a wide array of services for adults with disabilities or any individual who is age 65 or older, most of which are licensed exclusively by DHS staff. As of the publication of this report, DHS was in the process of hiring additional staff to support Community Residential Settings licensors.

## DHS Oversight of County-Delegated Licensing



Note: This is a simplified organizational chart showing only those units relevant to this report and the programs with county-delegated licensing that they oversee.

Source: Office of the Legislative Auditor.

## Programs with County-Delegated Licensing

For our evaluation, we focused on the relationship between DHS and the county staff that perform certain licensing activities on the department’s behalf. The table on the next page describes the key programs for which DHS has delegated licensing responsibilities to county licensors. It also shows the number of active licenses and the maximum number of individuals those providers are licensed to serve (as of the end of Fiscal Year 2023).

### Foster Care

The table that follows shows two separate Foster Care programs: Child Foster Care and Adult Foster Care. DHS’s Foster Care Unit oversees both programs, and many county licensors work with both. Throughout this report, we refer to the two programs collectively as “Foster Care” when discussing a type of DHS support or a requirement that applies to both. However, we discuss the programs separately when it makes sense to draw a distinction between them.

The Foster Care Unit also oversees the licensing of “Child Foster Residence Settings” and “Family Adult Day Services” providers. Due to the small numbers of licenses in these programs, we do not discuss them further in this report.

### Programs with County-Delegated Licensing, June 2023

Program	Description	Number of Licenses	Maximum Number Served
Family Child Care	Supervision and care for children outside of their own home for fewer than 24 hours per day, typically taking place in the license holders' homes	5,795	68,511
Child Foster Care	Temporary residential care in the license holders' homes for children who cannot safely remain in their own homes due to alleged or substantiated neglect, drug abuse on the part of their caretaker, or other reasons	3,758 <sup>a</sup>	8,513 <sup>a</sup>
Adult Foster Care	Ongoing residential care in the license holders' homes for seniors and adults with disabilities who require some daily care, but not skilled nursing	1,135 <sup>b</sup>	2,882 <sup>b</sup>
Community Residential Settings (CRS)	Ongoing residential care settings for adults in which at least one resident receives certain types of disability services; the settings are not in the license holders' homes and residents are supported by paid staff who work in shifts to provide 24-hour care	3,684	13,138

<sup>a</sup> These figures include a small number of settings known as "Child Foster Residence Settings," which provide care for small numbers of foster children in licensed homes where the license holders do not reside.

<sup>b</sup> These figures include a small number of settings known as "Family Adult Day Services," which provide nonresidential care for adults in the license holders' homes.

Source: Office of the Legislative Auditor, analysis of DHS licensing data, June 30, 2023.

## County Licensing Agencies

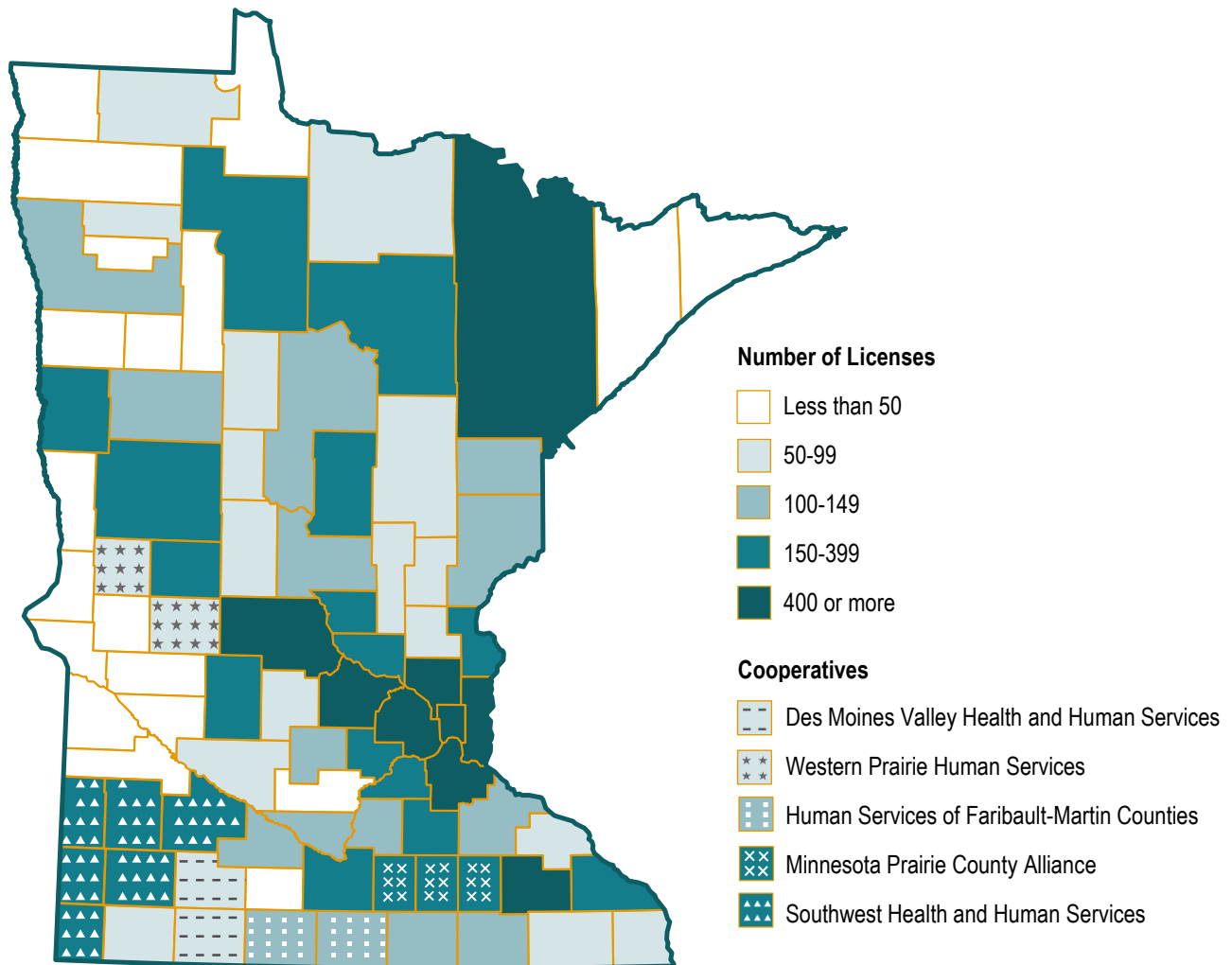
Across Minnesota, county licensing agencies vary both in the number of licensing staff they have and in the number of licenses they process. Large county licensing agencies tend to have multiple staff licensors who may specialize in processing a particular type of license. Hennepin County has the largest licensing staff, with nearly 50 specialized staff licensors according to a mid-2023 licensor list. In contrast, less populous counties may have just one or two licensors who each conduct licensing activities related to multiple programs. Some other counties rely on multicounty cooperative organizations serving their region to conduct some or all of the county's licensing activities.

In Fiscal Year 2023, the vast majority of county licensing agencies oversaw fewer than 80 licenses per staff licensor (with the average being around 50).<sup>5</sup> However, county licensing staff workloads varied widely—from 5 to more than 120 licenses per licensor in Fiscal Year 2023. These different staffing arrangements and workloads can impact the amount and type of support the county licensors require from DHS.

<sup>5</sup> This encompasses any license the county licensing agency might have spent time on, including licenses issued, renewed, or otherwise monitored, as well as licenses that were revoked during Fiscal Year 2023. The staff numbers do not include licensing supervisors, who may or may not participate in day-to-day licensing activities alongside their staff.

More populous counties are likely to have a greater demand for child care or other licensed human services than less populous counties, and thus are likely to have more licensed providers. The following map shows the number of current licenses, as of the end of Fiscal Year 2023, for which each county licensing agency was responsible. It also shows the groups of counties that license cooperatively.

### County Licensing Agencies by Number of Licenses, Fiscal Year 2023



Notes: The color of the county reflects the number of licenses across all programs with county-delegated licensing for which the associated county licensing agency or cooperative was responsible in Fiscal Year 2023, including licenses that were suspended or revoked during that time. For the county cooperatives, the color reflects the total number of licenses processed and monitored by the cooperative. As such, each individual county within the cooperative may be the home to fewer licensed providers than the color-coding suggests.

Source: Office of the Legislative Auditor, analysis of DHS licensing data, June 30, 2023.

## County-Delegated Authority

Since at least 1987, the Minnesota Legislature has empowered DHS to delegate some human services licensing activities to local units of government.<sup>6</sup>

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### For certain programs, DHS has delegated application processing and license monitoring to county licensing agencies.

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Statutes largely allow DHS to determine which licensing functions, such as application processing and inspections, to delegate to county and private agencies.<sup>7</sup> While DHS must make the final decision about whether to issue a license, it can give county and private agencies the authority to make licensure recommendations to DHS, including recommendations to deny an application or to suspend or revoke a license.<sup>8</sup>

DHS has chosen to delegate to county licensing agencies all of the licensing functions that the law allows it to delegate. The department formally outlines the functions it delegates for Family Child Care and Foster Care licensing in its rules; the box to the right lists some of these delegated functions.<sup>9</sup> DHS delegates many of the same functions to county licensing agencies for Community Residential Settings (CRS) licensing, but it has not issued a corresponding set of rules governing CRS licensure.



#### County-Delegated Licensing Functions

The licensing functions that DHS has formally delegated to county licensing agencies include, but are not limited to:

- Accepting and processing license applications
- Conducting inspections of providers
- Recommending approval or denial of applications for licensure
- Monitoring compliance with applicable licensing rules
- Investigating allegations of license violations
- Issuing correction orders
- Recommending sanctions, up to license revocation

— **Minnesota Rules, 9543.0030, subp. 1**

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<sup>6</sup> *Laws of Minnesota* 1987, chapter 333, sec. 17, newly specified that DHS's commissioner could designate certain licensing functions and activities to county licensing agencies. The licensing statutes from 1986 (specifically *Minnesota Statutes* 1986, 245.783, subd. 2) and earlier allowed the State Fire Marshal, rather than the DHS commissioner, to delegate license inspection duties to local units of government.

<sup>7</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a). "Private agencies" include nonprofit organizations to which DHS delegates Child Foster Care licensing functions under *Minnesota Rules*, 9543.0030, subp. 2, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023. We did not evaluate DHS's relationship with private agencies.

<sup>8</sup> *Minnesota Statutes* 2023, 245A.04, subd. 7(a); and 245A.16, subd. 1(a).

<sup>9</sup> *Minnesota Rules*, 9543.0030, subp. 1, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023.

## Overview of Licensing Processes

The following table summarizes the steps involved in issuing and monitoring Foster Care, Family Child Care, and CRS licenses.<sup>10</sup> It also illustrates which functions are DHS's responsibility and which functions the department delegates to county licensing agencies.

### Division of Licensing Responsibilities for Programs with County-Delegated Licensing

Licensing Functions	County Agency	DHS
Accept applications	✓	
Conduct inspections	✓	
Perform background studies		✓
Review applications	✓	
Recommend licensure or application denial	✓	
Issue licenses or deny applications		✓
Monitor providers	✓	
Conduct investigations	✓	✓
Issue correction orders	✓	
Recommend license suspension or revocation	✓	
Revoke or suspend licenses		✓

Source: Office of the Legislative Auditor.

Statutes prescribe a single general process for DHS to issue all of its license types.<sup>11</sup> Individuals or organizations submit applications to provide services, and DHS or county licensing agencies collect information and determine whether applicants comply with the licensing requirements for the types of services they intend to provide. For the Family Child Care, Foster Care, and CRS programs, DHS largely relies on county licensing agencies to interact with prospective providers and to assess whether they qualify for licensure.

## License Issuance

To apply for a human services license, a prospective provider first submits a license application, on a DHS form, to the county licensing agency. Then, a county licensor who works in the program area inspects the applicant's home or other care setting using a DHS checklist of applicable licensing requirements.<sup>12</sup> The checklists require county licensing agencies to confirm, for example, that the applicant's home is free of certain

<sup>10</sup> An important distinction for CRS licenses is that applicants must first apply for a Home- and Community-Based Services license, which DHS processes directly. Once DHS issues the Home- and Community-Based Services license, the department then refers the applicant to their local county licensing agency to apply for a supplemental CRS license. County licensing agencies process the CRS portion of the applications in generally the same manner that they do with other delegated license types.

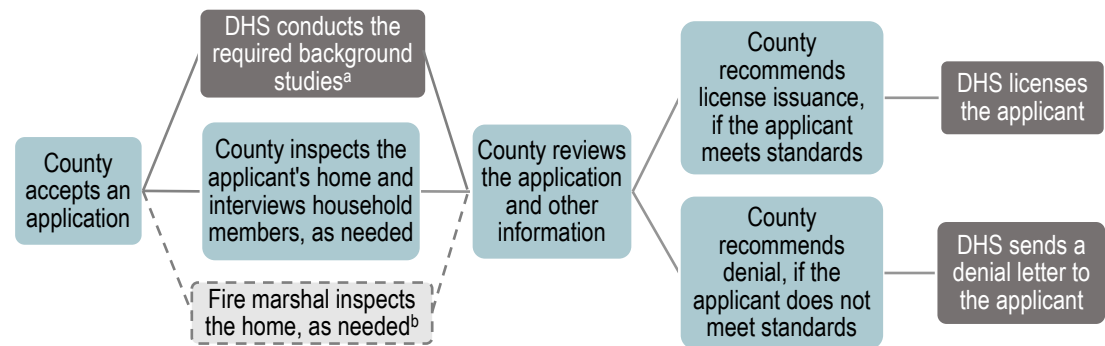
<sup>11</sup> *Minnesota Statutes* 2023, 245A.04.

<sup>12</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0040, subp. 2B, <https://www.revisor.mn.gov/rules/9543.0040/>, accessed December 14, 2023. The checklists include requirements from *Minnesota Statutes* 2023, 245A, as well as *Minnesota Rules*, 9502, for Family Child Care; *Minnesota Rules*, 9555, for Adult Foster Care; and *Minnesota Rules*, 2960, for Child Foster Care.

hazards and includes spaces appropriate to the care being provided. In addition, DHS must conduct background studies of the applicant, other potential caregivers, and certain other individuals who reside in the home.<sup>13</sup> For Foster Care, the county licensing agency also conducts in-person interviews with all family members and other adults in the household.<sup>14</sup>

To process an initial license application for a program with county-delegated licensing, DHS and county licensing agencies generally follow the steps outlined in the following exhibit.

### Simplified Overview of the Initial Licensing Process



<sup>a</sup> For CRS applicants, DHS conducts required background studies before referring the applicant to the county licensing agency to complete an application to license the CRS facility.

<sup>b</sup> Whether the applicant needs a fire marshal inspection depends on the type of license sought and other circumstances.

Source: Office of the Legislative Auditor.

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### County licensing agencies must determine that applicants comply with licensing requirements before recommending that DHS issue an initial license.

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Once the county licensing agency has completed its inspections and interviews, the county licensor reviews all available information, such as application materials and inspection documentation. Based on the county licensor's review, the county licensing agency determines whether DHS should license the applicant. If the county licensing agency finds that the applicant meets legal requirements (the applicant is qualified and the home meets health and safety standards), it forwards a form to DHS that contains

<sup>13</sup> *Minnesota Statutes* 2023, 245C.03, subd. 1; and 245C.04, subd. 1(a). A background study is a check for historical criminal and abusive behavior that would disqualify an individual from working with the population they are applying to serve.

<sup>14</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0060, subp. 4A, <https://www.revisor.mn.gov/rules/9543.0060/>, accessed December 14, 2023.

the county's recommendation for licensure.<sup>15</sup> If the county licensing agency finds that the applicant does not meet licensing requirements, it documents relevant evidence for DHS and submits a recommendation to DHS to deny the license.<sup>16</sup>

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### **DHS issues licenses based on the recommendations of county licensing agencies.**

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To complete the process, DHS either issues the license or notifies the applicant of a denial based on the county licensing agency's recommendation. DHS does not have a separate process to assess the county licensing agency's licensing recommendation. DHS managers told us that instead, DHS staff check to make sure the recommendation form is complete and then issue the license. If the county licensing agency recommended a denial, DHS staff also ensure that the county's documentation shows that there is a sufficient statutory basis for the denial before mailing a denial letter to the applicant.

A license holder may provide services for one year with an initial license; thereafter, Minnesota statutes allow each license renewal to last for up to two years.<sup>17</sup> To renew a license, statutes require the provider to submit another application to the county licensing agency and pass an inspection.<sup>18</sup>



#### **Issue: Continuous Licensing vs. License Renewal**

DHS told us that the department does not require all providers to renew their licenses using the process described in this chapter. Instead, DHS uses "continuous licensing" for many of its license types, including Home- and Community-Based Services licenses. The department also has plans to convert Family Child Care and Foster Care licenses to continuous licenses in the future, starting with Family Child Care in 2025. To maintain a continuous license, a provider simply pays a renewal fee and undergoes an inspection; the provider is not required to apply for a new license every two years.

Based on our analysis, statutes are currently incompatible with continuous licensing, given that they require (1) licenses to expire at least every two years and (2) the license holder to apply again in order to continue operating. Specifically:

- *Minnesota Statutes* 2023, 245A.16, subd. 1(e), states that "a license...may be issued for up to two years."
- *Minnesota Statutes* 2023, 245A.04, subd. 7(l), states that "unless otherwise specified by statute, all licenses issued...expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date."

**RECOMMENDATION: If DHS wishes to implement continuous licensing, it should work with the Legislature to amend statutes in a manner that allows the process.**

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<sup>15</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0040, subp. 5A, <https://www.revisor.mn.gov/rules/9543.0040/>, accessed December 14, 2023.

<sup>16</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0040, subp. 5C, <https://www.revisor.mn.gov/rules/9543.0040/>, accessed December 14, 2023.

<sup>17</sup> *Minnesota Statutes* 2023, 245A.16, subd. 1(e). Foster Care providers who are related to the person that they are caring for can be licensed for two years with an initial license.

<sup>18</sup> *Minnesota Statutes* 2023, 245A.04, subds. 4(a) and 7(l); and 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0040, subp. 6, <https://www.revisor.mn.gov/rules/9543.0040/>, accessed December 14, 2023. County licensing agencies must inspect Family Child Care providers at least annually and must conduct other provider inspections at least once every two years, as a part of the license renewal process.

## Ongoing Monitoring

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### County licensing agencies monitor providers and help DHS to enforce licensing requirements.

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The county licensing agency is responsible for monitoring whether providers comply with applicable licensing requirements.<sup>19</sup> If a county licensor finds that a provider no longer meets licensing requirements after conducting a licensing inspection, the county licensing agency can take one of two types of enforcement actions depending on the severity or nature of the violation. County licensing agencies have the authority to issue “correction orders,” which require the provider to address certain violations that do not imminently endanger the health, safety, or rights of people served by the provider.<sup>20</sup> For more serious issues, county licensing agencies may recommend that DHS change the status of a license by suspending, making conditional, or revoking the license.<sup>21</sup> DHS determines whether to take action on these recommendations after reviewing documentation submitted by the county licensing agency. We discuss these “licensing actions” further in Chapter 3.

According to a DHS manager, the department and county governments also share responsibility for investigating certain complaints about licensed providers. Generally, if a complaint alleges imminent danger to an *adult* served by the program (a maltreatment complaint), DHS investigates the complaint. If a complaint alleges *child* maltreatment, the county’s child protection unit conducts an investigation. If the complaint alleges another type of licensing violation, the county licensing agency investigates the complaint. If a county licensor finds that a provider no longer meets licensing requirements after conducting an investigation, the county licensing agency can either issue a correction order or recommend a licensing action to DHS.<sup>22</sup>

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<sup>19</sup> *Minnesota Statutes* 2023, 245A.04, subd. 6(a); and 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0030, subp. 1E, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023. County licensing agencies are responsible for determining whether the provider complies with rules governing Family Child Care and Foster Care programs, as well as requirements in *Minnesota Statutes* 2023, Chapters 245A and 245C. County licensing agencies are also responsible for determining whether CRS providers comply with requirements in *Minnesota Statutes* 2023, Chapter 245A, and a subset of requirements in Chapter 245D.

<sup>20</sup> *Minnesota Statutes* 2023, 245A.06, subd. 1(a); and 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0030, subp. 1H, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023.

<sup>21</sup> *Minnesota Statutes* 2023, 245A.07; and 245A.16, subd. 1(a); and *Minnesota Rules*, 9543.0030, subp. 1I, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023.

<sup>22</sup> *Minnesota Statutes* 2023, 245A.16, subd. 2(b); and *Minnesota Rules*, 9543.0070, subs. 2 and 3, <https://www.revisor.mn.gov/rules/9543.0070/>, accessed December 14, 2023.

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# Chapter 2: DHS Support to County Licensors

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While the Department of Human Services (DHS) has delegated some licensing functions to county licensing agencies, DHS is legally required to “provide instruction and technical assistance” to county agencies “that have been designated or licensed by the commissioner to perform licensing functions and activities.”<sup>1</sup> DHS accordingly provides assistance to county licensors on how to interpret licensing standards, process license applications, resolve issues that arise in licensed care settings, and address other matters related to licensing.

## Key Findings in This Chapter

- DHS has provided less support for Community Residential Settings (CRS) licensors compared to licensors in other programs with county-delegated licensing.
- Most county licensors reported generally favorable opinions of DHS’s support.
- DHS has not put certain guidance in writing for county licensors.

In this chapter, we start with a discussion of DHS staffing. We then discuss the methods that DHS uses to support county licensors before delving more deeply into two areas of concern reported by some county licensors: technical assistance (or “triage”) and the lack of certain written communication from DHS. Finally, we make recommendations for improvement at the end of the chapter.

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## DHS Resources

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DHS’s staffing affects the quantity and quality of support that the department can provide to county licensors.

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### County licensors and DHS staff alike shared concerns about insufficient staffing within DHS’s Licensing Division.

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To learn about the effectiveness of DHS’s support to county licensors, we conducted surveys of all county licensors in Minnesota and of select DHS Licensing Division staff who work with county licensors.<sup>2</sup> Though we did not ask about it explicitly, dozens of county licensors shared concerns about DHS’s staffing levels. Staffing also arose as a prevalent issue in the responses to the DHS staff survey. Several DHS staff commented

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<sup>1</sup> *Minnesota Statutes* 2023, 245A.16, subs. 1(a) and 5(a); and *Minnesota Rules*, 9543.0030, subp. 1, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023.

<sup>2</sup> In August 2023, we surveyed staff licensors and licensing supervisors from all counties and county cooperatives and received responses from 78 percent of them (302 of 385 county licensors). We also surveyed all DHS staff in the three Licensing Division units that oversee county-delegated programs: Family Child Care, Foster Care, and Home- and Community-Based Services. We received responses from 88 percent (37 of 42) of the DHS staff that we surveyed.



It constantly feels like we are flying by the seat of our pants. I believe the root cause of this is that we have way more work to do than we do people to do the work—or at least do the work well, consistently, and timely.

— DHS Staff Member

that the agency would provide county licensors with more support if it had more staff to do so.

DHS managers told us that over the past several years, the Licensing Division has been consistently under-resourced, particularly with respect to Community Residential Settings (CRS) and Adult Foster Care. For example, DHS has historically dedicated just one staff person to supporting more than 100 CRS licensors, who together process on average 173 new CRS licenses each year (and monitor a total of nearly 3,700 licenses). During the 2023 legislative session, DHS requested and received \$10 million for the 2024-2025 biennium to add staff to its Home- and Community-Based Services and Foster Care units.<sup>3</sup>

A DHS manager explained that the funding would be used to begin adding more than two dozen licensor positions to the Home- and Community-Based Services Unit (which performs direct licensing for many programs).<sup>4</sup> One of those positions will be an additional CRS liaison (bringing the total to two). The DHS manager also told us that they plan to add 11 positions to the Foster Care Unit (doubling its size). The manager said that the additional Foster Care staff will allow the unit to dedicate more resources to Adult Foster Care licensing and will allow it to work closely with the CRS liaisons “to build up more training, technical assistance, and support” for county licensors.<sup>5</sup>

## Overview of DHS Support to County Licensors

County licensors rely on support from DHS for numerous reasons, such as training, guidance on new licensing policies, or assistance in emergent situations.

**DHS has provided a range of supports to county licensors across programs, but has provided less support targeted to those who license CRS.**

### Community Residential Settings (CRS)

Throughout this chapter, we discuss a number of instances in which we find that DHS has generally provided adequate support to county licensors, but for which we have concerns related to CRS licensing. We highlight these CRS concerns using **bold teal font**.

DHS has supported county licensors through trainings, ongoing and ad hoc meetings, newsletters, and written or verbal responses to licensor inquiries, among other methods.

**Trainings.** DHS has provided numerous required and optional trainings for county licensors. The department requires new licensors to complete certain DHS trainings upon starting their roles.<sup>6</sup> After licensors complete their initial

<sup>3</sup> *Laws of Minnesota* 2023, chapter 70, art. 20, sec. 2.

<sup>4</sup> Home- and Community-Based Services include a wide array of services for adults with disabilities or any individual who is age 65 or older, most of which are licensed exclusively by DHS staff.

<sup>5</sup> Most CRS licensors also license Adult Foster Care providers, and certain training and licensing processes overlap for CRS and Adult Foster Care. A manager said that DHS is in the process of hiring a new CRS and Adult Foster Care supervisor, which may also improve its support to these licensors.

<sup>6</sup> *Minnesota Statutes* 2023, 245A.16, subs. 5(a) and 7.

required trainings, DHS requires them to complete six hours of continuing professional education every year, and Fire Marshal training every four years. In addition, DHS has provided optional trainings on a variety of topics, such as how to electronically record the results of Family Child Care provider inspections or how to issue “correction orders” to providers, which require the provider to address certain violations that do not imminently endanger the health, safety, or rights of people served by the provider.

**DHS has not made clear to county licensors the extent to which its trainings apply to CRS licensors.** While DHS managers told us that most of the Adult Foster Care-specific trainings are applicable to CRS, they acknowledged the lack of dedicated CRS-specific training content. A DHS manager told us that the department does not currently have the capacity to develop additional training for licensors. Some county licensors told us they were not aware that DHS offered CRS-applicable training.

**Optional Meetings.** DHS has hosted various types of virtual meetings to address county licensors’ questions, concerns, and issues related to licensing; these include, for example, separate monthly meetings for Family Child Care licensors and Foster Care licensors (both child and adult). These meetings have covered a range of topics, such as requesting a Fire Marshal inspection, submitting licensing forms, and identifying child care background studies that have expired. **DHS has not historically offered regular monthly meetings with content explicitly tailored to CRS licensors. According to DHS managers, they began hosting combined meetings with CRS and Adult Foster Care licensors in January 2024.**

**Licensor Link Newsletters.** DHS has sent program-specific “Licensor Link” newsletters via e-mail to Family Child Care licensors on a monthly basis and to Foster Care licensors on a quarterly basis. The Licensor Link newsletters have typically contained announcements about upcoming meetings or trainings and tips on various licensing-related topics. **DHS does not currently produce Licensor Link newsletters specific to CRS licensing.**

**Triage.** DHS staff and county licensors have often interacted via DHS’s “triage” technical assistance system, which enables licensors to contact DHS staff via phone or e-mail to discuss questions, concerns, or issues related to their licensing work. We discuss DHS’s triage system in more detail in another section of this chapter.

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## Perceptions of DHS Support

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Our surveys of county licensors and DHS staff contained several parallel questions about DHS’s support to county licensors, which allowed us to compare the responses of county licensors and DHS staff across the same licensing-related topics. We also held four focus groups with county licensors who represented 24 county licensing agencies across the state.<sup>7</sup>

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<sup>7</sup> In August 2023, we held two in-person focus groups with licensors from the Twin Cities metropolitan area and two virtual focus groups with licensors from Greater Minnesota.

**Both the county licensors and DHS staff who responded to our surveys generally agreed that DHS has, overall, provided effective support to county licensors.**

In the survey responses, county licensors and DHS staff generally reported favorable opinions of the support and resources that DHS provides to licensors that we asked them about. We asked both county licensors and DHS staff to assess the usefulness of various types of support that DHS provides to licensors. Most county licensors and DHS staff who responded to our surveys (generally more than 70 percent) agreed or strongly agreed that DHS provides useful support across a range of methods.

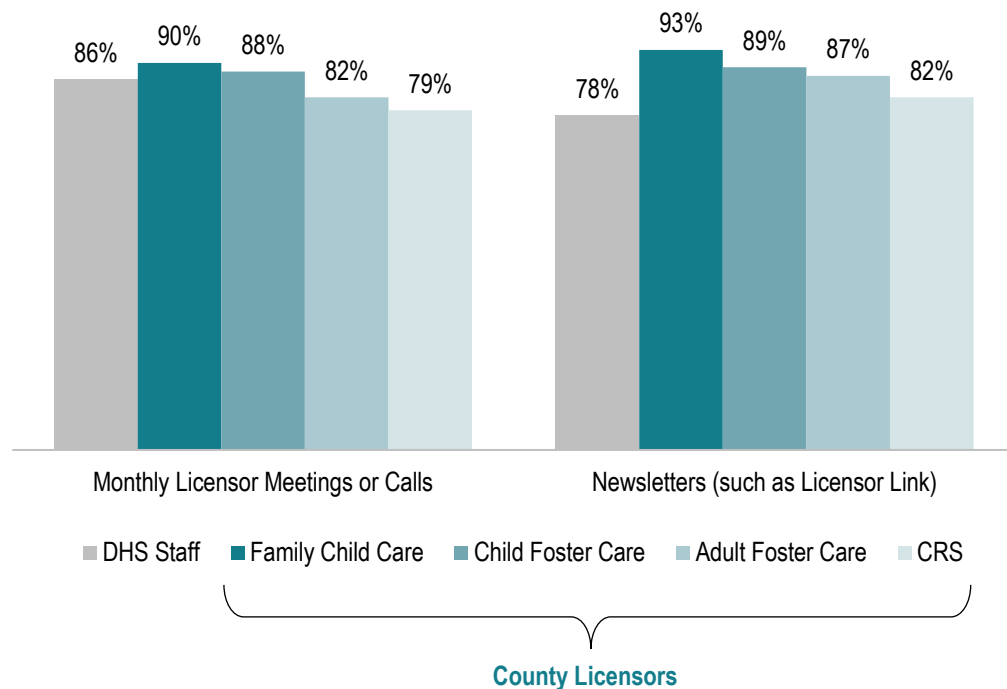
The following charts summarize the responses of DHS staff and county licensors to two questions about DHS’s methods of support to licensors.



...I find it helpful to have a strong partnership with DHS. I don't hesitate to reach out if there is a need to consult on a certain situation. I look to DHS for consultation and advice in unique and difficult situations.

— County Licensor

**Percentage of Survey Respondents Who Agreed or Strongly Agreed that DHS’s Methods of Support to County Licensors Are Useful**



Notes: We omitted from our analysis respondents who either skipped these questions or selected “Not applicable.” County licensors responded to these questions for each program they licensed. Depending on the question, respondents included 169 or 170 Family Child Care licensors, 178 or 179 Child Foster Care licensors, 124 Adult Foster Care licensors, 111 or 114 CRS licensors, and 36 DHS staff. The exhibit includes two selected examples of supports listed on the survey; results were mostly positive for all options.

Source: Office of the Legislative Auditor, analysis of county licensor and DHS staff surveys, 2023.

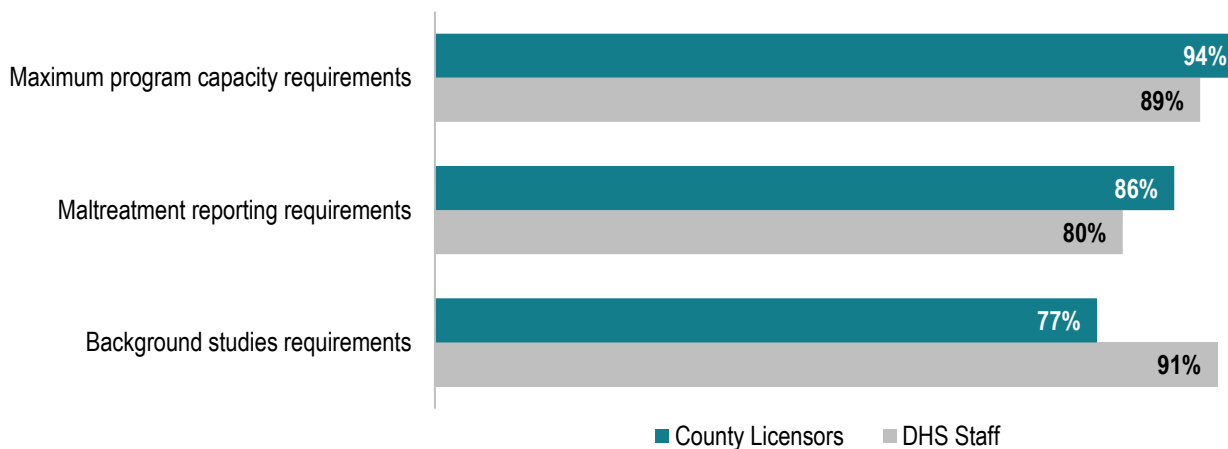
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**Most county licensors and DHS staff who responded to our surveys reported favorable opinions of DHS’s communication of licensing requirements, but some county licensors shared concerns about unclear or inconsistent information.**

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We asked county licensors and DHS staff a series of questions about the guidance that DHS provides to county licensors on licensing requirements. As the following charts show, most respondents to both surveys agreed or strongly agreed that DHS provides *clear* guidance on the licensing requirements that we asked them about. In addition, generally more than 70 percent of licensors and DHS staff agreed or strongly agreed that DHS provides *enough* guidance for the licensing requirements that we asked them about.

**Percentage of Survey Respondents Who Agreed or Strongly Agreed that DHS Provides Clear Guidance to County Licensors on Licensing Requirements**



Notes: We omitted from our analysis respondents who either skipped these questions or selected “Not applicable.” Depending on the question, respondents included from 296 to 298 county licensors and 35 DHS staff. The charts include selected examples of licensing requirements; results were mostly positive for all requirements that appeared on the survey.

Source: Office of the Legislative Auditor, analysis of county licensor and DHS staff surveys, 2023.

Most county licensors (55 percent) agreed or strongly agreed that DHS provides them with useful examples of how *providers* can comply with program standards. An even larger majority of county licensors (65 percent) agreed or strongly agreed that DHS provides them with useful examples of how *licensors themselves* can comply with licensing statutes and rules.



As licensors, we represent the Commissioner of DHS. However, there are times we seek clarification from DHS and are not given clear answers.

I feel the team at DHS wants to be supportive and have a good relationship with licensors, however, sometime[s] guidance is unclear.

— County Licensors

Despite generally favorable responses to our surveys, DHS has room to improve. We heard concerns about DHS’s guidance from some county licensors. At least a dozen licensors who responded to our open-ended focus group and survey questions suggested that DHS’s guidance is unclear. In addition, several licensors commented on a lack of DHS guidance on licensing requirements. For example, one licensor wrote, “DHS will not provide guidance when certain questions are asked. When we ask DHS what a provider needs to do to be in compliance, answers are needed, not a reference to Rule and Statute and told to ‘follow this.’” Several licensors also described DHS’s

guidance as being inconsistent when different DHS staff respond to licensors’ questions. Lastly, of the licensors whose comments we discuss in this paragraph, **nearly a dozen county licensors were critical of the guidance that DHS provides for CRS licensing.**

## Triage

As stated previously, DHS uses its “triage,” or technical assistance, system to respond to county licensor questions and concerns. Triage is one of the key ways that DHS provides county licensors both with technical support on licensing tools and with guidance on statutes and rules.

DHS fields a significant number of phone and e-mail inquiries from county licensors through the triage system.<sup>8</sup> During Fiscal Year 2023, DHS received more than 1,500 inquiries related to Foster Care and more than 3,000 inquiries related to Family Child Care. The topics of these inquiries included clarification on statutes and rules, technical assistance for licensing forms or tools, and maltreatment reports about providers, among others. **DHS did not systematically track the number of inquiries it received related to CRS.**

## Timeliness

**While most county licensors who responded to our survey noted that DHS’s triage responses were timely, some CRS licensors reported that it took significant time to receive responses from DHS.**

While DHS does not have a formal policy defining the timeframe in which staff must reply to inquiries from county licensors, each unit has established general expectations. A Family Child Care Unit manager said that they expect Family Child Care staff to respond to most inquiries on the same day they are received. If the inquiry requires additional consultation or research, DHS expects Family Child Care staff to let licensors know they are looking into the issue and will get back to them. A Foster Care Unit manager told us that DHS expects Foster Care staff to respond to licensor inquiries

<sup>8</sup> Some of the triage inquiries DHS received came from license holders or other members of the public, rather than from licensors.



Triage has been a great tool with a very quick response time. I appreciate how quick they are with getting back to you.

— County Licensors

within three business days. DHS told us that the CRS Unit tries to respond within one business day, but the response times may vary.

More than 70 percent of county licensors who responded to our survey agreed or strongly agreed that DHS provides timely triage for questions related to statewide licensing requirements. Several licensors told us that they appreciate the quick triage responses from DHS. However, some county licensors expressed concerns about the timeliness of DHS’s responses to triage inquiries.

One-quarter of all county licensors who responded to our survey, **and 40 percent of those who license CRS**, disagreed or strongly disagreed that they received timely triage for questions related to statewide licensing requirements. More than 20 county licensors **volunteered concerns about the timeliness of DHS’s triage responses, particularly in response to CRS-related questions**. Several county CRS licensors told us that they had waited long periods of time for a response when they reached out to DHS for assistance with CRS matters. Multiple licensors reported that they had waited months to receive a response, or were still waiting to receive a response, to CRS-related questions they sent to DHS months prior.



I don’t feel like DHS is supportive at all for CRS. There is never anyone available to answer the phone and it takes weeks to answer e-mails.

— County Licensors

DHS does not track how long it takes its staff to respond to triage inquiries for any license type. Because DHS does not track this information, the department is not able to easily identify individual inquiries that did not receive a response for an extended period of time.

## Usefulness

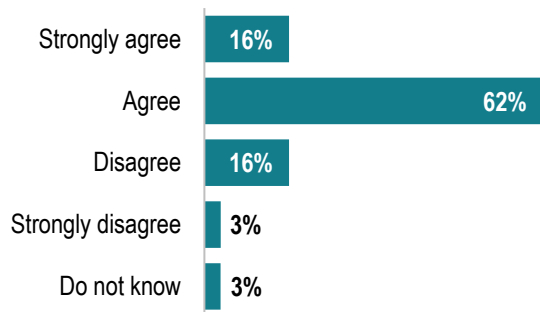
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**Most county licensors who responded to our survey agreed that DHS provides useful information in response to triage inquiries, but dozens shared concerns about inconsistent responses.**

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Almost 80 percent of county licensors who responded to our survey agreed or strongly agreed that DHS provides useful triage, as shown in the following chart. Several licensors described having a positive experience reaching out to triage. For example, during a focus group, one licensor said, “Generally speaking, I think the licensing staff are very...polite, very respectful, and try very hard to be a positive resource when the county is seeking out information, guidance, whatever it may be. They do a pretty good job of responding when you have a concern.”

**Survey Question:** To what extent do you agree that DHS generally provides useful technical assistance “triage” to county licensors on statewide licensing requirements?



Note: A total of 301 county licensors responded to this question; the chart does not include individuals who answered “Not applicable.”

Source: Office of the Legislative Auditor, analysis of county licensor survey, 2023.

However, more than two dozen county licensors shared concerns about receiving inconsistent responses to triage questions. Some licensors said that, when presented with similar situations, DHS’s responses might change depending on timing or who is responding to the inquiry. One county licensor stated, “Licensors are given different direction/guidance depending on the day and who the triage person is. Interpretations continuously change and things are confusing.”

Both DHS’s Family Child Care and Foster Care units maintain working lists of how staff responded to common questions they received from county licensors through triage. A DHS manager told us that staff use this list to ensure they respond to questions consistently. The manager also told us that Family Child Care Unit staff meet regularly to discuss triage-related issues as a team. Another DHS manager explained that two triage questions may seem similar to the licensor asking the question, but

require a different response based on the details of each case. They said that each licensing situation is unique, and making an accurate determination often requires a large amount of information. **In contrast to other units, the unit that supports CRS does not have any guidelines or lists of examples to guide how staff should respond to triage inquiries.** However, until recently, only one staff person responded to all CRS inquiries.

As mentioned previously, DHS maintains a log for both Family Child Care and Foster Care inquiries, but these logs do not always contain detailed information about specific inquiries or resolutions. Without this context, it was not possible for OLA to evaluate whether DHS’s triage responses were generally consistent.

## Written Communication

As discussed in this chapter, county licensors are generally satisfied with the methods that DHS uses to communicate licensing requirements and other information. However, there is room for DHS to improve upon the ways it shares information with county licensors.

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**DHS has not put certain guidance in writing, making it difficult for county licensors to obtain consistent and timely information.**

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While DHS holds many optional meetings for county licensors, it has not consistently shared certain information in a written format. One unit’s manager explained that the unit does not have the resources to make all presentation slides, for example, accessible

for people with disabilities.<sup>9</sup> However, state standards require executive branch agencies to make slides and other materials accessible prior to displaying them in meetings.<sup>10</sup>



If changes are implemented and discussed at these meetings, minimally, something should go out in writing from DHS. This is not currently done which leads to inconsistency in licensing across the state.

— County Licensors

DHS has also not typically recorded meetings or distributed summaries to all county licensors. In our focus groups, two licensors reported taking screen shots of presentations and sharing them with fellow licensors, a practice that DHS encourages. However, informal sharing among county licensors should not be relied upon as a substitute for uniformly distributed guidance from DHS. When monthly meetings or other optional meetings include new procedures or guidance, licensors who do not attend the meetings may not receive the information in a timely fashion.

Another concern related to written communication is that guidance that DHS has provided in writing can be difficult to find. DHS does not have a searchable archive of past Licensor Link newsletters. Some county licensors raised this as an issue, saying that it is difficult to navigate back to information shared in past newsletters. Some county licensors mentioned that DHS triage staff had referred them to particular newsletters in response to questions they had asked. DHS managers acknowledged, however, that past newsletters are not currently available on DHS's website.



It's difficult to navigate back to information shared in previous Licensor Link e-mails. It would be helpful to have all of the information stored in one accessible location for workers to look back on as things come up or for new staff.

— County Licensors

## Recommendations

As we have discussed in this chapter, DHS provides many resources for county licensors, and county licensors generally agree that the support DHS provides is useful. Nonetheless, there is room for improvement, particularly with respect to supporting CRS licensors, responding to triage inquiries, and providing written communication to licensors.

<sup>9</sup> A Foster Care Unit manager reported, however, that the Foster Care Unit makes webinar materials accessible and delivers them via e-mail after meetings occur.

<sup>10</sup> *Minnesota Statutes* 2023, 16E.03, subd. 9, requires Minnesota Information Technology Services to develop accessibility standards and to require state agencies to follow them. The resultant policy states that “agencies and their staff who are responsible for creating, modifying, procuring, or otherwise making available any information and communication technology (ICT) for internal or external use must apply the accessibility standard to their work.” Minnesota Information Technology Services, Office of the Chief Information Officer, *Accessibility and Usability of Information Technology Standard*, effective June 14, 2018, [https://mn.gov/mnit/assets/Stnd\\_State\\_Accessibility\\_tcm38-61585.pdf](https://mn.gov/mnit/assets/Stnd_State_Accessibility_tcm38-61585.pdf), accessed December 14, 2023.

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## RECOMMENDATION

### **DHS should improve the support it provides for CRS licensors.**

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DHS managers explained that they have not always differentiated support for CRS licensors because (1) the vast majority of CRS licensors also license Adult Foster Care and (2) the standards for these two licensed programs are very similar. While it is true that there are fewer than 30 county licensors who license CRS exclusively, DHS should strive to provide clear information about the licensing requirements for all license types.



The monthly calls do not pertain to CRS. When asked if CRS will have information during the calls, DHS said no. I quit attending these meetings.... Anything in this area would be a welcome change.

— County Licensor

DHS should either (1) create trainings, meetings, and Licensor Link newsletters specific to CRS licensing or (2) rebrand its Foster Care supports as “Foster Care and CRS” resources. If DHS determines that the content of CRS-specific resources would be too duplicative of support the department already offers for Foster Care licensors, it should go with the second option and make explicit in advance which agenda or news items are relevant for each licensor group. DHS managers

reported that, starting in January 2024, the department has offered a combined monthly meeting for CRS and Adult Foster Care licensors.

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## RECOMMENDATIONS

### **DHS should (1) develop a formal policy and establish a timeframe in which staff must respond to triage inquiries from county licensors, and (2) track how long it takes staff to respond to each inquiry.**

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As mentioned above, DHS does not have a formal policy for how quickly staff should respond to triage inquiries and some licensors expressed concerns about the timeliness of DHS’s responses. In the absence of requirements in law, DHS should create a formal written policy for each unit that outlines how quickly staff should respond to triage inquiries from county licensors. DHS should then ensure staff meet the required timeframes by tracking how long it takes staff to respond to and resolve triage inquiries. This will allow DHS to identify if certain types of inquiries, such as those related to CRS, have longer response times, and allocate staff resources appropriately to ensure all inquiries are resolved in a timely manner.

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## RECOMMENDATION

### **DHS should provide written guidance that is easily accessible to all county licensors.**

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In September and November 2023, DHS added a new section to its Licensor Link newsletter for Family Child Care licensors summarizing the important content from the previous monthly meeting. DHS should continue this practice and implement it for Foster Care and CRS newsletters and meetings as well.

To the extent that DHS presents slides or other materials at optional meetings, they should make the materials available to all county licensors in an accessible and timely fashion. Particularly when these meetings present new information about licensing standards or processes, it is important to ensure that all county licensors have equal and timely access to the information. We also recommend that DHS prioritize making meeting materials accessible to people with disabilities prior to presenting them to licensors, in accordance with state accessibility standards.

Finally, we recommend that DHS maintain searchable archives of Licensor Link newsletters, monthly meeting slides, and other relevant materials that constitute guidance on licensing standards. The materials should be tagged by topic and by relevant licensing area(s) to make them easily searchable for county licensors. One DHS manager suggested that keeping an archive of past information could result in county licensors inadvertently referencing information that is out of date. As long as articles and other materials are clearly dated and tagged by topic, county licensors should be able to find and use the most recent relevant information.<sup>11</sup> As we discuss further in Chapter 3, DHS is currently updating its technology systems. DHS plans to roll out its “Provider Licensing and Reporting Hub,” which will include a portal specifically for county licensors, starting with Family Child Care licensors in summer 2024. DHS hopes to use this hub to store and better organize Licensor Link e-mails and other county licensor-specific resources.

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<sup>11</sup> The department could also make a practice of removing or adding explanatory notes to items that have been superseded by new materials.



OLA

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# Chapter 3: DHS-County Partnership

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The county-delegated licensing system requires the Department of Human Services (DHS) and county licensors to work together to license service providers and perform other licensing functions. The extent to which DHS and county licensors work together can vary depending on the county, type of licensed program, or complexity of a licensing case. For example, the sole Child Foster Care licensor in a county with a relatively small population may rely heavily on DHS's triage system to determine the best course of action in an unfamiliar licensing case. By contrast, a Child Foster Care licensor who works with several other Foster Care licensors in a large, metropolitan county may choose to seek guidance from colleagues rather than contact DHS.

## Key Findings in This Chapter

- Most DHS staff and county licensors indicated that they have a strong partnership.
- DHS has sometimes been slow to issue licensing actions when providers do not comply with program requirements.
- DHS has thoroughly engaged licensors about ongoing changes to licensed programs and the Licensing Division itself.

In this chapter, we discuss the perceptions of DHS staff and county licensors regarding different aspects of the DHS-county partnership. We explain how DHS's processing of licensing actions and reviews of county licensors' work affect the partnership. Finally, we end with a discussion of how DHS has worked with county licensing staff as it implemented multiple, substantive changes to county-delegated licensing.

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## Partnership Strength

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To inform our evaluation of the DHS-county partnership, we reviewed literature on best practices in organizational partnership. Numerous authors identified communication and trust as key characteristics of successful organizational partnerships.<sup>1</sup> As described in the literature, communication and trust strengthen the relationship between organizations and improve their ability to solve problems together.

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**Two-thirds of county licensors who responded to our survey reported that the partnership between DHS and county licensors is strong.**

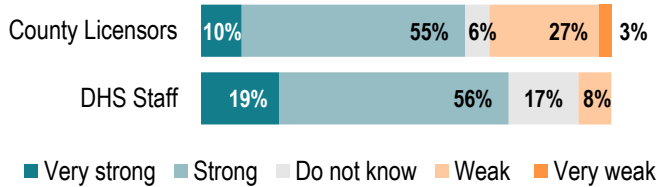
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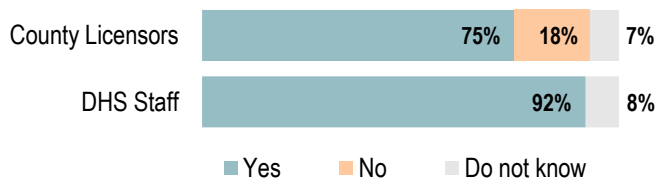
<sup>1</sup> See Zarnaaz Bashir, Vincent Lafronza, Michael R. Fraser, Carol K. Brown, and James R. Cope, "Local and State Collaboration for Effective Preparedness Planning," *Journal of Public Health Management and Practice* 9, no. 5 (2003): 344-351; Phil Bertolini and Ken Theis, "State and County GIS Project Fosters Collaboration," *IT Professional* 12, no. 5 (2010): 10-13; and Ruthnande Kessa, Abdul-Akeem Sadiq, and Jungwon Yeo, "The Importance of Vertical and Horizontal Collaboration: United States' Response to COVID-19 Pandemic," *Chinese Public Administration Review* 12, no. 1 (2021): 61-71.

On our respective surveys of DHS staff and county licensors, we asked respondents to evaluate the strength of the DHS-county partnership.<sup>2</sup> Three-quarters of DHS staff and two-thirds of county licensors who responded to our surveys indicated that the

**Survey Question:** Generally, how would you characterize the DHS Licensing Division’s partnership with county licensors?



**Survey Question:** Is DHS generally responsive to the concerns of county licensors?



Notes: We omitted from our analysis respondents who skipped these questions. Depending on the question, respondents included 300 or 302 county licensors and 36 DHS staff. The percentages for county licensors in the top chart do not sum to 100 percent due to rounding.

Source: Office of the Legislative Auditor, analysis of county licensor and DHS staff surveys, 2023.

DHS-county partnership is “strong” or “very strong.” We also asked survey respondents to indicate whether DHS is generally responsive to licensors’ concerns. We observed even more favorable responses across both groups for this question, as shown in the chart at left. In response to the open-ended questions of our county licensor survey, several licensors shared positive experiences working with DHS. For example, one licensor said, “The licensing staff at DHS is for the most part very helpful and friendly.”

Despite the favorable responses to the survey questions noted above, 30 percent of county licensors indicated that the DHS-county partnership is either “weak” or “very weak.” County licensors who responded to our survey described several factors they said weakened the partnership. For example, nearly 30 licensors mentioned a lack of consistent information from DHS. Dozens of licensors also mentioned long wait times for receiving DHS responses, DHS staffing shortages and turnover, or DHS’s rollout of licensing changes as factors that have weakened the DHS-county partnership.

At least 20 county licensors who responded to our survey described DHS’s interactions with county licensors as being antagonistic, condescending, or unprofessional. Licensors noted that these types of interactions occurred in a variety of licensing-related settings, such as during DHS’s reviews of county licensors (“Rule 13” reviews, discussed later in this chapter), triage phone conversations, and monthly licensor meetings.



There are times when questions are asked by licensors and DHS answers in a way that makes the licensor feel stupid. Or times DHS appears offended by licensors when they are asking clarifying questions.

— County Licensor

<sup>2</sup> We surveyed staff licensors and licensing supervisors from all counties and county cooperatives and received responses from 78 percent of them (302 of 385 county licensors). We also surveyed all DHS staff in the three Licensing Division units that oversee county-delegated programs: Family Child Care, Foster Care, and Home- and Community-Based Services. We received responses from 88 percent (37 of 42) of the DHS staff that we surveyed.

## Licensing Coordination

Some DHS staff members and county licensors who participated in our surveys and focus groups shared concerns about how well DHS coordinates with county licensors to perform licensing functions, both in general and when issuing licensing actions to providers who failed to meet licensing requirements.

### Licensing Roles

As discussed in Chapter 1, Minnesota statutes give DHS the authority to delegate licensing functions to counties, and DHS has done so through its administrative rules.<sup>3</sup> For example, DHS has delegated to county licensing agencies the responsibility to process license applications, conduct inspections of licensed programs, and investigate allegations of license violations.<sup>4</sup> DHS, in turn, must act on county licensor recommendations by issuing licenses and sanctioning providers that have violated licensing standards.<sup>5</sup> Through its delegation of certain licensing responsibilities, DHS has entrusted county agencies with interpreting state licensing requirements at the local level. In turn, county agencies depend on DHS to coordinate effectively with them throughout the licensing process, particularly when determining whether and how to sanction providers.

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**While most county licensors indicated that DHS had provided clear guidance on the division of licensing roles, some licensors expressed frustration about the delineation between those roles.**

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On our survey of county licensors, we asked respondents about DHS’s guidance related to the division of licensing responsibilities between county licensors and DHS. Licensors’ responses to this question were mostly positive: 73 percent agreed or strongly agreed that DHS provides clear guidance on the division of licensing responsibilities.



Overall, it is clear what DHS’s responsibilities are and what the counties’ responsibilities are.

I think the division of responsibilities is not a problem area in general.

— County Licensors

However, 22 percent of county licensors who responded to our survey disagreed or strongly disagreed that the roles are clearly defined. At least a dozen licensors expressed comments in the county licensor survey describing confusion or concerns about the delegation of licensing responsibilities between DHS and the counties. For example, one licensor wrote, “I guess I am aware of my responsibilities as a licensor but not very sure what all the responsibilities are for DHS when it comes to licensing.”

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<sup>3</sup> *Minnesota Statutes* 2023, 254A.16; and *Minnesota Rules*, 9543.0030, subp. 1, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 15, 2023.

<sup>4</sup> *Minnesota Rules*, 9543.0030, subp. 1, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 15, 2023.

<sup>5</sup> *Minnesota Statutes* 2023, 245A.04, subds. 6(a) and 7(a); and 245A.07, subd. 1(a).

Several county licensurers also cited specific role-related issues, such as DHS “overreach” of its supervisory role, the “middle man” role that county licensing agencies have to play between DHS and providers, or mixed messages from DHS about licensing responsibilities. For example, one licensurer wrote, “On occasion DHS has overstepped their ‘supervisory’ role and have contacted my team, county employed licensurers, directly relating to performance...matters. This boundary is regularly tested.”



We struggle with the county delegated system and the fact that in some cases, the supervisors or other leadership will direct their licensurers in ways that we would not have if they were our employees.

— DHS Staff Member

DHS staff members also raised issues related to the respective roles of DHS and counties under the county-delegated system, particularly the fact that county licensurers can get caught between DHS and their own county leadership. In the DHS staff survey, some respondents described instances in which county leadership had contradicted the Licensing Division’s guidance on how to implement licensing requirements. One respondent wrote, “Counties have at times told us right out that they will not comply with rules or statutes and we really have no way to make them accountable.” We also heard from county attorneys that the separation of authority and responsibilities between county licensurers and DHS can be challenging, particularly when the two parties disagree on licensing actions.

## Licensing Actions

Under Minnesota’s delegated licensing system, DHS must coordinate with county licensurers to issue and enforce sanctions against providers who do not meet licensing requirements. As we described in Chapter 1, county licensurers may issue correction orders for certain violations that do not imminently endanger the health, safety, or rights of people served by the program.<sup>6</sup> When county licensurers observe or learn about more serious issues, they recommend “licensing actions” (which are listed in the box at right) to DHS, and it is the department that ultimately takes action against providers.<sup>7</sup> County licensing agencies may also recommend that DHS deny licensure to applicants.<sup>8</sup>



### DHS Licensing Actions

**Denial:** Decision not to issue a license if an applicant does not meet licensing requirements

**Fine:** Monetary penalty, issued at DHS’s discretion under certain circumstances, for a provider who does not meet licensing requirements

**Conditional License:** Order that a provider take specific actions to continue operating due to serious or repeated licensing violations

**Suspension:** Order that a provider indefinitely cease operations due to serious or repeated licensing violations

**Temporary Immediate Suspension:** Order for a provider to immediately cease operations due to alleged licensing violations that pose an imminent risk to the health, safety, or rights of service recipients

**Revocation:** Removal of a license due to serious or repeated licensing violations

<sup>6</sup> *Minnesota Statutes* 2023, 245A.06, subd. 1(a); and *Minnesota Rules*, 9543.0030, subp. 1H, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023.

<sup>7</sup> *Minnesota Statutes* 2023, 245A.06, subd. 1(a); and 245A.07, subd. 1(a); and *Minnesota Rules*, 9543.0030, subp. 1I, <https://www.revisor.mn.gov/rules/9543.0030/>, accessed December 14, 2023. *Minnesota Statutes* 2023, 245A.06, subd. 3, also allows a county licensurer to recommend a licensing action against the provider, if the county licensing agency finds that the provider has failed to correct the violation(s) specified in a correction order.

<sup>8</sup> *Minnesota Statutes* 2023, 245A.05(a).

We analyzed DHS data on licensing actions that the agency issued in response to county recommendations. From Fiscal Year 2019 to Fiscal Year 2023, nearly every county licensing agency made recommendations for licensing actions, with counties recommending an average of 364 licensing actions statewide annually. In response to county licensing recommendations submitted to DHS between Fiscal Year 2019 and Fiscal Year 2023, DHS issued a licensing action about 96 percent of the time.<sup>9</sup> However, DHS has issued licensing actions against only a small proportion of providers. Among all providers licensed by county licensing agencies as of the end of Fiscal Year 2023, just 5 percent were subject to a DHS-issued licensing action over the previous five years.

For most types of licensing actions, statutes do not specify how quickly DHS must act on a county licensing agency's recommendation to deny an application or to sanction a provider. However, statutes require DHS to "immediately" issue a temporary immediate suspension if (1) a person's actions, (2) the license holder's failure to comply with licensing requirements, or (3) conditions in the licensed home or setting pose an imminent risk of harm to the health, safety, or rights of persons served by the provider.<sup>10</sup>

Without specific statutory requirements, DHS has set its own licensing action processing standards. DHS's current standards are to address recommendations for licensing actions against Family Child Care providers within, at most, about 60 calendar days (45 business days) and to address recommendations for Foster Care licensing actions within 120 calendar days.<sup>11</sup> DHS does not currently have a standard timeframe for addressing recommendations for Community Residential Settings (CRS) licensing actions. A DHS manager told us that the agency also has a standard to process recommendations for temporary immediate suspensions within 24 hours, regardless of the license type.

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### **DHS has sometimes been slow to issue licensing actions when providers do not comply with program requirements.**

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According to our analysis of DHS's licensing actions data, the department's licensing action processing time varied across the DHS Licensing Division. DHS's Foster Care Unit processed 58 percent of the county licensing action recommendations it received from Fiscal Year 2019 to Fiscal Year 2023 within its 120-day standard.<sup>12</sup> By contrast, the Family Child Care Unit processed 76 percent of the county licensing action recommendations it received during that timeframe within 60 days, and 93 percent within 120 days.

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<sup>9</sup> DHS determined that no action was necessary for almost 4 percent of recommendations submitted between Fiscal Year 2019 and Fiscal Year 2023, and had not yet processed the remaining recommendations as of mid-December 2023.

<sup>10</sup> *Minnesota Statutes* 2023, 245A.07, subd. 2(a).

<sup>11</sup> In our analysis, we used 60 calendar days as opposed to 45 business days for the sake of consistency. A DHS manager explained that the Foster Care standard was originally 45 business days from the receipt of a complete licensing action recommendation, but was adjusted to 120 calendar days due to lack of available resources. Now that it has received funding to add additional Foster Care staff, DHS plans to revise its processing time standard for Foster Care licensing actions to 60 calendar days from the initial receipt of a recommendation.

<sup>12</sup> This analysis excludes county recommendations for licensing actions for which DHS had not yet made a determination as of January 5, 2024.

**DHS Licensing Action Processing Time, Fiscal Years 2019-2023**

Action Type	Average Number of Calendar Days	Number of Actions
Temporary Immediate Suspension	1	233
Suspension	15	34
Fine	62	320
Conditional License	63	81
Conditional License and Fine	84	80
Revocation	105	386
Denial	111	606

Note: The above table excludes county recommendations for licensing actions for which DHS had not yet made a determination as of January 5, 2024.

Source: Office of the Legislative Auditor, analysis of DHS licensing actions data.

As shown in the table to the left, the number of calendar days it took DHS to issue licensing actions has also varied by the type of licensing action. For recommendations submitted over the past five fiscal years, we found that DHS took an average of more than three months to issue denials and to revoke licenses. DHS was more timely with issuing license suspensions, which require the provider to operations; we found that DHS took an average of about two weeks to process suspensions and one day to issue temporary immediate suspensions.

Long delays on the part of DHS without sufficient communication to county licensors could cause tension between the two parties. Some county licensors expressed frustration with having waited months or years for DHS to take action on their recommendations. The data we analyzed validated those concerns that DHS sometimes takes months or years to issue licensing actions. For example, among the 323 recommendations for licensing actions submitted by counties in Fiscal Year 2023, 34 of them took DHS longer than six months to address.

A few county licensors told us that DHS’s delays negatively affected their work with providers. One licensor told us that the delays diminish both the importance of the licensing action and the county licensor’s authority. Another licensor said that DHS’s delays cause county licensors “enormous stress,” since they are on the receiving end of daily calls or e-mails from frustrated providers.



Our work is often delayed due to how long it takes for DHS to act on recommendations for licensing actions.

— County Licensor

County licensors were not the only group to express concerns about delayed decisions from DHS on licensing actions. Three county attorneys whom we interviewed expressed similar concerns about DHS’s timeliness on most types of licensing actions.<sup>13</sup> One DHS staff member commented in our survey that while DHS expects county licensors to submit licensing action recommendations in a timely manner, it was rare for DHS to be timely. Another DHS staff member said that DHS’s lack of timeliness has “weakened the partnership” with county licensors.

DHS has plans to increase the transparency of its licensing action processes. A DHS manager explained that starting in summer 2024, Family Child Care licensors will enter their recommendations for licensing actions directly into DHS’s “Provider Licensing and Reporting Hub,” which we discuss in greater detail later in this chapter. This system, which will later roll out to all licensors, will track recommendation submission and DHS processing dates, which may make it easier for the department to communicate with county licensors about the status of pending licensing actions. DHS could also use this system to regularly track and produce internal reports on licensing action timeliness, which it could use to help staff prioritize their work.

<sup>13</sup> The county attorneys we interviewed were satisfied with DHS’s expediency in handling temporary immediate suspensions.

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## RECOMMENDATIONS

**DHS should (1) establish timeframes for processing licensing actions that are uniform across programs with county-delegated licensing, and (2) ensure that it addresses all recommendations for licensing actions within those timeframes.**

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DHS's current maximum of about 60 calendar days (45 business days) for Family Child Care actions is similar to the Foster Care Unit's goal before the timeframe was extended to 120 calendar days. From Fiscal Year 2019 to Fiscal Year 2023, the Family Child Care Unit met its established timeframe about three-quarters of the time. Given that many licensing requirements are similar across programs, we do not think it reasonable that it should take twice as long to process Foster Care licensing actions. As we discussed above, this extended timeframe has the potential to contribute to issues for county licensing staff. We recommend that DHS bring the Foster Care and Family Child Care goals into alignment (at either 45 business days or 60 calendar days) and that the department establish the same timeframe for addressing recommendations for CRS licensing actions.

DHS should then strive to address all recommendations for licensing actions within its established timeframes, as a way to improve its relationship with county licensors and to ensure that providers are being held properly accountable for meeting licensing standards.

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## Review Process

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DHS's primary mechanism for overseeing county licensors' work is through "Rule 13 reviews."<sup>14</sup> In addition to ensuring that counties are meeting licensing expectations, these reviews can have an impact on the relationship between DHS and county licensing staff.

DHS's policy is to review each county's Family Child Care licensing activities every two years and its Foster Care licensing activities every four years. A summary of the scope of these reviews is in the box below.

As a part of the Rule 13 review process, DHS reviews a sample of provider licensing records against a checklist of requirements from state law. DHS also reviews information about the county's licensing process and other records related to the program. At the end of the Rule 13 review, DHS staff discuss any compliance issues they found with county licensors, and respond to their questions.<sup>15</sup>

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<sup>14</sup> DHS has an informal numbering system for its administrative rules. "Rule 13" is the shorthand used to refer to *Minnesota Rules*, 9543.0010 through 9543.0150, which establish requirements for counties performing licensing functions delegated by DHS.

<sup>15</sup> DHS supervisors said that the most common compliance issue they find from Family Child Care Rule 13 reviews is missing or incomplete paperwork. From Foster Care Rule 13 reviews, DHS supervisors said that a common issue is how counties document home-safety violations.



### “Rule 13” County Certification Reviews

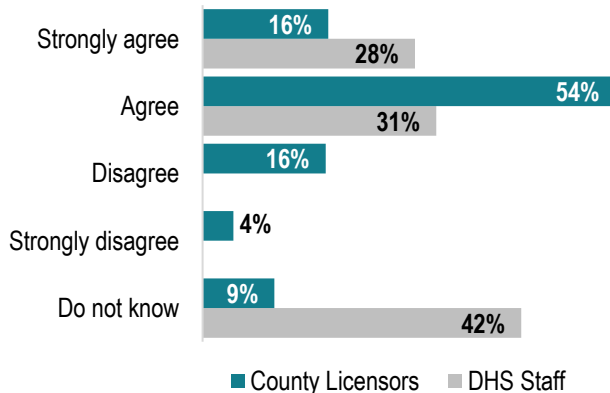
DHS staff review the following information about a county’s licensing work, among other items, at least every four years:

- A sample of files related to licensed providers
- Information about county application processing procedures
- Information about county licensing decision making, such as the circumstances under which the county would schedule inspections with a Family Child Care provider
- County staff training records
- Application tracking logs
- Complaint investigation logs

Source: Office of the Legislative Auditor, analysis of DHS’s Rule 13 checklists and protocols.

Once DHS completes its review, the department certifies that the county licensing agency complied with state laws.<sup>16</sup> Alternatively, if the county licensing agency was not in compliance, DHS may order the county to correct violations or approve a funding cut to the county.<sup>17</sup> DHS supervisors told us that, in addition to the support methods we discussed in Chapter 2, the department offers one-on-one consultations with county licensors so that they can address specific issues found during Rule 13 reviews.

**Survey Question:** DHS generally provides useful feedback to county licensors during its county certification (“Rule 13”) reviews.



Notes: Chart includes responses from 298 county licensors and 36 DHS staff; the chart does not include individuals who answered “Not applicable” or did not answer the question. The percentages listed do not sum to 100 percent due to rounding.

Source: Office of the Legislative Auditor, analysis of county licensor and DHS staff surveys, 2023.

### Most county licensors and DHS staff who responded to our surveys had favorable opinions of the Rule 13 review process.

In our county licensor survey, 70 percent of county licensors agreed or strongly agreed that DHS provides useful feedback during its Rule 13 reviews, as show in the chart at left. One county licensor commented, “I think the Rule 13 checklist is very helpful. It is not overly long and yet addresses the required information that must be reviewed.” Among DHS staff surveyed, about 60 percent of respondents agreed or strongly agreed both that DHS provides useful feedback and that DHS’s Rule 13 checklists were useful resources.

<sup>16</sup> *Minnesota Statutes* 2023, 245A.16, subd. 6.

<sup>17</sup> DHS staff said that they have never decertified a county licensing agency or cut its funding, but they have required counties to review their processes and submit a corrective action plan.

## Transitions

Since 2018, county-delegated licensing, in particular Family Child Care licensing, has gone through substantial changes. The changes to licensing were either (1) required by the Legislature or federal government or (2) initiated by DHS to simplify or improve experiences for county licensors. The DHS Licensing Division is also in the process of undergoing significant changes to its structure, including hiring new staff, as we discussed in Chapter 2, and splitting into two agencies, which we discuss below.

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### **DHS has made consistent efforts to inform and engage county licensors as it implemented changes to programs with county-delegated licensing.**

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We reviewed DHS's actions around several large, systemic changes to county-delegated licensing and found that DHS has performed considerable outreach to county licensors. DHS provided relevant information to licensors via e-mails, as well as virtual and in-person meetings and trainings. DHS has also solicited licensors' input on major projects through surveys and focus groups.

## Licensing Checklist for Family Child Care

In 2018, DHS's Family Child Care Unit introduced the Electronic Licensing Inspection Checklist Information (ELICI) system, which Family Child Care licensors use during inspections of providers.<sup>18</sup> County licensors transitioned to using the ELICI checklist during inspections of Family Child Care providers over several years, and, in 2023, the Legislature formally required Family Child Care licensors to use ELICI.<sup>19</sup> One of DHS's goals during the development of ELICI was to standardize the inspection process for all Family Child Care providers to ensure consistent enforcement of licensing standards across the state. During inspections, county licensors enter information into the standardized ELICI tool. After licensors submit their findings, the system automatically posts certain identified violations to DHS's public website.

### **DHS Outreach for ELICI**

- DHS conducted a pilot project in which Family Child Care licensors from across the state served as beta testers. DHS met with these beta testers several times to gather feedback on the ELICI tool and used this feedback during the tool's development.
- Throughout 2017 and the first part of 2018, DHS provided in-person demonstrations and training on ELICI to county licensors across the state.
- DHS continues to offer training on ELICI to all new county licensors, and refresher trainings for all licensors who request it. DHS also provides optional monthly ELICI trainings for all licensors.

Source: Office of the Legislative Auditor, analysis of DHS ELICI materials.

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<sup>18</sup> DHS developed ELICI to replace a previous checklist to comply with the requirements of the federal Child Care and Development Block Grant.

<sup>19</sup> *Laws of Minnesota* 2023, chapter 70, art. 8, sec. 24, codified as *Minnesota Statutes* 2023, 245A.16, subd. 11.

As the previous box shows, DHS performed outreach to both solicit feedback from county licensors on ELICI and train them on how to use the tool during inspections. Since its introduction, DHS has continued to make changes to ELICI based on county licensor feedback. DHS regularly provides updates and tips on ELICI usage in its monthly trainings and newsletters to Family Child Care licensors, and licensors may reach out to DHS’s “triage” line with questions or technical issues.

## Child Care Regulation Modernization Project

In 2021, the Legislature directed DHS to contract with “an experienced and independent organization or individual” to complete a “Child Care Regulation Modernization” project for Family Child Care and Child Care Centers.<sup>20</sup> The goals of this project, as established by the Legislature, are to:

1. Identify licensing standards to use during abbreviated child care inspections, if providers meet certain criteria.
2. Develop a “risk-based” tiered violation system that ranks licensing violations by severity in order to inform the enforcement of child care standards.
3. Make recommendations to the Legislature for revised child care licensing standards.<sup>21</sup>

DHS contracted with the National Association for Regulatory Administration (NARA) for the project, which was still ongoing when this report was published. As part of the 2021 law, the Legislature required DHS to submit a report with recommendations on how to modernize child care licensing, including any proposed legislative changes.

### DHS Outreach for Child Care Regulation Modernization Project

- On behalf of DHS, NARA conducted two surveys asking Family Child Care licensors and other stakeholders for their input on project initiatives and what they would like to see improve.
- NARA held 13 stakeholder meetings, including 2 specifically for Family Child Care licensors. At these meetings, NARA broke stakeholders into small groups for a facilitated discussion about licensing standards and then analyzed themes from these discussions.
- DHS reported the results of outreach activities and progress updates to county licensors and other stakeholders during a virtual meeting. At this meeting, stakeholders had additional opportunities to ask questions about the project.

Source: Office of the Legislative Auditor, analysis of DHS Child Care Regulation Modernization project materials.

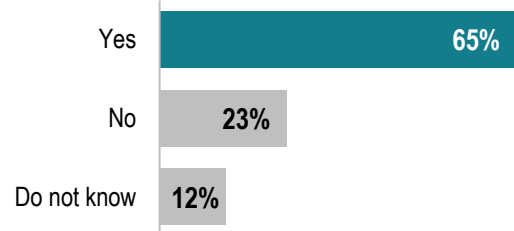
<sup>20</sup> *Laws of Minnesota* 2021, First Special Session, chapter 7, art. 2, secs. 75, 81, and 84.

<sup>21</sup> *Ibid.*, secs. 75 and 81.

As shown in the previous box, NARA, on behalf of DHS, provided Family Child Care licensors with opportunities to provide feedback on the Child Care Regulation Modernization project. We found the materials that DHS shared with county licensors over the course of the project and the update session we attended to be clear and useful. DHS and NARA will use the information they gathered during stakeholder engagement activities to inform their recommendations to the Legislature.

Most county licensors who responded to our survey and who participated in the Child Care Regulation Modernization project reported generally positive experiences with DHS’s outreach related to the project. Most of these licensors agreed or strongly agreed that DHS provided clear communications about the purpose of the project.<sup>22</sup> Further, nearly two-thirds of these licensors said that they had sufficient opportunity to provide feedback on the project, as shown in the chart at right.

**Survey Question:** Do you feel you have had sufficient opportunity to provide feedback on the Child Care Regulation Modernization project?



Note: This chart includes responses from 91 county licensors who responded that they had participated in the Child Care Regulation Modernization project and who answered the question.

Source: Office of the Legislative Auditor, analysis of county licensor survey, 2023.

## Child Care Systems Transformation Project

In 2022, DHS initiated and began work on a “Child Care Systems Transformation” project to “improve and integrate the information technology systems used for the licensing...of child care providers in Minnesota.”<sup>23</sup> The Legislature directed DHS to allocate federal American Rescue Plan (ARP) funds for the project in 2021 and 2023.<sup>24</sup> As part of the Child Care Systems Transformation project, DHS plans to introduce an electronic “Provider Licensing and Reporting Hub.” This hub will have separate login portals for both county licensors and providers. It will provide licensors with easier access to information and streamline some reporting features. The Child Care Systems Transformation project will also involve the development of a public website and provider search feature. DHS stated that the Provider Licensing and Reporting Hub for Family Child Care providers and licensors will roll out in Summer 2024, after which the department will begin work on rolling it out for Foster Care and CRS providers and licensors.

<sup>22</sup> About one-half of Family Child Care licensors who responded to our survey reported they had participated in the Child Care Regulation Modernization project.

<sup>23</sup> Department of Human Services, “Child Care Systems Transformation,” (September 11, 2023), <https://mn.gov/dhs/partners-and-providers/licensing/child-care-and-early-education/child-care-systems-transformation.jsp>, accessed September 25, 2023.

<sup>24</sup> *Laws of Minnesota* 2021, First Special Session, chapter 7, art. 2, sec. 84(h); and *Laws of Minnesota* 2023, chapter 70, art. 15, sec. 3.

### DHS Outreach for Child Care Systems Transformation Project

DHS has had dozens of engagements with county licensors and other stakeholders related to the project. These engagements include:

- A survey soliciting feedback from county licensors and other stakeholders and a series of focus groups with county licensors.
- Many in-person and virtual presentations and workshops introducing the project or providing updates. At these meetings, county licensors had the opportunity to ask questions and provide feedback on the project.
- Regular e-mails to county licensors with updates on the progress of the project.
- Regular demonstrations on the latest versions of the project to a group of county licensors.

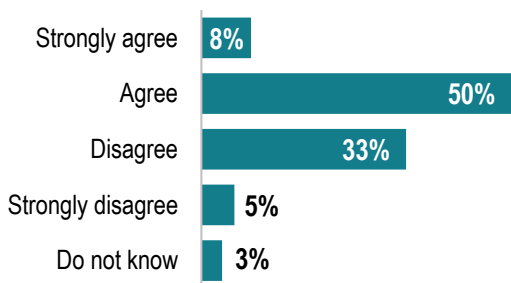
Source: Office of the Legislative Auditor, analysis of DHS Child Care Systems Transformation project materials.

As shown in the box above, DHS has done significant work to solicit input from county licensors and inform them of progress on the Child Care Systems Transformation project. As of the publication of this report, DHS continues to hold optional monthly progress update meetings and demonstrations for county licensors and other stakeholders.

## Other Legislative Changes

Since at least 2019, the Legislature has enacted changes to licensing standards for county-delegated programs every year. There have been dozens of changes to Family Child Care licensing alone. For example, in 2023, the Legislature passed a law amending infant safe sleep requirements to prohibit licensed providers from placing an infant down to sleep wearing weighted materials, a hood, or a bib.<sup>25</sup> County licensors must be aware of these changes and monitor them during inspections of license holders.

**Survey Question:** DHS generally provides timely guidance to county licensors on interpreting new statewide licensing requirements.



Notes: Chart includes responses from 299 county licensors; the chart does not include individuals who answered “Not applicable” or did not answer the question. The percentages listed do not sum to 100 percent due to rounding.

Source: Office of the Legislative Auditor, analysis of county licensor survey, 2023.

DHS has worked to communicate changes to county licensors, both before and after they actually occur. DHS has held meetings to preview potential changes to licensing requirements and has allowed licensors to ask questions. When the Legislature has enacted changes to licensing standards, DHS has sent e-mails to county licensors announcing the changes and has listed the changes on its website. DHS managers told us that DHS would then create an “implementation plan” for each licensed program that outlined how DHS planned to implement each change and would share these plans with licensors and other stakeholders. DHS management told us that when there is a more significant change to licensing requirements, they would also hold a meeting for stakeholders in which DHS presented the legislative changes, described the new requirements and expectations, and allowed stakeholders to ask questions.

<sup>25</sup> *Laws of Minnesota 2023*, chapter 70, art. 8, sec. 19, codified as *Minnesota Statutes 2023*, 245A.1435(d).

The county licensors we surveyed generally felt that DHS’s implementation plans and communications related to new licensing requirements were useful and timely. As shown in the prior chart, nearly 60 percent of county licensors agreed or strongly agreed that DHS provides timely guidance on interpreting new licensing requirements. In an open-ended survey response, one licensor stated, “DHS does a nice job of sending out guidance when there are changes or something new is being implemented.”

## Establishment of New Department

While DHS has been thoughtful in its attempts to consider the feedback of, and to provide useful information for, county licensors as it implemented new initiatives, the biggest change is yet to come.

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### DHS Licensing Division functions will soon be split among two state agencies.

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In 2023, the Legislature created a new Department of Children, Youth, and Families (DCYF) to “provide a sustainable, public face for children’s issues in state government.”<sup>26</sup> Programs from multiple state agencies—including the departments of Education, Health, and Public Safety—will be transferred to the new department over the course of Fiscal Year 2025. The transfers also include the licensing of services for children, whether licensed by DHS directly or county-delegated.

DHS’s licensing and county support functions will be split between DHS and DCYF. The table to the right shows the expected distribution of programs with county-delegated licensing among the two departments.

**Future Departmental Division of County-Delegated Licensing**

Department of Human Services	Department of Children, Youth, and Families
Adult Foster Care	Child Foster Care
Family Adult Day Services	Family Child Care
Community Residential Settings (CRS)	

The transfer of functions to a new department is bound to come with challenges. However, the division of oversight responsibilities for county-delegated licensing presents a unique complication. Many county licensors work in small agencies and are responsible for licensing multiple types of services. A county licensor who is currently responsible for all types of Foster Care licensing, for example, will soon find that their Adult Foster Care work is supported by DHS while their Child Foster Care work is supported by DCYF. These licensors will need to work with two different state agencies for what was previously the same state function. As such, DHS and the new DCYF will need to collaborate closely to ensure that their expectations for the licensors whom they jointly oversee are clear and consistent.

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<sup>26</sup> *Laws of Minnesota* 2023, chapter 70, art. 12, sec. 14, codified as *Minnesota Statutes* 2023, 142A.02, subd. 1; and Minnesota Management and Budget, Implementation Office for the Department of Children, Youth, and Families, “Frequently Asked Questions,” <https://mn.gov/mmb/dcyf-implementation/faqs/>, accessed October 24, 2023.

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**RECOMMENDATION**

**DHS and DCYF should take extra care to provide clear and consistent guidance on the respective roles of state agencies and county licensors, especially in light of the transition to two departments.**

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While the county licensor concerns about licensing roles that we discussed earlier in this chapter were not particularly widespread, they are elevated somewhat by the impending division of licensing oversight between DHS and DCYF. The transition to a new department, if not handled carefully, could easily result in increased confusion about the respective roles of county licensors and the two departments with which they must coordinate. At least 65 county licensors (about 20 percent) currently license services for both children and adults, and they will ultimately receive oversight and support from both DHS and DCYF. This has the potential to be confusing, particularly if DHS and DCYF do not clearly communicate to licensors how roles will be changing or differing between the two departments.

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**RECOMMENDATION**

**DCYF should adopt the recommendations from this report that are relevant to its activities.**

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Throughout this report, we have made recommendations to DHS to improve its support to county licensors. Once DCYF assumes its share of DHS's licensing functions, the new department should also consider the recommendations in this report. Additionally, DCYF should take note of the aspects of the DHS-county licensor relationship that we found work well, and adopt those practices that support a strong state-county partnership. For example, DCYF should continue monthly meetings for Family Child Care and Child Foster Care licensors, and ensure that the materials from these monthly meetings are available and accessible to all licensors.

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# List of Recommendations

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- If the Department of Human Services (DHS) wishes to implement continuous licensing, it should work with the Legislature to amend statutes in a manner that allows the process. (p. 11)
- DHS should improve the support it provides for Community Residential Settings (CRS) licensors. (p. 22)
- DHS should (1) develop a formal policy and establish a timeframe in which staff must respond to triage inquiries from county licensors. and (2) track how long it takes staff to respond to each inquiry. (p. 22)
- DHS should provide written guidance that is easily accessible to all county licensors. (pp. 22-23)
- DHS should (1) establish timeframes for processing licensing actions that are uniform across programs with county-delegated licensing, and (2) ensure that it addresses all recommendations for licensing actions within those timeframes. (p. 31)
- DHS and the Department of Children, Youth, and Families (DCYF) should take extra care to provide clear and consistent guidance on the respective roles of state agencies and county licensors, especially in light of the transition to two departments. (p. 38)
- DCYF should adopt the recommendations from this report that are relevant to its activities. (p. 38)



OLA



**Minnesota Department of Human Services**  
**Elmer L. Andersen Building**  
**Commissioner Jodi Harpstead**  
**Post Office Box 64998**  
**St. Paul, Minnesota 55164-0998**

February 15, 2024

Judy Randall, Legislative Auditor  
Office of the Legislative Auditor  
Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155

Dear Ms. Randall:

Thank you for the opportunity to review and comment on the draft report issued by your office, titled *Department of Human Services Licensing Division: Support to Counties*. The findings and recommendations will help guide us as we continue improving how we work, communicate and collaborate with counties.

County licensors are our key, trusted partners in the oversight and administration of licensing functions for programs that serve Minnesotans in need. We appreciate the timely review of this important issue and are pleased that the recommendations align with our plans for improvement, which we are working to implement thanks to the investment of resources by the governor and 2023 Legislature.

The DHS Office of Inspector General's (OIG) Licensing Division has worked hard over the last few years to improve communication with county licensors and increase consistency in our work across Minnesota counties. We welcome this report's acknowledgment of the improvements we achieved and our dedication to creating and maintaining positive relationships. The report's recommendations line up with more improvements we would like to make to continue fostering positive relationships and ensuring that county licensors have the resources, guidance and materials they need to perform their work.

During the 2023 legislative session, the OIG Licensing Division was allocated funding for additional positions that will resolve critical resource shortages that have escalated for years. Simply filling these positions is likely to help address many of the concerns about support for community residential setting licensors. We have started hiring, onboarding and training new licensing staff, a process that will continue throughout this year. We have already begun offering more training opportunities for community residential setting licensors and are working to evaluate and comply with accessibility standards to make materials more readily available to county licensors. The additional staffing will help us provide more technical assistance, guidance and training to county licensors.

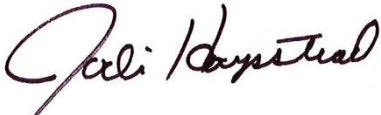
Additionally, as DHS prepares to transition programs to the new Department of Children Youth and Families (DCYF), we are working closely with the DCYF implementation office at Minnesota Management and Budget to

Judy Randall  
February 15, 2024  
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ensure that licensing functions will continue without interruption, and that all partners, including county licensors, will have clear guidance on the respective roles of DHS and DCYF.

We appreciated your staff's professionalism and dedicated efforts during this audit. Our policy and practice are to follow up on all audit findings to evaluate our progress toward resolution. If you have further questions, please contact Gary L. Johnson, Internal Control and Accountability Office director, Minnesota Department of Human Services at (651) 431-3623.

Sincerely,

A handwritten signature in black ink that reads "Jodi Harpstead". The signature is written in a cursive, flowing style.

Jodi Harpstead  
Commissioner

## **Forthcoming OLA Evaluations**

*Grant Award Processes*  
*Metro Mobility*  
*Minnesota Housing Finance Agency: Down Payment Assistance*  
*Worker Misclassification*

## **Recent OLA Evaluations**

### **Agriculture**

*Pesticide Regulation*, March 2020  
*Agricultural Utilization Research Institute (AURI)*, May 2016  
*Agricultural Commodity Councils*, March 2014

### **Criminal Justice and Public Safety**

*Driver Examination Stations*, March 2021  
*Safety in State Correctional Facilities*, February 2020  
*Guardian ad Litem Program*, March 2018  
*Mental Health Services in County Jails*, March 2016

### **Economic Development**

*Minnesota Investment Fund*, February 2018  
*Minnesota Research Tax Credit*, February 2017  
*Iron Range Resources and Rehabilitation Board (IRRRB)*, March 2016

### **Education (Preschool, K-12, and Postsecondary)**

*Minnesota Department of Education's Role in Addressing the Achievement Gap*, March 2022  
*Collaborative Urban and Greater Minnesota Educators of Color (CUGMEC) Grant Program*, March 2021  
*Compensatory Education Revenue*, March 2020  
*Debt Service Equalization for School Facilities*, March 2019  
*Early Childhood Programs*, April 2018  
*Perpich Center for Arts Education*, January 2017  
*Standardized Student Testing*, March 2017  
*Minnesota State High School League*, April 2017  
*Minnesota Teacher Licensure*, March 2016

### **Environment and Natural Resources**

*Petroleum Remediation Program*, February 2022  
*Public Facilities Authority: Wastewater Infrastructure Programs*, January 2019  
*Clean Water Fund Outcomes*, March 2017  
*Department of Natural Resources: Deer Population Management*, May 2016  
*Recycling and Waste Reduction*, February 2015

### **Financial Institutions, Insurance, and Regulated Industries**

*Department of Commerce's Civil Insurance Complaint Investigations*, February 2022

### **Government Operations**

*Oversight of State-Funded Grants to Nonprofit Organizations*, February 2023  
*Sustainable Building Guidelines*, February 2023  
*Office of Minnesota Information Technology Services (MNIT)*, February 2019  
*Mineral Taxation*, April 2015

### **Health**

*Emergency Ambulance Services*, February 2022  
*Office of Health Facility Complaints*, March 2018  
*Minnesota Department of Health Oversight of HMO Complaint Resolution*, February 2016  
*Minnesota Health Insurance Exchange (MNSure)*, February 2015  
*Minnesota Board of Nursing: Complaint Resolution Process*, March 2015

### **Human Services**

*Department of Human Services Licensing Division: Support to Counties*, February 2024  
*Child Protection Removals and Reunifications*, June 2022  
*DHS Oversight of Personal Care Assistance*, March 2020  
*Home- and Community-Based Services: Financial Oversight*, February 2017  
*Managed Care Organizations' Administrative Expenses*, March 2015

### **Jobs, Training, and Labor**

*Unemployment Insurance Program: Efforts to Prevent and Detect the Use of Stolen Identities*, March 2022  
*State Protections for Meatpacking Workers*, 2015

### **Miscellaneous**

*RentHelpMN*, April 2023  
*State Programs That Support Minnesotans on the Basis of Racial, Ethnic, or American Indian Identity*, February 2023  
*Board of Cosmetology Licensing*, May 2021  
*Minnesota Department of Human Rights: Complaint Resolution Process*, February 2020  
*Public Utilities Commission's Public Participation Processes*, July 2020  
*Economic Development and Housing Challenge Program*, February 2019  
*Minnesota State Arts Board Grant Administration*, February 2019  
*Board of Animal Health's Oversight of Deer and Elk Farms*, April 2018  
*Voter Registration*, March 2018  
*Minnesota Film and TV Board*, April 2015

### **Transportation**

*Southwest Light Rail Transit Construction: Metropolitan Council Decision Making*, March 2023  
*Southwest Light Rail Transit Construction: Metropolitan Council Oversight of Contractors*, June 2023  
*MnDOT Workforce and Contracting Goals*, May 2021  
*MnDOT Measures of Financial Effectiveness*, March 2019  
*MnDOT Highway Project Selection*, March 2016

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