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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2052

02/20/2023 Authored by Liebling
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; aligning home care survey with assisted living licensure survey;
1.3 amending Minnesota Statutes 2022, sections 144A.474, subdivisions 3, 9, 12;
1.4 144A.4791, subdivision 10.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2022, section 144A.474, subdivision 3, is amended to read:

1.7 Subd. 3. Survey process. The survey process for core surveys shall include the following
1.8 as applicable to the particular licensee and setting surveyed:

1.9 (1) presurvey review of pertinent documents and notification to the ombudsman for
1.10 long-term care;

1.11 (2) an entrance conference with available staff;

1.12 (3) communication with managerial officials or the registered nurse in charge, if available,
1.13 and ongoing communication with key staff throughout the survey regarding information
1.14 needed by the surveyor, clarifications regarding home care requirements, and applicable
1.15 standards of practice;

1.16 (4) presentation of written contact information to the provider about the survey staff
1.17 conducting the survey, the supervisor, and the process for requesting a reconsideration of
1.18 the survey results;

1.19 (5) a brief tour of a sample of the housing-with-services establishments in which the
1.20 provider is providing home care services;

1.21 (6) a sample selection of home care clients;

2.1 (7) information-gathering through client and staff observations, client and staff interviews,  
 2.2 and reviews of records, policies, procedures, practices, and other agency information;

2.3 (8) interviews of clients' family members, if available, with clients' consent when the  
 2.4 client can legally give consent; and

2.5 ~~(9) except for complaint surveys conducted by the Office of Health Facilities Complaints,~~  
 2.6 ~~an on-site exit conference, with preliminary findings shared and discussed with the provider,~~  
 2.7 ~~documentation that an exit conference occurred, and written information provided on the~~  
 2.8 ~~process for requesting a reconsideration of the survey results; and~~

2.9 ~~(10)~~ (9) postsurvey analysis of findings and formulation of survey results, including  
 2.10 correction orders when applicable.

2.11 **EFFECTIVE DATE.** This section is effective August 1, 2023.

2.12 Sec. 2. Minnesota Statutes 2022, section 144A.474, subdivision 9, is amended to read:

2.13 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under  
 2.14 subdivision 11, ~~or any violations determined to be widespread,~~ the department shall conduct  
 2.15 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up  
 2.16 survey, the surveyor will focus on whether the previous violations have been corrected and  
 2.17 may also address any new violations that are observed while evaluating the corrections that  
 2.18 have been made.

2.19 **EFFECTIVE DATE.** This section is effective August 1, 2023.

2.20 Sec. 3. Minnesota Statutes 2022, section 144A.474, subdivision 12, is amended to read:

2.21 Subd. 12. **Reconsideration.** (a) The commissioner shall make available to home care  
 2.22 providers a correction order reconsideration process. This process may be used to challenge  
 2.23 the correction order issued, including the level and scope described in subdivision 11, and  
 2.24 any fine assessed. During the correction order reconsideration request, the issuance for the  
 2.25 correction orders under reconsideration are not stayed, but the department shall post  
 2.26 information on the website with the correction order that the licensee has requested a  
 2.27 reconsideration and that the review is pending.

2.28 (b) A licensed home care provider may request from the commissioner, in writing, a  
 2.29 correction order reconsideration regarding any correction order issued to the provider. The  
 2.30 written request for reconsideration must be received by the commissioner within 15 ~~calendar~~  
 2.31 business days of the correction order receipt date. The correction order reconsideration shall  
 2.32 not be reviewed by any surveyor, investigator, or supervisor that participated in the writing

3.1 or reviewing of the correction order being disputed. The correction order reconsiderations  
3.2 may be conducted in person, by telephone, by another electronic form, or in writing, as  
3.3 determined by the commissioner. The commissioner shall respond in writing to the request  
3.4 from a home care provider for a correction order reconsideration within 60 days of the date  
3.5 the provider requests a reconsideration. The commissioner's response shall identify the  
3.6 commissioner's decision regarding each citation challenged by the home care provider.

3.7 (c) The findings of a correction order reconsideration process shall be one or more of  
3.8 the following:

3.9 (1) supported in full, the correction order is supported in full, with no deletion of findings  
3.10 to the citation;

3.11 (2) supported in substance, the correction order is supported, but one or more findings  
3.12 are deleted or modified without any change in the citation;

3.13 (3) correction order cited an incorrect home care licensing requirement, the correction  
3.14 order is amended by changing the correction order to the appropriate statutory reference;

3.15 (4) correction order was issued under an incorrect citation, the correction order is amended  
3.16 to be issued under the more appropriate correction order citation;

3.17 (5) the correction order is rescinded;

3.18 (6) fine is amended, it is determined that the fine assigned to the correction order was  
3.19 applied incorrectly; or

3.20 (7) the level or scope of the citation is modified based on the reconsideration.

3.21 (d) If the correction order findings are changed by the commissioner, the commissioner  
3.22 shall update the correction order website.

3.23 (e) This subdivision does not apply to temporary licensees.

3.24 Sec. 4. Minnesota Statutes 2022, section 144A.4791, subdivision 10, is amended to read:

3.25 Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service  
3.26 plan with a client, and the client continues to need home care services, the home care provider  
3.27 shall provide the client and the client's representative, if any, with a written notice of  
3.28 termination which includes the following information:

3.29 (1) the effective date of termination;

3.30 (2) the reason for termination;

4.1 (3) a statement that the client may contact the Office of Ombudsman for Long-Term  
4.2 Care to request an advocate to assist regarding the termination and contact information for  
4.3 the office, including the office's central telephone number;

4.4 ~~(3)~~ (4) a list of known licensed home care providers in the client's immediate geographic  
4.5 area;

4.6 ~~(4)~~ (5) a statement that the home care provider will participate in a coordinated transfer  
4.7 of care of the client to another home care provider, health care provider, or caregiver, as  
4.8 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

4.9 ~~(5)~~ (6) the name and contact information of a person employed by the home care provider  
4.10 with whom the client may discuss the notice of termination; and

4.11 ~~(6)~~ (7) if applicable, a statement that the notice of termination of home care services  
4.12 does not constitute notice of termination of the housing with services contract with a housing  
4.13 with services establishment.

4.14 (b) When the home care provider voluntarily discontinues services to all clients, the  
4.15 home care provider must notify the commissioner, lead agencies, and ombudsman for  
4.16 long-term care about its clients and comply with the requirements in this subdivision.