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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 90

- 01/17/2019 Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 02/25/2019 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division
- 03/04/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
- 03/07/2019 Adoption of Report: Re-referred to the Committee on Commerce
- 03/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- 04/26/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
- 05/10/2019 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments

1.1 A bill for an act

1.2 relating to health; establishing consumer protections for residents of assisted living

1.3 establishments; prohibiting deceptive marketing and business practices; establishing

1.4 provisions for independent senior living facilities; establishing an assisted living

1.5 establishment license; changing the name for Board of Examiners for Nursing

1.6 Home Administrators; imposing fees; establishing a health services executive

1.7 license; making certain conforming changes; providing penalties; granting

1.8 rulemaking authority; requiring reports; appropriating money; amending Minnesota

1.9 Statutes 2018, sections 144.051, subdivisions 4, 5, 6; 144.057, subdivision 1;

1.10 144.122; 144A.04, subdivision 5; 144A.19, subdivision 1; 144A.20, subdivision

1.11 1, by adding subdivisions; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511;

1.12 144A.26; 144A.44, subdivision 1; 144A.471, subdivisions 7, 9; 144A.472,

1.13 subdivision 7; 144A.474, subdivisions 9, 11; 144A.475, subdivisions 3b, 5;

1.14 144A.476, subdivision 1; 144A.4791, subdivision 10; 144A.4799; 256.9741,

1.15 subdivision 1; 256I.03, subdivision 15; 256I.04, subdivision 2a; 325F.72,

1.16 subdivisions 1, 2, 4; 626.5572, subdivision 6; proposing coding for new law in

1.17 Minnesota Statutes, chapters 144; 144A; 144G; proposing coding for new law as

1.18 Minnesota Statutes, chapters 144I; 144J; 144K; repealing Minnesota Statutes 2018,

1.19 sections 144A.441; 144A.442; 144A.472, subdivision 4; 144D.01; 144D.015;

1.20 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065;

1.21 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02;

1.22 144G.03; 144G.04; 144G.05; 144G.06.

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

1.24 **ARTICLE 1**

1.25 **RESIDENT RIGHTS AND CONSUMER PROTECTIONS**

1.26 Section 1. **[144.6512] RETALIATION IN NURSING HOMES PROHIBITED.**

1.27 Subdivision 1. **Definitions.** For the purposes of this section:

1.28 (1) "nursing home" means a facility licensed as a nursing home under chapter 144A;

1.29 and

2.1 (2) "resident" means a person residing in a nursing home.

2.2 Subd. 2. **Retaliation prohibited.** A nursing home or agent of the nursing home may not
2.3 retaliate against a resident or employee if the resident, employee, or any person acting on
2.4 behalf of the resident:

2.5 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

2.6 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
2.7 right;

2.8 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
2.9 voluntary, under section 626.557;

2.10 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
2.11 problems or concerns to the administrator or manager of the nursing home, the Office of
2.12 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
2.13 advocacy organization;

2.14 (5) advocates or seeks advocacy assistance for necessary or improved care or services
2.15 or enforcement of rights under this section or other law;

2.16 (6) takes or indicates an intention to take civil action;

2.17 (7) participates or indicates an intention to participate in any investigation or
2.18 administrative or judicial proceeding;

2.19 (8) contracts or indicates an intention to contract to receive services from a service
2.20 provider of the resident's choice other than the nursing home; or

2.21 (9) places or indicates an intention to place a camera or electronic monitoring device in
2.22 the resident's private space as provided under section 144J.05.

2.23 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
2.24 a resident includes but is not limited to any of the following actions taken or threatened by
2.25 a nursing home or an agent of the nursing home against a resident, or any person with a
2.26 familial, personal, legal, or professional relationship with the resident:

2.27 (1) the discharge, eviction, transfer, or termination of services;

2.28 (2) the imposition of discipline, punishment, or a sanction or penalty;

2.29 (3) any form of discrimination;

2.30 (4) restriction or prohibition of access:

2.31 (i) of the resident to the nursing home or visitors; or

3.1 (ii) to the resident by a family member or a person with a personal, legal, or professional
3.2 relationship with the resident;

3.3 (5) the imposition of involuntary seclusion or withholding food, care, or services;

3.4 (6) restriction of any of the rights granted to residents under state or federal law;

3.5 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
3.6 living arrangements;

3.7 (8) an arbitrary increase in charges or fees;

3.8 (9) removing, tampering with, or deprivation of technology, communication, or electronic
3.9 monitoring devices; or

3.10 (10) any oral or written communication of false information about a person advocating
3.11 on behalf of the resident.

3.12 Subd. 4. **Retaliation against an employee.** For purposes of this section, to retaliate
3.13 against an employee includes but is not limited to any of the following actions taken or
3.14 threatened by the nursing home or an agent of the nursing home against an employee:

3.15 (1) discharge or transfer;

3.16 (2) demotion or refusal to promote;

3.17 (3) reduction in compensation, benefits, or privileges;

3.18 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

3.19 (5) any form of discrimination.

3.20 Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
3.21 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
3.22 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

3.23 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if
3.24 a good faith report of maltreatment pursuant to section 626.557 is made by the nursing home
3.25 or agent of the nursing home against the visitor, family member, or other person with a
3.26 personal, legal, or professional relationship who is subject to the restriction or prohibition
3.27 of access.

3.28 (c) The presumption does not apply to any oral or written communication described in
3.29 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant
3.30 to section 626.557 made by the nursing home or agent of the nursing home against the
3.31 person advocating on behalf of the resident.

4.1 (d) The presumption does not apply to a termination of a contract of admission, as that
4.2 term is defined under section 144.6501, subdivision 1, for a reason permitted under state
4.3 or federal law.

4.4 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision
4.5 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,
4.6 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

4.7 **EFFECTIVE DATE.** This section is effective August 1, 2019.

4.8 **Sec. 2. [144G.07] RETALIATION PROHIBITED.**

4.9 Subdivision 1. **Definitions.** For the purposes of this section and section 144G.08:

4.10 (1) "facility" means a housing with services establishment registered under section
4.11 144D.02 and operating under title protection under this chapter; and

4.12 (2) "resident" means a resident of a facility.

4.13 Subd. 2. **Retaliation prohibited.** A facility or agent of the facility may not retaliate
4.14 against a resident or employee if the resident, employee, or any person on behalf of the
4.15 resident:

4.16 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

4.17 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
4.18 right;

4.19 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
4.20 voluntary, under section 626.557;

4.21 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
4.22 problems or concerns to the administrator or manager of the facility, the Office of
4.23 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
4.24 advocacy organization;

4.25 (5) advocates or seeks advocacy assistance for necessary or improved care or services
4.26 or enforcement of rights under this section or other law;

4.27 (6) takes or indicates an intention to take civil action;

4.28 (7) participates or indicates an intention to participate in any investigation or
4.29 administrative or judicial proceeding;

4.30 (8) contracts or indicates an intention to contract to receive services from a service
4.31 provider of the resident's choice other than the facility; or

5.1 (9) places or indicates an intention to place a camera or electronic monitoring device in
5.2 the resident's private space as provided under section 144J.05.

5.3 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
5.4 a resident includes but is not limited to any of the following actions taken or threatened by
5.5 a facility or an agent of the facility against a resident, or any person with a familial, personal,
5.6 legal, or professional relationship with the resident:

5.7 (1) the discharge, eviction, transfer, or termination of services;

5.8 (2) the imposition of discipline, punishment, or a sanction or penalty;

5.9 (3) any form of discrimination;

5.10 (4) restriction or prohibition of access:

5.11 (i) of the resident to the facility or visitors; or

5.12 (ii) to the resident by a family member or a person with a personal, legal, or professional
5.13 relationship with the resident;

5.14 (5) the imposition of involuntary seclusion or withholding food, care, or services;

5.15 (6) restriction of any of the rights granted to residents under state or federal law;

5.16 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
5.17 living arrangements;

5.18 (8) an arbitrary increase in charges or fees;

5.19 (9) removing, tampering with, or deprivation of technology, communication, or electronic
5.20 monitoring devices; or

5.21 (10) any oral or written communication of false information about a person advocating
5.22 on behalf of the resident.

5.23 Subd. 4. **Retaliation against an employee.** For purposes of this section, to retaliate
5.24 against an employee includes but is not limited to any of the following actions taken or
5.25 threatened by the facility or an agent of the facility against an employee:

5.26 (1) discharge or transfer;

5.27 (2) demotion or refusal to promote;

5.28 (3) reduction in compensation, benefits, or privileges;

5.29 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

5.30 (5) any form of discrimination.

6.1 Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
6.2 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
6.3 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

6.4 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if
6.5 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or
6.6 agent of the facility against the visitor, family member, or other person with a personal,
6.7 legal, or professional relationship who is subject to the restriction or prohibition of access.

6.8 (c) The presumption does not apply to any oral or written communication described in
6.9 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant
6.10 to section 626.557 made by the facility or agent of the facility against the person advocating
6.11 on behalf of the resident.

6.12 (d) The presumption does not apply to a termination of a housing with services contract
6.13 for a reason permitted under state or federal law.

6.14 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision
6.15 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,
6.16 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

6.17 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,
6.18 2021.

6.19 Sec. 3. **[144G.08] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
6.20 **PROHIBITED.**

6.21 Subdivision 1. **Prohibitions.** (a) No employee or agent of any facility may make any
6.22 false, fraudulent, deceptive, or misleading statements or representations or material omissions
6.23 in marketing, advertising, or any other description or representation of care or services.

6.24 (b) No housing with services contract as required under section 144D.04, subdivision
6.25 1, may include any provision that the facility knows or should know to be deceptive,
6.26 unlawful, or unenforceable under state or federal law, nor include any provision that requires
6.27 or implies a lesser standard of care or responsibility than is required by law.

6.28 (c) No facility may advertise or represent that the facility has a dementia care unit without
6.29 complying with disclosure requirements under section 325F.72 and all additional
6.30 requirements in chapter 144I and in rule.

7.1 Subd. 2. Remedies. (a) A violation of this section constitutes a violation of section
7.2 325F.69, subdivision 1. The attorney general or a county attorney may enforce this section
7.3 using the remedies in section 325F.70.

7.4 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
7.5 of action under section 325F.71, subdivision 4, for the violation of this section, unless the
7.6 resident otherwise has a cause of action under section 626.557, subdivision 17.

7.7 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,
7.8 2021.

7.9 **Sec. 4. [144J.01] DEFINITIONS.**

7.10 Subdivision 1. Applicability. For the purposes of this chapter, the following terms have
7.11 the meanings given them unless the context clearly indicates otherwise.

7.12 Subd. 2. Assisted living contract. "Assisted living contract" means the legal agreement
7.13 between a resident and an assisted living facility for housing and, if applicable, assisted
7.14 living services.

7.15 Subd. 3. Assisted living facility. "Assisted living facility" has the meaning given in
7.16 section 144I.01, subdivision 7.

7.17 Subd. 4. Assisted living facility with dementia care. "Assisted living facility with
7.18 dementia care" has the meaning given in section 144I.01, subdivision 8.

7.19 Subd. 5. Assisted living services. "Assisted living services" has the meaning given in
7.20 section 144I.01, subdivision 9.

7.21 Subd. 6. Attorney-in-fact. "Attorney-in-fact" means a person designated by a principal
7.22 to exercise the powers granted by a written and valid power of attorney under chapter 523.

7.23 Subd. 7. Conservator. "Conservator" means a court-appointed conservator acting in
7.24 accordance with the powers granted to the conservator under chapter 524.

7.25 Subd. 8. Designated representative. "Designated representative" means a person
7.26 designated in writing by the resident in an assisted living contract and identified in the
7.27 resident's records on file with the assisted living facility.

7.28 Subd. 9. Facility. "Facility" means an assisted living facility.

7.29 Subd. 10. Guardian. "Guardian" means a court-appointed guardian acting in accordance
7.30 with the powers granted to the guardian under chapter 524.

8.1 Subd. 11. **Health care agent.** "Health care agent" has the meaning given in section
8.2 145C.01, subdivision 2.

8.3 Subd. 12. **Legal representative.** "Legal representative" means one of the following in
8.4 the order of priority listed, to the extent the person may reasonably be identified and located:

8.5 (1) a guardian;

8.6 (2) a conservator;

8.7 (3) a health care agent; or

8.8 (4) an attorney-in-fact.

8.9 Subd. 13. **Licensed health professional.** "Licensed health professional" means:

8.10 (1) a physician licensed under chapter 147;

8.11 (2) an advanced practice registered nurse, as that term is defined in section 148.171,
8.12 subdivision 3;

8.13 (3) a licensed practical nurse, as that term is defined in section 148.171, subdivision 8;

8.14 or

8.15 (4) a registered nurse, as that term is defined in section 148.171, subdivision 20.

8.16 Subd. 14. **Resident.** "Resident" means a person living in an assisted living facility.

8.17 Subd. 15. **Resident record.** "Resident record" has the meaning given in section 144I.01,
8.18 subdivision 60.

8.19 Subd. 16. **Service plan.** "Service plan" has the meaning given in section 144I.01,
8.20 subdivision 63.

8.21 **EFFECTIVE DATE.** This section is effective August 1, 2021.

8.22 Sec. 5. **[144J.02] ASSISTED LIVING BILL OF RIGHTS.**

8.23 Subdivision 1. **Applicability.** This section applies to residents living in assisted living
8.24 facilities.

8.25 Subd. 2. **Legislative intent.** The rights established under this section for the benefit of
8.26 residents do not limit any other rights available under law. No facility may request or require
8.27 that any resident waive any of these rights at any time for any reason, including as a condition
8.28 of admission to the facility.

8.29 Subd. 3. **Information about rights.** Before receiving services, residents have the right
8.30 to be informed by the facility of the rights granted under this section and the recourse

9.1 residents have if rights are violated. The information must be in plain language and in terms
9.2 residents can understand. The facility must make reasonable accommodations for residents
9.3 who have communication disabilities and those who speak a language other than English.

9.4 Subd. 4. **Appropriate care and services.** (a) Residents have the right to care and assisted
9.5 living services that are appropriate based on the resident's needs and according to an
9.6 up-to-date service plan subject to accepted health care standards.

9.7 (b) Residents have the right to receive health care and other assisted living services with
9.8 continuity from people who are properly trained and competent to perform their duties and
9.9 in sufficient numbers to adequately provide the services agreed to in the assisted living
9.10 contract and the service plan.

9.11 Subd. 5. **Refusal of care or services.** Residents have the right to refuse care or assisted
9.12 living services and to be informed by the facility of the medical, health-related, or
9.13 psychological consequences of refusing care or services.

9.14 Subd. 6. **Participation in care and service planning.** Residents have the right to actively
9.15 participate in the planning, modification, and evaluation of their care and services. This
9.16 right includes:

9.17 (1) the opportunity to discuss care, services, treatment, and alternatives with the
9.18 appropriate caregivers;

9.19 (2) the right to include a family member or the resident's health care agent and designated
9.20 representative, or both; and

9.21 (3) the right to be told in advance of, and take an active part in decisions regarding, any
9.22 recommended changes in the service plan.

9.23 Subd. 7. **Courteous treatment.** Residents have the right to be treated with courtesy and
9.24 respect, and to have the resident's property treated with respect.

9.25 Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from physical,
9.26 sexual, and emotional abuse; neglect; financial exploitation; and all forms of maltreatment
9.27 covered under the Vulnerable Adults Act.

9.28 Subd. 9. **Right to come and go freely.** Residents have the right to enter and leave the
9.29 facility as they choose. This right may be restricted only as allowed by other law and
9.30 consistent with a resident's service plan.

10.1 Subd. 10. **Individual autonomy.** Residents have the right to individual autonomy,
10.2 initiative, and independence in making life choices, including establishing a daily schedule
10.3 and choosing with whom to interact.

10.4 Subd. 11. **Right to control resources.** Residents have the right to control personal
10.5 resources.

10.6 Subd. 12. **Visitors and social participation.** (a) Residents have the right to meet with
10.7 or receive visits at any time by the resident's family, guardian, conservator, health care
10.8 agent, attorney, advocate, or religious or social work counselor, or any person of the resident's
10.9 choosing. This right may be restricted in certain circumstances if necessary for the resident's
10.10 health and safety and if documented in the resident's service plan.

10.11 (b) Residents have the right to engage in community life and in activities of their choice.
10.12 This includes the right to participate in commercial, religious, social, community, and
10.13 political activities without interference and at their discretion if the activities do not infringe
10.14 on the rights of other residents.

10.15 Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to consideration
10.16 of their privacy, individuality, and cultural identity as related to their social, religious, and
10.17 psychological well-being. Staff must respect the privacy of a resident's space by knocking
10.18 on the door and seeking consent before entering, except in an emergency or where clearly
10.19 inadvisable or unless otherwise documented in the resident's service plan.

10.20 (b) Residents have the right to have and use a lockable door to the resident's unit. The
10.21 facility shall provide locks on the resident's unit. Only a staff member with a specific need
10.22 to enter the unit shall have keys. This right may be restricted in certain circumstances if
10.23 necessary for a resident's health and safety and documented in the resident's service plan.

10.24 (c) Residents have the right to respect and privacy regarding the resident's service plan.
10.25 Case discussion, consultation, examination, and treatment are confidential and must be
10.26 conducted discreetly. Privacy must be respected during toileting, bathing, and other activities
10.27 of personal hygiene, except as needed for resident safety or assistance.

10.28 Subd. 14. **Communication privacy.** (a) Residents have the right to communicate
10.29 privately with persons of their choice.

10.30 (b) If an assisted living facility is sending or receiving mail on behalf of residents, the
10.31 assisted living facility must do so without interference.

10.32 (c) Residents must be provided access to a telephone to make and receive calls.

11.1 Subd. 15. **Confidentiality of records.** (a) Residents have the right to have personal,
11.2 financial, health, and medical information kept private, to approve or refuse release of
11.3 information to any outside party, and to be advised of the assisted living facility's policies
11.4 and procedures regarding disclosure of the information. Residents must be notified when
11.5 personal records are requested by any outside party.

11.6 (b) Residents have the right to access their own records.

11.7 Subd. 16. **Right to furnish and decorate.** Residents have the right to furnish and decorate
11.8 the resident's unit within the terms of the assisted living contract.

11.9 Subd. 17. **Right to choose roommate.** Residents have the right to choose a roommate
11.10 if sharing a unit.

11.11 Subd. 18. **Right to access food.** Residents have the right to access food at any time.
11.12 This right may be restricted in certain circumstances if necessary for the resident's health
11.13 and safety and if documented in the resident's service plan.

11.14 Subd. 19. **Access to technology.** Residents have the right to access Internet service at
11.15 their expense.

11.16 Subd. 20. **Grievances and inquiries.** Residents have the right to make and receive a
11.17 timely response to a complaint or inquiry, without limitation. Residents have the right to
11.18 know and every facility must provide the name and contact information of the person
11.19 representing the facility who is designated to handle and resolve complaints and inquiries.

11.20 Subd. 21. **Access to counsel and advocacy services.** Residents have the right to the
11.21 immediate access by:

11.22 (1) the resident's legal counsel;

11.23 (2) any representative of the protection and advocacy system designated by the state
11.24 under Code of Federal Regulations, title 45, section 1326.21; or

11.25 (3) any representative of the Office of Ombudsman for Long-Term Care.

11.26 Subd. 22. **Information about charges.** Before services are initiated, residents have the
11.27 right to be notified:

11.28 (1) of all charges for housing and assisted living services;

11.29 (2) of any limits on housing and assisted living services available;

11.30 (3) if known, whether and what amount of payment may be expected from health
11.31 insurance, public programs, or other sources; and

12.1 (4) what charges the resident may be responsible for paying.

12.2 Subd. 23. **Information about individuals providing services.** Before receiving services
 12.3 identified in the service plan, residents have the right to be told the type and disciplines of
 12.4 staff who will be providing the services, the frequency of visits proposed to be furnished,
 12.5 and other choices that are available for addressing the resident's needs.

12.6 Subd. 24. **Information about other providers and services.** Residents have the right
 12.7 to be informed by the assisted living facility, prior to executing an assisted living contract,
 12.8 that other public and private services may be available and that the resident has the right to
 12.9 purchase, contract for, or obtain services from a provider other than the assisted living
 12.10 facility.

12.11 Subd. 25. **Resident councils.** Residents have the right to organize and participate in
 12.12 resident councils as described in section 144I.10, subdivision 5.

12.13 Subd. 26. **Family councils.** Residents have the right to participate in family councils
 12.14 formed by families or residents as described in section 144I.10, subdivision 6.

12.15 **Sec. 6. [144J.03] RETALIATION PROHIBITED.**

12.16 Subdivision 1. **Retaliation prohibited.** A facility or agent of a facility may not retaliate
 12.17 against a resident or employee if the resident, employee, or any person acting on behalf of
 12.18 the resident:

12.19 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

12.20 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
 12.21 right;

12.22 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
 12.23 voluntary, under section 626.557;

12.24 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
 12.25 problems or concerns to the director or manager of the facility, the Office of Ombudsman
 12.26 for Long-Term Care, a regulatory or other government agency, or a legal or advocacy
 12.27 organization;

12.28 (5) advocates or seeks advocacy assistance for necessary or improved care or services
 12.29 or enforcement of rights under this section or other law;

12.30 (6) takes or indicates an intention to take civil action;

13.1 (7) participates or indicates an intention to participate in any investigation or
 13.2 administrative or judicial proceeding;

13.3 (8) contracts or indicates an intention to contract to receive services from a service
 13.4 provider of the resident's choice other than the facility; or

13.5 (9) places or indicates an intention to place a camera or electronic monitoring device in
 13.6 the resident's private space as provided under section 144J.05.

13.7 Subd. 2. **Retaliation against a resident.** For purposes of this section, to retaliate against
 13.8 a resident includes but is not limited to any of the following actions taken or threatened by
 13.9 a facility or an agent of the facility against a resident, or any person with a familial, personal,
 13.10 legal, or professional relationship with the resident:

13.11 (1) the discharge, eviction, transfer, or termination of services;

13.12 (2) the imposition of discipline, punishment, or a sanction or penalty;

13.13 (3) any form of discrimination;

13.14 (4) restriction or prohibition of access:

13.15 (i) of the resident to the facility or visitors; or

13.16 (ii) to the resident by a family member or a person with a personal, legal, or professional
 13.17 relationship with the resident;

13.18 (5) the imposition of involuntary seclusion or withholding food, care, or services;

13.19 (6) restriction of any of the rights granted to residents under state or federal law;

13.20 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
 13.21 living arrangements;

13.22 (8) an arbitrary increase in charges or fees;

13.23 (9) removing, tampering with, or deprivation of technology, communication, or electronic
 13.24 monitoring devices; or

13.25 (10) any oral or written communication of false information about a person advocating
 13.26 on behalf of the resident.

13.27 Subd. 3. **Retaliation against an employee.** For purposes of this section, to retaliate
 13.28 against an employee includes but is not limited to any of the following actions taken or
 13.29 threatened by the facility or an agent of the facility against an employee:

13.30 (1) discharge or transfer;

14.1 (2) demotion or refusal to promote;

14.2 (3) reduction in compensation, benefits, or privileges;

14.3 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

14.4 (5) any form of discrimination.

14.5 Subd. 4. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs

14.6 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision

14.7 2 or 3 and taken within 90 days of an initial action described in subdivision 1 is retaliatory.

14.8 (b) The presumption does not apply to actions described in subdivision 2, clause (4), if

14.9 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or

14.10 agent of the facility against the visitor, family member, or other person with a personal,

14.11 legal, or professional relationship who is subject to the restriction or prohibition of access.

14.12 (c) The presumption does not apply to any oral or written communication described in

14.13 subdivision 2, clause (10), that is associated with a good faith report of maltreatment pursuant

14.14 to section 626.557 made by the facility or agent of the facility against the person advocating

14.15 on behalf of the resident.

14.16 (d) The presumption does not apply to a discharge, eviction, transfer, or termination of

14.17 services that occurs for a reason permitted under section 144J.08, subdivision 3 or 6, provided

14.18 the assisted living facility has complied with the applicable requirements in sections 144J.08

14.19 and 144.10.

14.20 Subd. 5. **Other laws.** Nothing in this section affects the rights available to a resident

14.21 under section 626.557.

14.22 **EFFECTIVE DATE.** This section is effective August 1, 2021.

14.23 Sec. 7. **[144J.04] DECEPTIVE MARKETING AND BUSINESS PRACTICES**

14.24 **PROHIBITED.**

14.25 (a) No employee or agent of any facility may make any false, fraudulent, deceptive, or

14.26 misleading statements or representations or material omissions in marketing, advertising,

14.27 or any other description or representation of care or services.

14.28 (b) No assisted living contract may include any provision that the facility knows or

14.29 should know to be deceptive, unlawful, or unenforceable under state or federal law, nor

14.30 include any provision that requires or implies a lesser standard of care or responsibility than

14.31 is required by law.

15.1 (c) No facility may advertise or represent that it is licensed as an assisted living facility
15.2 with dementia care without complying with disclosure requirements under section 325F.72
15.3 and all additional requirements in chapter 144I and in rule.

15.4 (d) A violation of this section constitutes a violation of section 325F.69, subdivision 1.
15.5 The attorney general or a county attorney may enforce this section using the remedies in
15.6 section 325F.70.

15.7 **EFFECTIVE DATE.** This section is effective August 1, 2021.

15.8 **Sec. 8. [144J.05] ELECTRONIC MONITORING IN CERTAIN FACILITIES.**

15.9 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
15.10 subdivision have the meanings given.

15.11 (b) "Commissioner" means the commissioner of health.

15.12 (c) "Department" means the Department of Health.

15.13 (d) "Electronic monitoring" means the placement and use of an electronic monitoring
15.14 device by a resident in the resident's room or private living unit in accordance with this
15.15 section.

15.16 (e) "Electronic monitoring device" means a camera or other device that captures, records,
15.17 or broadcasts audio, video, or both, that is placed in a resident's room or private living unit
15.18 and is used to monitor the resident or activities in the room or private living unit.

15.19 (f) "Facility" means a facility that is:

15.20 (1) licensed as a nursing home under chapter 144A;

15.21 (2) licensed as a boarding care home under sections 144.50 to 144.56;

15.22 (3) until August 1, 2021, a housing with services establishment registered under chapter
15.23 144D that is either subject to chapter 144G or has a disclosed special unit under section
15.24 325F.72; or

15.25 (4) on or after August 1, 2021, an assisted living facility.

15.26 (g) "Resident" means a person 18 years of age or older residing in a facility.

15.27 (h) "Resident representative" means one of the following in the order of priority listed,
15.28 to the extent the person may reasonably be identified and located:

15.29 (1) a court-appointed guardian;

15.30 (2) a health care agent as defined in section 145C.01, subdivision 2; or

16.1 (3) a person who is not an agent of a facility or of a home care provider designated in
16.2 writing by the resident and maintained in the resident's records on file with the facility or
16.3 with the resident's executed housing with services contract or nursing home contract.

16.4 Subd. 2. **Electronic monitoring authorized.** (a) A resident or a resident representative
16.5 may conduct electronic monitoring of the resident's room or private living unit through the
16.6 use of electronic monitoring devices placed in the resident's room or private living unit as
16.7 provided in this section.

16.8 (b) Nothing in this section precludes the use of electronic monitoring of health care
16.9 allowed under other law.

16.10 (c) Electronic monitoring authorized under this section is not a covered service under
16.11 home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and
16.12 256B.49.

16.13 (d) This section does not apply to monitoring technology authorized as a home and
16.14 community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.

16.15 Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this
16.16 subdivision, a resident must consent to electronic monitoring in the resident's room or private
16.17 living unit in writing on a notification and consent form. If the resident has not affirmatively
16.18 objected to electronic monitoring and the resident's medical professional determines that
16.19 the resident currently lacks the ability to understand and appreciate the nature and
16.20 consequences of electronic monitoring, the resident representative may consent on behalf
16.21 of the resident. For purposes of this subdivision, a resident affirmatively objects when the
16.22 resident orally, visually, or through the use of auxiliary aids or services declines electronic
16.23 monitoring. The resident's response must be documented on the notification and consent
16.24 form.

16.25 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
16.26 be asked if the resident wants electronic monitoring to be conducted. The resident
16.27 representative must explain to the resident:

16.28 (1) the type of electronic monitoring device to be used;

16.29 (2) the standard conditions that may be placed on the electronic monitoring device's use,
16.30 including those listed in subdivision 6;

16.31 (3) with whom the recording may be shared under subdivision 10 or 11; and

16.32 (4) the resident's ability to decline all recording.

17.1 (c) A resident, or resident representative when consenting on behalf of the resident, may
17.2 consent to electronic monitoring with any conditions of the resident's or resident
17.3 representative's choosing, including the list of standard conditions provided in subdivision
17.4 6. A resident, or resident representative when consenting on behalf of the resident, may
17.5 request that the electronic monitoring device be turned off or the visual or audio recording
17.6 component of the electronic monitoring device be blocked at any time.

17.7 (d) Prior to implementing electronic monitoring, a resident, or resident representative
17.8 when acting on behalf of the resident, must obtain the written consent on the notification
17.9 and consent form of any other resident residing in the shared room or shared private living
17.10 unit. A roommate's or roommate's resident representative's written consent must comply
17.11 with the requirements of paragraphs (a) to (c). Consent by a roommate or a roommate's
17.12 resident representative under this paragraph authorizes the resident's use of any recording
17.13 obtained under this section, as provided under subdivision 10 or 11.

17.14 (e) Any resident conducting electronic monitoring must immediately remove or disable
17.15 an electronic monitoring device prior to a new roommate moving into a shared room or
17.16 shared private living unit, unless the resident obtains the roommate's or roommate's resident
17.17 representative's written consent as provided under paragraph (d) prior to the roommate
17.18 moving into the shared room or shared private living unit. Upon obtaining the new
17.19 roommate's signed notification and consent form and submitting the form to the facility as
17.20 required under subdivision 5, the resident may resume electronic monitoring.

17.21 (f) The resident or roommate, or the resident representative or roommate's resident
17.22 representative if the representative is consenting on behalf of the resident or roommate, may
17.23 withdraw consent at any time and the withdrawal of consent must be documented on the
17.24 original consent form as provided under subdivision 5, paragraph (d).

17.25 Subd. 4. **Refusal of roommate to consent.** If a resident of a facility who is residing in
17.26 a shared room or shared living unit, or the resident representative of such a resident when
17.27 acting on behalf of the resident, wants to conduct electronic monitoring and another resident
17.28 living in or moving into the same shared room or shared living unit refuses to consent to
17.29 the use of an electronic monitoring device, the facility shall make a reasonable attempt to
17.30 accommodate the resident who wants to conduct electronic monitoring. A facility has met
17.31 the requirement to make a reasonable attempt to accommodate a resident or resident
17.32 representative who wants to conduct electronic monitoring when, upon notification that a
17.33 roommate has not consented to the use of an electronic monitoring device in the resident's
17.34 room, the facility offers to move the resident to another shared room or shared living unit
17.35 that is available at the time of the request. If a resident chooses to reside in a private room

18.1 or private living unit in a facility in order to accommodate the use of an electronic monitoring
18.2 device, the resident must pay either the private room rate in a nursing home setting, or the
18.3 applicable rent in a housing with services establishment or assisted living facility. If a facility
18.4 is unable to accommodate a resident due to lack of space, the facility must reevaluate the
18.5 request every two weeks until the request is fulfilled. A facility is not required to provide
18.6 a private room, a single-bed room, or a private living unit to a resident who is unable to
18.7 pay.

18.8 Subd. 5. **Notice to facility; exceptions.** (a) Electronic monitoring may begin only after
18.9 the resident or resident representative who intends to place an electronic monitoring device
18.10 and any roommate or roommate's resident representative completes the notification and
18.11 consent form and submits the form to the facility.

18.12 (b) Notwithstanding paragraph (a), the resident or resident representative who intends
18.13 to place an electronic monitoring device may do so without submitting a notification and
18.14 consent form to the facility for up to 30 days:

18.15 (1) if the resident or the resident representative reasonably fears retaliation against the
18.16 resident by the facility, timely submits the completed notification and consent form to the
18.17 Office of Ombudsman for Long-Term Care, and timely submits a Minnesota Adult Abuse
18.18 Reporting Center report or police report, or both, upon evidence from the electronic
18.19 monitoring device that suspected maltreatment has occurred;

18.20 (2) if there has not been a timely written response from the facility to a written
18.21 communication from the resident or resident representative expressing a concern prompting
18.22 the desire for placement of an electronic monitoring device and if the resident or a resident
18.23 representative timely submits a completed notification and consent form to the Office of
18.24 Ombudsman for Long-Term Care; or

18.25 (3) if the resident or resident representative has already submitted a Minnesota Adult
18.26 Abuse Reporting Center report or police report regarding the resident's concerns prompting
18.27 the desire for placement and if the resident or a resident representative timely submits a
18.28 completed notification and consent form to the Office of Ombudsman for Long-Term Care.

18.29 (c) Upon receipt of any completed notification and consent form, the facility must place
18.30 the original form in the resident's file or file the original form with the resident's housing
18.31 with services contract. The facility must provide a copy to the resident and the resident's
18.32 roommate, if applicable.

18.33 (d) In the event that a resident or roommate, or the resident representative or roommate's
18.34 resident representative if the representative is consenting on behalf of the resident or

19.1 roommate, chooses to alter the conditions under which consent to electronic monitoring is
19.2 given or chooses to withdraw consent to electronic monitoring, the facility must make
19.3 available the original notification and consent form so that it may be updated. Upon receipt
19.4 of the updated form, the facility must place the updated form in the resident's file or file the
19.5 original form with the resident's signed housing with services contract. The facility must
19.6 provide a copy of the updated form to the resident and the resident's roommate, if applicable.

19.7 (e) If a new roommate, or the new roommate's resident representative when consenting
19.8 on behalf of the new roommate, does not submit to the facility a completed notification and
19.9 consent form and the resident conducting the electronic monitoring does not remove or
19.10 disable the electronic monitoring device, the facility must remove the electronic monitoring
19.11 device.

19.12 (f) If a roommate, or the roommate's resident representative when withdrawing consent
19.13 on behalf of the roommate, submits an updated notification and consent form withdrawing
19.14 consent and the resident conducting electronic monitoring does not remove or disable the
19.15 electronic monitoring device, the facility must remove the electronic monitoring device.

19.16 Subd. 6. Form requirements. (a) The notification and consent form completed by the
19.17 resident must include, at a minimum, the following information:

19.18 (1) the resident's signed consent to electronic monitoring or the signature of the resident
19.19 representative, if applicable. If a person other than the resident signs the consent form, the
19.20 form must document the following:

19.21 (i) the date the resident was asked if the resident wants electronic monitoring to be
19.22 conducted;

19.23 (ii) who was present when the resident was asked;

19.24 (iii) an acknowledgment that the resident did not affirmatively object; and

19.25 (iv) the source of authority allowing the resident representative to sign the notification
19.26 and consent form on the resident's behalf;

19.27 (2) the resident's roommate's signed consent or the signature of the roommate's resident
19.28 representative, if applicable. If a roommate's resident representative signs the consent form,
19.29 the form must document the following:

19.30 (i) the date the roommate was asked if the roommate wants electronic monitoring to be
19.31 conducted;

19.32 (ii) who was present when the roommate was asked;

- 20.1 (iii) an acknowledgment that the roommate did not affirmatively object; and
- 20.2 (iv) the source of authority allowing the resident representative to sign the notification
- 20.3 and consent form on the roommate's behalf;
- 20.4 (3) the type of electronic monitoring device to be used;
- 20.5 (4) a list of standard conditions or restrictions that the resident or a roommate may elect
- 20.6 to place on the use of the electronic monitoring device, including but not limited to:
- 20.7 (i) prohibiting audio recording;
- 20.8 (ii) prohibiting video recording;
- 20.9 (iii) prohibiting broadcasting of audio or video;
- 20.10 (iv) turning off the electronic monitoring device or blocking the visual recording
- 20.11 component of the electronic monitoring device for the duration of an exam or procedure by
- 20.12 a health care professional;
- 20.13 (v) turning off the electronic monitoring device or blocking the visual recording
- 20.14 component of the electronic monitoring device while dressing or bathing is performed; and
- 20.15 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
- 20.16 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;
- 20.17 (5) any other condition or restriction elected by the resident or roommate on the use of
- 20.18 an electronic monitoring device;
- 20.19 (6) a statement of the circumstances under which a recording may be disseminated under
- 20.20 subdivision 10;
- 20.21 (7) a signature box for documenting that the resident or roommate has withdrawn consent;
- 20.22 and
- 20.23 (8) an acknowledgment that the resident, in accordance with subdivision 3, consents to
- 20.24 the Office of Ombudsman for Long-Term Care and its representatives disclosing information
- 20.25 about the form. Disclosure under this clause shall be limited to:
- 20.26 (i) the fact that the form was received from the resident or resident representative;
- 20.27 (ii) if signed by a resident representative, the name of the resident representative and
- 20.28 the source of authority allowing the resident representative to sign the notification and
- 20.29 consent form on the resident's behalf; and
- 20.30 (iii) the type of electronic monitoring device placed.

21.1 (b) Facilities must make the notification and consent form available to the residents and
21.2 inform residents of their option to conduct electronic monitoring of their rooms or private
21.3 living unit.

21.4 (c) Notification and consent forms received by the Office of Ombudsman for Long-Term
21.5 Care are classified under section 256.9744.

21.6 Subd. 7. **Costs and installation.** (a) A resident or resident representative choosing to
21.7 conduct electronic monitoring must do so at the resident's own expense, including paying
21.8 purchase, installation, maintenance, and removal costs.

21.9 (b) If a resident chooses to place an electronic monitoring device that uses Internet
21.10 technology for visual or audio monitoring, the resident may be responsible for contracting
21.11 with an Internet service provider.

21.12 (c) The facility shall make a reasonable attempt to accommodate the resident's installation
21.13 needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when
21.14 available for other public uses. A facility has the burden of proving that a requested
21.15 accommodation is not reasonable.

21.16 (d) All electronic monitoring device installations and supporting services must be
21.17 UL-listed.

21.18 Subd. 8. **Notice to visitors.** (a) A facility must post a sign at each facility entrance
21.19 accessible to visitors that states: "Electronic monitoring devices, including security cameras
21.20 and audio devices, may be present to record persons and activities."

21.21 (b) The facility is responsible for installing and maintaining the signage required in this
21.22 subdivision.

21.23 Subd. 9. **Obstruction of electronic monitoring devices.** (a) A person must not knowingly
21.24 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a
21.25 resident's room or private living unit without the permission of the resident or resident
21.26 representative.

21.27 (b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring
21.28 device or blocks the visual recording component of the electronic monitoring device at the
21.29 direction of the resident or resident representative, or if consent has been withdrawn.

21.30 Subd. 10. **Dissemination of recordings.** (a) No person may access any video or audio
21.31 recording created through authorized electronic monitoring without the written consent of
21.32 the resident or resident representative.

22.1 (b) Except as required under other law, a recording or copy of a recording made as
22.2 provided in this section may only be disseminated for the purpose of addressing health,
22.3 safety, or welfare concerns of one or more residents.

22.4 (c) A person disseminating a recording or copy of a recording made as provided in this
22.5 section in violation of paragraph (b) may be civilly or criminally liable.

22.6 Subd. 11. **Admissibility of evidence.** Subject to applicable rules of evidence and
22.7 procedure, any video or audio recording created through electronic monitoring under this
22.8 section may be admitted into evidence in a civil, criminal, or administrative proceeding.

22.9 Subd. 12. **Liability.** (a) For the purposes of state law, the mere presence of an electronic
22.10 monitoring device in a resident's room or private living unit is not a violation of the resident's
22.11 right to privacy under section 144.651 or 144A.44.

22.12 (b) For the purposes of state law, a facility or home care provider is not civilly or
22.13 criminally liable for the mere disclosure by a resident or a resident representative of a
22.14 recording.

22.15 Subd. 13. **Immunity from liability.** The Office of Ombudsman for Long-Term Care
22.16 and representatives of the office are immune from liability for conduct described in section
22.17 256.9742, subdivision 2.

22.18 Subd. 14. **Resident protections.** (a) A facility must not:

22.19 (1) refuse to admit a potential resident or remove a resident because the facility disagrees
22.20 with the decision of the potential resident, the resident, or a resident representative acting
22.21 on behalf of the resident regarding electronic monitoring;

22.22 (2) retaliate or discriminate against any resident for consenting or refusing to consent
22.23 to electronic monitoring, as provided in section 144.6512, 144G.07, or 144J.03; or

22.24 (3) prevent the placement or use of an electronic monitoring device by a resident who
22.25 has provided the facility or the Office of Ombudsman for Long-Term Care with notice and
22.26 consent as required under this section.

22.27 (b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights
22.28 and obligations in this section is contrary to public policy and is void and unenforceable.

22.29 Subd. 15. **Employee discipline.** (a) An employee of the facility or an employee of a
22.30 contractor providing services at the facility who is the subject of proposed corrective or
22.31 disciplinary action based upon evidence obtained by electronic monitoring must be given
22.32 access to that evidence for purposes of defending against the proposed action.

23.1 (b) An employee who obtains a recording or a copy of the recording must treat the
 23.2 recording or copy confidentially and must not further disseminate it to any other person
 23.3 except as required under law. Any copy of the recording must be returned to the facility or
 23.4 resident who provided the copy when it is no longer needed for purposes of defending
 23.5 against a proposed action.

23.6 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided
 23.7 under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to
 23.8 comply with:

23.9 (1) subdivision 5, paragraphs (c) to (f);

23.10 (2) subdivision 6, paragraph (b);

23.11 (3) subdivision 7, paragraph (c); or

23.12 (4) subdivision 8, 9, 10, or 14.

23.13 (b) The commissioner may exercise the commissioner's authority under section 144D.05
 23.14 to compel a housing with services establishment to meet the requirements of this section.

23.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to all contracts
 23.16 in effect, entered into, or renewed on or after that date.

23.17 Sec. 9. **[144J.06] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

23.18 All facilities must, regardless of the source of payment and for all persons seeking to
 23.19 reside or residing in the facility:

23.20 (1) provide equal access to quality care; and

23.21 (2) establish, maintain, and implement identical policies and practices regarding residency,
 23.22 transfer, and provision and termination of services.

23.23 **EFFECTIVE DATE.** This section is effective August 1, 2021.

23.24 Sec. 10. **[144J.07] CONSUMER ADVOCACY AND LEGAL SERVICES.**

23.25 Upon execution of an assisted living contract, every facility must provide the resident
 23.26 and the resident's legal and designated representatives with the names and contact
 23.27 information, including telephone numbers and e-mail addresses, of:

23.28 (1) nonprofit organizations that provide advocacy or legal services to residents including
 23.29 but not limited to the designated protection and advocacy organization in Minnesota that
 23.30 provides advice and representation to individuals with disabilities; and

24.1 (2) the Office of Ombudsman for Long-Term Care, including both the state and regional
24.2 contact information.

24.3 **EFFECTIVE DATE.** This section is effective August 1, 2021.

24.4 Sec. 11. **[144J.08] INVOLUNTARY DISCHARGES AND SERVICE**
24.5 **TERMINATIONS.**

24.6 Subdivision 1. **Definitions.** (a) For the purposes of this section and sections 144J.09 and
24.7 144J.10, the following terms have the meanings given them.

24.8 (b) "Facility" means:

24.9 (1) a housing with services establishment registered under section 144D.02 and operating
24.10 under title protection provided under chapter 144G; or

24.11 (2) on or after August 1, 2021, an assisted living facility.

24.12 (c) "Refusal to readmit" means a refusal by an assisted living facility, upon a request
24.13 from a resident or an agent of the resident, to allow the resident to return to the facility,
24.14 whether or not a notice of termination of housing or services has been issued.

24.15 (d) "Termination of housing or services" or "termination" means an involuntary
24.16 facility-initiated discharge, eviction, transfer, or service termination not initiated at the oral
24.17 or written request of the resident or to which the resident objects.

24.18 Subd. 2. **Prerequisite to termination of housing or services.** Before issuing a notice
24.19 of termination, a facility must explain in person and in detail the reasons for the termination,
24.20 and must convene a conference with the resident, the resident's legal representatives, the
24.21 resident's designated representative, the resident's family, applicable state and social services
24.22 agencies, and relevant health professionals to identify and offer reasonable accommodations
24.23 and modifications, interventions, or alternatives to avoid the termination.

24.24 Subd. 3. **Permissible reasons to terminate housing or services.** (a) A facility is
24.25 prohibited from terminating housing or services for grounds other than those specified in
24.26 paragraphs (b) and (c). A facility initiating a termination under paragraph (b) or (c) must
24.27 comply with subdivision 2.

24.28 (b) A facility may not initiate a termination unless the termination is necessary and the
24.29 facility produces a written determination, supported by documentation, of the necessity of
24.30 the termination. A termination is necessary only if:

24.31 (1) the resident has engaged in documented conduct that substantially interferes with
24.32 the rights, health, or safety of other residents;

25.1 (2) the resident has committed any of the acts enumerated under section 504B.171 that
25.2 substantially interfere with the rights, health, or safety of other residents; or

25.3 (3) the facility can demonstrate that the resident's needs exceed the scope of services for
25.4 which the resident contracted or which are included in the resident's service plan.

25.5 (c) A facility may initiate a termination for nonpayment, provided the facility:

25.6 (1) makes reasonable efforts to accommodate temporary financial hardship;

25.7 (2) informs the resident of private subsidies and public benefits options that may be
25.8 available, including but not limited to benefits available under sections 256B.0915 and
25.9 256B.49; and

25.10 (3) if the resident applies for public benefits, timely responds to state or county agency
25.11 questions regarding the application.

25.12 (d) A facility may not initiate a termination of housing or services to a resident receiving
25.13 public benefits in the event of a temporary interruption in benefits. A temporary interruption
25.14 of benefits does not constitute nonpayment.

25.15 Subd. 4. **Notice of termination required.** (a) A facility initiating a termination of housing
25.16 or services must issue a written notice that complies with subdivision 5 at least 30 days
25.17 prior to the effective date of the termination to the resident, to the resident's legal
25.18 representative and designated representative, or if none, to a family member if known, and
25.19 to the Ombudsman for Long-Term Care.

25.20 (b) A facility may relocate a resident with less than 30 days' notice only in the event of
25.21 emergencies, as provided in subdivision 6.

25.22 (c) The notice requirements in paragraph (a) do not apply if the facility's license is
25.23 restricted by the commissioner or the facility ceases operations. In the event of a license
25.24 restriction or cessation of operations, the facility must follow the commissioner's directions
25.25 for resident relocations contained in section 144J.10.

25.26 Subd. 5. **Content of notice.** The notice required under subdivision 4 must contain, at a
25.27 minimum:

25.28 (1) the effective date of the termination;

25.29 (2) a detailed explanation of the basis for the termination, including, but not limited to,
25.30 clinical or other supporting rationale;

25.31 (3) contact information for, and a statement that the resident has the right to appeal the
25.32 termination to, the Office of Administrative Hearings;

26.1 (4) contact information for the Ombudsman for Long-Term Care;

26.2 (5) the name and contact information of a person employed by the facility with whom
26.3 the resident may discuss the notice of termination of housing or services;

26.4 (6) if the termination is for services, a statement that the notice of termination of services
26.5 does not constitute a termination of housing or an eviction from the resident's home, and
26.6 that the resident has the right to remain in the facility if the resident can secure necessary
26.7 services from another provider of the resident's choosing; and

26.8 (7) if the resident must relocate:

26.9 (i) a statement that the facility must actively participate in a coordinated transfer of the
26.10 resident's care to a safe and appropriate service provider; and

26.11 (ii) the name of and contact information for the new location or provider, or a statement
26.12 that the location or provider must be identified prior to the effective date of the termination.

26.13 Subd. 6. **Exception for emergencies.** (a) A facility may relocate a resident from a facility
26.14 with less than 30 days' notice if relocation is required:

26.15 (1) due to a resident's urgent medical needs and is ordered by a licensed health care
26.16 professional; or

26.17 (2) because of an imminent risk to the health or safety of another resident or a staff
26.18 member of the facility.

26.19 (b) A facility relocating a resident under this subdivision must:

26.20 (1) remove the resident to an appropriate location. A private home where the occupant
26.21 is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel is not
26.22 an appropriate location; and

26.23 (2) provide notice of the contact information for and location to which the resident has
26.24 been relocated, contact information for any new service provider and for the Ombudsman
26.25 for Long-Term Care, the reason for the relocation, a statement that, if the resident is refused
26.26 readmission to the facility, the resident has the right to appeal any refusal to readmit to the
26.27 Office of Administrative Hearings, and, if ascertainable, the approximate date or range of
26.28 dates when the resident is expected to return to the facility or a statement that such date is
26.29 not currently ascertainable, to:

26.30 (i) the resident, the resident's legal representative and designated representative, or if
26.31 none, a family member if known immediately upon relocation of the resident; and

27.1 (ii) the Office of Ombudsman for Long-Term Care as soon as practicable if the resident
27.2 has been relocated from the facility for more than 48 hours.

27.3 (c) The resident has the right to return to the facility if the conditions under paragraph
27.4 (a) no longer exist.

27.5 (d) If the facility determines that the resident cannot return to the facility or the facility
27.6 cannot provide the necessary services to the resident upon return, the facility must as soon
27.7 as practicable but in no event later than 24 hours after the refusal or determination, comply
27.8 with subdivision 4, and section 144J.10.

27.9 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
27.10 2021, for housing with services establishments registered under section 144D.02 and
27.11 operating under title protection provided by and subject to chapter 144G.

27.12 (b) This section is effective for assisted living facilities August 1, 2021.

27.13 **Sec. 12. [144J.09] APPEAL OF TERMINATION OF HOUSING OR SERVICES.**

27.14 **Subdivision 1. Right to appeal termination of housing or services.** A resident, the
27.15 resident's legal representative or designated representative, or a family member, has the
27.16 right to appeal a termination of housing or services or a facility's refusal to readmit the
27.17 resident after an emergency relocation and to request a contested case hearing with the
27.18 Office of Administrative Hearings.

27.19 **Subd. 2. Appeals process.** (a) An appeal and request for a contested case hearing must
27.20 be filed in writing or electronically as authorized by the chief administrative law judge.

27.21 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon
27.22 as practicable, and in any event no later than 14 calendar days after the office receives the
27.23 request and within three business days in the event of an appeal of a refusal to readmit. The
27.24 hearing must be held at the facility where the resident lives, unless it is impractical or the
27.25 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing
27.26 may also be attended by telephone as allowed by the administrative law judge, after
27.27 considering how a telephonic hearing will affect the resident's ability to participate. The
27.28 hearing shall be limited to the amount of time necessary for the participants to expeditiously
27.29 present the facts about the proposed termination or refusal to readmit. The administrative
27.30 law judge shall issue a recommendation to the commissioner as soon as practicable, and in
27.31 any event no later than ten calendar days after the hearing or within two calendar days after
27.32 the hearing in the case of a refusal to readmit.

28.1 (c) The facility bears the burden of proof to establish by a preponderance of the evidence
28.2 that the termination of housing or services or the refusal to readmit is permissible under law
28.3 and does not constitute retaliation under section 144G.07 or 144J.03.

28.4 (d) Appeals from final determinations issued by the Office of Administrative Hearings
28.5 shall be as provided in sections 14.63 to 14.68.

28.6 (e) The Office of Administrative Hearings must grant the appeal and the commissioner
28.7 of health may order the assisted living facility to rescind the termination of housing and
28.8 services or readmit the resident if:

28.9 (1) the termination or refusal to readmit was in violation of state or federal law;

28.10 (2) the resident cures or demonstrates the ability to cure the reason for the termination
28.11 or refusal to readmit, or has identified any reasonable accommodation or modification,
28.12 intervention, or alternative to the termination;

28.13 (3) termination would result in great harm or potential great harm to the resident as
28.14 determined by a totality of the circumstances; or

28.15 (4) the facility has failed to identify a safe and appropriate location to which the resident
28.16 is to be relocated as required under section 144J.10.

28.17 (f) The Office of Administrative Hearings has the authority to make any other
28.18 determinations or orders regarding any conditions that may be placed upon the resident's
28.19 readmission or continued residency, including but not limited to changes to the service plan
28.20 or required increases in services.

28.21 (g) Nothing in this section limits the right of a resident or the resident's designated
28.22 representative to request or receive assistance from the Office of Ombudsman for Long-Term
28.23 Care and the protection and advocacy agency protection and advocacy system designated
28.24 by the state under Code of Federal Regulations, title 45, section 1326.21, concerning the
28.25 termination of housing or services.

28.26 Subd. 3. **Representation at the hearing.** Parties may, but are not required to, be
28.27 represented by counsel at a contested case hearing on an appeal. The appearance of a party
28.28 without counsel does not constitute the unauthorized practice of law.

28.29 Subd. 4. **Service provision while appeal pending.** Housing or services may not be
28.30 terminated during the pendency of an appeal and until a final determination is made by the
28.31 Office of Administrative Hearings.

29.1 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
29.2 2021, for housing with services establishments registered under section 144D.02 and
29.3 operating under title protection provided by and subject to chapter 144G.

29.4 (b) This section is effective for assisted living facilities August 1, 2021.

29.5 **Sec. 13. [144J.10] HOUSING AND SERVICE TERMINATION; RELOCATION**
29.6 **PLANNING.**

29.7 Subdivision 1. **Duties of the facility.** If a facility terminates housing or services, if a
29.8 facility intends to cease operations, or if a facility's license is restricted by the commissioner
29.9 requiring termination of housing or services to residents, the facility:

29.10 (1) in the event of a termination of housing, has an affirmative duty to ensure a
29.11 coordinated and orderly transfer of the resident to a safe location that is appropriate for the
29.12 resident. The facility must identify that location prior to any appeal hearing;

29.13 (2) in the event of a termination of services, has an affirmative duty to ensure a
29.14 coordinated and orderly transfer of the resident to an appropriate service provider, if services
29.15 are still needed and desired by the resident. The facility must identify the provider prior to
29.16 any appeal hearing; and

29.17 (3) must consult and cooperate with the resident; the resident's legal representatives,
29.18 designated representative, and family members; any interested professionals, including case
29.19 managers; and applicable agencies to consider the resident's goals and make arrangements
29.20 to relocate the resident.

29.21 Subd. 2. **Safe location.** A safe location is not a private home where the occupant is
29.22 unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility
29.23 may not terminate a resident's housing or services if the resident will, as a result of the
29.24 termination, become homeless, as that term is defined in section 116L.361, subdivision 5,
29.25 or if an adequate and safe discharge location or adequate and needed service provider has
29.26 not been identified.

29.27 Subd. 3. **Written relocation plan required.** The facility must prepare a written relocation
29.28 plan for a resident being relocated. The plan must:

29.29 (1) contain all the necessary steps to be taken to reduce transfer trauma; and

29.30 (2) specify the measures needed until relocation that protect the resident and meet the
29.31 resident's health and safety needs.

30.1 Subd. 4. **No relocation without receiving setting accepting.** A facility may not relocate
30.2 the resident unless the place to which the resident will be relocated indicates acceptance of
30.3 the resident.

30.4 Subd. 5. **No termination of services without another provider.** If a resident continues
30.5 to need and desire the services provided by the facility, the facility may not terminate services
30.6 unless another service provider has indicated that it will provide those services.

30.7 Subd. 6. **Information that must be conveyed.** If a resident is relocated to another facility
30.8 or to a nursing home, or if care is transferred to another provider, the facility must timely
30.9 convey to that facility, nursing home, or provider:

30.10 (1) the resident's full name, date of birth, and insurance information;

30.11 (2) the name, telephone number, and address of the resident's designated representatives
30.12 and legal representatives, if any;

30.13 (3) the resident's current documented diagnoses that are relevant to the services being
30.14 provided;

30.15 (4) the resident's known allergies that are relevant to the services being provided;

30.16 (5) the name and telephone number of the resident's physician, if known, and the current
30.17 physician orders that are relevant to the services being provided;

30.18 (6) all medication administration records that are relevant to the services being provided;

30.19 (7) the most recent resident assessment, if relevant to the services being provided; and

30.20 (8) copies of health care directives, "do not resuscitate" orders, and any guardianship
30.21 orders or powers of attorney.

30.22 Subd. 7. **Final accounting; return of money and property.** (a) Within 30 days of the
30.23 effective date of the termination of housing or services, the facility must:

30.24 (1) provide to the resident, resident's legal representatives, and the resident's designated
30.25 representative a final statement of account;

30.26 (2) provide any refunds due;

30.27 (3) return any money, property, or valuables held in trust or custody by the facility; and

30.28 (4) as required under section 504B.178, refund the resident's security deposit unless it
30.29 is applied to the first month's charges.

31.1 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
31.2 2021, for housing with services establishments registered under section 144D.02 and
31.3 operating under title protection provided by and subject to chapter 144G.

31.4 (b) This section is effective for assisted living facilities August 1, 2021.

31.5 **Sec. 14. [144J.11] FORCED ARBITRATION.**

31.6 (a) An assisted living facility must affirmatively disclose, orally and conspicuously in
31.7 writing in an assisted living contract, any arbitration provision in the contract that precludes,
31.8 limits, or delays the ability of a resident from taking a civil action.

31.9 (b) A forced arbitration requirement must not include a choice of law or choice of venue
31.10 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
31.11 federal or local law. Any civil actions by any litigant must be taken in Minnesota judicial
31.12 or administrative courts.

31.13 (c) A forced arbitration provision must not be unconscionable. All or the portion of a
31.14 forced arbitration provision found by a court to be unconscionable shall have no effect on
31.15 the remaining provisions, terms, or conditions of the contract.

31.16 **EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered
31.17 into on or after that date.

31.18 **Sec. 15. [144J.12] VIOLATION OF RIGHTS.**

31.19 (a) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
31.20 of action under section 325F.71, subdivision 4, for the violation of section 144J.02,
31.21 subdivision 8, 15, or 21, or section 144J.04.

31.22 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
31.23 of action under section 325F.71, subdivision 4, for the violation of section 144J.03, unless
31.24 the resident otherwise has a cause of action under section 626.557, subdivision 17.

31.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

31.26 **Sec. 16. [144J.13] APPLICABILITY OF OTHER LAWS.**

31.27 Assisted living facilities:

31.28 (1) are subject to and must comply with chapter 504B;

31.29 (2) must comply with section 325F.72; and

31.30 (3) are not required to obtain a lodging license under chapter 157 and related rules.

32.1 **EFFECTIVE DATE.** This section is effective August 1, 2021.

32.2 Sec. 17. Minnesota Statutes 2018, section 325F.72, subdivision 4, is amended to read:

32.3 Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31
32.4 for repeated and intentional violations of this section. ~~However, no private right of action~~
32.5 ~~may be maintained as provided under section 8.31, subdivision 3a.~~

32.6 **ARTICLE 2**

32.7 **INDEPENDENT SENIOR LIVING FACILITIES**

32.8 Section 1. **[144K.01] DEFINITIONS.**

32.9 Subdivision 1. **Applicability.** For the purposes of this chapter, the definitions in this
32.10 section have the meanings given.

32.11 Subd. 2. **Dementia.** "Dementia" has the meaning given in section 144I.01, subdivision
32.12 16.

32.13 Subd. 3. **Designated representative.** "Designated representative" means a person
32.14 designated in writing by the resident in a residency and services contract and identified in
32.15 the resident's records on file with the independent senior living facility.

32.16 Subd. 4. **Facility.** "Facility" means an independent senior living facility.

32.17 Subd. 5. **"I'm okay" check services.** "'I'm okay" check services" means having,
32.18 maintaining, and documenting a system to, by any means, check on the health, safety, and
32.19 well-being of a resident a minimum of once daily or more frequently according to the
32.20 residency and services contract.

32.21 Subd. 6. **Independent senior living facility.** "Independent senior living facility" means
32.22 a facility that for a fee provides sleeping accommodations to one or more adults and offers
32.23 or provides one or more supportive services directly or through a related supportive services
32.24 provider. An independent senior living facility may also provide "I'm okay" check services
32.25 directly or through a related supportive services provider. For purposes of this chapter,
32.26 independent senior living facility does not include:

32.27 (1) emergency shelter, transitional housing, or any other residential units serving
32.28 exclusively or primarily homeless individuals, as defined under section 116L.361;

32.29 (2) a nursing home licensed under chapter 144A;

32.30 (3) a hospital, certified boarding care home, or supervised living facility licensed under
32.31 sections 144.50 to 144.56;

33.1 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
33.2 9520.0500 to 9520.0670, or under chapter 245D or 245G;

33.3 (5) a lodging establishment serving as a shelter for individuals fleeing domestic violence;

33.4 (6) services and residential settings licensed under chapter 245A, including adult foster
33.5 care and services and settings governed under the standards in chapter 245D;

33.6 (7) private homes where the residents own or rent the home and control all aspects of
33.7 the property and building;

33.8 (8) a duly organized condominium, cooperative, and common interest community, or
33.9 owners' association of the condominium, cooperative, and common interest community
33.10 where at least 80 percent of the units that comprise the condominium, cooperative, or
33.11 common interest community are occupied by individuals who are the owners, members, or
33.12 shareholders of the units;

33.13 (9) temporary family health care dwellings as defined in sections 394.307 and 462.3593;

33.14 (10) settings offering services conducted by and for the adherents of any recognized
33.15 church or religious denomination for its members through spiritual means or by prayer for
33.16 healing;

33.17 (11) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
33.18 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
33.19 units financed by the Minnesota Housing Finance Agency that are intended to serve
33.20 individuals with disabilities or individuals who are homeless;

33.21 (12) rental housing developed under United States Code, title 42, section 1437, or United
33.22 States Code, title 12, section 1701q;

33.23 (13) rental housing designated for occupancy by only elderly or elderly and disabled
33.24 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
33.25 families under Code of Federal Regulations, title 24, section 983.56;

33.26 (14) rental housing funded under United States Code, title 42, chapter 89, or United
33.27 States Code, title 42, section 8011; or

33.28 (15) an assisted living facility or assisted living facility with dementia care licensed
33.29 under chapter 144I.

33.30 Subd. 7. **Manager.** "Manager" means a manager of an independent senior living facility.

34.1 Subd. 8. **Residency and services contract or contract.** "Residency and services contract"
 34.2 or "contract" means the legal agreement between an independent senior living facility and
 34.3 a resident for the provision of housing, supportive services, and "I'm okay" check services.

34.4 Subd. 9. **Related supportive services provider.** "Related supportive services provider"
 34.5 means a service provider that provides supportive services or "I'm okay" check services to
 34.6 a resident under a business relationship or other affiliation with the independent senior living
 34.7 facility.

34.8 Subd. 10. **Resident.** "Resident" means a person residing in an independent senior living
 34.9 facility.

34.10 Subd. 11. **Supportive services.** "Supportive services" means:

34.11 (1) assistance with laundry, shopping, and household chores;

34.12 (2) housekeeping services;

34.13 (3) provision of meals or assistance with meals or food preparation;

34.14 (4) help with arranging, or arranging transportation to, medical, social, recreational,
 34.15 personal, or social services appointments; or

34.16 (5) provision of social or recreational services.

34.17 Arranging for services does not include making referrals or contacting a service provider
 34.18 in an emergency.

34.19 Sec. 2. **[144K.02] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
 34.20 **PROHIBITED.**

34.21 (a) No employee or agent of any independent senior living facility may make any false,
 34.22 fraudulent, deceptive, or misleading statements or representations or material omissions in
 34.23 marketing, advertising, or any other description or representation of care or services.

34.24 (b) No residency and services contract required under section 144K.03, subdivision 1,
 34.25 may include any provision that the facility knows or should know to be deceptive, unlawful,
 34.26 or unenforceable under state or federal law.

34.27 (c) No facility may advertise or represent that the facility is an assisted living facility as
 34.28 defined in section 144I.01, subdivision 7, or an assisted living facility with dementia care
 34.29 as defined in section 144I.01, subdivision 8.

35.1 Sec. 3. [144K.025] REQUIRED DISCLOSURE BY FACILITY.

35.2 An independent senior living facility must disclose to prospective residents and residents
35.3 that the facility is not licensed as an assisted living facility and is not permitted to provide
35.4 assisted living services, as defined in section 144I.01, subdivision 9, either directly or through
35.5 a provider under a business relationship or other affiliation with the facility.

35.6 Sec. 4. [144K.03] RESIDENCY AND SERVICES CONTRACT.

35.7 Subdivision 1. Contract required. (a) No independent senior living facility may operate
35.8 in this state unless a written contract that meets the requirements of subdivision 2 is executed
35.9 between the facility and each resident and unless the establishment operates in accordance
35.10 with the terms of the contract.

35.11 (b) The facility must give a complete copy of any signed contract and any addendums,
35.12 and all supporting documents and attachments, to the resident promptly after a contract and
35.13 any addendums have been signed by the resident.

35.14 (c) The contract must contain all the terms concerning the provision of housing,
35.15 supportive services, and "I'm okay" check services whether the services are provided directly
35.16 or through a related supportive services provider.

35.17 Subd. 2. Contents of contract. A residency and services contract must include at least
35.18 the following elements in itself or through supporting documents or attachments:

35.19 (1) the name, telephone number, and physical mailing address, which may not be a
35.20 public or private post office box, of:

35.21 (i) the facility and, where applicable, the related supportive services provider;

35.22 (ii) the managing agent of the facility, if applicable; and

35.23 (iii) at least one natural person who is authorized to accept service of process on behalf
35.24 of the facility;

35.25 (2) the term of the contract;

35.26 (3) a description of all the terms and conditions of the contract, including a description
35.27 of the services to be provided and any limitations to the services provided to the resident
35.28 for the contracted amount;

35.29 (4) a delineation of the grounds under which the resident may be evicted or have services
35.30 terminated;

35.31 (5) billing and payment procedures and requirements;

36.1 (6) a statement regarding the ability of a resident to receive services from service
36.2 providers with whom the facility does not have a business relationship;

36.3 (7) a description of the facility's complaint resolution process available to residents,
36.4 including the name and contact information of the person representing the facility who is
36.5 designated to handle and resolve complaints;

36.6 (8) the toll-free complaint line for the Office of Ombudsman for Long-Term Care; and

36.7 (9) a statement regarding the availability of and contact information for long-term care
36.8 consultation services under section 256B.0911 in the county in which the facility is located.

36.9 Subd. 3. **Designation of representative.** (a) Before or at the time of execution of a
36.10 residency and services contract, every facility must offer the resident the opportunity to
36.11 identify a designated representative in writing in the contract and provide the following
36.12 verbatim notice on a document separate from the contract:

36.13 **RIGHT TO DESIGNATE A REPRESENTATIVE FOR CERTAIN PURPOSES.**

36.14 You have the right to name anyone as your "Designated Representative" to assist you
36.15 or, if you are unable, advocate on your behalf. A "Designated Representative" does not take
36.16 the place of your guardian, conservator, power of attorney ("attorney-in-fact"), or health
36.17 care power of attorney ("health care agent").

36.18 (b) The contract must contain a page or space for the name and contact information of
36.19 the designated representative and a box the resident must initial if the resident declines to
36.20 name a designated representative. Notwithstanding subdivision 5, the resident has the right
36.21 at any time to add or change the name and contact information of the designated
36.22 representative.

36.23 Subd. 4. **Contracts are consumer contracts.** A contract under this section is a consumer
36.24 contract under sections 325G.29 to 325G.37.

36.25 Subd. 5. **Additions and amendments to contract.** The resident must agree in writing
36.26 to any additions or amendments to the contract. Upon agreement between the resident or
36.27 resident's designated representative and the facility, a new contract or an addendum to the
36.28 existing contract must be executed and signed and provided to the resident and the resident's
36.29 legal representative.

36.30 Subd. 6. **Contracts in permanent files.** Residency and services contracts and related
36.31 documents executed by each resident must be maintained by the facility in files from the
36.32 date of execution until three years after the contract is terminated.

37.1 Subd. 7. **Waivers of liability prohibited.** The contract must not include a waiver of
37.2 facility liability for the health and safety or personal property of a resident. The contract
37.3 must not include any provision that the facility knows or should know to be deceptive,
37.4 unlawful, or unenforceable under state or federal law, and must not include any provision
37.5 that requires or implies a lesser standard of responsibility than is required by law.

37.6 Sec. 5. **[144K.04] TERMINATION OF RESIDENCY AND SERVICES CONTRACT.**

37.7 Subdivision 1. **Notice required.** An independent senior living facility must provide at
37.8 least 30 days prior notice of a termination of the residency and services contract.

37.9 Subd. 2. **Content of notice.** The notice required under subdivision 1 must contain, at a
37.10 minimum:

37.11 (1) the effective date of termination of the contract;

37.12 (2) a detailed explanation of the basis for the termination;

37.13 (3) a list of known facilities in the immediate geographic area;

37.14 (4) information on how to contact the Office of Ombudsman for Long-Term Care and
37.15 the Ombudsman for Mental Health and Developmental Disabilities;

37.16 (6) a statement of any steps the resident can take to avoid termination;

37.17 (7) the name and contact information of a person employed by the facility with whom
37.18 the resident may discuss the notice of termination and, without extending the termination
37.19 notice period, an affirmative offer to meet with the resident and any person or persons of
37.20 the resident's choosing to discuss the termination;

37.21 (8) a statement that, with respect to the notice of termination, reasonable accommodation
37.22 is available for a resident with a disability; and

37.23 (9) an explanation that:

37.24 (i) the resident must vacate the apartment, along with all personal possessions, on or
37.25 before the effective date of termination;

37.26 (ii) failure to vacate the apartment by the date of termination may result in the filing of
37.27 an eviction action in court by the facility, and that the resident may present a defense, if
37.28 any, to the court at that time; and

37.29 (iii) the resident may seek legal counsel in connection with the notice of termination.

38.1 **Sec. 6. [144K.05] MANAGER REQUIREMENTS.**

38.2 (a) The manager of an independent senior living facility must obtain at least 30 hours
38.3 of continuing education every two years of employment as the manager in topics relevant
38.4 to the operations of the facility and the needs of its residents. Continuing education earned
38.5 to maintain a professional license, such as a nursing home administrator license, nursing
38.6 license, social worker license, or real estate license, may be used to satisfy this requirement.
38.7 The continuing education must include at least four hours of documented training on dementia
38.8 and related disorders, activities of daily living, problem solving with challenging behaviors,
38.9 and communication skills within 160 working hours of hire and two hours of training on
38.10 these topics for each 12 months of employment thereafter.

38.11 (b) The facility must maintain records for at least three years demonstrating that the
38.12 manager has attended educational programs as required by this section. New managers may
38.13 satisfy the initial dementia training requirements by producing written proof of having
38.14 previously completed required training within the past 18 months.

38.15 **Sec. 7. [144K.06] FIRE PROTECTION AND PHYSICAL ENVIRONMENT.**

38.16 Subdivision 1. **Comprehensive fire protection system required.** Every independent
38.17 senior living facility must have a comprehensive fire protection system that includes:

38.18 (1) protection throughout the facility by an approved supervised automatic sprinkler
38.19 system according to building code requirements established in Minnesota Rules, part
38.20 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance
38.21 with the National Fire Protection Association (NFPA) Standard 72;

38.22 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
38.23 10; and

38.24 (3) the physical environment, including walls, floors, ceiling, all furnishings, grounds,
38.25 systems, and equipment kept in a continuous state of good repair and operation with regard
38.26 to the health, safety, comfort, and well-being of the residents in accordance with a
38.27 maintenance and repair program.

38.28 Subd. 2. **Fire drills.** Fire drills shall be conducted in accordance with the residential
38.29 board and care requirements in the Life Safety Code.

38.30 **Sec. 8. [144K.07] EMERGENCY PLANNING.**

38.31 Subdivision 1. **Requirements.** Each independent senior living facility must meet the
38.32 following requirements:

39.1 (1) have a written emergency disaster plan that contains a plan for evacuation, addresses
39.2 elements of sheltering in-place, identifies temporary relocation sites, and details staff
39.3 assignments in the event of a disaster or an emergency;

39.4 (2) post an emergency disaster plan prominently;

39.5 (3) provide building emergency exit diagrams to all residents upon signing a residency
39.6 and services contract;

39.7 (4) post emergency exit diagrams on each floor; and

39.8 (5) have a written policy and procedure regarding missing residents.

39.9 Subd. 2. **Emergency and disaster training.** Each independent senior living facility
39.10 must provide emergency and disaster training to all staff during the initial staff orientation
39.11 and annually thereafter and must make emergency and disaster training available to all
39.12 residents annually. Staff who have not received emergency and disaster training are allowed
39.13 to work only when trained staff are also working on site.

39.14 Sec. 9. **[144K.08] OTHER LAWS.**

39.15 An independent senior living facility must comply with chapter 504B and must obtain
39.16 and maintain all other licenses, permits, registrations, or other governmental approvals
39.17 required of it.

39.18 **EFFECTIVE DATE.** This section is effective August 1, 2021.

39.19 Sec. 10. **[144K.09] ENFORCEMENT.**

39.20 (a) A violation of this chapter constitutes a violation of section 325F.69, subdivision 1.
39.21 The attorney general may enforce this section using the remedies in section 325F.70.

39.22 (b) A resident who meets the criteria in section 325F.71, subdivision 1, has a cause of
39.23 action under section 325F.71, subdivision 4, for a violation of this chapter.

39.24 **EFFECTIVE DATE.** This section is effective August 1, 2021.

ARTICLE 3**ASSISTED LIVING LICENSURE**

Section 1. Minnesota Statutes 2018, section 144.122, is amended to read:

144.122 LICENSE, PERMIT, AND SURVEY FEES.

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Management and Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with disabilities program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

- 41.1 Joint Commission on Accreditation of \$7,655 plus \$16 per bed
- 41.2 Healthcare Organizations (JCAHO) and
- 41.3 American Osteopathic Association (AOA)
- 41.4 hospitals
- 41.5 Non-JCAHO and non-AOA hospitals \$5,280 plus \$250 per bed
- 41.6 Nursing home \$183 plus \$91 per bed until June 30, 2018.
- 41.7 \$183 plus \$100 per bed between July 1, 2018,
- 41.8 and June 30, 2020. \$183 plus \$105 per bed
- 41.9 beginning July 1, 2020.

41.10 The commissioner shall set license fees for outpatient surgical centers, boarding care
 41.11 homes, ~~and supervised living facilities,~~ assisted living facilities, and assisted living facilities
 41.12 with dementia care at the following levels:

- 41.13 Outpatient surgical centers \$3,712
- 41.14 Boarding care homes \$183 plus \$91 per bed
- 41.15 Supervised living facilities \$183 plus \$91 per bed.
- 41.16 Assisted living facilities with dementia care \$..... plus \$..... per bed.
- 41.17 Assisted living facilities \$..... plus \$..... per bed.

41.18 Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if
 41.19 received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017,
 41.20 or later.

41.21 (e) Unless prohibited by federal law, the commissioner of health shall charge applicants
 41.22 the following fees to cover the cost of any initial certification surveys required to determine
 41.23 a provider's eligibility to participate in the Medicare or Medicaid program:

- 41.24 Prospective payment surveys for hospitals \$ 900
- 41.25 Swing bed surveys for nursing homes \$ 1,200
- 41.26 Psychiatric hospitals \$ 1,400
- 41.27 Rural health facilities \$ 1,100
- 41.28 Portable x-ray providers \$ 500
- 41.29 Home health agencies \$ 1,800
- 41.30 Outpatient therapy agencies \$ 800
- 41.31 End stage renal dialysis providers \$ 2,100
- 41.32 Independent therapists \$ 800
- 41.33 Comprehensive rehabilitation outpatient facilities \$ 1,200
- 41.34 Hospice providers \$ 1,700
- 41.35 Ambulatory surgical providers \$ 1,800

42.1	Hospitals	\$ 4,200
42.2	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.
42.3	resurveys required to complete initial	
42.4	certification	

42.5 These fees shall be submitted at the time of the application for federal certification and
 42.6 shall not be refunded. All fees collected after the date that the imposition of fees is not
 42.7 prohibited by federal law shall be deposited in the state treasury and credited to the state
 42.8 government special revenue fund.

42.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

42.10 Sec. 2. **[144L.01] DEFINITIONS.**

42.11 **Subdivision 1. Applicability.** For the purposes of this chapter, the definitions in this
 42.12 section have the meanings given.

42.13 **Subd. 2. Adult.** "Adult" means a natural person who has attained the age of 18 years.

42.14 **Subd. 3. Advanced practice registered nurse.** "Advanced practice registered nurse"
 42.15 has the meaning given in section 148.171, subdivision 3.

42.16 **Subd. 4. Applicant.** "Applicant" means an individual, legal entity, or other organization
 42.17 that has applied for licensure under this chapter.

42.18 **Subd. 5. Assisted living contract.** "Assisted living contract" means the legal agreement
 42.19 between a resident and an assisted living facility for housing and, if applicable, assisted
 42.20 living services.

42.21 **Subd. 6. Assisted living director.** "Assisted living director" means a person who
 42.22 administers, manages, supervises, or is in general administrative charge of an assisted living
 42.23 facility, whether or not the individual has an ownership interest in the facility, and whether
 42.24 or not the person's functions or duties are shared with one or more individuals and who is
 42.25 licensed by the Board of Executives for Long Term Services and Supports pursuant to
 42.26 section 144A.20.

42.27 **Subd. 7. Assisted living facility.** "Assisted living facility" means a licensed facility that
 42.28 provides sleeping accommodations and assisted living services to one or more adults.
 42.29 Assisted living facility includes assisted living facility with dementia care, and does not
 42.30 include:

42.31 (1) emergency shelter, transitional housing, or any other residential units serving
 42.32 exclusively or primarily homeless individuals, as defined under section 116L.361;

- 43.1 (2) a nursing home licensed under chapter 144A;
- 43.2 (3) a hospital, certified boarding care, or supervised living facility licensed under sections
43.3 144.50 to 144.56;
- 43.4 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
43.5 9520.0500 to 9520.0670, or under chapter 245D or 245G;
- 43.6 (5) services and residential settings licensed under chapter 245A, including adult foster
43.7 care and services and settings governed under the standards in chapter 245D;
- 43.8 (6) a private home in which the residents are related by kinship, law, or affinity with the
43.9 provider of services;
- 43.10 (7) a duly organized condominium, cooperative, and common interest community, or
43.11 owners' association of the condominium, cooperative, and common interest community
43.12 where at least 80 percent of the units that comprise the condominium, cooperative, or
43.13 common interest community are occupied by individuals who are the owners, members, or
43.14 shareholders of the units;
- 43.15 (8) a temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- 43.16 (9) a setting offering services conducted by and for the adherents of any recognized
43.17 church or religious denomination for its members exclusively through spiritual means or
43.18 by prayer for healing;
- 43.19 (10) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
43.20 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
43.21 units financed by the Minnesota Housing Finance Agency that are intended to serve
43.22 individuals with disabilities or individuals who are homeless, except for those developments
43.23 that market or hold themselves out as assisted living facilities and provide assisted living
43.24 services;
- 43.25 (11) rental housing developed under United States Code, title 42, section 1437, or United
43.26 States Code, title 12, section 1701q;
- 43.27 (12) rental housing designated for occupancy by only elderly or elderly and disabled
43.28 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
43.29 families under Code of Federal Regulations, title 24, section 983.56;
- 43.30 (13) rental housing funded under United States Code, title 42, chapter 89, or United
43.31 States Code, title 42, section 8011; or
- 43.32 (14) an independent senior living facility governed by chapter 144K.

44.1 Subd. 8. Assisted living facility with dementia care. "Assisted living facility with
44.2 dementia care" means a licensed assisted living facility that is advertised, marketed, or
44.3 otherwise promoted as providing specialized care for individuals with Alzheimer's disease
44.4 or other dementias. An assisted living facility with a secured dementia care unit must be
44.5 licensed as an assisted living facility with dementia care.

44.6 Subd. 9. Assisted living services. "Assisted living services" includes one or more of
44.7 the following:

44.8 (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, and bathing;

44.9 (2) providing standby assistance;

44.10 (3) providing verbal or visual reminders to the resident to take regularly scheduled
44.11 medication, which includes bringing the resident previously set up medication, medication
44.12 in original containers, or liquid or food to accompany the medication;

44.13 (4) providing verbal or visual reminders to the resident to perform regularly scheduled
44.14 treatments and exercises;

44.15 (5) preparing modified diets ordered by a licensed health professional;

44.16 (6) services of an advanced practice registered nurse, registered nurse, licensed practical
44.17 nurse, physical therapist, respiratory therapist, occupational therapist, speech-language
44.18 pathologist, dietitian or nutritionist, or social worker;

44.19 (7) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed
44.20 health professional within the person's scope of practice;

44.21 (8) medication management services;

44.22 (9) hands-on assistance with transfers and mobility;

44.23 (10) treatment and therapies;

44.24 (11) assisting residents with eating when the residents have complicated eating problems
44.25 as identified in the resident record or through an assessment such as difficulty swallowing,
44.26 recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous
44.27 instruments to be fed;

44.28 (12) providing other complex or specialty health care services;

44.29 (13) "I'm okay" check services; and

44.30 (14) supportive services in addition to the provision of at least one of the services listed
44.31 in clauses (1) to (12).

45.1 Subd. 10. **Authority having jurisdiction.** "Authority having jurisdiction" means an
45.2 organization, office, or individual responsible for enforcing the requirements of a code or
45.3 standard, or for approving equipment, materials, an installation, or a procedure.

45.4 Subd. 11. **Authorized agent.** "Authorized agent" means the person who is authorized
45.5 to accept service of notices and orders on behalf of the licensee.

45.6 Subd. 12. **Change of ownership.** "Change of ownership" means a change in the licensee
45.7 that is responsible for the management, control, and operation of a facility.

45.8 Subd. 13. **Commissioner.** "Commissioner" means the commissioner of health.

45.9 Subd. 14. **Controlled substance.** "Controlled substance" has the meaning given in
45.10 section 152.01, subdivision 4.

45.11 Subd. 15. **Controlling individual.** (a) "Controlling individual" means an owner and the
45.12 following individuals and entities, if applicable:

45.13 (1) each officer of the organization, including the chief executive officer and chief
45.14 financial officer;

45.15 (2) each managerial official; and

45.16 (3) any entity with at least a five percent mortgage, deed of trust, or other security interest
45.17 in the facility.

45.18 (b) Controlling individual does not include:

45.19 (1) a bank, savings bank, trust company, savings association, credit union, industrial
45.20 loan and thrift company, investment banking firm, or insurance company unless the entity
45.21 operates a program directly or through a subsidiary;

45.22 (2) government and government-sponsored entities such as the U.S. Department of
45.23 Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota
45.24 Housing Finance Agency which provide loans, financing, and insurance products for housing
45.25 sites;

45.26 (3) an individual who is a state or federal official, a state or federal employee, or a
45.27 member or employee of the governing body of a political subdivision of the state or federal
45.28 government that operates one or more facilities, unless the individual is also an officer,
45.29 owner, or managerial official of the facility, receives remuneration from the facility, or
45.30 owns any of the beneficial interests not excluded in this subdivision;

45.31 (4) an individual who owns less than five percent of the outstanding common shares of
45.32 a corporation;

46.1 (i) whose securities are exempt under section 80A.45, clause (6); or

46.2 (ii) whose transactions are exempt under section 80A.46, clause (2);

46.3 (5) an individual who is a member of an organization exempt from taxation under section
46.4 290.05, unless the individual is also an officer, owner, or managerial official of the license
46.5 or owns any of the beneficial interests not excluded in this subdivision. This clause does
46.6 not exclude from the definition of controlling individual an organization that is exempt from
46.7 taxation; or

46.8 (6) an employee stock ownership plan trust, or a participant or board member of an
46.9 employee stock ownership plan, unless the participant or board member is a controlling
46.10 individual.

46.11 Subd. 16. **Dementia.** "Dementia" means the loss of cognitive function, including the
46.12 ability to think, remember, problem solve, or reason, of sufficient severity to interfere with
46.13 an individual's daily functioning. Dementia is caused by different diseases and conditions,
46.14 including but not limited to Alzheimer's disease, vascular dementia, neurodegenerative
46.15 conditions, Creutzfeldt-Jakob disease, and Huntington's disease.

46.16 Subd. 17. **Dementia care services.** "Dementia care services" means ongoing care for
46.17 behavioral and psychological symptoms of dementia, including planned group and individual
46.18 programming and person-centered care practices provided according to section 144I.40 to
46.19 support activities of daily living for people living with dementia.

46.20 Subd. 18. **Dementia-trained staff.** "Dementia-trained staff" means any employee who
46.21 has completed the minimum training required under sections 144I.21 and 144I.39 and has
46.22 demonstrated knowledge and the ability to support individuals with dementia.

46.23 Subd. 19. **Designated representative.** "Designated representative" means a person
46.24 designated in writing by the resident in an assisted living contract and identified in the
46.25 resident record on file with the facility.

46.26 Subd. 20. **Dietary supplement.** "Dietary supplement" means a product taken by mouth
46.27 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may
46.28 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as
46.29 enzymes, organ tissue, glandulars, or metabolites.

46.30 Subd. 21. **Dietitian.** "Dietitian" means a person licensed as a dietitian under section
46.31 148.624.

46.32 Subd. 22. **Direct contact.** "Direct contact" means providing face-to-face care, training,
46.33 supervision, counseling, consultation, or medication assistance to residents of a facility.

47.1 Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual
47.2 or organization with the possession of at least five percent equity in capital, stock, or profits
47.3 of the licensee, or who is a member of a limited liability company of the licensee.

47.4 Subd. 24. **Facility.** "Facility" means an assisted living facility.

47.5 Subd. 25. **Hands-on assistance.** "Hands-on assistance" means physical help by another
47.6 person without which the resident is not able to perform the activity.

47.7 Subd. 26. **"I'm okay" check services.** "'I'm okay" check services" means having,
47.8 maintaining, and documenting a system to, by any means, check on the health, safety, and
47.9 well-being of a resident a minimum of once daily or more frequently according to the assisted
47.10 living contract.

47.11 Subd. 27. **Indirect ownership interest.** "Indirect ownership interest" means an individual
47.12 or legal entity with a direct ownership interest in an entity that has a direct or indirect
47.13 ownership interest of at least five percent in an entity that is a licensee.

47.14 Subd. 28. **Legal representative.** "Legal representative" means one of the following in
47.15 the order of priority listed, to the extent the person may reasonably be identified and located:

47.16 (1) a court-appointed guardian acting in accordance with the powers granted to the
47.17 guardian under chapter 524;

47.18 (2) a conservator acting in accordance with the powers granted to the conservator under
47.19 chapter 524;

47.20 (3) a health care agent acting in accordance with the powers granted to the health care
47.21 agent under chapter 145C; or

47.22 (4) an attorney-in-fact acting in accordance with the powers granted to the attorney-in-fact
47.23 by a written power of attorney under chapter 523.

47.24 Subd. 29. **Licensed health professional.** "Licensed health professional" means a person
47.25 licensed in Minnesota to practice a profession described in section 214.01, subdivision 2.

47.26 Subd. 30. **Licensed practical nurse.** "Licensed practical nurse" has the meaning given
47.27 in section 148.171, subdivision 8.

47.28 Subd. 31. **Licensed resident capacity.** "Licensed resident capacity" means the resident
47.29 occupancy level requested by a licensee and approved by the commissioner.

47.30 Subd. 32. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner
47.31 issues a license for an assisted living facility and who is responsible for the management,
47.32 control, and operation of a facility.

48.1 Subd. 33. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,
48.2 subdivision 15.

48.3 Subd. 34. **Management agreement.** "Management agreement" means a written, executed
48.4 agreement between a licensee and manager regarding the provision of certain services on
48.5 behalf of the licensee.

48.6 Subd. 35. **Manager.** "Manager" means an individual or legal entity designated by the
48.7 licensee through a management agreement to act on behalf of the licensee in the on-site
48.8 management of the assisted living facility.

48.9 Subd. 36. **Managerial official.** "Managerial official" means an individual who has the
48.10 decision-making authority related to the operation of the facility and the responsibility for
48.11 the ongoing management or direction of the policies, services, or employees of the facility.

48.12 Subd. 37. **Medication.** "Medication" means a prescription or over-the-counter drug. For
48.13 purposes of this chapter only, medication includes dietary supplements.

48.14 Subd. 38. **Medication administration.** "Medication administration" means performing
48.15 a set of tasks that includes the following:

48.16 (1) checking the resident's medication record;

48.17 (2) preparing the medication as necessary;

48.18 (3) administering the medication to the resident;

48.19 (4) documenting the administration or reason for not administering the medication; and

48.20 (5) reporting to a registered nurse or appropriate licensed health professional any concerns
48.21 about the medication, the resident, or the resident's refusal to take the medication.

48.22 Subd. 39. **Medication management.** "Medication management" means the provision
48.23 of any of the following medication-related services to a resident:

48.24 (1) performing medication setup;

48.25 (2) administering medications;

48.26 (3) storing and securing medications;

48.27 (4) documenting medication activities;

48.28 (5) verifying and monitoring the effectiveness of systems to ensure safe handling and
48.29 administration;

48.30 (6) coordinating refills;

49.1 (7) handling and implementing changes to prescriptions;

49.2 (8) communicating with the pharmacy about the resident's medications; and

49.3 (9) coordinating and communicating with the prescriber.

49.4 Subd. 40. **Medication reconciliation.** "Medication reconciliation" means the process
49.5 of identifying the most accurate list of all medications the resident is taking, including the
49.6 name, dosage, frequency, and route, by comparing the resident record to an external list of
49.7 medications obtained from the resident, hospital, prescriber, or other provider.

49.8 Subd. 41. **Medication setup.** "Medication setup" means arranging medications by a
49.9 nurse, pharmacy, or authorized prescriber for later administration by the resident or by
49.10 facility staff.

49.11 Subd. 42. **New construction.** "New construction" means a new building, renovation,
49.12 modification, reconstruction, physical changes altering the use of occupancy, or addition
49.13 to a building.

49.14 Subd. 43. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to
49.15 148.285.

49.16 Subd. 44. **Nutritionist.** "Nutritionist" means a person licensed as a nutritionist under
49.17 section 148.624.

49.18 Subd. 45. **Occupational therapist.** "Occupational therapist" means a person who is
49.19 licensed under sections 148.6401 to 148.6449.

49.20 Subd. 46. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

49.21 Subd. 47. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not
49.22 required by federal law to bear the symbol "Rx only."

49.23 Subd. 48. **Owner.** "Owner" means an individual or legal entity that has a direct or indirect
49.24 ownership interest of five percent or more in a licensee. For purposes of this chapter, "owner
49.25 of a nonprofit corporation" means the president and treasurer of the board of directors or,
49.26 for an entity owned by an employee stock ownership plan, means the president and treasurer
49.27 of the entity. A government entity that is issued a license under this chapter shall be
49.28 designated the owner.

49.29 Subd. 49. **Person-centered planning and service delivery.** "Person-centered planning
49.30 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph
49.31 (b).

50.1 Subd. 50. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision
50.2 3.

50.3 Subd. 51. **Physical therapist.** "Physical therapist" means a person who is licensed under
50.4 sections 148.65 to 148.78.

50.5 Subd. 52. **Physician.** "Physician" means a person who is licensed under chapter 147.

50.6 Subd. 53. **Prescriber.** "Prescriber" means a person who is authorized by section 148.235;
50.7 151.01, subdivision 23; or 151.37 to prescribe prescription drugs.

50.8 Subd. 54. **Prescription.** "Prescription" has the meaning given in section 151.01,
50.9 subdivision 16a.

50.10 Subd. 55. **Provisional license.** "Provisional license" means the initial license the
50.11 commissioner issues after approval of a complete written application and before the
50.12 commissioner completes the provisional license survey and determines that the provisional
50.13 licensee is in substantial compliance.

50.14 Subd. 56. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be
50.15 completed at predetermined times or according to a predetermined routine.

50.16 Subd. 57. **Reminder.** "Reminder" means providing a verbal or visual reminder to a
50.17 resident.

50.18 Subd. 58. **Repeat violation.** "Repeat violation" means the issuance of two or more
50.19 correction orders within a 12-month period for a violation of the same provision of a statute
50.20 or rule.

50.21 Subd. 59. **Resident.** "Resident" means a person living in an assisted living facility who
50.22 has executed an assisted living contract.

50.23 Subd. 60. **Resident record.** "Resident record" means all records that document
50.24 information about the services provided to the resident.

50.25 Subd. 61. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed
50.26 under chapter 147C.

50.27 Subd. 62. **Secured dementia care unit.** "Secured dementia care unit" means a designated
50.28 area or setting designed for individuals with dementia that is locked or secured to prevent
50.29 a resident from exiting, or to limit a resident's ability to exit, the secured area or setting. A
50.30 secured dementia care unit is not solely an individual resident's living area.

51.1 Subd. 63. **Service plan.** "Service plan" means the written plan between the resident or
51.2 the resident's representative and the provisional licensee or licensee about the services that
51.3 will be provided to the resident.

51.4 Subd. 64. **Social worker.** "Social worker" means a person who is licensed under chapter
51.5 148D or 148E.

51.6 Subd. 65. **Speech-language pathologist.** "Speech-language pathologist" has the meaning
51.7 given in section 148.512, subdivision 17.

51.8 Subd. 66. **Standby assistance.** "Standby assistance" means the presence of another
51.9 person within arm's reach to minimize the risk of injury while performing daily activities
51.10 through physical intervention or cueing to assist a resident with an assistive task by providing
51.11 cues, oversight, and minimal physical assistance.

51.12 Subd. 67. **Substantial compliance.** "Substantial compliance" means complying with
51.13 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks
51.14 to residents.

51.15 Subd. 68. **Supportive services.** "Supportive services" means:

51.16 (1) assistance with laundry, shopping, and household chores;

51.17 (2) housekeeping services;

51.18 (3) provision or assistance with meals or food preparation;

51.19 (4) help with arranging for, or arranging transportation to, medical, social, recreational,
51.20 personal, or social services appointments; or

51.21 (5) provision of social or recreational services.

51.22 Arranging for services does not include making referrals, or contacting a service provider
51.23 in an emergency.

51.24 Subd. 69. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure
51.25 for compliance with this chapter and applicable rules.

51.26 Subd. 70. **Surveyor.** "Surveyor" means a staff person of the department who is authorized
51.27 to conduct surveys of assisted living facilities.

51.28 Subd. 71. **Termination of housing or services.** "Termination of housing or services"
51.29 means a discharge, eviction, transfer, or service termination initiated by the facility. A
51.30 facility-initiated termination is one to which the resident objects and which did not originate
51.31 through a resident's verbal or written request. A resident-initiated termination is one where

52.1 a resident or, if appropriate, a designated representative provided a verbal or written notice
52.2 of intent to leave the facility. A resident-initiated termination does not include the general
52.3 expression of a desire to return home or the elopement of a resident with cognitive
52.4 impairment.

52.5 Subd. 72. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,
52.6 other than medications, ordered or prescribed by a licensed health professional and provided
52.7 to a resident to cure, rehabilitate, or ease symptoms.

52.8 Subd. 73. **Unit of government.** "Unit of government" means a city, county, town, school
52.9 district, other political subdivision of the state, or agency of the state or federal government,
52.10 that includes any instrumentality of a unit of government.

52.11 Subd. 74. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise
52.12 licensed or certified by a governmental health board or agency who provide services to a
52.13 resident.

52.14 Subd. 75. **Verbal.** "Verbal" means oral and not in writing.

52.15 **EFFECTIVE DATE.** This section is effective August 1, 2021.

52.16 **Sec. 3. [144L.02] ASSISTED LIVING FACILITY LICENSE.**

52.17 Subdivision 1. **License required.** Beginning August 1, 2021, no assisted living facility
52.18 may operate in Minnesota unless it is licensed under this chapter. The licensee is legally
52.19 responsible for the management, control, and operation of the facility, regardless of the
52.20 existence of a management agreement or subcontract. Nothing in this chapter shall in any
52.21 way affect the rights and remedies available under other law.

52.22 Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for
52.23 assisted living facility licensure.

52.24 (b) The assisted living facility category is for assisted living facilities that only provide
52.25 assisted living services.

52.26 (c) The assisted living facility with dementia care category is for assisted living facilities
52.27 that provide assisted living services and dementia care services. An assisted living facility
52.28 with dementia care may also provide dementia care services in a secured dementia care
52.29 unit.

52.30 (d) An assisted living facility that has a secured dementia care unit must be licensed as
52.31 an assisted living facility with dementia care.

53.1 Subd. 3. **Licensure under other law.** An assisted living facility licensed under this
53.2 chapter is not required to also be licensed as a boarding establishment, food and beverage
53.3 service establishment, hotel, motel, lodging establishment, resort, or restaurant under chapter
53.4 157.

53.5 Subd. 4. **Violations; penalty.** (a) Operating an assisted living facility without a license
53.6 is a misdemeanor punishable by a fine imposed by the commissioner.

53.7 (b) A controlling individual of the facility in violation of this section is guilty of a
53.8 misdemeanor. This paragraph shall not apply to any controlling individual who had no legal
53.9 authority to affect or change decisions related to the operation of the facility.

53.10 (c) The sanctions in this section do not restrict other available sanctions in law.

53.11 **EFFECTIVE DATE.** This section is effective August 1, 2021.

53.12 Sec. 4. **[144I.03] PROVISIONAL LICENSE.**

53.13 Subdivision 1. **Provisional license.** Beginning August 1, 2021, for new assisted living
53.14 facility license applicants, the commissioner shall issue a provisional license from one of
53.15 the licensure categories specified in section 144I.02, subdivision 2. A provisional license
53.16 is effective for up to one year from the initial effective date of the license, except that a
53.17 provisional license may be extended according to subdivision 2, paragraphs (c) and (d).

53.18 Subd. 2. **Initial survey; licensure.** (a) During the provisional license period, the
53.19 commissioner shall survey the provisional licensee after the commissioner is notified or
53.20 has evidence that the provisional licensee is providing assisted living services to at least
53.21 one resident.

53.22 (b) Within two days of beginning to provide assisted living services, the provisional
53.23 licensee must provide notice to the commissioner that it is providing assisted living services
53.24 by sending an e-mail to the e-mail address provided by the commissioner. If the provisional
53.25 licensee does not provide services during the provisional license period, the provisional
53.26 license shall expire at the end of the period and the applicant must reapply.

53.27 (c) If the provisional licensee notifies the commissioner that the licensee is providing
53.28 assisted living services within 45 calendar days prior to expiration of the provisional license,
53.29 the commissioner may extend the provisional license for up to 60 calendar days in order to
53.30 allow the commissioner to complete the on-site survey required under this section and
53.31 follow-up survey visits.

54.1 (d) If the provisional licensee is in substantial compliance with the survey, the
54.2 commissioner shall issue a facility license. If the provisional licensee is not in substantial
54.3 compliance with the initial survey, the commissioner shall either: (1) not issue the facility
54.4 license and terminate the provisional license; or (2) extend the provisional license for a
54.5 period not to exceed 90 calendar days and apply conditions necessary to bring the facility
54.6 into substantial compliance. If the provisional licensee is not in substantial compliance with
54.7 the survey within the time period of the extension or if the provisional licensee does not
54.8 satisfy the license conditions, the commissioner may deny the license.

54.9 Subd. 3. **Reconsideration.** (a) If a provisional licensee whose assisted living facility
54.10 license has been denied or extended with conditions disagrees with the conclusions of the
54.11 commissioner, then the provisional licensee may request a reconsideration by the
54.12 commissioner. The reconsideration request process must be conducted internally by the
54.13 commissioner and chapter 14 does not apply.

54.14 (b) The provisional licensee requesting the reconsideration must make the request in
54.15 writing and must list and describe the reasons why the provisional licensee disagrees with
54.16 the decision to deny the facility license or the decision to extend the provisional license
54.17 with conditions.

54.18 (c) The reconsideration request and supporting documentation must be received by the
54.19 commissioner within 15 calendar days after the date the provisional licensee receives the
54.20 denial or provisional license with conditions.

54.21 Subd. 4. **Continued operation.** A provisional licensee whose license is denied is
54.22 permitted to continue operating during the period of time when:

54.23 (1) a reconsideration is in process;

54.24 (2) an extension of the provisional license and terms associated with it is in active
54.25 negotiation between the commissioner and the licensee and the commissioner confirms the
54.26 negotiation is active; or

54.27 (3) a transfer of residents to a new facility is underway and not all of the residents have
54.28 relocated.

54.29 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license
54.30 is denied must comply with the requirements for notification and transfer of residents in
54.31 section 144J.08.

54.32 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section
54.33 144J.08, subdivision 6, paragraph (b), is \$1,000.

55.1 **EFFECTIVE DATE.** This section is effective August 1, 2021.

55.2 Sec. 5. **[144I.04] APPLICATION FOR LICENSURE.**

55.3 Subdivision 1. **License applications.** (a) Each application for an assisted living facility
55.4 license, including provisional and renewal applications, must include information sufficient
55.5 to show that the applicant meets the requirements of licensure, including:

55.6 (1) the business name and legal entity name of the licensee, and the street address and
55.7 mailing address of the facility;

55.8 (2) the names, e-mail addresses, telephone numbers, and mailing addresses of all owners,
55.9 controlling individuals, managerial officials, and the assisted living director;

55.10 (3) the name and e-mail address of the managing agent and manager, if applicable;

55.11 (4) the licensed resident capacity and the license category;

55.12 (5) the license fee in the amount specified in section 144.122;

55.13 (6) documentation of compliance with the background study requirements in section
55.14 144I.06 for the owner, controlling individuals, and managerial officials. Each application
55.15 for a new license must include documentation for the applicant and for each individual with
55.16 five percent or more direct or indirect ownership in the applicant;

55.17 (7) evidence of workers' compensation coverage as required by sections 176.181 and
55.18 176.182;

55.19 (8) documentation that the facility has liability coverage;

55.20 (9) a copy of the executed lease agreement between the landlord and the licensee, if
55.21 applicable;

55.22 (10) a copy of the management agreement, if applicable;

55.23 (11) a copy of the operations transfer agreement or similar agreement, if applicable;

55.24 (12) an organizational chart that identifies all organizations and individuals with an
55.25 ownership interest in the licensee of five percent or greater and that specifies their relationship
55.26 with the licensee and with each other;

55.27 (13) whether the applicant, owner, controlling individual, managerial official, or assisted
55.28 living director of the facility has ever been convicted of:

55.29 (i) a crime or found civilly liable for a federal or state felony level offense that was
55.30 detrimental to the best interests of the facility and its resident within the last ten years

56.1 preceding submission of the license application. Offenses include: felony crimes against
56.2 persons and other similar crimes for which the individual was convicted, including guilty
56.3 pleas and adjudicated pretrial diversions; financial crimes such as extortion, embezzlement,
56.4 income tax evasion,, insurance fraud, and other similar crimes for which the individual was
56.5 convicted, including guilty pleas and adjudicated pretrial diversions; any felonies involving
56.6 malpractice that resulted in a conviction of criminal neglect or misconduct; and any felonies
56.7 that would result in a mandatory exclusion under section 1128(a) of the Social Security
56.8 Act;.

56.9 (ii) any misdemeanor conviction, under federal or state law, related to: the delivery of
56.10 an item or service under Medicaid or a state health care program, or the abuse or neglect of
56.11 a patient in connection with the delivery of a health care item or service;

56.12 (iii) any misdemeanor conviction, under federal or state law, related to theft, fraud,
56.13 embezzlement, breach of fiduciary duty, or other financial misconduct in connection with
56.14 the delivery of a health care item or service;

56.15 (iv) any felony or misdemeanor conviction, under federal or state law, relating to the
56.16 interference with or obstruction of any investigation into any criminal offense described in
56.17 Code of Federal Regulations, title 42, section 1001.101 or 1001.201;

56.18 (v) any felony or misdemeanor conviction, under federal or state law, relating to the
56.19 unlawful manufacture, distribution, prescription, or dispensing of a controlled substance;

56.20 (vi) any felony or gross misdemeanor that relates to the operation of a nursing home or
56.21 assisted living facility or directly affects resident safety or care during that period;

56.22 (vii) any revocation or suspension of a license to provide health care by any state licensing
56.23 authority. This includes the surrender of such a license while a formal disciplinary proceeding
56.24 was pending before a state licensing authority;

56.25 (viii) any revocation or suspension of accreditation; or

56.26 (ix) any suspension or exclusion from participation in, or any sanction imposed by, a
56.27 federal or state health care program, or any debarment from participation in any federal
56.28 executive branch procurement or non-procurement program;

56.29 (14) whether, in the preceding three years, the applicant or any owner, controlling
56.30 individual, managerial official, or assisted living director of the facility has a record of
56.31 defaulting in the payment of money collected for others, including the discharge of debts
56.32 through bankruptcy proceedings;

56.33 (15) the signature of the owner of the licensee, or an authorized agent of the licensee;

57.1 (16) identification of all states where the applicant or individual having a five percent
57.2 or more ownership, currently or previously has been licensed as an owner or operator of a
57.3 long-term care, community-based, or health care facility or agency where its license or
57.4 federal certification has been denied, suspended, restricted, conditioned, refused, not renewed,
57.5 or revoked under a private or state-controlled receivership, or where these same actions are
57.6 pending under the laws of any state or federal authority;

57.7 (17) statistical information required by the commissioner; and

57.8 (18) any other information required by the commissioner.

57.9 Subd. 2. **Authorized agents.** (a) An application for an assisted living facility license or
57.10 for renewal of a facility license must specify one or more owners, controlling individuals,
57.11 or employees as authorized agents who can accept service on behalf of the licensee in
57.12 proceedings under this chapter.

57.13 (b) Notwithstanding any law to the contrary, personal service on the authorized agent
57.14 named in the application is deemed to be service on all of the controlling individuals or
57.15 managerial officials of the facility, and it is not a defense to any action arising under this
57.16 chapter that personal service was not made on each controlling individual or managerial
57.17 official of the facility. The designation of one or more controlling individuals or managerial
57.18 officials under this subdivision shall not affect the legal responsibility of any other controlling
57.19 individual or managerial official under this chapter.

57.20 Subd. 3. **Fees.** (a) An initial applicant, renewal applicant, or applicant filing a change
57.21 of ownership for assisted living facility licensure must submit the application fee required
57.22 in section 144.122 to the commissioner along with a completed application.

57.23 (b) The penalty for late submission of the renewal application less than 30 days before
57.24 the expiration date of the license or after expiration of the license is \$200. The penalty for
57.25 operating a facility after expiration of the license and before a renewal license is issued, is
57.26 \$250 each day after expiration of the license until the renewal license issuance date. The
57.27 facility is still subject to the misdemeanor penalties for operating after license expiration.

57.28 (c) Fees collected under this section shall be deposited in the state treasury and credited
57.29 to the state government special revenue fund. All fees are nonrefundable.

57.30 (d) Fines collected under this subdivision shall be deposited in a dedicated special revenue
57.31 account. On an annual basis, the balance in the special revenue account shall be appropriated
57.32 to the commissioner to implement the recommendations of the advisory council established
57.33 in section 144A.4799.

58.1 **EFFECTIVE DATE.** This section is effective August 1, 2021.

58.2 Sec. 6. **[144I.05] TRANSFER OF LICENSE PROHIBITED.**

58.3 Subdivision 1. **Transfers prohibited.** An assisted living facility license may not be
58.4 transferred to another party.

58.5 Subd. 2. **New license required.** (a) A prospective licensee must apply for a license prior
58.6 to operating a currently licensed assisted living facility. The new license, if issued, shall
58.7 not be a provisional license. The licensee must change whenever one of the following events
58.8 occur:

58.9 (1) the form of the licensee's legal entity structure is converted or changed to a different
58.10 type of legal entity structure;

58.11 (2) the licensee dissolves, consolidates, or merges with another legal organization and
58.12 the licensee's legal organization does not survive;

58.13 (3) within the previous 24 months, 50 percent or more of the licensee is transferred,
58.14 whether by a single transaction or multiple transactions, to:

58.15 (i) a different person; or

58.16 (ii) a person who had less than a five percent ownership interest in the facility at the
58.17 time of the first transaction; or

58.18 (4) any other event or combination of events that results in a substitution, elimination,
58.19 or withdrawal of the licensee's responsibility for the facility.

58.20 (b) The prospective licensee must provide written notice to the department at least 60
58.21 calendar days prior to the anticipated date of the change of licensee.

58.22 Subd. 3. **Survey required.** For all new licensees after a change of ownership, the
58.23 commissioner shall complete a survey within six months after the new license is issued.

58.24 **EFFECTIVE DATE.** This section is effective August 1, 2021.

58.25 Sec. 7. **[144I.06] BACKGROUND STUDIES.**

58.26 Subdivision 1. **Background studies required.** (a) Before the commissioner issues a
58.27 provisional license, issues a license as a result of an approved change of ownership, or
58.28 renews a license, a managerial official or a natural person who is an owner with direct
58.29 ownership interest is required to undergo a background study under section 144.057. No
58.30 person may be involved in the management, operation, or control of an assisted living facility

59.1 if the person has been disqualified under chapter 245C. For the purposes of this section,
59.2 managerial officials subject to the background study requirement are individuals who provide
59.3 direct contact.

59.4 (b) The commissioner shall not issue a license if any controlling individual, including
59.5 a managerial official, has been unsuccessful in having a background study disqualification
59.6 set aside under section 144.057 and chapter 245C.

59.7 (c) Employees, contractors, and regularly-scheduled volunteers of the facility are subject
59.8 to the background study required by section 144.057 and may be disqualified under chapter
59.9 245C. Nothing in this section shall be construed to prohibit the facility from requiring
59.10 self-disclosure of criminal conviction information.

59.11 Subd. 2. **Reconsideration.** If an individual is disqualified under section 144.057 or
59.12 chapter 245C, the individual may request reconsideration of the disqualification. If the
59.13 individual requests reconsideration and the commissioner sets aside or rescinds the
59.14 disqualification, the individual is eligible to be involved in the management, operation, or
59.15 control of the facility. If an individual has a disqualification under section 245C.15,
59.16 subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred
59.17 from a set aside, and the individual must not be involved in the management, operation, or
59.18 control of the facility.

59.19 Subd. 3. **Data classification.** Data collected under this section shall be classified as
59.20 private data on individuals under section 13.02, subdivision 12.

59.21 Subd. 4. **Termination in good faith.** Termination of an employee in good faith reliance
59.22 on information or records obtained under this section regarding a confirmed conviction does
59.23 not subject the assisted living facility to civil liability or liability for unemployment benefits.

59.24 **EFFECTIVE DATE.** This section is effective August 1, 2021.

59.25 Sec. 8. **[144I.07] LICENSE RENEWAL.**

59.26 A license that is not a provisional license may be renewed for a period of up to one year
59.27 if the licensee:

59.28 (1) submits an application for renewal in the format provided by the commissioner at
59.29 least 60 calendar days before expiration of the license;

59.30 (2) submits the renewal fee under section 144I.04, subdivision 3;

60.1 (3) submits the late fee under section 144I.04, subdivision 3, if the renewal application
60.2 is received less than 30 days before the expiration date of the license or after the expiration
60.3 of the license;

60.4 (4) provides information sufficient to show that the applicant meets the requirements of
60.5 licensure, including items required under section 144I.04, subdivision 1; and

60.6 (5) provides any other information deemed necessary by the commissioner.

60.7 **EFFECTIVE DATE.** This section is effective August 1, 2021.

60.8 **Sec. 9. [144I.08] NOTIFICATION OF CHANGES IN INFORMATION.**

60.9 A provisional licensee or licensee shall notify the commissioner in writing prior to a
60.10 change in the manager or authorized agent and within 60 calendar days after any change in
60.11 the information required in section 144I.04, subdivision 1, paragraph (a), clause (1), (3),
60.12 (4), (17), or (18).

60.13 **EFFECTIVE DATE.** This section is effective August 1, 2021.

60.14 **Sec. 10. [144I.09] CONSIDERATION OF APPLICATIONS.**

60.15 (a) Before issuing a provisional license or license or renewing a license, the commissioner
60.16 shall consider an applicant's compliance history in providing care in a facility that provides
60.17 care to children, the elderly, ill individuals, or individuals with disabilities.

60.18 (b) The applicant's compliance history shall include repeat violation, rule violations, and
60.19 any license or certification involuntarily suspended or terminated during an enforcement
60.20 process.

60.21 (c) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license
60.22 or impose conditions if:

60.23 (1) the applicant fails to provide complete and accurate information on the application
60.24 and the commissioner concludes that the missing or corrected information is needed to
60.25 determine if a license shall be granted;

60.26 (2) the applicant, knowingly or with reason to know, made a false statement of a material
60.27 fact in an application for the license or any data attached to the application or in any matter
60.28 under investigation by the department;

60.29 (3) the applicant refused to allow agents of the commissioner to inspect its books, records,
60.30 and files related to the license application, or any portion of the premises;

61.1 (4) the applicant willfully prevented, interfered with, or attempted to impede in any way:
61.2 (i) the work of any authorized representative of the commissioner, the ombudsman for
61.3 long-term care, or the ombudsman for mental health and developmental disabilities; or (ii)
61.4 the duties of the commissioner, local law enforcement, city or county attorneys, adult
61.5 protection, county case managers, or other local government personnel;

61.6 (5) the applicant has a history of noncompliance with federal or state regulations that
61.7 were detrimental to the health, welfare, or safety of a resident or a client; or

61.8 (6) the applicant violates any requirement in this chapter.

61.9 (e) If a license is denied, the applicant has the reconsideration rights available under
61.10 section 144I.03, subdivision 3.

61.11 **EFFECTIVE DATE.** This section is effective August 1, 2021.

61.12 **Sec. 11. [144I.10] MINIMUM ASSISTED LIVING FACILITY REQUIREMENTS.**

61.13 **Subdivision 1. Minimum requirements.** (a) All assisted living facilities shall:

61.14 (1) distribute to residents, families, and resident representatives the assisted living bill
61.15 of rights;

61.16 (2) provide services in a manner that complies with the Nurse Practice Act in sections
61.17 148.171 to 148.285;

61.18 (3) utilize a person-centered planning and service delivery process;

61.19 (4) have and maintain a system for delegation of health care activities to unlicensed
61.20 personnel by a registered nurse, including supervision and evaluation of the delegated
61.21 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;

61.22 (5) provide a means for residents to request assistance for health and safety needs 24
61.23 hours per day, seven days per week;

61.24 (6) allow residents the ability to furnish and decorate the resident's unit within the terms
61.25 of the assisted living contract;

61.26 (7) permit residents access to food at any time;

61.27 (8) allow residents to choose the resident's visitors and times of visits;

61.28 (9) allow the resident the right to choose a roommate if sharing a unit;

61.29 (10) notify the resident of the resident's right to have and use a lockable door to the
61.30 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with

62.1 a specific need to enter the unit shall have keys, and advance notice must be given to the
62.2 resident before entrance, when possible. An assisted living facility must not lock a resident
62.3 in the resident's unit;

62.4 (11) develop and implement a staffing plan for determining its staffing level that:

62.5 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness
62.6 of staffing levels in the facility;

62.7 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably
62.8 foreseeable unscheduled needs of each resident as required by the residents' assessments
62.9 and service plans on a 24-hour per day basis; and

62.10 (iii) ensures that the facility can respond promptly and effectively to individual resident
62.11 emergencies and to emergency, life safety, and disaster situations affecting staff or residents
62.12 in the facility;

62.13 (12) ensures that one or more persons are available 24 hours per day, seven days per
62.14 week, who are responsible for responding to the requests of residents for assistance with
62.15 health or safety needs. Such persons must be:

62.16 (i) awake;

62.17 (ii) located in the same building, in an attached building, or on a contiguous campus
62.18 with the facility in order to respond within a reasonable amount of time;

62.19 (iii) capable of communicating with residents;

62.20 (iv) capable of providing or summoning the appropriate assistance;

62.21 (v) capable of following directions; and

62.22 (vi) for an assisted living facility with dementia care providing services in a secured
62.23 dementia care unit, an awake person must be physically present in the secured dementia
62.24 care unit;

62.25 (13) offer to provide or make available at least the following services to residents:

62.26 (i) at least three nutritious meals daily with snacks available seven days per week,
62.27 according to the recommended dietary allowances in the United States Department of
62.28 Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The
62.29 following apply:

62.30 (A) menus must be prepared at least one week in advance, and made available to all
62.31 residents. The facility must encourage residents' involvement in menu planning. Meal

- 63.1 substitutions must be of similar nutritional value if a resident refuses a food that is served.
- 63.2 Residents must be informed in advance of menu changes;
- 63.3 (B) food must be prepared and served according to the Minnesota Food Code, Minnesota
- 63.4 Rules, chapter 4626; and
- 63.5 (C) the facility cannot require a resident to include and pay for meals in their contract;
- 63.6 (ii) weekly housekeeping;
- 63.7 (iii) weekly laundry service;
- 63.8 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
- 63.9 for transportation to medical and social services appointments, shopping, and other recreation,
- 63.10 and provide the name of or other identifying information about the persons responsible for
- 63.11 providing this assistance;
- 63.12 (v) upon the request of the resident, provide reasonable assistance with accessing
- 63.13 community resources and social services available in the community, and provide the name
- 63.14 of or other identifying information about persons responsible for providing this assistance;
- 63.15 (vi) provide culturally sensitive programs; and
- 63.16 (vii) have a daily program of social and recreational activities that are based upon
- 63.17 individual and group interests, physical, mental, and psychosocial needs, and that creates
- 63.18 opportunities for active participation in the community at large.
- 63.19 (b) The resident's rights in section 144I.101, subdivisions 12, 13, and 18, may be restricted
- 63.20 for an individual resident only if determined necessary for health and safety reasons identified
- 63.21 by the facility through an initial assessment or reassessment under section 144I.16,
- 63.22 subdivision 2, and documented in the written service plan under section 144I.16, subdivision
- 63.23 4. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49
- 63.24 must be documented by the case manager in the resident's coordinated service and support
- 63.25 plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision
- 63.26 15. Nothing in this section affects other laws applicable to or prohibiting restrictions on the
- 63.27 resident's rights in section 144I.101, subdivisions 12, 13, and 18.
- 63.28 Subd. 2. **Policies and procedures.** (a) Each assisted living facility must have policies
- 63.29 and procedures in place to address the following and keep them current:
- 63.30 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;
- 63.31 (2) conducting and handling background studies on employees;

64.1 (3) orientation, training, and competency evaluations of staff, and a process for evaluating
64.2 staff performance;

64.3 (4) handling complaints from residents, family members, or designated representatives
64.4 regarding staff or services provided by staff;

64.5 (5) conducting initial evaluations of residents' needs and the providers' ability to provide
64.6 those services;

64.7 (6) conducting initial and ongoing resident evaluations and assessments of resident
64.8 needs, including assessments by a registered nurse or appropriate licensed health professional,
64.9 and how changes in a resident's condition are identified, managed, and communicated to
64.10 staff and other health care providers as appropriate;

64.11 (7) orientation to and implementation of the assisted living bill of rights;

64.12 (8) infection control practices;

64.13 (9) reminders for medications, treatments, or exercises, if provided;

64.14 (10) conducting appropriate screenings, or documentation of prior screenings, to show
64.15 that staff are free of tuberculosis, consistent with current United States Centers for Disease
64.16 Control and Prevention standards;

64.17 (11) ensuring that nurses and licensed health professionals have current and valid licenses
64.18 to practice;

64.19 (12) medication and treatment management;

64.20 (13) delegation of tasks by registered nurses or licensed health professionals;

64.21 (14) supervision of registered nurses and licensed health professionals; and

64.22 (15) supervision of unlicensed personnel performing delegated tasks.

64.23 Subd. 3. **Infection control program.** All assisted living facilities must establish and
64.24 maintain an infection control program.

64.25 Subd. 4. **Clinical nurse supervision.** All assisted living facilities must have a clinical
64.26 nurse supervisor who is a registered nurse licensed in Minnesota.

64.27 Subd. 5. **Resident councils.** The facility must provide a resident council with space and
64.28 privacy for meetings, where doing so is reasonably achievable. Staff, visitors, and other
64.29 guests may attend a resident council meeting only at the council's invitation. The facility
64.30 must designate a staff person who is approved by the resident council to be responsible for
64.31 providing assistance and responding to written requests that result from meetings. The

65.1 facility must consider the views of the resident council and must respond promptly to the
65.2 grievances and recommendations of the council, but a facility is not required to implement
65.3 as recommended every request of the council. The facility shall, with the approval of the
65.4 resident council, take reasonably achievable steps to make residents aware of upcoming
65.5 meetings in a timely manner.

65.6 Subd. 6. **Family councils.** The facility must provide a family council with space and
65.7 privacy for meetings, where doing so is reasonably achievable. The facility must designate
65.8 a staff person who is approved by the family council to be responsible for providing
65.9 assistance and responding to written requests that result from meetings. The facility must
65.10 consider the views of the family council and must respond promptly to the grievances and
65.11 recommendations of the council, but a facility is not required to implement as recommended
65.12 every request of the council. The facility shall, with the approval of the family council, take
65.13 reasonably achievable steps to make residents and family members aware of upcoming
65.14 meetings in a timely manner.

65.15 Subd. 7. **Resident grievances; reporting maltreatment.** All facilities must post in a
65.16 conspicuous place information about the facilities' grievance procedure, and the name,
65.17 telephone number, and e-mail contact information for the individuals who are responsible
65.18 for handling resident grievances. The notice must also have the contact information for the
65.19 state and applicable regional Office of Ombudsman for Long-Term Care and the Office of
65.20 Ombudsman for Mental Health and Developmental Disabilities, and must have information
65.21 for reporting suspected maltreatment to the Minnesota Adult Abuse Reporting Center.

65.22 Subd. 8. **Protecting resident rights.** All facilities shall ensure that every resident has
65.23 access to consumer advocacy or legal services by:

65.24 (1) providing names and contact information, including telephone numbers and e-mail
65.25 addresses of at least three organizations that provide advocacy or legal services to residents;

65.26 (2) providing the name and contact information for the Minnesota Office of Ombudsman
65.27 for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental
65.28 Disabilities, including both the state and regional contact information;

65.29 (3) assisting residents in obtaining information on whether Medicare or medical assistance
65.30 under chapter 256B will pay for services;

65.31 (4) making reasonable accommodations for people who have communication disabilities
65.32 and those who speak a language other than English; and

66.1 (5) providing all information and notices in plain language and in terms the residents
66.2 can understand.

66.3 Subd. 9. **Payment for services under disability waivers.** For new assisted living
66.4 facilities that did not operate as registered housing with services establishments prior to
66.5 August 1, 2021, home and community-based services under section 256B.49 are not available
66.6 when the new facility setting is adjoined to, or on the same property as, an institution as
66.7 defined in Code of Federal Regulations, title 42, section 441.301(c).

66.8 **EFFECTIVE DATE.** This section is effective August 1, 2021.

66.9 Sec. 12. **[144L.101] ASSISTED LIVING BILL OF RIGHTS.**

66.10 Subdivision 1. **Applicability.** This section applies to residents living in assisted living
66.11 facilities.

66.12 Subd. 2. **Legislative intent.** The rights established under this section for the benefit of
66.13 residents do not limit any other rights available under law. No facility may request or require
66.14 that any resident waive any of these rights at any time for any reason, including as a condition
66.15 of admission to the facility.

66.16 Subd. 3. **Information about rights.** Before receiving services, residents have the right
66.17 to be informed by the facility of the rights granted under this section and the recourse
66.18 residents have if rights are violated. The information must be in plain language and in terms
66.19 residents can understand. The facility must make reasonable accommodations for residents
66.20 who have communication disabilities and those who speak a language other than English.

66.21 Subd. 4. **Appropriate care and services.** (a) Residents have the right to care and assisted
66.22 living services that are appropriate based on the resident's needs and according to an
66.23 up-to-date service plan subject to accepted health care standards.

66.24 (b) Residents have the right to receive health care and other assisted living services with
66.25 continuity from people who are properly trained and competent to perform their duties and
66.26 in sufficient numbers to adequately provide the services agreed to in the assisted living
66.27 contract and the service plan.

66.28 Subd. 5. **Refusal of care or services.** Residents have the right to refuse care or assisted
66.29 living services and to be informed by the facility of the medical, health-related, or
66.30 psychological consequences of refusing care or services.

67.1 Subd. 6. **Participation in care and service planning.** Residents have the right to actively
67.2 participate in the planning, modification, and evaluation of their care and services. This
67.3 right includes:

67.4 (1) the opportunity to discuss care, services, treatment, and alternatives with the
67.5 appropriate caregivers;

67.6 (2) the right to include a family member or the resident's health care agent and designated
67.7 representative, or both; and

67.8 (3) the right to be told in advance of, and take an active part in decisions regarding, any
67.9 recommended changes in the service plan.

67.10 Subd. 7. **Courteous treatment.** Residents have the right to be treated with courtesy and
67.11 respect, and to have the resident's property treated with respect.

67.12 Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from physical,
67.13 sexual, and emotional abuse; neglect; financial exploitation; and all forms of maltreatment
67.14 covered under the Vulnerable Adults Act.

67.15 Subd. 9. **Right to come and go freely.** Residents have the right to enter and leave the
67.16 facility as they choose. This right may be restricted only as allowed by other law and
67.17 consistent with a resident's service plan.

67.18 Subd. 10. **Individual autonomy.** Residents have the right to individual autonomy,
67.19 initiative, and independence in making life choices, including establishing a daily schedule
67.20 and choosing with whom to interact.

67.21 Subd. 11. **Right to control resources.** Residents have the right to control personal
67.22 resources.

67.23 Subd. 12. **Visitors and social participation.** (a) Residents have the right to meet with
67.24 or receive visits at any time by the resident's family, guardian, conservator, health care
67.25 agent, attorney, advocate, or religious or social work counselor, or any person of the resident's
67.26 choosing. This right may be restricted in certain circumstances if necessary for the resident's
67.27 health and safety and if documented in the resident's service plan.

67.28 (b) Residents have the right to engage in community life and in activities of their choice.
67.29 This includes the right to participate in commercial, religious, social, community, and
67.30 political activities without interference and at their discretion if the activities do not infringe
67.31 on the rights of other residents.

68.1 Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to consideration
68.2 of their privacy, individuality, and cultural identity as related to their social, religious, and
68.3 psychological well-being. Staff must respect the privacy of a resident's space by knocking
68.4 on the door and seeking consent before entering, except in an emergency or where clearly
68.5 inadvisable or unless otherwise documented in the resident's service plan.

68.6 (b) Residents have the right to have and use a lockable door to the resident's unit. The
68.7 facility shall provide locks on the resident's unit. Only a staff member with a specific need
68.8 to enter the unit shall have keys. This right may be restricted in certain circumstances if
68.9 necessary for a resident's health and safety and documented in the resident's service plan.

68.10 (c) Residents have the right to respect and privacy regarding the resident's service plan.
68.11 Case discussion, consultation, examination, and treatment are confidential and must be
68.12 conducted discreetly. Privacy must be respected during toileting, bathing, and other activities
68.13 of personal hygiene, except as needed for resident safety or assistance.

68.14 Subd. 14. **Communication privacy.** (a) Residents have the right to communicate
68.15 privately with persons of their choice.

68.16 (b) If an assisted living facility is sending or receiving mail on behalf of residents, the
68.17 assisted living facility must do so without interference.

68.18 (c) Residents must be provided access to a telephone to make and receive calls.

68.19 Subd. 15. **Confidentiality of records.** (a) Residents have the right to have personal,
68.20 financial, health, and medical information kept private, to approve or refuse release of
68.21 information to any outside party, and to be advised of the assisted living facility's policies
68.22 and procedures regarding disclosure of the information. Residents must be notified when
68.23 personal records are requested by any outside party.

68.24 (b) Residents have the right to access their own records.

68.25 Subd. 16. **Right to furnish and decorate.** Residents have the right to furnish and decorate
68.26 the resident's unit within the terms of the assisted living contract.

68.27 Subd. 17. **Right to choose roommate.** Residents have the right to choose a roommate
68.28 if sharing a unit.

68.29 Subd. 18. **Right to access food.** Residents have the right to access food at any time.
68.30 This right may be restricted in certain circumstances if necessary for the resident's health
68.31 and safety and if documented in the resident's service plan.

69.1 Subd. 19. **Access to technology.** Residents have the right to access Internet service at
69.2 their expense.

69.3 Subd. 20. **Grievances and inquiries.** Residents have the right to make and receive a
69.4 timely response to a complaint or inquiry, without limitation. Residents have the right to
69.5 know and every facility must provide the name and contact information of the person
69.6 representing the facility who is designated to handle and resolve complaints and inquiries.

69.7 Subd. 21. **Access to counsel and advocacy services.** Residents have the right to the
69.8 immediate access by:

69.9 (1) the resident's legal counsel;

69.10 (2) any representative of the protection and advocacy system designated by the state
69.11 under Code of Federal Regulations, title 45, section 1326.21; or

69.12 (3) any representative of the Office of Ombudsman for Long-Term Care.

69.13 Subd. 22. **Information about charges.** Before services are initiated, residents have the
69.14 right to be notified:

69.15 (1) of all charges for housing and assisted living services;

69.16 (2) of any limits on housing and assisted living services available;

69.17 (3) if known, whether and what amount of payment may be expected from health
69.18 insurance, public programs, or other sources; and

69.19 (4) what charges the resident may be responsible for paying.

69.20 Subd. 23. **Information about individuals providing services.** Before receiving services
69.21 identified in the service plan, residents have the right to be told the type and disciplines of
69.22 staff who will be providing the services, the frequency of visits proposed to be furnished,
69.23 and other choices that are available for addressing the resident's needs.

69.24 Subd. 24. **Information about other providers and services.** Residents have the right
69.25 to be informed by the assisted living facility, prior to executing an assisted living contract,
69.26 that other public and private services may be available and that the resident has the right to
69.27 purchase, contract for, or obtain services from a provider other than the assisted living
69.28 facility.

69.29 Subd. 25. **Resident councils.** Residents have the right to organize and participate in
69.30 resident councils as described in section 144I.10, subdivision 5.

70.1 Subd. 26. **Family councils.** Residents have the right to participate in family councils
70.2 formed by families or residents as described in section 144I.10, subdivision 6.

70.3 **EFFECTIVE DATE.** This section is effective August 1, 2021.

70.4 Sec. 13. **[144I.11] HOUSING AND SERVICES.**

70.5 Subdivision 1. **Responsibility for housing and services.** The facility is directly
70.6 responsible to the resident for all housing and service-related matters provided, irrespective
70.7 of a management contract. Housing and service-related matters include but are not limited
70.8 to the handling of complaints, the provision of notices, and the initiation of any adverse
70.9 action against the resident involving housing or services provided by the facility.

70.10 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, all
70.11 assisted living facilities must provide to prospective residents, the prospective resident's
70.12 legal and designated representatives, and any other person or persons the resident chooses:

70.13 (1) a disclosure of the categories of assisted living licenses available and the category
70.14 of license held by the facility;

70.15 (2) a written checklist listing all services permitted under the facility's license, identifying
70.16 all services the facility offers to provide under the assisted living facility contract, and
70.17 identifying all services allowed under the license that the facility does not provide; and

70.18 (2) an oral explanation of the services offered under the contract.

70.19 (b) The requirements of paragraph (a) must be completed prior to the execution of the
70.20 assisted living contract.

70.21 (c) The commissioner must, in consultation with all interested stakeholders, design the
70.22 uniform checklist disclosure form for use as provided under paragraph (a).

70.23 Subd. 3. **Reservation of rights.** Nothing in this chapter:

70.24 (1) requires a resident to utilize any service provided by or through, or made available
70.25 in, a facility;

70.26 (2) prevents a facility from requiring, as a condition of the contract, that the resident pay
70.27 for a package of services even if the resident does not choose to use all or some of the
70.28 services in the package. For residents who are eligible for home and community-based
70.29 waiver services under sections 256B.0915 and 256B.49, payment for services will follow
70.30 the policies of those programs;

71.1 (3) requires a facility to fundamentally alter the nature of the operations of the facility
 71.2 in order to accommodate a resident's request; or

71.3 (4) affects the duty of a facility to grant a resident's request for reasonable
 71.4 accommodations.

71.5 **EFFECTIVE DATE.** This section is effective August 1, 2021.

71.6 Sec. 14. **[144I.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

71.7 Subdivision 1. **Transfers.** (a) All assisted living facilities must provide for the safe,
 71.8 orderly, and appropriate transfer of residents within the facility.

71.9 (b) If an assisted living contract permits resident transfers within a facility, the facility
 71.10 must comply with the notice requirements in subdivision 2.

71.11 (c) In situations where there is a curtailment, reduction, capital improvement, or change
 71.12 in operations within a facility, the facility must minimize the number of transfers needed
 71.13 to complete the project or change in operations, consider individual resident needs and
 71.14 preferences, and provide reasonable accommodation for individual resident requests regarding
 71.15 the room transfer. The facility must provide notice to the Office of Ombudsman for
 71.16 Long-Term Care and, when appropriate, the Office of Ombudsman for Mental Health and
 71.17 Developmental Disabilities in advance of any notice to residents, residents' legal and
 71.18 designated representatives, and families when all of the following circumstances apply:

71.19 (1) the transfers of residents within the facility are being proposed due to curtailment,
 71.20 reduction, capital improvements, or change in operations;

71.21 (2) the transfers of residents within the facility are not temporary moves to accommodate
 71.22 physical plan upgrades or renovation; and

71.23 (3) the transfers involve multiple residents being moved simultaneously.

71.24 **Subd. 2. Notice required before transfer within facility.** (a) A facility must:

71.25 (1) notify a resident and the resident's legal and designated representatives, if any, at
 71.26 least 30 calendar days prior to a proposed nonemergency transfer within the facility; and

71.27 (2) obtain consent from the resident or the resident's legal or designated representative,
 71.28 if any.

71.29 (b) A resident must be allowed to stay in the resident's room. If a resident consents to a
 71.30 move, any needed reasonable modifications must be made to the new room to accommodate
 71.31 the resident's disabilities.

72.1 Subd. 3. **Evaluation.** A facility shall evaluate the resident's individual needs before
72.2 deciding whether the room to which the resident will be moved fits the resident's
72.3 psychological, cognitive, and health care needs, including the accessibility of the bathroom.

72.4 Subd. 4. **Restriction on transfer.** A person who has been a private-pay resident for at
72.5 least one year and resides in a private room, and whose payments subsequently will be made
72.6 under the medical assistance program under chapter 256B, may not be relocated to a shared
72.7 room without the consent of the resident or the resident's legal or designated representative,
72.8 if any.

72.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

72.10 Sec. 15. **[144L.13] BUSINESS OPERATION.**

72.11 Subdivision 1. **Display of license.** The original current license must be displayed at the
72.12 main entrance of each assisted living facility. The facility must provide a copy of the license
72.13 to any person who requests it.

72.14 Subd. 2. **Quality management.** The facility shall engage in quality management
72.15 appropriate to the size of the facility and relevant to the type of services provided. The
72.16 quality management activity means evaluating the quality of care by periodically reviewing
72.17 resident services, complaints made, and other issues that have occurred and determining
72.18 whether changes in services, staffing, or other procedures need to be made in order to ensure
72.19 safe and competent services to residents. Documentation about quality management activity
72.20 must be available for two years. Information about quality management must be available
72.21 to the commissioner at the time of the survey, investigation, or renewal.

72.22 Subd. 3. **Facility restrictions.** (a) This subdivision does not apply to licensees that are
72.23 Minnesota counties or other units of government.

72.24 (b) A facility or staff person may not:

72.25 (1) accept a power-of-attorney from residents for any purpose, and may not accept
72.26 appointments as guardians or conservators of residents; or

72.27 (2) borrow a resident's funds or personal or real property, nor in any way convert a
72.28 resident's property to the possession of the facility or staff person.

72.29 (c) A facility may not serve as a resident's legal, designated, or other representative.

72.30 (d) Nothing in this subdivision precludes a facility or staff person from accepting gifts
72.31 of minimal value or precludes acceptance of donations or bequests made to a facility that
72.32 are exempt from section 501(c)(3) of the Internal Revenue Code.

73.1 Subd. 4. **Handling residents' finances and property.** (a) A facility may assist residents
73.2 with household budgeting, including paying bills and purchasing household goods, but may
73.3 not otherwise manage a resident's property.

73.4 (b) Where funds are deposited with the facility by the resident, the licensee:

73.5 (1) retains fiduciary and custodial responsibility for the funds;

73.6 (2) is directly accountable to the resident for the funds; and

73.7 (3) must maintain records of and provide a resident with receipts for all transactions and
73.8 purchases made with the resident's funds. When receipts are not available, the transaction
73.9 or purchase must be documented.

73.10 (c) Subject to paragraph (d), if responsibilities for day-to-day management of the resident
73.11 funds are delegated to the manager, the manager must:

73.12 (1) provide the licensee with a monthly accounting of the resident funds; and

73.13 (2) meet all legal requirements related to holding and accounting for resident funds.

73.14 (d) The facility must ensure any party responsible for holding or managing residents'
73.15 personal funds is bonded or obtains insurance in sufficient amounts to specifically cover
73.16 losses of resident funds and provides proof of the bond or insurance.

73.17 Subd. 5. **Final accounting; return of money and property.** Within 30 days of the
73.18 effective date of a facility-initiated or resident-initiated termination of housing or services
73.19 or the death of the resident, the facility must:

73.20 (1) provide to the resident, resident's legal representative, and resident's designated
73.21 representative a final statement of account;

73.22 (2) provide any refunds due;

73.23 (3) return any money, property, or valuables held in trust or custody by the facility; and

73.24 (4) as required under section 504B.178, refund the resident's security deposit unless it
73.25 is applied to the first month's charges.

73.26 Subd. 6. **Compliance with requirements for reporting maltreatment of vulnerable**
73.27 **adults; abuse prevention plan.** (a) The assisted living facility must comply with the
73.28 requirements for the reporting of maltreatment of vulnerable adults in section 626.557. The
73.29 facility must establish and implement a written procedure to ensure that all cases of suspected
73.30 maltreatment are reported.

74.1 (b) The facility must develop and implement an individual abuse prevention plan for
74.2 each vulnerable adult. The plan shall contain an individualized review or assessment of the
74.3 person's susceptibility to abuse by another individual, including other vulnerable adults; the
74.4 person's risk of abusing other vulnerable adults; and statements of the specific measures to
74.5 be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes
74.6 of the abuse prevention plan, abuse includes self-abuse.

74.7 Subd. 7. **Posting information for reporting suspected crime and maltreatment.** The
74.8 facility shall support protection and safety through access to the state's systems for reporting
74.9 suspected criminal activity and suspected vulnerable adult maltreatment by:

74.10 (1) posting the 911 emergency number in common areas and near telephones provided
74.11 by the assisted living facility;

74.12 (2) posting information and the reporting number for the Minnesota Adult Abuse
74.13 Reporting Center to report suspected maltreatment of a vulnerable adult under section
74.14 626.557; and

74.15 (3) providing reasonable accommodations with information and notices in plain language.

74.16 Subd. 8. **Employee records.** (a) The facility must maintain current records of each paid
74.17 employee, each regularly scheduled volunteer providing services, and each individual
74.18 contractor providing services. The records must include the following information:

74.19 (1) evidence of current professional licensure, registration, or certification if licensure,
74.20 registration, or certification is required by this chapter or rules;

74.21 (2) records of orientation, required annual training and infection control training, and
74.22 competency evaluations;

74.23 (3) current job description, including qualifications, responsibilities, and identification
74.24 of staff persons providing supervision;

74.25 (4) documentation of annual performance reviews that identify areas of improvement
74.26 needed and training needs;

74.27 (5) for individuals providing assisted living services, verification that required health
74.28 screenings under subdivision 9, have taken place and the dates of those screenings; and

74.29 (6) documentation of the background study as required under section 144.057.

74.30 (b) Each employee record must be retained for at least three years after a paid employee,
74.31 volunteer, or contractor ceases to be employed by, provide services at, or be under contract

75.1 with the facility. If a facility ceases operation, employee records must be maintained for
75.2 three years after facility operations cease.

75.3 Subd. 9. **Tuberculosis prevention and control.** The facility must establish and maintain
75.4 a comprehensive tuberculosis infection control program according to the most current
75.5 tuberculosis infection control guidelines issued by the United States Centers for Disease
75.6 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the
75.7 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a
75.8 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,
75.9 students, and regularly scheduled volunteers. The commissioner shall provide technical
75.10 assistance regarding implementation of the guidelines.

75.11 Subd. 10. **Disaster planning and emergency preparedness plan.** (a) The facility must
75.12 meet the following requirements:

75.13 (1) have a written emergency disaster plan that contains a plan for evacuation, addresses
75.14 elements of sheltering in place, identifies temporary relocation sites, and details staff
75.15 assignments in the event of a disaster or an emergency;

75.16 (2) post an emergency disaster plan prominently;

75.17 (3) provide building emergency exit diagrams to all residents;

75.18 (4) post emergency exit diagrams on each floor; and

75.19 (5) have a written policy and procedure regarding missing tenant residents.

75.20 (b) The facility must provide emergency and disaster training to all staff during the initial
75.21 staff orientation and annually thereafter and must make emergency and disaster training
75.22 annually available to all residents. Staff who have not received emergency and disaster
75.23 training are allowed to work only when trained staff are also working on site.

75.24 (c) The facility must meet any additional requirements adopted in rule.

75.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

75.26 Sec. 16. **[144L.14] STAFFING AND SUPERVISORY REQUIREMENTS.**

75.27 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing
75.28 assisted living services must be trained and competent in the provision of services consistent
75.29 with current practice standards appropriate to the resident's needs, and promote and be
75.30 trained to support the assisted living bill of rights.

76.1 Subd. 2. Licensed health professionals and nurses. (a) Licensed health professionals
76.2 and nurses providing services as employees of a licensed facility must possess a current
76.3 Minnesota license or registration to practice.

76.4 (b) Licensed health professionals and registered nurses must be competent in assessing
76.5 resident needs, planning appropriate services to meet resident needs, implementing services,
76.6 and supervising staff if assigned.

76.7 (c) Nothing in this section limits or expands the rights of nurses or licensed health
76.8 professionals to provide services within the scope of their licenses or registrations, as
76.9 provided by law.

76.10 Subd. 3. Unlicensed personnel. (a) Unlicensed personnel providing assisted living
76.11 services must have:

76.12 (1) successfully completed a training and competency evaluation appropriate to the
76.13 services provided by the facility and the topics listed in subdivision 10, paragraph (b); or

76.14 (2) demonstrated competency by satisfactorily completing a written or oral test on the
76.15 tasks the unlicensed personnel will perform and on the topics listed in subdivision 10,
76.16 paragraph (b); and successfully demonstrated competency of topics in subdivision 10,
76.17 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

76.18 Unlicensed personnel who only provide assisted living services listed in section 144I.01,
76.19 subdivision 9, clauses (1) to (5), shall not perform delegated nursing or therapy tasks.

76.20 (b) Unlicensed personnel performing delegated nursing tasks in an assisted living facility
76.21 must:

76.22 (1) have successfully completed training and demonstrated competency by successfully
76.23 completing a written or oral test of the topics in subdivision 10, paragraphs (b) and (c), and
76.24 a practical skills test on tasks listed in subdivision 10, paragraphs (b), clauses (5) and (7),
76.25 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

76.26 (2) satisfy the current requirements of Medicare for training or competency of home
76.27 health aides or nursing assistants, as provided by Code of Federal Regulations, title 42,
76.28 section 483 or 484.36; or

76.29 (3) have, before April 19, 1993, completed a training course for nursing assistants that
76.30 was approved by the commissioner.

76.31 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned
76.32 by a licensed health professional must meet the requirements for delegated tasks in

77.1 subdivision 7 and any other training or competency requirements within the licensed health
77.2 professional's scope of practice relating to delegation or assignment of tasks to unlicensed
77.3 personnel.

77.4 Subd. 4. **Availability of contact person to staff.** (a) Assisted living facilities must have
77.5 a registered nurse available for consultation to staff performing delegated nursing tasks and
77.6 must have an appropriate licensed health professional available if performing other delegated
77.7 services such as therapies.

77.8 (b) The appropriate contact person must be readily available either in person, by
77.9 telephone, or by other means to the staff at times when the staff is providing services.

77.10 Subd. 5. **Supervision of staff.** (a) Staff who only provide assisted living services specified
77.11 in section 144I.01, subdivision 9, clauses (1) to (5), must be supervised periodically where
77.12 the services are being provided to verify that the work is being performed competently and
77.13 to identify problems and solutions to address issues relating to the staff's ability to provide
77.14 the services. The supervision of the unlicensed personnel must be done by staff of the facility
77.15 having the authority, skills, and ability to provide the supervision of unlicensed personnel
77.16 and who can implement changes as needed, and train staff.

77.17 (b) Supervision includes direct observation of unlicensed personnel while the unlicensed
77.18 personnel are providing the services and may also include indirect methods of gaining input
77.19 such as gathering feedback from the resident. Supervisory review of staff must be provided
77.20 at a frequency based on the staff person's competency and performance.

77.21 Subd. 6. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff
77.22 who perform delegated nursing or therapy tasks must be supervised by an appropriate
77.23 licensed health professional or a registered nurse according to the assisted living facility's
77.24 policy where the services are being provided to verify that the work is being performed
77.25 competently and to identify problems and solutions related to the staff person's ability to
77.26 perform the tasks. Supervision of staff performing medication or treatment administration
77.27 shall be provided by a registered nurse or appropriate licensed health professional and must
77.28 include observation of the staff administering the medication or treatment and the interaction
77.29 with the resident.

77.30 (b) The direct supervision of staff performing delegated tasks must be provided within
77.31 30 calendar days after the date on which the individual begins working for the facility and
77.32 first performs the delegated tasks for residents and thereafter as needed based on performance.
77.33 This requirement also applies to staff who have not performed delegated tasks for one year
77.34 or longer.

78.1 Subd. 7. **Delegation of assisted living services.** A registered nurse or licensed health
78.2 professional may delegate tasks only to staff who are competent and possess the knowledge
78.3 and skills consistent with the complexity of the tasks and according to the appropriate
78.4 Minnesota practice act. The assisted living facility must establish and implement a system
78.5 to communicate up-to-date information to the registered nurse or licensed health professional
78.6 regarding the current available staff and their competency so the registered nurse or licensed
78.7 health professional has sufficient information to determine the appropriateness of delegating
78.8 tasks to meet individual resident needs and preferences.

78.9 Subd. 8. **Documentation.** A facility must retain documentation of supervision activities
78.10 in the personnel records.

78.11 Subd. 9. **Temporary staff.** When a facility contracts with a temporary staffing agency,
78.12 those individuals must meet the same requirements required by this section for personnel
78.13 employed by the facility and shall be treated as if they are staff of the facility.

78.14 Subd. 10. **Instructor and competency evaluation requirements; training for**
78.15 **unlicensed personnel.** (a) Instructors and competency evaluators must meet the following
78.16 requirements:

78.17 (1) training and competency evaluations of unlicensed personnel who only provide
78.18 assisted living services specified in section 144I.01, subdivision 9, clauses (1) to (5), must
78.19 be conducted by individuals with work experience and training in providing these services;
78.20 and

78.21 (2) training and competency evaluations of unlicensed personnel providing assisted
78.22 living services must be conducted by a registered nurse, or another instructor may provide
78.23 training in conjunction with the registered nurse.

78.24 (b) Training and competency evaluations for all unlicensed personnel must include the
78.25 following:

78.26 (1) documentation requirements for all services provided;

78.27 (2) reports of changes in the resident's condition to the supervisor designated by the
78.28 facility;

78.29 (3) basic infection control, including blood-borne pathogens;

78.30 (4) maintenance of a clean and safe environment;

78.31 (5) appropriate and safe techniques in personal hygiene and grooming, including:

78.32 (i) hair care and bathing;

- 79.1 (ii) care of teeth, gums, and oral prosthetic devices;
- 79.2 (iii) care and use of hearing aids; and
- 79.3 (iv) dressing and assisting with toileting;
- 79.4 (6) training on the prevention of falls;
- 79.5 (7) standby assistance techniques and how to perform them;
- 79.6 (8) medication, exercise, and treatment reminders;
- 79.7 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 79.8 (10) preparation of modified diets as ordered by a licensed health professional;
- 79.9 (11) communication skills that include preserving the dignity of the resident and showing
- 79.10 respect for the resident and the resident's preferences, cultural background, and family;
- 79.11 (12) awareness of confidentiality and privacy;
- 79.12 (13) understanding appropriate boundaries between staff and residents and the resident's
- 79.13 family;
- 79.14 (14) procedures to use in handling various emergency situations; and
- 79.15 (15) awareness of commonly used health technology equipment and assistive devices.
- 79.16 (c) In addition to paragraph (b), training and competency evaluation for unlicensed
- 79.17 personnel providing assisted living services must include:
- 79.18 (1) observing, reporting, and documenting resident status;
- 79.19 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
- 79.20 other observed changes that must be reported to appropriate personnel;
- 79.21 (3) reading and recording temperature, pulse, and respirations of the resident;
- 79.22 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
- 79.23 (5) safe transfer techniques and ambulation;
- 79.24 (6) range of motioning and positioning; and
- 79.25 (7) administering medications or treatments as required.
- 79.26 (d) When the registered nurse or licensed health professional delegates tasks, that person
- 79.27 must ensure that prior to the delegation the unlicensed personnel is trained in the proper
- 79.28 methods to perform the tasks or procedures for each resident and are able to demonstrate
- 79.29 the ability to competently follow the procedures and perform the tasks. If an unlicensed

80.1 personnel has not regularly performed the delegated assisted living task for a period of 24
80.2 consecutive months, the unlicensed personnel must demonstrate competency in the task to
80.3 the registered nurse or appropriate licensed health professional. The registered nurse or
80.4 licensed health professional must document instructions for the delegated tasks in the
80.5 resident's record.

80.6 **EFFECTIVE DATE.** This section is effective August 1, 2021.

80.7 Sec. 17. **[144I.15] REQUIRED NOTICES.**

80.8 Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) An assisted
80.9 living facility must provide the resident, legal representative, and designated representative
80.10 a written notice of the rights under section 144I.101 before the initiation of services to that
80.11 resident. The facility shall make all reasonable efforts to provide notice of the rights to the
80.12 resident and the legal and designated representatives in a language the resident and legal
80.13 and designated representatives can understand.

80.14 (b) In addition to the text of the assisted living bill of rights in section 144I.101, the
80.15 notice shall also contain the following statement describing how to file a complaint or report
80.16 suspected abuse.

80.17 "If you want to report suspected abuse, neglect, or financial exploitation, you may contact
80.18 the Minnesota Adult Abuse Reporting Center (MAARC). If you have a complaint about
80.19 the facility or person providing your services, you may contact the Office of Health Facility
80.20 Complaints, Minnesota Department of Health. You may also contact the Office of
80.21 Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and
80.22 Developmental Disabilities."

80.23 (c) The statement must include contact information for the Minnesota Adult Abuse
80.24 Reporting Center and the telephone number, website address, e-mail address, mailing
80.25 address, and street address of the Office of Health Facility Complaints at the Minnesota
80.26 Department of Health, the Office of Ombudsman for Long-Term Care, and the Office of
80.27 Ombudsman for Mental Health and Developmental Disabilities. The statement must include
80.28 the facility's name, address, e-mail, telephone number, and name or title of the person at
80.29 the facility to whom problems or complaints may be directed. It must also include a statement
80.30 that the facility will not retaliate because of a complaint.

80.31 (d) A facility must obtain written acknowledgment of the resident's receipt of the assisted
80.32 living bill of rights or shall document why an acknowledgment cannot be obtained. The

81.1 acknowledgment may be obtained from the resident, legal representative, or designated
81.2 representative. Acknowledgment of receipt shall be retained in the resident's record.

81.3 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide
81.4 all notices in plain language that residents can understand and make reasonable
81.5 accommodations for residents who have communication disabilities and those whose primary
81.6 language is a language other than English.

81.7 Subd. 3. **Notice of dementia training.** An assisted living facility with dementia care
81.8 shall make available in written or electronic form, to residents and families or other persons
81.9 who request it, a description of the training program and related training it provides, including
81.10 the categories of employees trained, the frequency of training, and the basic topics covered.
81.11 A hard copy of this notice must be provided upon request.

81.12 Subd. 4. **Notice of available assistance.** A facility shall provide each resident with
81.13 identifying and contact information about the persons who can assist with health care or
81.14 supportive services being provided. A facility shall keep each resident informed of changes
81.15 in the personnel referenced in this subdivision.

81.16 Subd. 5. **Notice to residents; change in ownership or management.** (a) A facility must
81.17 provide written notice to the resident, legal representative, or designated representative of
81.18 a change of ownership within seven calendar days after the facility receives a new license.

81.19 (b) A facility must provide prompt written notice to the resident and, as applicable, legal
81.20 representative or designated representative, of any change of legal name, telephone number,
81.21 and physical mailing address, which may not be a public or private post office box, of:

81.22 (1) the manager of the facility, if applicable; and

81.23 (2) the authorized agent.

81.24 **EFFECTIVE DATE.** This section is effective August 1, 2021.

81.25 Sec. 18. **[144L.16] SERVICES.**

81.26 Subdivision 1. **Acceptance of residents.** An assisted living facility may not accept a
81.27 person as a resident unless the facility has staff, sufficient in qualifications, competency,
81.28 and numbers, to adequately provide the services agreed to in the assisted living contract.

81.29 Subd. 2. **Initial reviews, assessments, and monitoring.** (a) Residents who are not
81.30 receiving any services shall not be required to undergo an initial nursing assessment.

81.31 (b) An assisted living facility shall conduct a nursing assessment by a registered nurse
81.32 of the physical and cognitive needs of the prospective resident and propose a temporary

82.1 service plan prior to the date on which a prospective resident executes a contract with a
82.2 facility or the date on which a prospective resident moves in, whichever is earlier. If
82.3 necessitated by either the geographic distance between the prospective resident and the
82.4 facility, or urgent or unexpected circumstances, the assessment may be conducted using
82.5 telecommunication methods based on practice standards that meet the resident's needs and
82.6 reflect person-centered planning and care delivery.

82.7 (c) Resident reassessment and monitoring must be conducted no more than 14 calendar
82.8 days after initiation of services. Ongoing resident reassessment and monitoring must be
82.9 conducted as needed based on changes in the needs of the resident and cannot exceed 90
82.10 calendar days from the last date of the assessment.

82.11 (d) For residents only receiving assisted living services specified in section 144I.01,
82.12 subdivision 9, clauses (1) to (5), the facility shall complete an individualized initial review
82.13 of the resident's needs and preferences. The initial review must be completed within 30
82.14 calendar days of the start of services. Resident monitoring and review must be conducted
82.15 as needed based on changes in the needs of the resident and cannot exceed 90 calendar days
82.16 from the date of the last review.

82.17 (e) A facility must inform the prospective resident of the availability of and contact
82.18 information for long-term care consultation services under section 256B.0911, prior to the
82.19 date on which a prospective resident executes a contract with a facility or the date on which
82.20 a prospective resident moves in, whichever is earlier.

82.21 Subd. 3. **Temporary service plan.** When a facility initiates services and the
82.22 individualized assessment required in subdivision 2 has not been completed, the facility
82.23 must complete a temporary plan and agreement with the resident for services. A temporary
82.24 service plan shall not be effective for more than 72 hours.

82.25 Subd. 4. **Service plan, implementation, and revisions to service plan.** (a) No later
82.26 than 14 calendar days after the date that services are first provided, an assisted living facility
82.27 shall finalize a current written service plan.

82.28 (b) The service plan and any revisions must include a signature or other authentication
82.29 by the facility and by the resident documenting agreement on the services to be provided.
82.30 The service plan must be revised, if needed, based on resident reassessment under subdivision
82.31 2. The facility must provide information to the resident about changes to the facility's fee
82.32 for services and how to contact the Office of Ombudsman for Long-Term Care.

82.33 (c) The facility must implement and provide all services required by the current service
82.34 plan.

83.1 (d) The service plan and the revised service plan must be entered into the resident record,
83.2 including notice of a change in a resident's fees when applicable.

83.3 (e) Staff providing services must be informed of the current written service plan.

83.4 (f) The service plan must include:

83.5 (1) a description of the services to be provided, the fees for services, and the frequency
83.6 of each service, according to the resident's current assessment and resident preferences;

83.7 (2) the identification of staff or categories of staff who will provide the services;

83.8 (3) the schedule and methods of monitoring assessments of the resident;

83.9 (4) the schedule and methods of monitoring staff providing services; and

83.10 (5) a contingency plan that includes:

83.11 (i) the action to be taken by the facility and by the resident and the designated
83.12 representative if the scheduled service cannot be provided;

83.13 (ii) information and a method for a resident to contact the facility;

83.14 (iii) the names and contact information of persons the resident wishes to have notified
83.15 in an emergency or if there is a significant adverse change in the resident's condition,
83.16 including identification of and information as to who has authority to sign for the resident
83.17 in an emergency; and

83.18 (iv) the circumstances in which emergency medical services are not to be summoned
83.19 consistent with chapters 145B and 145C, and declarations made by the resident under those
83.20 chapters.

83.21 Subd. 5. **Referrals.** If a facility reasonably believes that a resident is in need of another
83.22 medical or health service, including a licensed health professional, or social service provider,
83.23 the facility shall:

83.24 (1) determine the resident's preferences with respect to obtaining the service; and

83.25 (2) inform the resident of the resources available, if known, to assist the resident in
83.26 obtaining services.

83.27 Subd. 6. **Medical cannabis.** Assisted living facilities may exercise the authority and are
83.28 subject to the protections in section 152.34.

83.29 Subd. 7. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,
83.30 family member, or other caregiver of the resident requests that an employee or other agent

84.1 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the
84.2 request:

84.3 (1) shall take no action to discontinue the treatment; and

84.4 (2) shall promptly inform the supervisor or other agent of the facility of the resident's
84.5 request.

84.6 (b) Upon being informed of a request for discontinuance of treatment, the facility shall
84.7 promptly:

84.8 (1) inform the resident that the request will be made known to the physician or advanced
84.9 practice registered nurse who ordered the resident's treatment;

84.10 (2) inform the physician or advanced practice registered nurse of the resident's request;
84.11 and

84.12 (3) work with the resident and the resident's physician or advanced practice registered
84.13 nurse to comply with chapter 145C.

84.14 (c) This section does not require the facility to discontinue treatment, except as may be
84.15 required by law or court order.

84.16 (d) This section does not diminish the rights of residents to control their treatments,
84.17 refuse services, or terminate their relationships with the facility.

84.18 (e) This section shall be construed in a manner consistent with chapter 145B or 145C,
84.19 whichever applies, and declarations made by residents under those chapters.

84.20 Subd. 8. **Applicability of other law.** Assisted living facilities are subject to and must
84.21 comply with chapter 504B.

84.22 **EFFECTIVE DATE.** This section is effective August 1, 2021.

84.23 Sec. 19. **[144L.17] MEDICATION MANAGEMENT.**

84.24 Subdivision 1. **Medication management services.** (a) This section applies only to
84.25 assisted living facilities that provide medication management services.

84.26 (b) An assisted living facility that provides medication management services must
84.27 develop, implement, and maintain current written medication management policies and
84.28 procedures. The policies and procedures must be developed under the supervision and
84.29 direction of a registered nurse, licensed health professional, or pharmacist consistent with
84.30 current practice standards and guidelines.

85.1 (c) The written policies and procedures must address requesting and receiving
85.2 prescriptions for medications; preparing and giving medications; verifying that prescription
85.3 drugs are administered as prescribed; documenting medication management activities;
85.4 controlling and storing medications; monitoring and evaluating medication use; resolving
85.5 medication errors; communicating with the prescriber, pharmacist, and resident and legal
85.6 and designated representatives; disposing of unused medications; and educating residents
85.7 and legal and designated representatives about medications. When controlled substances
85.8 are being managed, the policies and procedures must also identify how the provider will
85.9 ensure security and accountability for the overall management, control, and disposition of
85.10 those substances in compliance with state and federal regulations and with subdivision 23.

85.11 Subd. 2. **Provision of medication management services.** (a) For each resident who
85.12 requests medication management services, the facility shall, prior to providing medication
85.13 management services, have a registered nurse, licensed health professional, or authorized
85.14 prescriber under section 151.37 conduct an assessment to determine what medication
85.15 management services will be provided and how the services will be provided. This assessment
85.16 must be conducted face-to-face with the resident. The assessment must include an
85.17 identification and review of all medications the resident is known to be taking. The review
85.18 and identification must include indications for medications, side effects, contraindications,
85.19 allergic or adverse reactions, and actions to address these issues.

85.20 (b) The assessment must identify interventions needed in management of medications
85.21 to prevent diversion of medication by the resident or others who may have access to the
85.22 medications and provide instructions to the resident and legal and designated representatives
85.23 on interventions to manage the resident's medications and prevent diversion of medications.
85.24 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or
85.25 improper disposition of medications.

85.26 Subd. 3. **Individualized medication monitoring and reassessment.** The assisted living
85.27 facility must monitor and reassess the resident's medication management services as needed
85.28 under subdivision 2 when the resident presents with symptoms or other issues that may be
85.29 medication-related and, at a minimum, annually.

85.30 Subd. 4. **Resident refusal.** The assisted living facility must document in the resident's
85.31 record any refusal for an assessment for medication management by the resident. The facility
85.32 must discuss with the resident the possible consequences of the resident's refusal and
85.33 document the discussion in the resident's record.

86.1 Subd. 5. Individualized medication management plan. (a) For each resident receiving
86.2 medication management services, the assisted living facility must prepare and include in
86.3 the service plan a written statement of the medication management services that will be
86.4 provided to the resident. The facility must develop and maintain a current individualized
86.5 medication management record for each resident based on the resident's assessment that
86.6 must contain the following:

86.7 (1) a statement describing the medication management services that will be provided;

86.8 (2) a description of storage of medications based on the resident's needs and preferences,
86.9 risk of diversion, and consistent with the manufacturer's directions;

86.10 (3) documentation of specific resident instructions relating to the administration of
86.11 medications;

86.12 (4) identification of persons responsible for monitoring medication supplies and ensuring
86.13 that medication refills are ordered on a timely basis;

86.14 (5) identification of medication management tasks that may be delegated to unlicensed
86.15 personnel;

86.16 (6) procedures for staff notifying a registered nurse or appropriate licensed health
86.17 professional when a problem arises with medication management services; and

86.18 (7) any resident-specific requirements relating to documenting medication administration,
86.19 verifications that all medications are administered as prescribed, and monitoring of
86.20 medication use to prevent possible complications or adverse reactions.

86.21 (b) The medication management record must be current and updated when there are any
86.22 changes.

86.23 (c) Medication reconciliation must be completed when a licensed nurse, licensed health
86.24 professional, or authorized prescriber is providing medication management.

86.25 Subd. 6. Administration of medication. Medications may be administered by a nurse,
86.26 physician, or other licensed health practitioner authorized to administer medications or by
86.27 unlicensed personnel who have been delegated medication administration tasks by a
86.28 registered nurse.

86.29 Subd. 7. Delegation of medication administration. When administration of medications
86.30 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered
86.31 nurse has:

87.1 (1) instructed the unlicensed personnel in the proper methods to administer the
87.2 medications, and the unlicensed personnel has demonstrated the ability to competently
87.3 follow the procedures;

87.4 (2) specified, in writing, specific instructions for each resident and documented those
87.5 instructions in the resident's records; and

87.6 (3) communicated with the unlicensed personnel about the individual needs of the
87.7 resident.

87.8 **Subd. 8. Documentation of administration of medications.** Each medication
87.9 administered by the assisted living facility staff must be documented in the resident's record.
87.10 The documentation must include the signature and title of the person who administered the
87.11 medication. The documentation must include the medication name, dosage, date and time
87.12 administered, and method and route of administration. The staff must document the reason
87.13 why medication administration was not completed as prescribed and document any follow-up
87.14 procedures that were provided to meet the resident's needs when medication was not
87.15 administered as prescribed and in compliance with the resident's medication management
87.16 plan.

87.17 **Subd. 9. Documentation of medication setup.** Documentation of dates of medication
87.18 setup, name of medication, quantity of dose, times to be administered, route of administration,
87.19 and name of person completing medication setup must be done at the time of setup.

87.20 **Subd. 10. Medication management for residents who will be away from home. (a)**
87.21 An assisted living facility that is providing medication management services to the resident
87.22 must develop and implement policies and procedures for giving accurate and current
87.23 medications to residents for planned or unplanned times away from home according to the
87.24 resident's individualized medication management plan. The policies and procedures must
87.25 state that:

87.26 (1) for planned time away, the medications must be obtained from the pharmacy or set
87.27 up by the licensed nurse according to appropriate state and federal laws and nursing standards
87.28 of practice;

87.29 (2) for unplanned time away, when the pharmacy is not able to provide the medications,
87.30 a licensed nurse or unlicensed personnel shall give the resident or a legal representative
87.31 medications in amounts and dosages needed for the length of the anticipated absence, not
87.32 to exceed seven calendar days;

88.1 (3) the resident and a legal or designated representative must be provided written
88.2 information on medications, including any special instructions for administering or handling
88.3 the medications, including controlled substances;

88.4 (4) the medications must be placed in a medication container or containers appropriate
88.5 to the provider's medication system and must be labeled with the resident's name and the
88.6 dates and times that the medications are scheduled; and

88.7 (5) the resident and legal and designated representative must be provided in writing the
88.8 facility's name and information on how to contact the facility.

88.9 (b) For unplanned time away when the licensed nurse is not available, the registered
88.10 nurse may delegate this task to unlicensed personnel if:

88.11 (1) the registered nurse has trained the unlicensed staff and determined the unlicensed
88.12 staff is competent to follow the procedures for giving medications to residents; and

88.13 (2) the registered nurse has developed written procedures for the unlicensed personnel,
88.14 including any special instructions or procedures regarding controlled substances that are
88.15 prescribed for the resident. The procedures must address:

88.16 (i) the type of container or containers to be used for the medications appropriate to the
88.17 provider's medication system;

88.18 (ii) how the container or containers must be labeled;

88.19 (iii) written information about the medications to be given to the resident or designated
88.20 representative;

88.21 (iv) how the unlicensed staff must document in the resident's record that medications
88.22 have been given to the resident and the designated representative, including documenting
88.23 the date the medications were given to the resident or the designated representative and who
88.24 received the medications, the person who gave the medications to the resident, the number
88.25 of medications that were given to the resident, and other required information;

88.26 (v) how the registered nurse shall be notified that medications have been given to the
88.27 resident or designated representative and whether the registered nurse needs to be contacted
88.28 before the medications are given to the resident or the designated representative;

88.29 (vi) a review by the registered nurse of the completion of this task to verify that this task
88.30 was completed accurately by the unlicensed personnel; and

89.1 (vii) how the unlicensed personnel must document in the resident's record any unused
89.2 medications that are returned to the facility, including the name of each medication and the
89.3 doses of each returned medication.

89.4 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must
89.5 determine whether the facility shall require a prescription for all medications the provider
89.6 manages. The facility must inform the resident and the legal and designated representatives
89.7 whether the facility requires a prescription for all over-the-counter and dietary supplements
89.8 before the facility agrees to manage those medications.

89.9 Subd. 12. **Medications; over-the-counter drugs; dietary supplements not**
89.10 **prescribed.** An assisted living facility providing medication management services for
89.11 over-the-counter drugs or dietary supplements must retain those items in the original labeled
89.12 container with directions for use prior to setting up for immediate or later administration.
89.13 The facility must verify that the medications are up to date and stored as appropriate.

89.14 Subd. 13. **Prescriptions.** There must be a current written or electronically recorded
89.15 prescription as defined in section 151.01, subdivision 16a, for all prescribed medications
89.16 that the assisted living facility is managing for the resident.

89.17 Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12
89.18 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions
89.19 for controlled substances must comply with chapter 152.

89.20 Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized
89.21 prescriber must be received by a nurse or pharmacist. The order must be handled according
89.22 to Minnesota Rules, part 6800.6200.

89.23 Subd. 16. **Written or electronic prescription.** When a written or electronic prescription
89.24 is received, it must be communicated to the registered nurse in charge and recorded or placed
89.25 in the resident's record.

89.26 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,
89.27 or electronically must be kept confidential according to sections 144.291 to 144.298 and
89.28 144A.44.

89.29 Subd. 18. **Medications provided by resident or family members.** When the assisted
89.30 living facility is aware of any medications or dietary supplements that are being used by
89.31 the resident and are not included in the assessment for medication management services,
89.32 the staff must advise the registered nurse and document that in the resident record.

90.1 Subd. 19. **Storage of medications.** An assisted living facility must store all prescription
90.2 medications in securely locked and substantially constructed compartments according to
90.3 the manufacturer's directions and permit only authorized personnel to have access.

90.4 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate
90.5 or later administration, must be kept in the original container in which it was dispensed by
90.6 the pharmacy bearing the original prescription label with legible information including the
90.7 expiration or beyond-use date of a time-dated drug.

90.8 Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or
90.9 saved for use by anyone other than the resident.

90.10 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by
90.11 the assisted living facility must be given to the resident or the designated representative
90.12 when the resident's service plan ends or medication management services are no longer part
90.13 of the service plan. Medications for a resident who is deceased or that have been discontinued
90.14 or have expired may be given to the resident or the designated representative for disposal.

90.15 (b) The facility shall dispose of any medications remaining with the facility that are
90.16 discontinued or expired or upon the termination of the service contract or the resident's
90.17 death according to state and federal regulations for disposition of medications and controlled
90.18 substances.

90.19 (c) Upon disposition, the facility must document in the resident's record the disposition
90.20 of the medication including the medication's name, strength, prescription number as
90.21 applicable, quantity, to whom the medications were given, date of disposition, and names
90.22 of staff and other individuals involved in the disposition.

90.23 Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication
90.24 management must develop and implement procedures for loss or spillage of all controlled
90.25 substances defined in Minnesota Rules, part 6800.4220. These procedures must require that
90.26 when a spillage of a controlled substance occurs, a notation must be made in the resident's
90.27 record explaining the spillage and the actions taken. The notation must be signed by the
90.28 person responsible for the spillage and include verification that any contaminated substance
90.29 was disposed of according to state or federal regulations.

90.30 (b) The procedures must require that the facility providing medication management
90.31 investigate any known loss or unaccounted for prescription drugs and take appropriate action
90.32 required under state or federal regulations and document the investigation in required records.

90.33 **EFFECTIVE DATE.** This section is effective August 1, 2021.

91.1 Sec. 20. **[144I.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

91.2 **Subdivision 1. Treatment and therapy management services.** This section applies
91.3 only to assisted living facilities that provide treatment and therapy management services.

91.4 **Subd. 2. Policies and procedures.** (a) An assisted living facility that provides treatment
91.5 and therapy management services must develop, implement, and maintain up-to-date written
91.6 treatment or therapy management policies and procedures. The policies and procedures
91.7 must be developed under the supervision and direction of a registered nurse or appropriate
91.8 licensed health professional consistent with current practice standards and guidelines.

91.9 (b) The written policies and procedures must address requesting and receiving orders
91.10 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting
91.11 treatment or therapy activities, educating and communicating with residents about treatments
91.12 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and
91.13 communicating with the prescriber.

91.14 **Subd. 3. Individualized treatment or therapy management plan.** For each resident
91.15 receiving management of ordered or prescribed treatments or therapy services, the assisted
91.16 living facility must prepare and include in the service plan a written statement of the treatment
91.17 or therapy services that will be provided to the resident. The facility must also develop and
91.18 maintain a current individualized treatment and therapy management record for each resident
91.19 which must contain at least the following:

91.20 (1) a statement of the type of services that will be provided;

91.21 (2) documentation of specific resident instructions relating to the treatments or therapy
91.22 administration;

91.23 (3) identification of treatment or therapy tasks that will be delegated to unlicensed
91.24 personnel;

91.25 (4) procedures for notifying a registered nurse or appropriate licensed health professional
91.26 when a problem arises with treatments or therapy services; and

91.27 (5) any resident-specific requirements relating to documentation of treatment and therapy
91.28 received, verification that all treatment and therapy was administered as prescribed, and
91.29 monitoring of treatment or therapy to prevent possible complications or adverse reactions.
91.30 The treatment or therapy management record must be current and updated when there are
91.31 any changes.

91.32 **Subd. 4. Administration of treatments and therapy.** Ordered or prescribed treatments
91.33 or therapies must be administered by a nurse, physician, or other licensed health professional

92.1 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
92.2 personnel by the licensed health professional according to the appropriate practice standards
92.3 for delegation or assignment. When administration of a treatment or therapy is delegated
92.4 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or
92.5 authorized licensed health professional has:

92.6 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
92.7 and the unlicensed personnel has demonstrated the ability to competently follow the
92.8 procedures;

92.9 (2) specified, in writing, specific instructions for each resident and documented those
92.10 instructions in the resident's record; and

92.11 (3) communicated with the unlicensed personnel about the individual needs of the
92.12 resident.

92.13 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment
92.14 or therapy administered by an assisted living facility must be in the resident record. The
92.15 documentation must include the signature and title of the person who administered the
92.16 treatment or therapy and must include the date and time of administration. When treatment
92.17 or therapies are not administered as ordered or prescribed, the provider must document the
92.18 reason why it was not administered and any follow-up procedures that were provided to
92.19 meet the resident's needs.

92.20 Subd. 6. **Treatment and therapy orders.** There must be an up-to-date written or
92.21 electronically recorded order from an authorized prescriber for all treatments and therapies.
92.22 The order must contain the name of the resident, a description of the treatment or therapy
92.23 to be provided, and the frequency, duration, and other information needed to administer the
92.24 treatment or therapy. Treatment and therapy orders must be renewed at least every 12
92.25 months.

92.26 Subd. 7. **Right to outside service provider; other payors.** Under section 144I.101, a
92.27 resident is free to retain therapy and treatment services from an off-site service provider.
92.28 Assisted living facilities must make every effort to assist residents in obtaining information
92.29 regarding whether the Medicare program, the medical assistance program under chapter
92.30 256B, or another public program will pay for any or all of the services.

92.31 **EFFECTIVE DATE.** This section is effective August 1, 2021.

93.1 Sec. 21. [144I.19] RESIDENT RECORD REQUIREMENTS.

93.2 Subdivision 1. Resident record. (a) Assisted living facilities must maintain records for
93.3 each resident for whom it is providing services. Entries in the resident records must be
93.4 current, legible, permanently recorded, dated, and authenticated with the name and title of
93.5 the person making the entry.

93.6 (b) Resident records, whether written or electronic, must be protected against loss,
93.7 tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable
93.8 relevant federal and state laws. The facility shall establish and implement written procedures
93.9 to control use, storage, and security of resident records and establish criteria for release of
93.10 resident information.

93.11 (c) The facility may not disclose to any other person any personal, financial, or medical
93.12 information about the resident, except:

93.13 (1) as may be required by law;

93.14 (2) to employees or contractors of the facility, another facility, other health care
93.15 practitioner or provider, or inpatient facility needing information in order to provide services
93.16 to the resident, but only the information that is necessary for the provision of services;

93.17 (3) to persons authorized in writing by the resident or the legal representative to receive
93.18 the information, including third-party payers; and

93.19 (4) to representatives of the commissioner authorized to survey or investigate facilities
93.20 under this chapter or federal laws.

93.21 Subd. 2. Access to records. The facility must ensure that the appropriate records are
93.22 readily available to employees and contractors authorized to access the records. Resident
93.23 records must be maintained in a manner that allows for timely access, printing, or
93.24 transmission of the records. The records must be made readily available to the commissioner
93.25 upon request.

93.26 Subd. 3. Contents of resident record. Contents of a resident record include the following
93.27 for each resident:

93.28 (1) identifying information, including the resident's name, date of birth, address, and
93.29 telephone number;

93.30 (2) the name, address, and telephone number of an emergency contact, family members,
93.31 designated representative, if any, legal representative, if any, or others as identified;

94.1 (3) names, addresses, and telephone numbers of the resident's health and medical service
94.2 providers, if known;

94.3 (4) health information, including medical history, allergies, and when the provider is
94.4 managing medications, treatments or therapies that require documentation, and other relevant
94.5 health records;

94.6 (5) the resident's advance directives, if any;

94.7 (6) copies of any health care directives, guardianships, powers of attorney, or
94.8 conservatorships;

94.9 (7) the facility's current and previous assessments and service plans;

94.10 (8) all records of communications pertinent to the resident's services;

94.11 (9) documentation of significant changes in the resident's status and actions taken in
94.12 response to the needs of the resident, including reporting to the appropriate supervisor or
94.13 health care professional;

94.14 (10) documentation of incidents involving the resident and actions taken in response to
94.15 the needs of the resident, including reporting to the appropriate supervisor or health care
94.16 professional;

94.17 (11) documentation that services have been provided as identified in the service plan;

94.18 (12) documentation that the resident has received and reviewed the assisted living bill
94.19 of rights;

94.20 (13) documentation of complaints received and any resolution;

94.21 (14) a discharge summary, including service termination notice and related
94.22 documentation, when applicable; and

94.23 (15) other documentation required under this chapter and relevant to the resident's
94.24 services or status.

94.25 Subd. 4. **Transfer of resident records.** With the resident's knowledge and consent, if
94.26 a resident is relocated to another facility or to a nursing home, or if care is transferred to
94.27 another service provider, the facility must timely convey to the new facility, nursing home,
94.28 or provider:

94.29 (1) the resident's full name, date of birth, and insurance information;

94.30 (2) the name, telephone number, and address of the resident's designated representatives
94.31 and legal representatives, if any;

95.1 (3) the resident's current documented diagnoses that are relevant to the services being
95.2 provided;

95.3 (4) the resident's known allergies that are relevant to the services being provided;

95.4 (5) the name and telephone number of the resident's physician, if known, and the current
95.5 physician orders that are relevant to the services being provided;

95.6 (6) all medication administration records that are relevant to the services being provided;

95.7 (7) the most recent resident assessment, if relevant to the services being provided; and

95.8 (8) copies of health care directives, "do not resuscitate" orders, and any guardianship
95.9 orders or powers of attorney.

95.10 Subd. 5. **Record retention.** Following the resident's discharge or termination of services,
95.11 an assisted living facility must retain a resident's record for at least five years or as otherwise
95.12 required by state or federal regulations. Arrangements must be made for secure storage and
95.13 retrieval of resident records if the facility ceases to operate.

95.14 **EFFECTIVE DATE.** This section is effective August 1, 2021.

95.15 Sec. 22. **[144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

95.16 Subdivision 1. **Orientation of staff and supervisors.** All staff providing and supervising
95.17 direct services must complete an orientation to assisted living facility licensing requirements
95.18 and regulations before providing assisted living services to residents. The orientation may
95.19 be incorporated into the training required under subdivision 6. The orientation need only
95.20 be completed once for each staff person and is not transferable to another facility.

95.21 Subd. 2. **Content.** (a) The orientation must contain the following topics:

95.22 (1) an overview of this chapter;

95.23 (2) an introduction and review of the facility's policies and procedures related to the
95.24 provision of assisted living services by the individual staff person;

95.25 (3) handling of emergencies and use of emergency services;

95.26 (4) compliance with and reporting of the maltreatment of vulnerable adults under section
95.27 626.557 to the Minnesota Adult Abuse Reporting Center (MAARC);

95.28 (5) the assisted living bill of rights and staff responsibilities related to ensuring the
95.29 exercise and protection of those rights;

96.1 (6) the principles of person-centered planning and service delivery and how they apply
 96.2 to direct support services provided by the staff person;

96.3 (7) handling of residents' complaints, reporting of complaints, and where to report
 96.4 complaints, including information on the Office of Health Facility Complaints;

96.5 (8) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
 96.6 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care
 96.7 Ombudsman at the Department of Human Services, county-managed care advocates, or
 96.8 other relevant advocacy services; and

96.9 (9) a review of the types of assisted living services the employee will be providing and
 96.10 the facility's category of licensure.

96.11 (b) In addition to the topics in paragraph (a), orientation may also contain training on
 96.12 providing services to residents with hearing loss. Any training on hearing loss provided
 96.13 under this subdivision must be high quality and research based, may include online training,
 96.14 and must include training on one or more of the following topics:

96.15 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
 96.16 and the challenges it poses to communication;

96.17 (2) health impacts related to untreated age-related hearing loss, such as increased
 96.18 incidence of dementia, falls, hospitalizations, isolation, and depression; or

96.19 (3) information about strategies and technology that may enhance communication and
 96.20 involvement, including communication strategies, assistive listening devices, hearing aids,
 96.21 visual and tactile alerting devices, communication access in real time, and closed captions.

96.22 **Subd. 3. Verification and documentation of orientation and training.** The assisted
 96.23 living facility shall retain evidence in the employee record of each staff person having
 96.24 completed the orientation and training required by this section.

96.25 **Subd. 4. Orientation to resident.** Staff providing assisted living services must be oriented
 96.26 specifically to each individual resident and the services to be provided. This orientation
 96.27 may be provided in person, orally, in writing, or electronically.

96.28 **Subd. 5. Training required relating to dementia.** All direct care staff and supervisors
 96.29 providing direct services must demonstrate an understanding of the training specified in
 96.30 section 144I.21.

96.31 **Subd. 6. Required annual training.** (a) All staff that perform direct services must
 96.32 complete at least eight hours of annual training for each 12 months of employment. The

97.1 training may be obtained from the facility or another source and must include topics relevant
97.2 to the provision of assisted living services. The annual training must include:

97.3 (1) training on reporting of maltreatment of vulnerable adults under section 626.557;

97.4 (2) review of the assisted living bill of rights and staff responsibilities related to ensuring
97.5 the exercise and protection of those rights;

97.6 (3) review of infection control techniques used in the home and implementation of
97.7 infection control standards including a review of hand washing techniques; the need for and
97.8 use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials
97.9 and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable
97.10 equipment; disinfecting environmental surfaces; and reporting communicable diseases;

97.11 (4) effective approaches to use to problem solve when working with a resident's
97.12 challenging behaviors, and how to communicate with residents who have dementia,
97.13 Alzheimer's disease, or related disorders;

97.14 (5) review of the facility's policies and procedures relating to the provision of assisted
97.15 living services and how to implement those policies and procedures; and

97.16 (6) the principles of person-centered planning and service delivery and how they apply
97.17 to direct support services provided by the staff person.

97.18 (b) In addition to the topics in paragraph (a), annual training may also contain training
97.19 on providing services to residents with hearing loss. Any training on hearing loss provided
97.20 under this subdivision must be high quality and research based, may include online training,
97.21 and must include training on one or more of the following topics:

97.22 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
97.23 and challenges it poses to communication;

97.24 (2) the health impacts related to untreated age-related hearing loss, such as increased
97.25 incidence of dementia, falls, hospitalizations, isolation, and depression; or

97.26 (3) information about strategies and technology that may enhance communication and
97.27 involvement, including communication strategies, assistive listening devices, hearing aids,
97.28 visual and tactile alerting devices, communication access in real time, and closed captions.

97.29 Subd. 7. **Implementation.** The assisted living facility must implement all orientation
97.30 and training topics covered in this section.

97.31 **EFFECTIVE DATE.** This section is effective August 1, 2021.

98.1 Sec. 23. [144I.21] TRAINING IN DEMENTIA CARE REQUIRED.

98.2 (a) All assisted living facilities must meet the following training requirements:

98.3 (1) supervisors of direct-care staff must have at least eight hours of initial training on
98.4 topics specified under paragraph (b) within 120 working hours of the employment start
98.5 date, and must have at least two hours of training on topics related to dementia care for each
98.6 12 months of employment thereafter;

98.7 (2) direct-care employees must have completed at least eight hours of initial training on
98.8 topics specified under paragraph (b) within 160 working hours of the employment start
98.9 date. Until this initial training is complete, an employee must not provide direct care unless
98.10 there is another employee on site who has completed the initial eight hours of training on
98.11 topics related to dementia care and who can act as a resource and assist if issues arise. A
98.12 trainer of the requirements under paragraph (b) or a supervisor meeting the requirements
98.13 in clause (1) must be available for consultation with the new employee until the training
98.14 requirement is complete. Direct-care employees must have at least two hours of training on
98.15 topics related to dementia for each 12 months of employment thereafter;

98.16 (3) for assisted living facilities with dementia care, direct care employees must have
98.17 completed at least eight hours of initial training on topics specified under paragraph (b)
98.18 within 80 working hours of the employment start date. Until this initial training is complete,
98.19 an employee must not provide direct care unless there is another employee on site who has
98.20 completed the initial eight hours of training on topics related to dementia care and who can
98.21 act as a resource and assist if issues arise. A trainer of the requirements under paragraph
98.22 (b) or a supervisor meeting the requirements in clause (1) must be available for consultation
98.23 with the new employee until the training requirement is complete. Direct-care employees
98.24 must have at least two hours of training on topics related to dementia for each 12 months
98.25 of employment thereafter;

98.26 (4) staff who do not provide direct care, including maintenance, housekeeping, and food
98.27 service staff, must have at least four hours of initial training on topics specified under
98.28 paragraph (b) within 160 working hours of the employment start date, and must have at
98.29 least two hours of training on topics related to dementia care for each 12 months of
98.30 employment thereafter; and

98.31 (5) new employees may satisfy the initial training requirements by producing written
98.32 proof of previously completed required training within the past 18 months.

98.33 (b) Areas of required training include:

99.1 (1) an explanation of Alzheimer's disease and other dementias;

99.2 (2) assistance with activities of daily living;

99.3 (3) problem solving with challenging behaviors;

99.4 (4) communication skills; and

99.5 (5) person-centered planning and service delivery.

99.6 (c) The facility shall provide to consumers in written or electronic form a description of
99.7 the training program, the categories of employees trained, the frequency of training, and
99.8 the basic topics covered.

99.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

99.10 Sec. 24. **[144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

99.11 Subdivision 1. **Restrictions.** (a) The commissioner has discretion to bar any controlling
99.12 individual of a facility if the person was a controlling individual of any other nursing home
99.13 or assisted living facility in the previous two-year period and:

99.14 (1) during that period of time the nursing home or assisted living facility incurred the
99.15 following number of uncorrected or repeated violations:

99.16 (i) two or more repeated violations that created an imminent risk to direct resident care
99.17 or safety; or

99.18 (ii) four or more uncorrected violations that created an imminent risk to direct resident
99.19 care or safety; or

99.20 (2) during that period of time, was convicted of a felony or gross misdemeanor that
99.21 related to the operation of the nursing home or assisted living facility, or directly affected
99.22 resident safety or care.

99.23 (b) When the commissioner bars a controlling individual under this subdivision, the
99.24 controlling individual may appeal the commissioner's decision under chapter 14.

99.25 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the
99.26 facility who had no legal authority to affect or change decisions related to the operation of
99.27 the nursing home or assisted living facility that incurred the uncorrected violations.

99.28 Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a)
99.29 In lieu of revoking, suspending, or refusing to renew the license of a facility where a
99.30 controlling individual was disqualified by subdivision 1, paragraph (a), clause (1), the
99.31 commissioner may issue an order staying the revocation, suspension, or nonrenewal of the

100.1 facility's license. The order may but need not be contingent upon the facility's compliance
100.2 with restrictions and conditions imposed on the license to ensure the proper operation of
100.3 the facility and to protect the health, safety, comfort, treatment, and well-being of the
100.4 residents in the facility. The decision to issue an order for a stay must be made within 90
100.5 calendar days of the commissioner's determination that a controlling individual of the facility
100.6 is disqualified by subdivision 1, paragraph (a), clause (1), from operating a facility.

100.7 (b) In determining whether to issue a stay and to impose conditions and restrictions, the
100.8 commissioner must consider the following factors:

100.9 (1) the ability of the controlling individual to operate other facilities in accordance with
100.10 the licensure rules and laws;

100.11 (2) the conditions in the nursing home or assisted living facility that received the number
100.12 and type of uncorrected or repeated violations described in subdivision 1, paragraph (a),
100.13 clause (1); and

100.14 (3) the conditions and compliance history of each of the nursing homes and assisted
100.15 living facilities owned or operated by the controlling individual.

100.16 (c) The commissioner's decision to exercise the authority under this subdivision in lieu
100.17 of revoking, suspending, or refusing to renew the license of the facility is not subject to
100.18 administrative or judicial review.

100.19 (d) The order for the stay of revocation, suspension, or nonrenewal of the facility license
100.20 must include any conditions and restrictions on the license that the commissioner deems
100.21 necessary based on the factors listed in paragraph (b).

100.22 (e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the
100.23 commissioner shall inform the licensee and the controlling individual in writing of any
100.24 conditions and restrictions that will be imposed. The controlling individual shall, within ten
100.25 working days, notify the commissioner in writing of a decision to accept or reject the
100.26 conditions and restrictions. If any of the conditions or restrictions are rejected, the
100.27 commissioner must either modify the conditions and restrictions or take action to suspend,
100.28 revoke, or not renew the facility's license.

100.29 (f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the
100.30 controlling individual shall be responsible for compliance with the conditions and restrictions.
100.31 Any time after the conditions and restrictions have been in place for 180 days, the controlling
100.32 individual may petition the commissioner for removal or modification of the conditions and
100.33 restrictions. The commissioner must respond to the petition within 30 days of receipt of the

101.1 written petition. If the commissioner denies the petition, the controlling individual may
101.2 request a hearing under chapter 14. Any hearing shall be limited to a determination of
101.3 whether the conditions and restrictions shall be modified or removed. At the hearing, the
101.4 controlling individual bears the burden of proof.

101.5 (g) The failure of the controlling individual to comply with the conditions and restrictions
101.6 contained in the order for stay shall result in the immediate removal of the stay and the
101.7 commissioner shall take action to suspend, revoke, or not renew the license.

101.8 (h) The conditions and restrictions are effective for two years after the date they are
101.9 imposed.

101.10 (i) Nothing in this subdivision shall be construed to limit in any way the commissioner's
101.11 ability to impose other sanctions against a licensee under the standards in state or federal
101.12 law whether or not a stay of revocation, suspension, or nonrenewal is issued.

101.13 **EFFECTIVE DATE.** This section is effective August 1, 2021.

101.14 Sec. 25. **[144I.24] MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE**
101.15 **SAFETY REQUIREMENTS.**

101.16 Subdivision 1. **Requirements.** (a) The following are required for all assisted living
101.17 facilities:

101.18 (1) public utilities must be available, and working or inspected and approved water and
101.19 septic systems must be in place;

101.20 (2) the location must be publicly accessible to fire department services and emergency
101.21 medical services;

101.22 (3) the location's topography must provide sufficient natural drainage and is not subject
101.23 to flooding;

101.24 (4) all-weather roads and walks must be provided within the lot lines to the primary
101.25 entrance and the service entrance, including employees' and visitors' parking at the site; and

101.26 (5) the location must include space for outdoor activities for residents.

101.27 (b) An assisted living facility with dementia care that has a secured dementia care unit
101.28 must also meet the following requirements:

101.29 (1) a hazard vulnerability assessment or safety risk must be performed on and around
101.30 the property. The hazards indicated on the assessment must be assessed and mitigated to
101.31 protect the residents from harm; and

102.1 (2) the facility shall be protected throughout by an approved supervised automatic
102.2 sprinkler system by August 1, 2029.

102.3 Subd. 2. **Fire protection and physical environment.** (a) Each assisted living facility
102.4 must have a comprehensive fire protection system that includes:

102.5 (1) protection throughout by an approved supervised automatic sprinkler system according
102.6 to building code requirements established in Minnesota Rules, part 1305.0903, or smoke
102.7 detectors in each occupied room installed and maintained in accordance with the National
102.8 Fire Protection Association (NFPA) Standard 72;

102.9 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
102.10 10; and

102.11 (3) the physical environment, including walls, floors, ceiling, all furnishings, grounds,
102.12 systems, and equipment that is kept in a continuous state of good repair and operation with
102.13 regard to the health, safety, comfort, and well-being of the residents in accordance with a
102.14 maintenance and repair program.

102.15 (b) Fire drills in assisted living facilities shall be conducted in accordance with the
102.16 residential board and care requirements in the Life Safety Code, except that fire drills in
102.17 secured dementia care units shall be conducted in accordance with the healthcare (limited
102.18 care) chapter of the Life Safety Code.

102.19 (c) Existing construction or elements, including assisted living facilities that were
102.20 registered as housing with services establishments under chapter 144D prior to August 1,
102.21 2021, shall be permitted to be continued in use provided such use does not constitute a
102.22 distinct hazard to life. Any existing elements that an authority having jurisdiction deems a
102.23 distinct hazard to life must be corrected. The facility must document in the facility's records
102.24 any actions taken to comply with a correction order, and must submit to the commissioner
102.25 for review and approval prior to correction.

102.26 Subd. 3. **Local laws apply.** Assisted living facilities shall comply with all applicable
102.27 state and local governing laws, regulations, standards, ordinances, and codes for fire safety,
102.28 building, and zoning requirements.

102.29 Subd. 4. **Design requirements.** (a) All assisted living facilities with six or more residents
102.30 must meet the provisions relevant to assisted living facilities in the most current edition of
102.31 the Facility Guidelines Institute "Guidelines for Design and Construction of Residential
102.32 Health, Care and Support Facilities" and of adopted rules. This minimum design standard
102.33 must be met for all new licenses, new construction, modifications, renovations, alterations,

103.1 changes of use, or additions. In addition to the guidelines, assisted living facilities shall
103.2 provide the option of a bath in addition to a shower for all residents.

103.3 (b) If the commissioner decides to update the edition of the guidelines specified in
103.4 paragraph (a) for purposes of this subdivision, the commissioner must notify the chairs and
103.5 ranking minority members of the legislative committees and divisions with jurisdiction over
103.6 health care and public safety of the planned update by January 15 of the year in which the
103.7 new edition will become effective. Following notice from the commissioner, the new edition
103.8 shall become effective for assisted living facilities beginning August 1 of that year, unless
103.9 provided otherwise in law. The commissioner shall, by publication in the State Register,
103.10 specify a date by which facilities must comply with the updated edition. The date by which
103.11 facilities must comply shall not be sooner than six months after publication of the
103.12 commissioner's notice in the State Register.

103.13 Subd. 5. **Assisted living facilities; life safety code.** (a) All assisted living facilities with
103.14 six or more residents must meet the applicable provisions of the most current edition of the
103.15 NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter.
103.16 The minimum design standard shall be met for all new licenses, new construction,
103.17 modifications, renovations, alterations, changes of use, or additions.

103.18 (b) If the commissioner decides to update the Life Safety Code for purposes of this
103.19 subdivision, the commissioner must notify the chairs and ranking minority members of the
103.20 legislative committees and divisions with jurisdiction over health care and public safety of
103.21 the planned update by January 15 of the year in which the new Life Safety Code will become
103.22 effective. Following notice from the commissioner, the new edition shall become effective
103.23 for assisted living facilities beginning August 1 of that year, unless provided otherwise in
103.24 law. The commissioner shall, by publication in the State Register, specify a date by which
103.25 facilities must comply with the updated Life Safety Code. The date by which facilities must
103.26 comply shall not be sooner than six months after publication of the commissioner's notice
103.27 in the State Register.

103.28 Subd. 6. **Assisted living facilities with dementia care and secured dementia care**
103.29 **unit; Life Safety Code.** (a) All assisted living facilities with dementia care and a secured
103.30 dementia care unit must meet the applicable provisions of the most current edition of the
103.31 NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. The minimum
103.32 design standards shall be met for all new licenses, new construction, modifications,
103.33 renovations, alterations, changes of use, or additions.

104.1 (b) If the commissioner decides to update the Life Safety Code for purposes of this
104.2 subdivision, the commissioner must notify the chairs and ranking minority members of the
104.3 legislative committees and divisions with jurisdiction over health care and public safety of
104.4 the planned update by January 15 of the year in which the new Life Safety Code will become
104.5 effective. Following notice from the commissioner, the new edition shall become effective
104.6 for assisted living facilities with dementia care and a secured dementia care unit beginning
104.7 August 1 of that year, unless provided otherwise in law. The commissioner shall, by
104.8 publication in the State Register, specify a date by which these facilities must comply with
104.9 the updated Life Safety Code. The date by which these facilities must comply shall not be
104.10 sooner than six months after publication of the commissioner's notice in the State Register.

104.11 Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning
104.12 on or after August 1, 2021, the following must be provided to the commissioner:

104.13 (1) architectural and engineering plans and specifications for new construction must be
104.14 prepared and signed by architects and engineers who are registered in Minnesota. Final
104.15 working drawings and specifications for proposed construction must be submitted to the
104.16 commissioner for review and approval;

104.17 (2) final architectural plans and specifications must include elevations and sections
104.18 through the building showing types of construction, and must indicate dimensions and
104.19 assignments of rooms and areas, room finishes, door types and hardware, elevations and
104.20 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts
104.21 of dietary and laundry areas. Plans must show the location of fixed equipment and sections
104.22 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions
104.23 must be indicated. The roof plan must show all mechanical installations. The site plan must
104.24 indicate the proposed and existing buildings, topography, roadways, walks and utility service
104.25 lines; and

104.26 (3) final mechanical and electrical plans and specifications must address the complete
104.27 layout and type of all installations, systems, and equipment to be provided. Heating plans
104.28 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,
104.29 boilers, breeching, and accessories. Ventilation plans must include room air quantities,
104.30 ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing
104.31 plans must include the fixtures and equipment fixture schedule; water supply and circulating
104.32 piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation
104.33 of water and sewer services; and the building fire protection systems. Electrical plans must
104.34 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and

105.1 light panels, transformers, and service feeders. Plans must show location of nurse call signals,
105.2 cable lines, fire alarm stations, and fire detectors and emergency lighting.

105.3 (b) Unless construction is begun within one year after approval of the final working
105.4 drawing and specifications, the drawings must be resubmitted for review and approval.

105.5 (c) The commissioner must be notified within 30 days before completion of construction
105.6 so that the commissioner can make arrangements for a final inspection by the commissioner.

105.7 (d) At least one set of complete life safety plans, including changes resulting from
105.8 remodeling or alterations, must be kept on file in the facility.

105.9 Subd. 8. Variances or waivers. (a) A facility may request that the commissioner grant
105.10 a variance or waiver from the provisions of this section. A request for a waiver must be
105.11 submitted to the commissioner in writing. Each request must contain:

105.12 (1) the specific requirement for which the variance or waiver is requested;

105.13 (2) the reasons for the request;

105.14 (3) the alternative measures that will be taken if a variance or waiver is granted;

105.15 (4) the length of time for which the variance or waiver is requested; and

105.16 (5) other relevant information deemed necessary by the commissioner to properly evaluate
105.17 the request for the waiver.

105.18 (b) The decision to grant or deny a variance or waiver must be based on the
105.19 commissioner's evaluation of the following criteria:

105.20 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or
105.21 well-being of a resident;

105.22 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to
105.23 those prescribed in this section; and

105.24 (3) whether compliance with the requirements would impose an undue burden on the
105.25 facility.

105.26 (c) The commissioner must notify the facility in writing of the decision. If a variance or
105.27 waiver is granted, the notification must specify the period of time for which the variance
105.28 or waiver is effective and the alternative measures or conditions, if any, to be met by the
105.29 facility.

105.30 (d) Alternative measures or conditions attached to a variance or waiver have the force
105.31 and effect of this chapter and are subject to the issuance of correction orders and fines in

106.1 accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a
106.2 violation of this subdivision is that specified for the specific requirement for which the
106.3 variance or waiver was requested.

106.4 (e) A request for renewal of a variance or waiver must be submitted in writing at least
106.5 45 days before its expiration date. Renewal requests must contain the information specified
106.6 in paragraph (b). A variance or waiver must be renewed by the commissioner if the facility
106.7 continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the
106.8 alternative measures or conditions imposed at the time the original variance or waiver was
106.9 granted.

106.10 (f) The commissioner must deny, revoke, or refuse to renew a variance or waiver if it
106.11 is determined that the criteria in paragraph (a) are not met. The facility must be notified in
106.12 writing of the reasons for the decision and informed of the right to appeal the decision.

106.13 (g) A facility may contest the denial, revocation, or refusal to renew a variance or waiver
106.14 by requesting a contested case hearing under chapter 14. The facility must submit, within
106.15 15 days of the receipt of the commissioner's decision, a written request for a hearing. The
106.16 request for hearing must set forth in detail the reasons why the facility contends the decision
106.17 of the commissioner should be reversed or modified. At the hearing, the facility has the
106.18 burden of proving by a preponderance of the evidence that the facility satisfied the criteria
106.19 specified in paragraph (b), except in a proceeding challenging the revocation of a variance
106.20 or waiver.

106.21 **EFFECTIVE DATE.** This section is effective August 1, 2021.

106.22 Sec. 26. **[144I.25] ASSISTED LIVING CONTRACT REQUIREMENTS.**

106.23 Subdivision 1. **Contract required.** (a) An assisted living facility may not offer or provide
106.24 housing or assisted living services to a resident unless it has executed a written contract
106.25 with the resident.

106.26 (b) The contract must contain all the terms concerning the provision of:

106.27 (1) housing;

106.28 (2) assisted living services, whether provided directly by the facility or by management
106.29 agreement or other agreement; and

106.30 (3) the resident's service plan, if applicable.

106.31 (c) A facility must:

107.1 (1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term
107.2 Care a complete unsigned copy of its contract; and

107.3 (2) give a complete copy of any signed contract and any addendums, and all supporting
107.4 documents and attachments, to the resident or the designated representative promptly after
107.5 a contract and any addendum has been signed by the resident and the legal representative.

107.6 (d) A contract under this section is a consumer contract under sections 325G.29 to
107.7 325G.37.

107.8 (e) Before or at the time of execution of the contract, the facility must offer the resident
107.9 the opportunity to identify a designated representative according to subdivision 3.

107.10 (f) The resident must agree in writing to any additions or amendments to the contract.
107.11 Upon agreement between the resident and the facility, a new contract or an addendum to
107.12 the existing contract must be executed and signed.

107.13 Subd. 2. **Contents and contract; contact information.** (a) The contract must include
107.14 in a conspicuous place and manner on the contract the legal name and the license number
107.15 of the facility.

107.16 (b) The contract must include the name, telephone number, and physical mailing address,
107.17 which may not be a public or private post office box, of:

107.18 (1) the facility and contracted service provider when applicable;

107.19 (2) the licensee of the facility;

107.20 (3) the managing agent of the facility, if applicable; and

107.21 (4) the authorized agent for the facility.

107.22 (c) The contract must include:

107.23 (1) a disclosure of the category of assisted living facility license held by the facility and,
107.24 if the facility is not an assisted living facility with dementia care, a disclosure that it does
107.25 not hold an assisted living facility with dementia care license;

107.26 (2) a description of all the terms and conditions of the contract, including a description
107.27 of and any limitations to the housing or assisted living services to be provided for the
107.28 contracted amount;

107.29 (3) a delineation of the cost and nature of any other services to be provided for an
107.30 additional fee;

- 108.1 (4) a delineation and description of any additional fees the resident may be required to
108.2 pay if the resident's condition changes during the term of the contract;
- 108.3 (5) a delineation of the grounds under which the resident may be discharged, evicted,
108.4 or transferred or have services terminated;
- 108.5 (6) billing and payment procedures and requirements; and
- 108.6 (7) disclosure of the facility's ability to provide specialized diets.
- 108.7 (d) The contract must include a description of the facility's complaint resolution process
108.8 available to residents, including the name and contact information of the person representing
108.9 the facility who is designated to handle and resolve complaints.
- 108.10 (e) The contract must include a clear and conspicuous notice of:
- 108.11 (1) the right under section 144J.09 to challenge a discharge, eviction, refusal to readmit,
108.12 or service termination;
- 108.13 (2) the facility's policy regarding transfer of residents within the facility, under what
108.14 circumstances a transfer may occur, and whether or not consent of the resident being asked
108.15 to transfer is required;
- 108.16 (3) contact information for the Office of Ombudsman for Long-Term Care, the
108.17 Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health
108.18 Facility Complaints;
- 108.19 (4) the resident's right to obtain services from an unaffiliated service provider;
- 108.20 (5) a description of the facility's policies related to medical assistance waivers under
108.21 sections 256B.0915 and 256B.49 and the housing support program under chapter 256I,
108.22 including:
- 108.23 (i) whether the facility is enrolled with the commissioner of human services to provide
108.24 customized living services under medical assistance waivers;
- 108.25 (ii) whether the facility has an agreement to provide housing support under section
108.26 256I.04, subdivision 2, paragraph (b);
- 108.27 (iii) whether there is a limit on the number of people residing at the facility who can
108.28 receive customized living services or participate in the housing support program at any
108.29 point in time. If so, the limit must be provided;

109.1 (iv) whether the facility requires a resident to pay privately for a period of time prior to
109.2 accepting payment under medical assistance waivers or the housing support program, and
109.3 if so, the length of time that private payment is required;

109.4 (v) a statement that medical assistance waivers provide payment for services, but do not
109.5 cover the cost of rent;

109.6 (vi) a statement that residents may be eligible for assistance with rent through the housing
109.7 support program; and

109.8 (vii) a description of the rent requirements for people who are eligible for medical
109.9 assistance waivers but who are not eligible for assistance through the housing support
109.10 program;

109.11 (6) the contact information to obtain long-term care consulting services under section
109.12 256B.0911; and

109.13 (7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.

109.14 (f) The contract must include a description of the facility's complaint resolution process
109.15 available to residents, including the name and contact information of the person representing
109.16 the facility who is designated to handle and resolve complaints.

109.17 Subd. 3. **Designation of representative.** (a) Before or at the time of execution of an
109.18 assisted living contract, an assisted living facility must offer the resident the opportunity to
109.19 identify a designated representative in writing in the contract and must provide the following
109.20 verbatim notice on a document separate from the contract:

109.21 **RIGHT TO DESIGNATE A REPRESENTATIVE FOR CERTAIN PURPOSES.**

109.22 You have the right to name anyone as your "Designated Representative" to assist you
109.23 or, if you are unable, advocate on your behalf. A "Designated Representative" does not take
109.24 the place of your guardian, conservator, power of attorney ("attorney-in-fact"), or health
109.25 care power of attorney ("health care agent"), if applicable.

109.26 (b) The contract must contain a page or space for the name and contact information of
109.27 the designated representative and a box the resident must initial if the resident declines to
109.28 name a designated representative. Notwithstanding subdivision 1, paragraph (f), the resident
109.29 has the right at any time to add or change the name and contact information of the designated
109.30 representative.

109.31 Subd. 4. **Filing.** The contract and related documents must be maintained by the facility
109.32 in files from the date of execution until five years after the contract is terminated or expires.

110.1 The contracts and all associated documents must be available for on-site inspection by the
110.2 commissioner at any time. The documents shall be available for viewing or copies shall be
110.3 made available to the resident and the legal or designated representative at any time.

110.4 Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of
110.5 facility liability for the health and safety or personal property of a resident. The contract
110.6 must not include any provision that the facility knows or should know to be deceptive,
110.7 unlawful, or unenforceable under state or federal law, nor include any provision that requires
110.8 or implies a lesser standard of care or responsibility than is required by law.

110.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

110.10 Sec. 27. **[144I.265] OFFICE OF OMBUDSMAN FOR LONG-TERM CARE.**

110.11 Subdivision 1. **Immunity from liability.** The Office of Ombudsman for Long-Term
110.12 Care and representatives of the office are immune from liability for conduct described in
110.13 section 256.9742, subdivision 2.

110.14 Subd. 2. **Data classification.** All forms and notices received by the Office of Ombudsman
110.15 for Long-Term Care under this chapter are classified under section 256.9744.

110.16 **EFFECTIVE DATE.** This section is effective August 1, 2021.

110.17 Sec. 28. **[144I.27] PLANNED CLOSURES.**

110.18 Subdivision 1. **Closure plan required.** In the event that an assisted living facility elects
110.19 to voluntarily close the facility, the facility must notify the commissioner and the Office of
110.20 Ombudsman for Long-Term Care in writing by submitting a proposed closure plan.

110.21 Subd. 2. **Content of closure plan.** The facility's proposed closure plan must include:

110.22 (1) the procedures and actions the facility will implement to notify residents of the
110.23 closure, including a copy of the written notice to be given to residents, designated
110.24 representatives, legal representatives, and family;

110.25 (2) the procedures and actions the facility will implement to ensure all residents receive
110.26 appropriate termination planning in accordance with section 144J.10, subdivisions 1 to 6,
110.27 and final accountings and returns under section 144I.13, subdivision 5;

110.28 (3) assessments of the needs and preferences of individual residents; and

110.29 (4) procedures and actions the facility will implement to maintain compliance with this
110.30 chapter until all residents have relocated.

111.1 Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan
111.2 shall be subject to the commissioner's approval and subdivision 6. The facility shall take
111.3 no action to close the residence prior to the commissioner's approval of the plan. The
111.4 commissioner shall approve or otherwise respond to the plan as soon as practicable.

111.5 (b) The commissioner may require the facility to work with a transitional team comprised
111.6 of department staff, staff of the Office of Ombudsman for Long-Term Care, and other
111.7 professionals the commissioner deems necessary to assist in the proper relocation of residents.

111.8 Subd. 4. **Termination planning and final accounting requirements.** Prior to
111.9 termination, the facility must follow the termination planning requirements under section
111.10 144J.10, subdivisions 1 to 6, and final accounting and return requirements under section
111.11 144I.13, subdivision 5, for residents. The facility must implement the plan approved by the
111.12 commissioner and ensure that arrangements for relocation and continued care that meet
111.13 each resident's social, emotional, and health needs are effectuated prior to closure.

111.14 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan
111.15 and at least 60 calendar days before closing, except as provided under subdivision 6, the
111.16 facility must notify residents, designated representatives, and legal representatives or, if a
111.17 resident has no designated representative or legal representative, a family member, if known,
111.18 of the closure, the proposed date of closure, the contact information of the ombudsman for
111.19 long-term care, and that the facility will follow the termination planning requirements under
111.20 section 144J.10, subdivisions 1 to 6, and final accounting and return requirements under
111.21 section 144I.13, subdivision 5. For residents who receive home and community-based waiver
111.22 services under sections 256B.0915 and 256B.49, the facility must also provide this
111.23 information to the resident's case manager.

111.24 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the
111.25 commissioner deems the facility can no longer remain open, the facility must meet all
111.26 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds
111.27 would endanger the health and safety of residents. In the event the commissioner determines
111.28 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice
111.29 to residents as soon as practicable or as directed by the commissioner.

111.30 (b) Upon request from the commissioner, the facility must provide the commissioner
111.31 with any documentation related to the appropriateness of its relocation plan, or to any
111.32 assertion that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining
111.33 open would otherwise endanger the health and safety of residents pursuant to paragraph
111.34 (a).

112.1 Subd. 7. **Other rights.** Nothing in this section or section 144J.08, 144J.09, or 144J.10
112.2 affects the rights and remedies available under chapter 504B.

112.3 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements
112.4 of this section.

112.5 **EFFECTIVE DATE.** This section is effective August 1, 2021.

112.6 Sec. 29. **[144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

112.7 Subdivision 1. **Regulations.** The commissioner shall regulate assisted living facilities
112.8 pursuant to this chapter. The regulations shall include the following:

112.9 (1) provisions to assure, to the extent possible, the health, safety, well-being, and
112.10 appropriate treatment of residents while respecting individual autonomy and choice;

112.11 (2) requirements that facilities furnish the commissioner with specified information
112.12 necessary to implement this chapter;

112.13 (3) standards of training of facility personnel;

112.14 (4) standards for the provision of assisted living services;

112.15 (5) standards for medication management;

112.16 (6) standards for supervision of assisted living services;

112.17 (7) standards for resident evaluation or assessment;

112.18 (8) standards for treatments and therapies;

112.19 (9) requirements for the involvement of a resident's health care provider, the
112.20 documentation of the health care provider's orders, if required, and the resident's service
112.21 plan;

112.22 (10) standards for the maintenance of accurate, current resident records;

112.23 (11) the establishment of levels of licenses based on services provided; and

112.24 (12) provisions to enforce these regulations and the assisted living bill of rights.

112.25 Subd. 2. **Regulatory functions.** (a) The commissioner shall:

112.26 (1) license, survey, and monitor without advance notice assisted living facilities in
112.27 accordance with this chapter and rules;

112.28 (2) survey every provisional licensee within one year of the provisional license issuance
112.29 date subject to the provisional licensee providing assisted living services to residents;

- 113.1 (3) survey assisted living facility licensees annually;
- 113.2 (4) investigate complaints of assisted living facilities;
- 113.3 (5) issue correction orders and assess civil penalties under sections 144I.30 and 144I.31;
- 113.4 (6) take action as authorized in section 144I.33; and
- 113.5 (7) take other action reasonably required to accomplish the purposes of this chapter.
- 113.6 (b) The commissioner shall review blueprints for all new facility construction and must
- 113.7 approve the plans before construction may be commenced.
- 113.8 (c) The commissioner shall provide on-site review of the construction to ensure that all
- 113.9 physical environment standards are met before the facility license is complete.
- 113.10 **EFFECTIVE DATE.** This section is effective August 1, 2021.

113.11 **Sec. 30. [144I.30] SURVEYS AND INVESTIGATIONS.**

- 113.12 Subdivision 1. **Regulatory powers.** (a) The Department of Health is the exclusive state
- 113.13 agency charged with the responsibility and duty of surveying and investigating all assisted
- 113.14 living facilities required to be licensed under this chapter. The commissioner of health shall
- 113.15 enforce all sections of this chapter and the rules adopted under this chapter.
- 113.16 (b) The commissioner, upon request to the facility, must be given access to relevant
- 113.17 information, records, incident reports, and other documents in the possession of the facility
- 113.18 if the commissioner considers them necessary for the discharge of responsibilities. For
- 113.19 purposes of surveys and investigations and securing information to determine compliance
- 113.20 with licensure laws and rules, the commissioner need not present a release, waiver, or
- 113.21 consent to the individual. The identities of residents must be kept private as defined in
- 113.22 section 13.02, subdivision 12.

- 113.23 Subd. 2. **Surveys.** The commissioner shall conduct a survey of each assisted living
- 113.24 facility on a frequency of at least once each year. The commissioner may conduct surveys
- 113.25 more frequently than once a year based on the license category, the facility's compliance
- 113.26 history, the number of residents served, or other factors as determined by the commissioner
- 113.27 deemed necessary to ensure the health, safety, and welfare of residents and compliance with
- 113.28 the law.

- 113.29 Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to
- 113.30 determine if the facility has corrected deficient issues and systems identified during a survey
- 113.31 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,
- 113.32 mail, or on-site reviews. Follow-up surveys, other than complaint investigations, shall be

114.1 concluded with an exit conference and written information provided on the process for
114.2 requesting a reconsideration of the survey results.

114.3 Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without
114.4 advance notice to the facilities. Surveyors may contact the facility on the day of a survey
114.5 to arrange for someone to be available at the survey site. The contact does not constitute
114.6 advance notice. The surveyor must provide presurvey notification to the Office of
114.7 Ombudsman for Long-Term Care.

114.8 Subd. 5. **Information provided by facility.** The assisted living facility shall provide
114.9 accurate and truthful information to the department during a survey, investigation, or other
114.10 licensing activities.

114.11 Subd. 6. **Providing resident records.** Upon request of a surveyor, assisted living facilities
114.12 shall provide a list of current and past residents or designated representatives that includes
114.13 addresses and telephone numbers and any other information requested about the services
114.14 to residents within a reasonable period of time.

114.15 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the
114.16 commissioner finds upon survey or during a complaint investigation that a facility, a
114.17 managerial official, or an employee of the facility is not in compliance with this chapter.
114.18 The correction order shall cite the specific statute and document areas of noncompliance
114.19 and the time allowed for correction.

114.20 (b) The commissioner shall mail or e-mail copies of any correction order to the facility
114.21 within 30 calendar days after the survey exit date. A copy of each correction order and
114.22 copies of any documentation supplied to the commissioner shall be kept on file by the
114.23 facility and public documents shall be made available for viewing by any person upon
114.24 request. Copies may be kept electronically.

114.25 (c) By the correction order date, the facility must document in the facility's records any
114.26 action taken to comply with the correction order. The commissioner may request a copy of
114.27 this documentation and the facility's action to respond to the correction order in future
114.28 surveys, upon a complaint investigation, and as otherwise needed.

114.29 Subd. 8. **Required follow-up surveys.** For assisted living facilities that have Level 3
114.30 or Level 4 violations under section 144I.31, the commissioner shall conduct a follow-up
114.31 survey within 90 calendar days of the survey. When conducting a follow-up survey, the
114.32 surveyor shall focus on whether the previous violations have been corrected and may also
114.33 address any new violations that are observed while evaluating the corrections that have been
114.34 made.

115.1 **EFFECTIVE DATE.** This section is effective August 1, 2021.

115.2 Sec. 31. **[144I.31] VIOLATIONS AND FINES.**

115.3 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision
115.4 may be assessed based on the level and scope of the violations described in subdivision 2
115.5 as follows and may be imposed immediately with no opportunity to correct the violation
115.6 prior to imposition:

115.7 (1) Level 1, no fines or enforcement;

115.8 (2) Level 2, a fine of \$500 per violation, in addition to any enforcement mechanism
115.9 authorized in section 144I.33 for widespread violations;

115.10 (3) Level 3, a fine of \$3,000 per violation per incident, in addition to any enforcement
115.11 mechanism authorized in section 144I.33;

115.12 (4) Level 4, a fine of \$5,000 per incident, in addition to any enforcement mechanism
115.13 authorized in section 144I.33; and

115.14 (5) for maltreatment violations for which the licensee was determined to be responsible
115.15 for the maltreatment under section 626.557, subdivision 9c, paragraph (c), a fine of \$1,000.
115.16 A fine of \$5,000 may be imposed if the commissioner determines the licensee is responsible
115.17 for maltreatment consisting of sexual assault, death, or abuse resulting in serious injury.

115.18 (b) When a fine is assessed against a facility for substantiated maltreatment, the
115.19 commissioner shall not also impose an immediate fine under this chapter for the same
115.20 circumstance.

115.21 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized
115.22 by both level and scope:

115.23 (1) level of violation:

115.24 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on
115.25 the resident and does not affect health or safety;

115.26 (ii) Level 2 is a violation that did not harm a resident's health or safety but had the
115.27 potential to have harmed a resident's health or safety, but was not likely to cause serious
115.28 injury, impairment, or death;

115.29 (iii) Level 3 is a violation that harmed a resident's health or safety, not including serious
115.30 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
115.31 impairment, or death; and

116.1 (iv) Level 4 is a violation that results in serious injury, impairment, or death; and

116.2 (2) scope of violation:

116.3 (i) isolated, when one or a limited number of residents are affected or one or a limited
116.4 number of staff are involved or the situation has occurred only occasionally;

116.5 (ii) pattern, when more than a limited number of residents are affected, more than a
116.6 limited number of staff are involved, or the situation has occurred repeatedly but is not
116.7 found to be pervasive; and

116.8 (iii) widespread, when problems are pervasive or represent a systemic failure that has
116.9 affected or has the potential to affect a large portion or all of the residents.

116.10 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a
116.11 facility has not corrected violations by the date specified in the correction order or conditional
116.12 license resulting from a survey or complaint investigation, the commissioner shall provide
116.13 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance
116.14 to the facility. The noncompliance notice must list the violations not corrected.

116.15 Subd. 4. **Immediate fine; payment.** (a) For every Level 3 or Level 4 violation, the
116.16 commissioner may issue an immediate fine. The licensee must still correct the violation in
116.17 the time specified. The issuance of an immediate fine may occur in addition to any
116.18 enforcement mechanism authorized under section 144I.33. The immediate fine may be
116.19 appealed as allowed under this section.

116.20 (b) The licensee must pay the fines assessed on or before the payment date specified. If
116.21 the licensee fails to fully comply with the order, the commissioner may issue a second fine
116.22 or suspend the license until the licensee complies by paying the fine. A timely appeal shall
116.23 stay payment of the fine until the commissioner issues a final order.

116.24 (c) A licensee shall promptly notify the commissioner in writing when a violation
116.25 specified in the order is corrected. If upon reinspection the commissioner determines that
116.26 a violation has not been corrected as indicated by the order, the commissioner may issue
116.27 an additional fine. The commissioner shall notify the licensee by mail to the last known
116.28 address in the licensing record that a second fine has been assessed. The licensee may appeal
116.29 the second fine as provided under this subdivision.

116.30 (d) A facility that has been assessed a fine under this section has a right to a
116.31 reconsideration or hearing under this section and chapter 14.

117.1 Subd. 5. **Payment of fines required.** When a fine has been assessed, the licensee may
117.2 not avoid payment by closing, selling, or otherwise transferring the license to a third party.
117.3 In such an event, the licensee shall be liable for payment of the fine.

117.4 Subd. 6. **Additional penalties.** In addition to any fine imposed under this section, the
117.5 commissioner may assess a penalty amount based on costs related to an investigation that
117.6 results in a final order assessing a fine or other enforcement action authorized by this chapter.

117.7 Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in the
117.8 state government special revenue fund and credited to an account separate from the revenue
117.9 collected under section 144A.472. Subject to an appropriation by the legislature, the revenue
117.10 from the fines collected must be used by the commissioner for special projects to improve
117.11 home care in Minnesota as recommended by the advisory council established in section
117.12 144A.4799.

117.13 **EFFECTIVE DATE.** This section is effective August 1, 2021.

117.14 Sec. 32. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

117.15 Subdivision 1. **Reconsideration process required.** The commissioner shall make
117.16 available to assisted living facilities a correction order reconsideration process. This process
117.17 may be used to challenge the correction order issued, including the level and scope described
117.18 in section 144I.31, and any fine assessed. When a licensee requests reconsideration of a
117.19 correction order, the correction order is not stayed while it is under reconsideration. The
117.20 commissioner shall post information on its website that the licensee requested reconsideration
117.21 of the correction order and that the review is pending.

117.22 Subd. 2. **Reconsideration process.** An assisted living facility may request from the
117.23 commissioner, in writing, a correction order reconsideration regarding any correction order
117.24 issued to the facility. The written request for reconsideration must be received by the
117.25 commissioner within 15 calendar days of the correction order receipt date. The correction
117.26 order reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that
117.27 participated in writing or reviewing the correction order being disputed. The correction
117.28 order reconsiderations may be conducted in person, by telephone, by another electronic
117.29 form, or in writing, as determined by the commissioner. The commissioner shall respond
117.30 in writing to the request from a facility for a correction order reconsideration within 60 days
117.31 of the date the facility requests a reconsideration. The commissioner's response shall identify
117.32 the commissioner's decision regarding each citation challenged by the facility.

118.1 Subd. 3. Findings. The findings of a correction order reconsideration process shall be
118.2 one or more of the following:

118.3 (1) supported in full: the correction order is supported in full, with no deletion of findings
118.4 to the citation;

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

118.7 (3) correction order cited an incorrect licensing requirement: the correction order is
118.8 amended by changing the correction order to the appropriate statute or rule;

118.9 (4) correction order was issued under an incorrect citation: the correction order is amended
118.10 to be issued under the more appropriate correction order citation;

118.11 (5) the correction order is rescinded;

118.12 (6) fine is amended: it is determined that the fine assigned to the correction order was
118.13 applied incorrectly; or

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

118.15 Subd. 4. Updating the correction order website. If the correction order findings are
118.16 changed by the commissioner, the commissioner shall update the correction order website.

118.17 Subd. 5. Provisional licensees. This section does not apply to provisional licensees.

118.18 EFFECTIVE DATE. This section is effective August 1, 2021.

118.19 Sec. 33. [144I.33] ENFORCEMENT.

118.20 Subdivision 1. Conditions. (a) The commissioner may refuse to grant a provisional
118.21 license, refuse to grant a license as a result of a change in ownership, refuse to renew a
118.22 license, suspend or revoke a license, or impose a conditional license if the owner, controlling
118.23 individual, or employee of an assisted living facility:

118.24 (1) is in violation of, or during the term of the license has violated, any of the requirements
118.25 in this chapter or adopted rules;

118.26 (2) permits, aids, or abets the commission of any illegal act in the provision of assisted
118.27 living services;

118.28 (3) performs any act detrimental to the health, safety, and welfare of a resident;

118.29 (4) obtains the license by fraud or misrepresentation;

119.1 (5) knowingly makes a false statement of a material fact in the application for a license
119.2 or in any other record or report required by this chapter;

119.3 (6) denies representatives of the department access to any part of the facility's books,
119.4 records, files, or employees;

119.5 (7) interferes with or impedes a representative of the department in contacting the facility's
119.6 residents;

119.7 (8) interferes with or impedes ombudsman access according to section 256.9742,
119.8 subdivision 4;

119.9 (9) interferes with or impedes a representative of the department in the enforcement of
119.10 this chapter or fails to fully cooperate with an inspection, survey, or investigation by the
119.11 department;

119.12 (10) destroys or makes unavailable any records or other evidence relating to the assisted
119.13 living facility's compliance with this chapter;

119.14 (11) refuses to initiate a background study under section 144.057 or 245A.04;

119.15 (12) fails to timely pay any fines assessed by the commissioner;

119.16 (13) violates any local, city, or township ordinance relating to housing or assisted living
119.17 services;

119.18 (14) has repeated incidents of personnel performing services beyond their competency
119.19 level; or

119.20 (15) has operated beyond the scope of the assisted living facility's license category.

119.21 (b) A violation by a contractor providing the assisted living services of the facility is a
119.22 violation by facility.

119.23 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional
119.24 license designation may include terms that must be completed or met before a suspension
119.25 or conditional license designation is lifted. A conditional license designation may include
119.26 restrictions or conditions that are imposed on the assisted living facility. Terms for a
119.27 suspension or conditional license may include one or more of the following and the scope
119.28 of each will be determined by the commissioner:

119.29 (1) requiring a consultant to review, evaluate, and make recommended changes to the
119.30 facility's practices and submit reports to the commissioner at the cost of the facility;

120.1 (2) requiring supervision of the facility or staff practices at the cost of the facility by an
120.2 unrelated person who has sufficient knowledge and qualifications to oversee the practices
120.3 and who will submit reports to the commissioner;

120.4 (3) requiring the facility or employees to obtain training at the cost of the facility;

120.5 (4) requiring the facility to submit reports to the commissioner;

120.6 (5) prohibiting the facility from admitting any new residents for a specified period of
120.7 time; or

120.8 (6) any other action reasonably required to accomplish the purpose of this subdivision
120.9 and subdivision 1.

120.10 (b) A facility subject to this subdivision may continue operating during the period of
120.11 time residents are being transferred to another service provider.

120.12 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies
120.13 provided by law, the commissioner may, without a prior contested case hearing, immediately
120.14 temporarily suspend a license or prohibit delivery of housing or services by a facility for
120.15 not more than 90 calendar days or issue a conditional license, if the commissioner determines
120.16 that there are:

120.17 (1) Level 4 violations; or

120.18 (2) violations that pose an imminent risk of harm to the health or safety of residents.

120.19 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

120.20 (c) A notice stating the reasons for the immediate temporary suspension or conditional
120.21 license and informing the licensee of the right to an expedited hearing under subdivision
120.22 11 must be delivered by personal service to the address shown on the application or the last
120.23 known address of the licensee. The licensee may appeal an order immediately temporarily
120.24 suspending a license or issuing a conditional license. The appeal must be made in writing
120.25 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
120.26 the commissioner within five calendar days after the licensee receives notice. If an appeal
120.27 is made by personal service, it must be received by the commissioner within five calendar
120.28 days after the licensee received the order.

120.29 (d) A licensee whose license is immediately temporarily suspended must comply with
120.30 the requirements for notification and transfer of residents in subdivision 9. The requirements
120.31 in subdivision 9 remain if an appeal is requested.

121.1 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,
121.2 paragraph (a), the commissioner must revoke a license if a controlling individual of the
121.3 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility
121.4 or directly affects resident safety or care. The commissioner shall notify the facility and the
121.5 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of
121.6 revocation.

121.7 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
121.8 within 60 calendar days of notification to suspend or revoke a facility's license or must
121.9 refuse to renew a facility's license if within the preceding two years the facility has incurred
121.10 the following number of uncorrected or repeated violations:

121.11 (1) two or more uncorrected violations or one or more repeated violations that created
121.12 an imminent risk to direct resident care or safety; or

121.13 (2) four or more uncorrected violations or two or more repeated violations of any nature
121.14 for which the fines are in the four highest daily fine categories prescribed in rule.

121.15 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,
121.16 or refuse to renew a facility's license if the facility corrects the violation.

121.17 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated
121.18 by the commissioner to revoke or suspend a facility's license, or a decision by the
121.19 commissioner not to renew a living facility's license, the controlling individual of the facility
121.20 or a designee must provide to the commissioner and the ombudsman for long-term care the
121.21 names of residents and the names and addresses of the residents' guardians, designated
121.22 representatives, and family contacts.

121.23 (b) The controlling individual or designees of the facility must provide updated
121.24 information each month until the proceeding is concluded. If the controlling individual or
121.25 designee of the facility fails to provide the information within this time, the facility is subject
121.26 to the issuance of:

121.27 (1) a correction order; and

121.28 (2) a penalty assessment by the commissioner in rule.

121.29 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this
121.30 subdivision must require that the facility immediately comply with the request for information
121.31 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the
121.32 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100
121.33 increments for each day the noncompliance continues.

122.1 (d) Information provided under this subdivision may be used by the commissioner or
122.2 the ombudsman for long-term care only for the purpose of providing affected consumers
122.3 information about the status of the proceedings.

122.4 (e) Within ten business days after the commissioner initiates proceedings to revoke,
122.5 suspend, or not renew a facility license, the commissioner must send a written notice of the
122.6 action and the process involved to each resident of the facility and the resident's designated
122.7 representative or, if there is no designated representative and if known, a family member
122.8 or interested person.

122.9 (f) The commissioner shall provide the ombudsman for long-term care with monthly
122.10 information on the department's actions and the status of the proceedings.

122.11 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew
122.12 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57
122.13 to 14.69. The hearing must commence within 60 calendar days after the proceedings are
122.14 initiated. In addition to any other remedy provided by law, the commissioner may, without
122.15 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services
122.16 by a provider for not more than 90 calendar days, or issue a conditional license if the
122.17 commissioner determines that there are Level 3 violations that do not pose an imminent
122.18 risk of harm to the health or safety of the facility residents, provided:

122.19 (1) advance notice is given to the facility;

122.20 (2) after notice, the facility fails to correct the problem;

122.21 (3) the commissioner has reason to believe that other administrative remedies are not
122.22 likely to be effective; and

122.23 (4) there is an opportunity for a contested case hearing within 30 calendar days unless
122.24 there is an extension granted by an administrative law judge.

122.25 (b) If the commissioner determines there are Level 4 violations or violations that pose
122.26 an imminent risk of harm to the health or safety of the facility residents, the commissioner
122.27 may immediately temporarily suspend a license, prohibit delivery of services by a facility,
122.28 or issue a conditional license without meeting the requirements of paragraph (a), clauses
122.29 (1) to (4).

122.30 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in
122.31 section 144I.31.

122.32 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

- 123.1 (1) be mailed or delivered to the commissioner;
123.2 (2) contain a brief and plain statement describing every matter or issue contested; and
123.3 (3) contain a brief and plain statement of any new matter that the applicant or assisted
123.4 living facility believes constitutes a defense or mitigating factor.

123.5 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew
123.6 a license must include a plan for transferring affected residents' cares to other providers by
123.7 the facility. The commissioner shall monitor the transfer plan. Within three calendar days
123.8 of being notified of the final revocation, refusal to renew, or suspension, the licensee shall
123.9 provide the commissioner, the lead agencies as defined in section 256B.0911, county adult
123.10 protection and case managers, and the ombudsman for long-term care with the following
123.11 information:

123.12 (1) a list of all residents, including full names and all contact information on file;

123.13 (2) a list of each resident's legal and designated representatives or emergency contact
123.14 person, including full names and all contact information on file;

123.15 (3) the location or current residence of each resident;

123.16 (4) the payor sources for each resident, including payor source identification numbers;

123.17 and

123.18 (5) for each resident, a copy of the resident's service plan and a list of the types of services
123.19 being provided.

123.20 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
123.21 by mailing the notice to the address in the license record. The licensee shall cooperate with
123.22 the commissioner and the lead agencies, county adult protection and county managers, and
123.23 the ombudsman for long-term care during the process of transferring care of residents to
123.24 qualified providers. Within three calendar days of being notified of the final revocation,
123.25 refusal to renew, or suspension action, the facility must notify and disclose to each of the
123.26 residents, or the resident's legal and designated representatives or emergency contact persons,
123.27 that the commissioner is taking action against the facility's license by providing a copy of
123.28 the revocation, refusal to renew, or suspension notice issued by the commissioner. If the
123.29 facility does not comply with the disclosure requirements in this section, the commissioner
123.30 shall notify the residents, legal and designated representatives, or emergency contact persons
123.31 about the actions being taken. Lead agencies, county adult protection and county managers,
123.32 and the Office of Ombudsman for Long-Term Care may also provide this information. The

124.1 revocation, refusal to renew, or suspension notice is public data except for any private data
124.2 contained therein.

124.3 (c) A facility subject to this subdivision may continue operating while residents are being
124.4 transferred to other service providers.

124.5 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal
124.6 of a sanction under this section, other than for a temporary suspension, the commissioner
124.7 shall request assignment of an administrative law judge. The commissioner's request must
124.8 include a proposed date, time, and place of hearing. A hearing must be conducted by an
124.9 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
124.10 90 calendar days of the request for assignment, unless an extension is requested by either
124.11 party and granted by the administrative law judge for good cause or for purposes of discussing
124.12 settlement. In no case shall one or more extensions be granted for a total of more than 90
124.13 calendar days unless there is a criminal action pending against the licensee. If, while a
124.14 licensee continues to operate pending an appeal of an order for revocation, suspension, or
124.15 refusal to renew a license, the commissioner identifies one or more new violations of law
124.16 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,
124.17 the commissioner shall act immediately to temporarily suspend the license.

124.18 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's
124.19 timely appeal of a temporary suspension or issuance of a conditional license, the
124.20 commissioner shall request assignment of an administrative law judge. The request must
124.21 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
124.22 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
124.23 30 calendar days of the request for assignment, unless an extension is requested by either
124.24 party and granted by the administrative law judge for good cause. The commissioner shall
124.25 issue a notice of hearing by certified mail or personal service at least ten business days
124.26 before the hearing. Certified mail to the last known address is sufficient. The scope of the
124.27 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
124.28 of a conditional license should remain in effect and whether there is sufficient evidence to
124.29 conclude that the licensee's actions or failure to comply with applicable laws are Level 3
124.30 or Level 4 violations as defined in section 144I.31, or that there were violations that posed
124.31 an imminent risk of harm to the resident's health and safety.

124.32 (b) The administrative law judge shall issue findings of fact, conclusions, and a
124.33 recommendation within ten business days from the date of hearing. The parties shall have
124.34 ten calendar days to submit exceptions to the administrative law judge's report. The record
124.35 shall close at the end of the ten-day period for submission of exceptions. The commissioner's

125.1 final order shall be issued within ten business days from the close of the record. When an
125.2 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
125.3 the commissioner shall issue a final order affirming the temporary immediate suspension
125.4 or conditional license within ten calendar days of the commissioner's receipt of the
125.5 withdrawal or dismissal. The licensee is prohibited from operation during the temporary
125.6 suspension period.

125.7 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
125.8 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
125.9 sanction, the licensee is prohibited from operation pending a final commissioner's order
125.10 after the contested case hearing conducted under chapter 14.

125.11 (d) A licensee whose license is temporarily suspended must comply with the requirements
125.12 for notification and transfer of residents under subdivision 9. These requirements remain if
125.13 an appeal is requested.

125.14 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under
125.15 section 144I.31, and an action against a license under this section, a licensee must request
125.16 a hearing no later than 15 business days after the licensee receives notice of the action.

125.17 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner
125.18 and managerial officials of a facility whose Minnesota license has not been renewed or
125.19 whose Minnesota license has been revoked because of noncompliance with applicable laws
125.20 or rules shall not be eligible to apply for nor will be granted an assisted living facility license
125.21 under this chapter or a home care provider license under chapter 144A, or be given status
125.22 as an enrolled personal care assistance provider agency or personal care assistant by the
125.23 Department of Human Services under section 256B.0659, for five years following the
125.24 effective date of the nonrenewal or revocation. If the owner or managerial officials already
125.25 have enrollment status, the Department of Human Services shall terminate that enrollment.

125.26 (b) The commissioner shall not issue a license to a facility for five years following the
125.27 effective date of license nonrenewal or revocation if the owner or managerial official,
125.28 including any individual who was an owner or managerial official of another licensed
125.29 provider, had a Minnesota license that was not renewed or was revoked as described in
125.30 paragraph (a).

125.31 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend
125.32 or revoke, the license of a facility that includes any individual as an owner or managerial
125.33 official who was an owner or managerial official of a facility whose Minnesota license was

126.1 not renewed or was revoked as described in paragraph (a) for five years following the
126.2 effective date of the nonrenewal or revocation.

126.3 (d) The commissioner shall notify the facility 30 calendar days in advance of the date
126.4 of nonrenewal, suspension, or revocation of the license. Within ten business days after the
126.5 receipt of the notification, the facility may request, in writing, that the commissioner stay
126.6 the nonrenewal, revocation, or suspension of the license. The facility shall specify the
126.7 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance
126.8 with the licensure laws and regulations; any limits on the authority or responsibility of the
126.9 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,
126.10 or suspension; and any other information to establish that the continuing affiliation with
126.11 these individuals will not jeopardize resident health, safety, or well-being. The commissioner
126.12 shall determine whether the stay will be granted within 30 calendar days of receiving the
126.13 facility's request. The commissioner may propose additional restrictions or limitations on
126.14 the facility's license and require that granting the stay be contingent upon compliance with
126.15 those provisions. The commissioner shall take into consideration the following factors when
126.16 determining whether the stay should be granted:

126.17 (1) the threat that continued involvement of the owners and managerial officials with
126.18 the facility poses to resident health, safety, and well-being;

126.19 (2) the compliance history of the facility; and

126.20 (3) the appropriateness of any limits suggested by the facility.

126.21 If the commissioner grants the stay, the order shall include any restrictions or limitation on
126.22 the provider's license. The failure of the facility to comply with any restrictions or limitations
126.23 shall result in the immediate removal of the stay and the commissioner shall take immediate
126.24 action to suspend, revoke, or not renew the license.

126.25 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may
126.26 be considered by the commissioner when the conditions upon which the revocation was
126.27 based have been corrected and satisfactory evidence of this fact has been furnished to the
126.28 commissioner. A new license may be granted after an inspection has been made and the
126.29 facility has complied with all provisions of this chapter and adopted rules.

126.30 Subd. 15. **Informal conference.** At any time, the commissioner and the applicant,
126.31 licensee, manager if applicable, or facility may hold an informal conference to exchange
126.32 information, clarify issues, or resolve issues.

127.1 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the
127.2 commissioner may bring an action in district court to enjoin a person who is involved in
127.3 the management, operation, or control of a facility or an employee of the facility from
127.4 illegally engaging in activities regulated by this chapter. The commissioner may bring an
127.5 action under this subdivision in the district court in Ramsey County or in the district in
127.6 which the facility is located. The court may grant a temporary restraining order in the
127.7 proceeding if continued activity by the person who is involved in the management, operation,
127.8 or control of a facility, or by an employee of the facility, would create an imminent risk of
127.9 harm to a resident.

127.10 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,
127.11 the commissioner may issue subpoenas and compel the attendance of witnesses and the
127.12 production of all necessary papers, books, records, documents, and other evidentiary material.
127.13 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear
127.14 or testify regarding any matter about which the person may be lawfully questioned or to
127.15 produce any papers, books, records, documents, or evidentiary materials in the matter to be
127.16 heard, the commissioner may apply to the district court in any district, and the court shall
127.17 order the person to comply with the commissioner's order or subpoena. The commissioner
127.18 may administer oaths to witnesses or take their affirmation. Depositions may be taken in
127.19 or outside the state in the manner provided by law for taking depositions in civil actions. A
127.20 subpoena or other process or paper may be served on a named person anywhere in the state
127.21 by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage
127.22 and in the same manner as prescribed by law for a process issued out of a district court. A
127.23 person subpoenaed under this subdivision shall receive the same fees, mileage, and other
127.24 costs that are paid in proceedings in district court.

127.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

127.26 Sec. 34. **[144L.34] INNOVATION VARIANCE.**

127.27 Subdivision 1. **Definition; granting variances.** (a) For purposes of this section,
127.28 "innovation variance" means a specified alternative to a requirement of this chapter.

127.29 (b) An innovation variance may be granted to allow an assisted living facility to offer
127.30 services of a type or in a manner that is innovative, will not impair the services provided,
127.31 will not adversely affect the health, safety, or welfare of the residents, and is likely to improve
127.32 the services provided. The innovative variance cannot change any of the resident's rights
127.33 under the assisted living bill of rights.

128.1 Subd. 2. **Conditions.** The commissioner may impose conditions on granting an innovation
128.2 variance that the commissioner considers necessary.

128.3 Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any
128.4 innovation variance and may renew a limited innovation variance.

128.5 Subd. 4. **Applications; innovation variance.** An application for innovation variance
128.6 from the requirements of this chapter may be made at any time, must be made in writing to
128.7 the commissioner, and must specify the following:

128.8 (1) the statute or rule from which the innovation variance is requested;

128.9 (2) the time period for which the innovation variance is requested;

128.10 (3) the specific alternative action that the licensee proposes;

128.11 (4) the reasons for the request; and

128.12 (5) justification that an innovation variance will not impair the services provided, will
128.13 not adversely affect the health, safety, or welfare of residents, and is likely to improve the
128.14 services provided.

128.15 The commissioner may require additional information from the facility before acting on
128.16 the request.

128.17 Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for
128.18 an innovation variance in writing within 45 days of receipt of a complete request. Notice
128.19 of a denial shall contain the reasons for the denial. The terms of a requested innovation
128.20 variance may be modified upon agreement between the commissioner and the facility.

128.21 Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an
128.22 innovation variance shall be deemed to be a violation of this chapter.

128.23 Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny
128.24 renewal of an innovation variance if:

128.25 (1) it is determined that the innovation variance is adversely affecting the health, safety,
128.26 or welfare of the residents;

128.27 (2) the facility has failed to comply with the terms of the innovation variance;

128.28 (3) the facility notifies the commissioner in writing that it wishes to relinquish the
128.29 innovation variance and be subject to the statute previously varied; or

128.30 (4) the revocation or denial is required by a change in law.

128.31 **EFFECTIVE DATE.** This section is effective August 1, 2021.

129.1 Sec. 35. [144I.35] RESIDENT QUALITY OF CARE AND OUTCOMES

129.2 IMPROVEMENT TASK FORCE.

129.3 Subdivision 1. Establishment. The commissioner shall establish a resident quality of
129.4 care and outcomes improvement task force to examine and make recommendations, on an
129.5 ongoing basis, on how to apply proven safety and quality improvement practices and
129.6 infrastructure to settings and providers that provide long-term services and supports.

129.7 Subd. 2. Membership. The task force shall include representation from:

129.8 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation
129.9 in health care safety and quality;

129.10 (2) Department of Health staff with expertise in issues related to safety and adverse
129.11 health events;

129.12 (3) consumer organizations;

129.13 (4) direct care providers or their representatives;

129.14 (5) organizations representing long-term care providers and home care providers in
129.15 Minnesota;

129.16 (6) the ombudsman for long-term care or a designee;

129.17 (7) national patient safety experts; and

129.18 (8) other experts in the safety and quality improvement field.

129.19 The task force shall have at least one public member who either is or has been a resident in
129.20 an assisted living setting and one public member who has or had a family member living
129.21 in an assisted living setting. The membership shall be voluntary except that public members
129.22 may be reimbursed under section 15.059, subdivision 3.

129.23 Subd. 3. Recommendations. The task force shall periodically provide recommendations
129.24 to the commissioner and the legislature on changes needed to promote safety and quality
129.25 improvement practices in long-term care settings and with long-term care providers. The
129.26 task force shall meet no fewer than four times per year. The task force shall be established
129.27 by July 1, 2020.

129.28 Sec. 36. [144I.36] EXPEDITED RULEMAKING AUTHORIZED.

129.29 (a) The commissioner shall adopt rules for all assisted living facilities that promote
129.30 person-centered planning and service delivery and optimal quality of life, and that ensure

130.1 resident rights are protected, resident choice is allowed, and public health and safety is
130.2 ensured.

130.3 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process
130.4 in section 14.389.

130.5 (c) The commissioner shall adopt rules that include but are not limited to the following:

130.6 (1) staffing appropriate for each licensure category to best protect the health and safety
130.7 of residents no matter their vulnerability;

130.8 (2) training prerequisites and ongoing training, including dementia care training and
130.9 standards for demonstrating competency;

130.10 (3) procedures for discharge planning and ensuring resident appeal rights;

130.11 (4) initial assessments, continuing assessments, and a uniform assessment tool;

130.12 (5) emergency disaster and preparedness plans;

130.13 (6) uniform checklist disclosure of services;

130.14 (7) a definition of serious injury that results from maltreatment; and

130.15 (8) conditions and fine amounts for planned closures.

130.16 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall
130.17 publish final rules by December 31, 2020.

130.18 **Sec. 37. TRANSITION PERIOD.**

130.19 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited
130.20 rulemaking process.

130.21 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new
130.22 assisted living facility and assisted living facility with dementia care licensure by hiring
130.23 staff, developing forms, and communicating with stakeholders about the new facility
130.24 licensing.

130.25 (c) Effective August 1, 2021, all existing housing with services establishments providing
130.26 home care services under Minnesota Statutes, chapter 144A, must convert their registration
130.27 to licensure under Minnesota Statutes, chapter 144I.

130.28 (d) Effective August 1, 2021, all new assisted living facilities and assisted living facilities
130.29 with dementia care must be licensed by the commissioner.

131.1 (e) Effective August 1, 2021, all assisted living facilities and assisted living facilities
131.2 with dementia care must be licensed by the commissioner.

131.3 Sec. 38. **REPEALER.**

131.4 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;
131.5 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;
131.6 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are
131.7 repealed effective August 1, 2021.

131.8 **ARTICLE 4**

131.9 **DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH** 131.10 **DEMENTIA CARE**

131.11 Section 1. **[144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING**
131.12 **FACILITIES WITH DEMENTIA CARE.**

131.13 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with
131.14 dementia care.

131.15 Subd. 2. **Demonstrated capacity.** (a) An applicant for licensure as an assisted living
131.16 facility with dementia care must have the ability to provide services in a manner that is
131.17 consistent with the requirements in this section. The commissioner shall consider the
131.18 following criteria, including, but not limited to:

131.19 (1) the experience of the applicant in managing residents with dementia or previous
131.20 long-term care experience; and

131.21 (2) the compliance history of the applicant in the operation of any care facility licensed,
131.22 certified, or registered under federal or state law.

131.23 (b) If the applicant does not have experience in managing residents with dementia, the
131.24 applicant must employ a consultant for at least the first six months of operation. The
131.25 consultant must meet the requirements in paragraph (a), clause (1), and make
131.26 recommendations on providing dementia care services consistent with the requirements of
131.27 this chapter. The consultant must (1) have two years of work experience related to dementia,
131.28 health care, gerontology, or a related field, and (2) have completed at least the minimum
131.29 core training requirements in section 144I.21. The applicant must document an acceptable
131.30 plan to address the consultant's identified concerns and must either implement the
131.31 recommendations or document in the plan any consultant recommendations that the applicant
131.32 chooses not to implement. The commissioner must review the applicant's plan upon request.

132.1 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an
132.2 assisted living facility with dementia care license to ensure compliance with the physical
132.3 environment requirements.

132.4 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the
132.5 license.

132.6 Subd. 3. **Relinquishing license.** (a) The licensee must notify the commissioner in writing
132.7 at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility
132.8 with dementia care license. For voluntary relinquishment, the facility must:

132.9 (1) give all residents and their designated representatives 60 calendar days' notice. The
132.10 notice must include:

132.11 (i) the proposed effective date of the relinquishment;

132.12 (ii) changes in staffing;

132.13 (iii) changes in services including the elimination or addition of services; and

132.14 (iv) staff training that shall occur when the relinquishment becomes effective;

132.15 (2) submit a transitional plan to the commissioner demonstrating how the current residents
132.16 shall be evaluated and assessed to reside in other housing settings that are not an assisted
132.17 living facility with dementia care, that are physically unsecured, or that would require
132.18 move-out or transfer to other settings;

132.19 (3) change service or care plans as appropriate to address any needs the residents may
132.20 have with the transition;

132.21 (4) notify the commissioner when the relinquishment process has been completed; and

132.22 (5) revise advertising materials and disclosure information to remove any reference that
132.23 the facility is an assisted living facility with dementia care.

132.24 (b) Nothing in this section alters obligations under section 144I.27.

132.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

132.26 Sec. 2. **[144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**
132.27 **LIVING FACILITIES WITH DEMENTIA CARE.**

132.28 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care
132.29 is responsible for the care and housing of the persons with dementia and the provision of
132.30 person-centered care that promotes each resident's dignity, independence, and comfort. This
132.31 includes the supervision, training, and overall conduct of the staff.

133.1 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living
133.2 license requirements and the criteria in this section.

133.3 (b) The assisted living director of an assisted living facility with dementia care must
133.4 complete and document that at least ten hours of the required annual continuing educational
133.5 requirements relate to the care of individuals with dementia. The training must include
133.6 medical management of dementia, creating and maintaining supportive and therapeutic
133.7 environments for residents with dementia, and transitioning and coordinating services for
133.8 residents with dementia. Continuing education credits may include college courses, preceptor
133.9 credits, self-directed activities, course instructor credits, corporate training, in-service
133.10 training, professional association training, web-based training, correspondence courses,
133.11 telecourses, seminars, and workshops.

133.12 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing
133.13 of all facilities, the assisted living facility with dementia care licensee must develop and
133.14 implement policies and procedures that address the:

133.15 (1) philosophy of how services are provided based upon the assisted living facility
133.16 licensee's values, mission, and promotion of person-centered care and how the philosophy
133.17 shall be implemented;

133.18 (2) evaluation of behavioral symptoms and design of supports for intervention plans,
133.19 including nonpharmacological practices that are person-centered and evidence-informed;

133.20 (3) wandering and egress prevention that provides detailed instructions to staff in the
133.21 event a resident elopes;

133.22 (4) medication management, including an assessment of residents for the use and effects
133.23 of medications, including psychotropic medications;

133.24 (5) staff training specific to dementia care;

133.25 (6) description of life enrichment programs and how activities are implemented;

133.26 (7) description of family support programs and efforts to keep the family engaged;

133.27 (8) limiting the use of public address and intercom systems for emergencies and
133.28 evacuation drills only;

133.29 (9) transportation coordination and assistance to and from outside medical appointments;
133.30 and

133.31 (10) safekeeping of resident's possessions.

134.1 (b) The policies and procedures must be provided to residents and the resident's legal
134.2 and designated representatives at the time of move-in.

134.3 **EFFECTIVE DATE.** This section is effective August 1, 2021.

134.4 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

134.5 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide
134.6 residents with dementia-trained staff who have been instructed in the person-centered care
134.7 approach. All direct care staff assigned to care for residents with dementia must be specially
134.8 trained to work with residents with Alzheimer's disease and other dementias.

134.9 (b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for
134.10 dementia residents.

134.11 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of
134.12 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and
134.13 needs of residents.

134.14 (d) In an emergency situation when trained staff are not available to provide services,
134.15 the facility may assign staff who have not completed the required training. The particular
134.16 emergency situation must be documented and must address:

134.17 (1) the nature of the emergency;

134.18 (2) how long the emergency lasted; and

134.19 (3) the names and positions of staff that provided coverage.

134.20 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide
134.21 support to residents with dementia can demonstrate a basic understanding and ability to
134.22 apply dementia training to the residents' emotional and unique health care needs using
134.23 person-centered planning delivery. Direct care dementia-trained staff and other staff must
134.24 be trained on the topics identified during the expedited rulemaking process. These
134.25 requirements are in addition to the licensing requirements for training.

134.26 (b) Failure to comply with paragraph (a) or subdivision 1 shall result in a fine under
134.27 section 144I.31.

134.28 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must
134.29 have experience and knowledge in the care of individuals with dementia, including:

134.30 (1) two years of work experience related to Alzheimer's disease or other dementias, or
134.31 in health care, gerontology, or another related field; and

135.1 (2) completion of training equivalent to the requirements in this section and successfully
135.2 passing a skills competency or knowledge test required by the commissioner.

135.3 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may
135.4 include various methods of instruction, such as classroom style, web-based training, video,
135.5 or one-to-one training. The licensee must have a method for determining and documenting
135.6 each staff person's knowledge and understanding of the training provided. All training must
135.7 be documented.

135.8 **EFFECTIVE DATE.** This section is effective August 1, 2021.

135.9 Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

135.10 (a) In addition to the minimum services required in section 144I.10, an assisted living
135.11 facility with dementia care must also provide the following services:

135.12 (1) assistance with activities of daily living that address the needs of each resident with
135.13 dementia due to cognitive or physical limitations. These services must meet or be in addition
135.14 to the requirements in the licensing rules for the facility. Services must be provided in a
135.15 person-centered manner that promotes resident choice, dignity, and sustains the resident's
135.16 abilities;

135.17 (2) nonpharmacological practices that are person-centered and evidence-informed;

135.18 (3) services to prepare and educate persons living with dementia and their legal and
135.19 designated representatives about transitions in care and ensuring complete, timely
135.20 communication between, across, and within settings; and

135.21 (4) services that provide residents with choices for meaningful engagement with other
135.22 facility residents and the broader community.

135.23 (b) Each resident must be evaluated for activities according to the licensing rules of the
135.24 facility. In addition, the evaluation must address the following:

135.25 (1) past and current interests;

135.26 (2) current abilities and skills;

135.27 (3) emotional and social needs and patterns;

135.28 (4) physical abilities and limitations;

135.29 (5) adaptations necessary for the resident to participate; and

135.30 (6) identification of activities for behavioral interventions.

136.1 (c) An individualized activity plan must be developed for each resident based on their
 136.2 activity evaluation. The plan must reflect the resident's activity preferences and needs.

136.3 (d) A selection of daily structured and non-structured activities must be provided and
 136.4 included on the resident's activity service or care plan as appropriate. Daily activity options
 136.5 based on resident evaluation may include but are not limited to:

136.6 (1) occupation or chore related tasks;

136.7 (2) scheduled and planned events such as entertainment or outings;

136.8 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;

136.9 (4) one-to-one activities that encourage positive relationships between residents and
 136.10 staff such as telling a life story, reminiscing, or playing music;

136.11 (5) spiritual, creative, and intellectual activities;

136.12 (6) sensory stimulation activities;

136.13 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;

136.14 and

136.15 (8) outdoor activities.

136.16 (e) Behavioral symptoms that negatively impact the resident and others in the assisted
 136.17 living facility with dementia care must be evaluated and included on the service or care
 136.18 plan. The staff must initiate and coordinate outside consultation or acute care when indicated.

136.19 (f) Support must be offered to family and other significant relationships on a regularly
 136.20 scheduled basis but not less than quarterly.

136.21 (g) Access to secured outdoor space and walkways that allow residents to enter and
 136.22 return without staff assistance must be provided.

136.23 **EFFECTIVE DATE.** This section is effective August 1, 2021.

136.24 **ARTICLE 5**

136.25 **ASSISTED LIVING LICENSURE CONFORMING CHANGES; DIRECTOR**
 136.26 **LICENSURE**

136.27 Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

136.28 Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections
 136.29 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or maintained
 136.30 by the commissioner are classified as public data as defined in section 13.02, subdivision
 136.31 15:

- 137.1 (1) all application data on licensees, license numbers, and license status;
- 137.2 (2) licensing information about licenses previously held under this chapter;
- 137.3 (3) correction orders, including information about compliance with the order and whether
- 137.4 the fine was paid;
- 137.5 (4) final enforcement actions pursuant to chapter 14;
- 137.6 (5) orders for hearing, findings of fact, and conclusions of law; and
- 137.7 (6) when the licensee and department agree to resolve the matter without a hearing, the
- 137.8 agreement and specific reasons for the agreement are public data.

137.9 **EFFECTIVE DATE.** This section is effective August 1, 2021.

137.10 Sec. 2. Minnesota Statutes 2018, section 144.051, subdivision 5, is amended to read:

137.11 Subd. 5. **Data classification; confidential data.** For providers regulated pursuant to

137.12 sections 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or

137.13 maintained by the Department of Health are classified as confidential data on individuals

137.14 as defined in section 13.02, subdivision 3: active investigative data relating to the

137.15 investigation of potential violations of law by a licensee including data from the survey

137.16 process before the correction order is issued by the department.

137.17 **EFFECTIVE DATE.** This section is effective August 1, 2021.

137.18 Sec. 3. Minnesota Statutes 2018, section 144.051, subdivision 6, is amended to read:

137.19 Subd. 6. **Release of private or confidential data.** For providers regulated pursuant to

137.20 sections 144A.43 to 144A.482 and chapter 144I, the department may release private or

137.21 confidential data, except Social Security numbers, to the appropriate state, federal, or local

137.22 agency and law enforcement office to enhance investigative or enforcement efforts or further

137.23 a public health protective process. Types of offices include Adult Protective Services, Office

137.24 of the Ombudsman for Long-Term Care and Office of the Ombudsman for Mental Health

137.25 and Developmental Disabilities, the health licensing boards, Department of Human Services,

137.26 county or city attorney's offices, police, and local or county public health offices.

137.27 **EFFECTIVE DATE.** This section is effective August 1, 2021.

137.28 Sec. 4. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

137.29 Subdivision 1. **Background studies required.** The commissioner of health shall contract

137.30 with the commissioner of human services to conduct background studies of:

138.1 (1) individuals providing services ~~which~~ that have direct contact, as defined under section
138.2 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
138.3 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
138.4 home care agencies licensed under chapter 144A; ~~residential care homes licensed under~~
138.5 ~~chapter 144B~~, assisted living facilities and assisted living facilities with dementia care
138.6 licensed under chapter 144I; and board and lodging establishments that are registered to
138.7 provide supportive or health supervision services under section 157.17;

138.8 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
138.9 services in a nursing home or a home care agency licensed under chapter 144A; an assisted
138.10 living facility or assisted living facility with dementia care licensed under chapter 144I; or
138.11 a boarding care home licensed under sections 144.50 to 144.58. If the individual under study
138.12 resides outside Minnesota, the study must include a check for substantiated findings of
138.13 maltreatment of adults and children in the individual's state of residence when the information
138.14 is made available by that state, and must include a check of the National Crime Information
138.15 Center database;

138.16 (3) ~~beginning July 1, 1999~~, all other employees in assisted living facilities or assisted
138.17 living facilities with dementia care licensed under chapter 144I, nursing homes licensed
138.18 under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A
138.19 disqualification of an individual in this section shall disqualify the individual from positions
138.20 allowing direct contact or access to patients or residents receiving services. "Access" means
138.21 physical access to a client or the client's personal property without continuous, direct
138.22 supervision as defined in section 245C.02, subdivision 8, when the employee's employment
138.23 responsibilities do not include providing direct contact services;

138.24 (4) individuals employed by a supplemental nursing services agency, as defined under
138.25 section 144A.70, who are providing services in health care facilities; and

138.26 (5) controlling persons of a supplemental nursing services agency, as defined under
138.27 section 144A.70.

138.28 If a facility or program is licensed by the Department of Human Services and subject to
138.29 the background study provisions of chapter 245C and is also licensed by the Department
138.30 of Health, the Department of Human Services is solely responsible for the background
138.31 studies of individuals in the jointly licensed programs.

138.32 **EFFECTIVE DATE.** This section is effective August 1, 2021.

139.1 Sec. 5. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

139.2 Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who
139.3 must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners~~
139.4 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The
139.5 nursing home may share the services of a licensed administrator. The administrator must
139.6 maintain a ~~sufficient~~ an on-site presence in the facility to effectively manage the facility in
139.7 compliance with applicable rules and regulations. The administrator must establish procedures
139.8 and delegate authority for on-site operations in the administrator's absence, but is ultimately
139.9 responsible for the management of the facility. Each nursing home must have posted at all
139.10 times the name of the administrator and the name of the person in charge on the premises
139.11 in the absence of the licensed administrator.

139.12 ~~(b) Notwithstanding sections 144A.18 to 144A.27, a nursing home with a director of~~
139.13 ~~nursing serving as an unlicensed nursing home administrator as of March 1, 2001, may~~
139.14 ~~continue to have a director of nursing serve in that capacity, provided the director of nursing~~
139.15 ~~has passed the state law and rules examination administered by the Board of Examiners for~~
139.16 ~~Nursing Home Administrators and maintains evidence of completion of 20 hours of~~
139.17 ~~continuing education each year on topics pertinent to nursing home administration.~~

139.18 Sec. 6. Minnesota Statutes 2018, section 144A.19, subdivision 1, is amended to read:

139.19 Subdivision 1. **Creation; membership.** There is hereby created the Board of ~~Examiners~~
139.20 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports which
139.21 shall consist of the following members:

139.22 (1) a designee of the commissioner of health who shall be a nonvoting member;

139.23 (2) a designee of the commissioner of human services who shall be a nonvoting member;
139.24 and

139.25 (3) the following members appointed by the governor:

139.26 (i) ~~two members~~ one licensed nursing home administrator member actively engaged in
139.27 the management, operation, or ownership of ~~proprietary~~ nursing homes;

139.28 (ii) one licensed nursing home administrator or health services executive member actively
139.29 engaged in the management, operation, or ownership of proprietary nursing homes or assisted
139.30 living facilities;

140.1 ~~(ii) two members~~ (iii) two licensed nursing home administrator or health services
 140.2 executive members actively engaged in the management or operation of nonprofit nursing
 140.3 homes or assisted living facilities;

140.4 (iv) one licensed assisted living facility director member actively engaged in the
 140.5 management, operation, or ownership of assisted living facilities;

140.6 ~~(iii)~~ (v) one member actively engaged in the practice of medicine;

140.7 ~~(iv) one member~~ (vi) two members actively engaged in the practice of professional
 140.8 nursing, one practicing in nursing homes and one practicing in assisted living facilities; and

140.9 ~~(v)~~ (vii) three public members as defined in section 214.02. Public members may not
 140.10 be current health-related license holders.

140.11 **EFFECTIVE DATE.** This section is effective July 1, 2020.

140.12 Sec. 7. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

140.13 Subdivision 1. **Criteria.** The Board of ~~Examiners~~ Executives may issue licenses to
 140.14 qualified persons as nursing home administrators or assisted living directors, and shall
 140.15 establish qualification criteria for nursing home administrators and assisted living directors.
 140.16 ~~No license shall be issued to a person as a nursing home administrator unless that person:~~

140.17 ~~(1) is at least 21 years of age and otherwise suitably qualified;~~

140.18 ~~(2) has satisfactorily met standards set by the Board of Examiners, which standards shall~~
 140.19 ~~be designed to assure that nursing home administrators will be individuals who, by training~~
 140.20 ~~or experience are qualified to serve as nursing home administrators; and~~

140.21 ~~(3) has passed an examination approved by the board and designed to test for competence~~
 140.22 ~~in the subject matters referred to in clause (2), or has been approved by the Board of~~
 140.23 ~~Examiners through the development and application of other appropriate techniques.~~

140.24 **EFFECTIVE DATE.** This section is effective July 1, 2020.

140.25 Sec. 8. Minnesota Statutes 2018, section 144A.20, is amended by adding a subdivision to
 140.26 read:

140.27 Subd. 3. Nursing home administrator qualifications. The Board of Executives may
 140.28 issue licenses to qualified persons as a nursing home administrator and shall approve training
 140.29 and examinations. No license shall be issued to a person as a nursing home administrator
 140.30 unless that person:

141.1 (1) is at least 21 years of age and otherwise suitably qualified;

141.2 (2) has satisfactorily met standards set by the Board of Executives. The standards shall
141.3 be designed to assure that nursing home administrators are individuals who, by training or
141.4 experience, are qualified to serve as nursing home administrators; and

141.5 (3) has passed an examination approved by the board and designed to test for competence
141.6 in the subject matters referred to in clause (2), or has been approved by the Board of
141.7 Executives through the development and application of other appropriate techniques.

141.8 **EFFECTIVE DATE.** This section is effective July 1, 2020.

141.9 Sec. 9. Minnesota Statutes 2018, section 144A.20, is amended by adding a subdivision to
141.10 read:

141.11 **Subd. 4. Assisted living director qualifications; ongoing training.** (a) The Board of
141.12 Executives may issue licenses to qualified persons as an assisted living director and shall
141.13 approve training and examinations. No license shall be issued to a person as an assisted
141.14 living director unless that person:

141.15 (1) is eligible for licensure;

141.16 (2) has applied for licensure under this subdivision within six months of hire; and

141.17 (3) has satisfactorily met standards set by the board or is scheduled to complete the
141.18 training in paragraph (b) within one year of hire. The standards shall be designed to assure
141.19 that assisted living directors are individuals who, by training or experience, are qualified to
141.20 serve as assisted living directors.

141.21 (b) In order to be qualified to serve as an assisted living director, an individual must:

141.22 (1) have completed an approved training course and passed an examination approved
141.23 by the board that is designed to test for competence and that includes assisted living facility
141.24 laws in Minnesota;

141.25 (2)(i) currently be licensed as a nursing home administrator or have been validated as a
141.26 qualified health services executive by the National Association of Long-Term Care
141.27 Administrator Boards; and

141.28 (ii) have core knowledge of assisted living facility laws; or

141.29 (3) apply for licensure by July 1, 2021, and satisfy one of the following:

141.30 (i) have a higher education degree in nursing, social services, or mental health, or another
141.31 professional degree with training specific to management and regulatory compliance;

142.1 (ii) have at least three years of supervisory, management, or operational experience and
142.2 higher education training applicable to an assisted living facility;

142.3 (iii) have completed at least 1,000 hours of an executive in training program provided
142.4 by an assisted living director licensed under this subdivision; or

142.5 (iv) have managed a housing with services establishment operating under assisted living
142.6 title protection for at least three years.

142.7 (c) An assisted living director must receive at least 30 hours of training every two years
142.8 on topics relevant to the operation of an assisted living facility and the needs of its residents.

142.9 An assisted living director must maintain records of the training required by this paragraph
142.10 for at least the most recent three-year period and must provide these records to Department

142.11 of Health surveyors upon request. Continuing education earned to maintain another

142.12 professional license, such as a nursing home administrator license, nursing license, social

142.13 worker license, mental health professional license, or real estate license, may be used to

142.14 satisfy this requirement when the continuing education is relevant to the assisted living

142.15 services offered and residents served at the assisted living facility.

142.16 **EFFECTIVE DATE.** This section is effective July 1, 2020.

142.17 Sec. 10. Minnesota Statutes 2018, section 144A.21, is amended to read:

142.18 **144A.21 ADMINISTRATOR LICENSES.**

142.19 Subdivision 1. **Transferability.** A nursing home administrator's license shall not be

142.20 transferable. An assisted living director's license shall not be transferable.

142.21 Subd. 2. **Rules; renewal.** The Board of ~~Examiners~~ Executives by rule shall establish

142.22 forms and procedures for the processing of license renewals. A nursing home administrator's

142.23 license or an assisted living director's license may be renewed only in accordance with the

142.24 standards adopted by the Board of ~~Examiners~~ Executives pursuant to section 144A.24.

142.25 **EFFECTIVE DATE.** This section is effective July 1, 2020.

142.26 Sec. 11. Minnesota Statutes 2018, section 144A.23, is amended to read:

142.27 **144A.23 JURISDICTION OF BOARD.**

142.28 Except as provided in section 144A.04, subdivision 5, the Board of ~~examiners~~ Executives

142.29 shall have exclusive authority to determine the qualifications, skill and fitness required of

142.30 any person to serve as an administrator of a nursing home or an assisted living director. The

143.1 holder of a license shall be deemed fully qualified to serve as the administrator of a nursing
143.2 home or director of an assisted living facility.

143.3 **EFFECTIVE DATE.** This section is effective July 1, 2020.

143.4 Sec. 12. Minnesota Statutes 2018, section 144A.24, is amended to read:

143.5 **144A.24 DUTIES OF THE BOARD.**

143.6 The Board of ~~Examiners~~ Executives shall:

143.7 (1) develop and enforce standards for licensing of nursing home administrator licensing,
143.8 ~~which administrators and assisted living directors.~~ The standards shall be designed to assure
143.9 that nursing home administrators and assisted living directors will be individuals of good
143.10 character who, by training or experience, are suitably qualified to serve as nursing home
143.11 administrators or assisted living directors;

143.12 (2) develop appropriate techniques, including examinations and investigations, for
143.13 determining whether applicants and licensees meet the board's standards;

143.14 (3) issue licenses and permits to those individuals who are found to meet the board's
143.15 standards;

143.16 (4) establish and implement procedures designed to assure that individuals licensed as
143.17 nursing home administrators and assisted living directors will comply with the board's
143.18 standards;

143.19 (5) receive and investigate complaints and take appropriate action consistent with chapter
143.20 214, to revoke or suspend the license or permit of a nursing home administrator or acting
143.21 administrator or an assisted living director or acting director who fails to comply with
143.22 sections 144A.18 to 144A.27 or the board's standards;

143.23 (6) conduct a continuing study and investigation of nursing homes and assisted living
143.24 facilities, and the administrators of nursing homes and assisted living directors within the
143.25 state, with a view to the improvement of the standards imposed for the licensing of
143.26 administrators and directors and improvement of the procedures and methods used for
143.27 enforcement of the board's standards; and

143.28 (7) approve or conduct courses of instruction or training designed to prepare individuals
143.29 for licensing in accordance with the board's standards. ~~Courses designed to meet license~~
143.30 ~~renewal requirements shall be designed solely to improve professional skills and shall not~~
143.31 ~~include classroom attendance requirements exceeding 50 hours per year.~~ The board may
143.32 approve courses conducted within or without this state.

144.1 **EFFECTIVE DATE.** This section is effective July 1, 2020.

144.2 Sec. 13. Minnesota Statutes 2018, section 144A.251, is amended to read:

144.3 **144A.251 MANDATORY PROCEEDINGS.**

144.4 In addition to its discretionary authority to initiate proceedings under section 144A.24
144.5 and chapter 214, the Board of ~~Examiners~~ Executives shall initiate proceedings to suspend
144.6 or revoke a nursing home administrator or assisted living director license or shall refuse to
144.7 renew a license if within the preceding two-year period the administrator or director was
144.8 employed at a nursing home or assisted living facility which during the period of employment
144.9 incurred the following number of uncorrected violations, which violations were in the
144.10 jurisdiction and control of the administrator or director and for which a fine was assessed
144.11 and allowed to be recovered:

144.12 (1) two or more uncorrected violations which created an imminent risk of harm to a
144.13 nursing home or assisted living facility resident; or

144.14 (2) ten or more uncorrected violations of any nature.

144.15 **EFFECTIVE DATE.** This section is effective August 1, 2021.

144.16 Sec. 14. Minnesota Statutes 2018, section 144A.2511, is amended to read:

144.17 **144A.2511 COSTS; PENALTIES.**

144.18 If the Board of ~~Examiners~~ Executives has initiated proceedings under section 144A.24
144.19 or 144A.251 or chapter 214, and upon completion of the proceedings has found that a nursing
144.20 home administrator or assisted living director has violated a provision or provisions of
144.21 sections 144A.18 to 144A.27, it may impose a civil penalty not exceeding \$10,000 for each
144.22 separate violation, with all violations related to a single event or incident considered as one
144.23 violation. The amount of the civil penalty shall be fixed so as to deprive the nursing home
144.24 administrator or assisted living director of any economic advantage gained by reason of the
144.25 violation charged or to reimburse the board for the cost of the investigation and proceeding.
144.26 For purposes of this section, the cost of the investigation and proceeding may include, but
144.27 is not limited to, fees paid for services provided by the Office of Administrative Hearings,
144.28 legal and investigative services provided by the Office of the Attorney General, court
144.29 reporters, witnesses, and reproduction of records.

144.30 **EFFECTIVE DATE.** This section is effective August 1, 2021.

145.1 Sec. 15. Minnesota Statutes 2018, section 144A.26, is amended to read:

145.2 **144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF**
145.3 **HEALTH SERVICES EXECUTIVE.**

145.4 **Subdivision 1. Reciprocity.** The Board of ~~Examiners~~ Executives may issue a nursing
145.5 home administrator's license, without examination, to any person who holds a current license
145.6 as a nursing home administrator from another jurisdiction if the board finds that the standards
145.7 for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing
145.8 in this state and that the applicant is otherwise qualified.

145.9 **Subd. 2. Health services executive license.** The Board of Executives may issue a health
145.10 services executive license to any person who (1) has been validated by the National
145.11 Association of Long Term Care Administrator Boards as a health services executive, and
145.12 (2) has met the education and practice requirements for the minimum qualifications of a
145.13 nursing home administrator, assisted living administrator, and home and community-based
145.14 service provider. Licensure decisions made by the board under this subdivision are final.

145.15 Sec. 16. **[144A.291] FEES.**

145.16 **Subdivision 1. Payment types and nonrefundability.** The fees imposed in this section
145.17 shall be paid by cash, personal check, bank draft, cashier's check, or money order made
145.18 payable to the Board of Executives for Long Term Services and Supports. All fees are
145.19 nonrefundable.

145.20 **Subd. 2. Amount.** The amount of fees may be set by the board with the approval of
145.21 Minnesota Management and Budget up to the limits provided in this section depending
145.22 upon the total amount required to sustain board operations under section 16A.1285,
145.23 subdivision 2. Information about fees in effect at any time is available from the board office.
145.24 The maximum amounts of fees are:

145.25 (1) application for licensure, \$150;

145.26 (2) for a prospective applicant for a review of education and experience advisory to the
145.27 license application, \$50, to be applied to the fee for application for licensure if the latter is
145.28 submitted within one year of the request for review of education and experience;

145.29 (3) state examination, \$75;

145.30 (4) licensed nursing home administrator initial license, \$200 if issued between July 1
145.31 and December 31, or \$100 if issued between January 1 and June 30;

145.32 (5) acting administrator permit, \$250;

- 146.1 (6) renewal license, \$200;
- 146.2 (7) duplicate license, \$10;
- 146.3 (8) fee to a sponsor for review of individual continuing education seminars, institutes,
 146.4 workshops, or home study courses:
- 146.5 (i) for less than seven clock hours, \$30; and
- 146.6 (ii) for seven or more clock hours, \$50;
- 146.7 (9) fee to a licensee for review of continuing education seminars, institutes, workshops,
 146.8 or home study courses not previously approved for a sponsor and submitted with an
 146.9 application for license renewal:
- 146.10 (i) for less than seven clock hours total, \$30; and
- 146.11 (ii) for seven or more clock hours total, \$50;
- 146.12 (10) late renewal fee, \$50;
- 146.13 (11) fee to a licensee for verification of licensure status and examination scores, \$30;
- 146.14 (12) registration as a registered continuing education sponsor, \$1,000; and
- 146.15 (13) health services executive initial license, \$200 if issued between July 1 and December
 146.16 31, or \$100 if issued between January 1 and June 30.

146.17 Sec. 17. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

146.18 Subdivision 1. **Statement of rights.** (a) A person client who receives home care services
 146.19 in the community or in an assisted living facility licensed under chapter 144I has these
 146.20 rights:

146.21 (1) ~~the right to~~ receive written information, in plain language, about rights before
 146.22 receiving services, including what to do if rights are violated;

146.23 (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan, and
 146.24 subject to accepted health care, medical or nursing standards and person-centered care, to
 146.25 take an active part in developing, modifying, and evaluating the plan and services;

146.26 (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who
 146.27 will be providing the services, the frequency of visits proposed to be furnished, other choices
 146.28 that are available for addressing home care needs, and the potential consequences of refusing
 146.29 these services;

- 147.1 (4) ~~the right to~~ be told in advance of any recommended changes by the provider in the
147.2 service plan and to take an active part in any decisions about changes to the service plan;
- 147.3 (5) ~~the right to~~ refuse services or treatment;
- 147.4 (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to
147.5 the services available from a home care provider;
- 147.6 (7) ~~the right to~~ be told before services are initiated what the provider charges for the
147.7 services; to what extent payment may be expected from health insurance, public programs,
147.8 or other sources, if known; and what charges the client may be responsible for paying;
- 147.9 (8) ~~the right to~~ know that there may be other services available in the community,
147.10 including other home care services and providers, and to know where to find information
147.11 about these services;
- 147.12 (9) ~~the right to~~ choose freely among available providers and to change providers after
147.13 services have begun, within the limits of health insurance, long-term care insurance, medical
147.14 assistance, ~~or other health programs,~~ or public programs;
- 147.15 (10) ~~the right to~~ have personal, financial, and medical information kept private, and to
147.16 be advised of the provider's policies and procedures regarding disclosure of such information;
- 147.17 (11) ~~the right to~~ access the client's own records and written information from those
147.18 records in accordance with sections 144.291 to 144.298;
- 147.19 (12) ~~the right to~~ be served by people who are properly trained and competent to perform
147.20 their duties;
- 147.21 (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property
147.22 treated with respect;
- 147.23 (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation,
147.24 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
147.25 of Minors Act;
- 147.26 (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;
- 147.27 (16) ~~the right to~~ know the provider's reason for termination of services;
- 147.28 (17) ~~the right to~~ at least ~~ten~~ 30 calendar days' advance notice of the termination of a
147.29 service or housing by a provider, except in cases where:
- 147.30 (i) the client engages in conduct that significantly alters the terms of the service plan
147.31 with the home care provider;

148.1 (ii) the client, person who lives with the client, or others create an abusive or unsafe
148.2 work environment for the person providing home care services; or

148.3 (iii) an emergency or a significant change in the client's condition has resulted in service
148.4 needs that exceed the current service plan and that cannot be safely met by the home care
148.5 provider;

148.6 (18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of
148.7 services;

148.8 (19) ~~the right to~~ complain to staff and others of the client's choice about services that
148.9 are provided, or fail to be provided, and the lack of courtesy or respect to the client or the
148.10 client's property and the right to recommend changes in policies and services, free from
148.11 retaliation including the threat of termination of services;

148.12 (20) ~~the right to~~ know how to contact an individual associated with the home care provider
148.13 who is responsible for handling problems and to have the home care provider investigate
148.14 and attempt to resolve the grievance or complaint;

148.15 (21) ~~the right to~~ know the name and address of the state or county agency to contact for
148.16 additional information or assistance; ~~and~~

148.17 (22) ~~the right to~~ assert these rights personally, or have them asserted by the client's
148.18 representative or by anyone on behalf of the client, without retaliation; and

148.19 (23) place an electronic monitoring device in the client's or resident's space in compliance
148.20 with state requirements.

148.21 (b) When providers violate the rights in this section, they are subject to the fines and
148.22 license actions in sections 144A.474, subdivision 11, and 144A.475.

148.23 (c) Providers must do all of the following:

148.24 (1) encourage and assist in the fullest possible exercise of these rights;

148.25 (2) provide the names and telephone numbers of individuals and organizations that
148.26 provide advocacy and legal services for clients and residents seeking to assert their rights;

148.27 (3) make every effort to assist clients or residents in obtaining information regarding
148.28 whether Medicare, medical assistance, other health programs, or public programs will pay
148.29 for services;

148.30 (4) make reasonable accommodations for people who have communication disabilities,
148.31 or those who speak a language other than English; and

149.1 (5) provide all information and notices in plain language and in terms the client or
149.2 resident can understand.

149.3 (d) No provider may require or request a client or resident to waive any of the rights
149.4 listed in this section at any time or for any reasons, including as a condition of initiating
149.5 services or entering into an assisted living contract.

149.6 Sec. 18. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:

149.7 Subd. 7. **Comprehensive home care license provider.** Home care services that may
149.8 be provided with a comprehensive home care license include any of the basic home care
149.9 services listed in subdivision 6, and one or more of the following:

149.10 (1) services of an advanced practice nurse, registered nurse, licensed practical nurse,
149.11 physical therapist, respiratory therapist, occupational therapist, speech-language pathologist,
149.12 dietitian or nutritionist, or social worker;

149.13 (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed
149.14 health professional within the person's scope of practice;

149.15 (3) medication management services;

149.16 (4) hands-on assistance with transfers and mobility;

149.17 (5) treatment and therapies;

149.18 (6) assisting clients with eating when the clients have complicating eating problems as
149.19 identified in the client record or through an assessment such as difficulty swallowing,
149.20 recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous
149.21 instruments to be fed; or

149.22 ~~(6)~~ (7) providing other complex or specialty health care services.

149.23 Sec. 19. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:

149.24 Subd. 9. **Exclusions from home care licensure.** The following are excluded from home
149.25 care licensure and are not required to provide the home care bill of rights:

149.26 (1) an individual or business entity providing only coordination of home care that includes
149.27 one or more of the following:

149.28 (i) determination of whether a client needs home care services, or assisting a client in
149.29 determining what services are needed;

149.30 (ii) referral of clients to a home care provider;

- 150.1 (iii) administration of payments for home care services; or
- 150.2 (iv) administration of a health care home established under section 256B.0751;
- 150.3 (2) an individual who is not an employee of a licensed home care provider if the
- 150.4 individual:
- 150.5 (i) only provides services as an independent contractor to one or more licensed home
- 150.6 care providers;
- 150.7 (ii) provides no services under direct agreements or contracts with clients; and
- 150.8 (iii) is contractually bound to perform services in compliance with the contracting home
- 150.9 care provider's policies and service plans;
- 150.10 (3) a business that provides staff to home care providers, such as a temporary employment
- 150.11 agency, if the business:
- 150.12 (i) only provides staff under contract to licensed or exempt providers;
- 150.13 (ii) provides no services under direct agreements with clients; and
- 150.14 (iii) is contractually bound to perform services under the contracting home care provider's
- 150.15 direction and supervision;
- 150.16 (4) any home care services conducted by and for the adherents of any recognized church
- 150.17 or religious denomination for its members through spiritual means, or by prayer for healing;
- 150.18 (5) an individual who only provides home care services to a relative;
- 150.19 (6) an individual not connected with a home care provider that provides assistance with
- 150.20 basic home care needs if the assistance is provided primarily as a contribution and not as a
- 150.21 business;
- 150.22 (7) an individual not connected with a home care provider that shares housing with and
- 150.23 provides primarily housekeeping or homemaking services to an elderly or disabled person
- 150.24 in return for free or reduced-cost housing;
- 150.25 (8) an individual or provider providing home-delivered meal services;
- 150.26 (9) an individual providing senior companion services and other older American volunteer
- 150.27 programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United
- 150.28 States Code, title 42, chapter 66;
- 150.29 ~~(10) an employee of a nursing home or home care provider licensed under this chapter~~
- 150.30 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
- 150.31 ~~responding to occasional emergency calls from individuals residing in a residential setting~~

151.1 ~~that is attached to or located on property contiguous to the nursing home, boarding care~~
151.2 ~~home, or location where home care services are also provided;~~

151.3 ~~(11) an employee of a nursing home or home care provider licensed under this chapter~~
151.4 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
151.5 ~~providing occasional minor services free of charge to individuals residing in a residential~~
151.6 ~~setting that is attached to or located on property contiguous to the nursing home, boarding~~
151.7 ~~care home, or location where home care services are also provided;~~

151.8 (12) a member of a professional corporation organized under chapter 319B that does
151.9 not regularly offer or provide home care services as defined in section 144A.43, subdivision
151.10 3;

151.11 (13) the following organizations established to provide medical or surgical services that
151.12 do not regularly offer or provide home care services as defined in section 144A.43,
151.13 subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit
151.14 corporation organized under chapter 317A, a partnership organized under chapter 323, or
151.15 any other entity determined by the commissioner;

151.16 (14) an individual or agency that provides medical supplies or durable medical equipment,
151.17 except when the provision of supplies or equipment is accompanied by a home care service;

151.18 (15) a physician licensed under chapter 147;

151.19 (16) an individual who provides home care services to a person with a developmental
151.20 disability who lives in a place of residence with a family, foster family, or primary caregiver;

151.21 (17) a business that only provides services that are primarily instructional and not medical
151.22 services or health-related support services;

151.23 (18) an individual who performs basic home care services for no more than 14 hours
151.24 each calendar week to no more than one client;

151.25 (19) an individual or business licensed as hospice as defined in sections 144A.75 to
151.26 144A.755 who is not providing home care services independent of hospice service;

151.27 (20) activities conducted by the commissioner of health or a community health board
151.28 as defined in section 145A.02, subdivision 5, including communicable disease investigations
151.29 or testing; or

151.30 (21) administering or monitoring a prescribed therapy necessary to control or prevent a
151.31 communicable disease, or the monitoring of an individual's compliance with a health directive
151.32 as defined in section 144.4172, subdivision 6.

152.1 **EFFECTIVE DATE.** The amendments to clauses (10) and (11) are effective July 1,
 152.2 2021.

152.3 Sec. 20. Minnesota Statutes 2018, section 144A.472, subdivision 7, is amended to read:

152.4 Subd. 7. **Fees; application, change of ownership, ~~and~~ renewal, and failure to**
 152.5 **notify.** (a) An initial applicant seeking temporary home care licensure must submit the
 152.6 following application fee to the commissioner along with a completed application:

152.7 (1) for a basic home care provider, \$2,100; or

152.8 (2) for a comprehensive home care provider, \$4,200.

152.9 (b) A home care provider who is filing a change of ownership as required under
 152.10 subdivision 5 must submit the following application fee to the commissioner, along with
 152.11 the documentation required for the change of ownership:

152.12 (1) for a basic home care provider, \$2,100; or

152.13 (2) for a comprehensive home care provider, \$4,200.

152.14 (c) For the period ending June 30, 2018, a home care provider who is seeking to renew
 152.15 the provider's license shall pay a fee to the commissioner based on revenues derived from
 152.16 the provision of home care services during the calendar year prior to the year in which the
 152.17 application is submitted, according to the following schedule:

152.18 **License Renewal Fee**

152.19 Provider Annual Revenue	Fee
152.20 greater than \$1,500,000	\$6,625
152.21 greater than \$1,275,000 and no more than 152.22 \$1,500,000	\$5,797
152.23 greater than \$1,100,000 and no more than 152.24 \$1,275,000	\$4,969
152.25 greater than \$950,000 and no more than 152.26 \$1,100,000	\$4,141
152.27 greater than \$850,000 and no more than \$950,000	\$3,727
152.28 greater than \$750,000 and no more than \$850,000	\$3,313
152.29 greater than \$650,000 and no more than \$750,000	\$2,898
152.30 greater than \$550,000 and no more than \$650,000	\$2,485
152.31 greater than \$450,000 and no more than \$550,000	\$2,070
152.32 greater than \$350,000 and no more than \$450,000	\$1,656
152.33 greater than \$250,000 and no more than \$350,000	\$1,242
152.34 greater than \$100,000 and no more than \$250,000	\$828

153.1	greater than \$50,000 and no more than \$100,000	\$500
153.2	greater than \$25,000 and no more than \$50,000	\$400
153.3	no more than \$25,000	\$200

153.4 (d) For the period between July 1, 2018, and June 30, 2020, a home care provider who
 153.5 is seeking to renew the provider's license shall pay a fee to the commissioner in an amount
 153.6 that is ten percent higher than the applicable fee in paragraph (c). A home care provider's
 153.7 fee shall be based on revenues derived from the provision of home care services during the
 153.8 calendar year prior to the year in which the application is submitted.

153.9 (e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's
 153.10 license shall pay a fee to the commissioner based on revenues derived from the provision
 153.11 of home care services during the calendar year prior to the year in which the application is
 153.12 submitted, according to the following schedule:

153.13 **License Renewal Fee**

153.14	Provider Annual Revenue	Fee
153.15	greater than \$1,500,000	\$7,651
153.16	greater than \$1,275,000 and no more than	
153.17	\$1,500,000	\$6,695
153.18	greater than \$1,100,000 and no more than	
153.19	\$1,275,000	\$5,739
153.20	greater than \$950,000 and no more than	
153.21	\$1,100,000	\$4,783
153.22	greater than \$850,000 and no more than \$950,000	\$4,304
153.23	greater than \$750,000 and no more than \$850,000	\$3,826
153.24	greater than \$650,000 and no more than \$750,000	\$3,347
153.25	greater than \$550,000 and no more than \$650,000	\$2,870
153.26	greater than \$450,000 and no more than \$550,000	\$2,391
153.27	greater than \$350,000 and no more than \$450,000	\$1,913
153.28	greater than \$250,000 and no more than \$350,000	\$1,434
153.29	greater than \$100,000 and no more than \$250,000	\$957
153.30	greater than \$50,000 and no more than \$100,000	\$577
153.31	greater than \$25,000 and no more than \$50,000	\$462
153.32	no more than \$25,000	\$231

153.33 (f) If requested, the home care provider shall provide the commissioner information to
 153.34 verify the provider's annual revenues or other information as needed, including copies of
 153.35 documents submitted to the Department of Revenue.

154.1 (g) At each annual renewal, a home care provider may elect to pay the highest renewal
154.2 fee for its license category, and not provide annual revenue information to the commissioner.

154.3 (h) A temporary license or license applicant, or temporary licensee or licensee that
154.4 knowingly provides the commissioner incorrect revenue amounts for the purpose of paying
154.5 a lower license fee, shall be subject to a civil penalty in the amount of double the fee the
154.6 provider should have paid.

154.7 (i) The fee for failure to comply with the notification requirements in section 144A.473,
154.8 subdivision 2, paragraph (c), is \$1,000.

154.9 ~~(j)~~ (j) Fees ~~and penalties~~ collected under this section shall be deposited in the state
154.10 treasury and credited to the state government special revenue fund. All fees are
154.11 nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if
154.12 received before July 1, 2017, for temporary licenses or licenses being issued effective July
154.13 1, 2017, or later.

154.14 (k) Fines collected under this subdivision shall be deposited in a dedicated special revenue
154.15 account. On an annual basis, the balance in the special revenue account shall be appropriated
154.16 to the commissioner to implement the recommendations of the advisory council established
154.17 in section 144A.4799. Fines collected in state fiscal year 2019 shall be deposited in the
154.18 dedicated special revenue account as described in this section.

154.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

154.20 Sec. 21. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:

154.21 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under
154.22 subdivision 11, or any violations determined to be widespread, the department shall conduct
154.23 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up
154.24 survey, the surveyor will focus on whether the previous violations have been corrected and
154.25 may also address any new violations that are observed while evaluating the corrections that
154.26 have been made. ~~If a new violation is identified on a follow-up survey, no fine will be~~
154.27 ~~imposed unless it is not corrected on the next follow-up survey.~~

154.28 Sec. 22. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:

154.29 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed
154.30 based on the level and scope of the violations described in paragraph ~~(e)~~ (b) and imposed
154.31 immediately with no opportunity to correct the violation first as follows:

154.32 (1) Level 1, no fines or enforcement;

155.1 (2) Level 2, ~~finer ranging from \$0 to a fine of \$500 per violation~~, in addition to any of
155.2 the enforcement mechanisms authorized in section 144A.475 for widespread violations;

155.3 (3) Level 3, ~~finer ranging from \$500 to \$1,000 a fine of \$3,000 per incident plus \$100~~
155.4 for each resident affected by the violation, in addition to any of the enforcement mechanisms
155.5 authorized in section 144A.475; ~~and~~

155.6 (4) Level 4, ~~finer ranging from \$1,000 to a fine of \$5,000 per incident plus \$200 for~~
155.7 each resident affected by the violation, in addition to any of the enforcement mechanisms
155.8 authorized in section 144A.475;

155.9 (5) for maltreatment violations as defined in section 626.557 including abuse, neglect,
155.10 financial exploitation, and drug diversion, that are determined against the provider, an
155.11 immediate fine shall be imposed of \$5,000 per incident plus \$200 for each resident affected
155.12 by the violation; and

155.13 (6) the fines in clauses (1) to (4) are increased and immediate fine imposition is authorized
155.14 for both surveys and investigations conducted.

155.15 (b) Correction orders for violations are categorized by both level and scope and fines
155.16 shall be assessed as follows:

155.17 (1) level of violation:

155.18 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on
155.19 the client and does not affect health or safety;

155.20 (ii) Level 2 is a violation that did not harm a client's health or safety but had the potential
155.21 to have harmed a client's health or safety, but was not likely to cause serious injury,
155.22 impairment, or death;

155.23 (iii) Level 3 is a violation that harmed a client's health or safety, not including serious
155.24 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
155.25 impairment, or death; and

155.26 (iv) Level 4 is a violation that results in serious injury, impairment, or death;

155.27 (2) scope of violation:

155.28 (i) isolated, when one or a limited number of clients are affected or one or a limited
155.29 number of staff are involved or the situation has occurred only occasionally;

155.30 (ii) pattern, when more than a limited number of clients are affected, more than a limited
155.31 number of staff are involved, or the situation has occurred repeatedly but is not found to be
155.32 pervasive; and

156.1 (iii) widespread, when problems are pervasive or represent a systemic failure that has
156.2 affected or has the potential to affect a large portion or all of the clients.

156.3 (c) If the commissioner finds that the applicant or a home care provider ~~required to be~~
156.4 ~~licensed under sections 144A.43 to 144A.482~~ has not corrected violations by the date
156.5 specified in the correction order or conditional license resulting from a survey or complaint
156.6 investigation, the commissioner ~~may impose a fine.~~ A shall provide a notice of
156.7 noncompliance with a correction order ~~must be mailed~~ by e-mail to the applicant's or
156.8 provider's last known e-mail address. The noncompliance notice must list the violations not
156.9 corrected.

156.10 (d) For every violation identified by the commissioner, the commissioner shall issue an
156.11 immediate fine pursuant to paragraph (a), clause (6). The license holder must still correct
156.12 the violation in the time specified. The issuance of an immediate fine can occur in addition
156.13 to any enforcement mechanism authorized under section 144A.475. The immediate fine
156.14 may be appealed as allowed under this subdivision.

156.15 ~~(d)~~ (e) The license holder must pay the fines assessed on or before the payment date
156.16 specified. If the license holder fails to fully comply with the order, the commissioner may
156.17 issue a second fine or suspend the license until the license holder complies by paying the
156.18 fine. A timely appeal shall stay payment of the fine until the commissioner issues a final
156.19 order.

156.20 ~~(e)~~ (f) A license holder shall promptly notify the commissioner in writing when a violation
156.21 specified in the order is corrected. If upon reinspection the commissioner determines that
156.22 a violation has not been corrected as indicated by the order, the commissioner may issue a
156.23 second fine. The commissioner shall notify the license holder by mail to the last known
156.24 address in the licensing record that a second fine has been assessed. The license holder may
156.25 appeal the second fine as provided under this subdivision.

156.26 ~~(f)~~ (g) A home care provider that has been assessed a fine under this subdivision has a
156.27 right to a reconsideration or a hearing under this section and chapter 14.

156.28 ~~(g)~~ (h) When a fine has been assessed, the license holder may not avoid payment by
156.29 closing, selling, or otherwise transferring the licensed program to a third party. In such an
156.30 event, the license holder shall be liable for payment of the fine.

156.31 ~~(h)~~ (i) In addition to any fine imposed under this section, the commissioner may assess
156.32 a penalty amount based on costs related to an investigation that results in a final order
156.33 assessing a fine or other enforcement action authorized by this chapter.

157.1 ~~(i)~~ (j) Fines collected under this subdivision shall be deposited in ~~the state government~~
157.2 ~~a dedicated special revenue fund and credited to an account separate from the revenue~~
157.3 ~~collected under section 144A.472. Subject to an appropriation by the legislature, the revenue~~
157.4 ~~from the fines collected must be used by the commissioner for special projects to improve~~
157.5 ~~home care in Minnesota as recommended by~~ account. On an annual basis, the balance in
157.6 the special revenue account shall be appropriated to the commissioner to implement the
157.7 recommendations of the advisory council established in section 144A.4799. Fines collected
157.8 in state fiscal year 2019 shall be deposited in the dedicated special revenue account as
157.9 described in this section.

157.10 **EFFECTIVE DATE.** This section is effective July 1, 2019.

157.11 Sec. 23. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

157.12 Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license
157.13 holder's timely appeal of a temporary suspension or issuance of a conditional license, the
157.14 commissioner shall request assignment of an administrative law judge. The request must
157.15 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
157.16 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
157.17 30 calendar days of the request for assignment, unless an extension is requested by either
157.18 party and granted by the administrative law judge for good cause. The commissioner shall
157.19 issue a notice of hearing by certified mail or personal service at least ten business days
157.20 before the hearing. Certified mail to the last known address is sufficient. The scope of the
157.21 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
157.22 of a conditional license should remain in effect and whether there is sufficient evidence to
157.23 conclude that the licensee's actions or failure to comply with applicable laws are level 3 or
157.24 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there
157.25 were violations that posed an imminent risk of harm to the health and safety of persons in
157.26 the provider's care.

157.27 (b) The administrative law judge shall issue findings of fact, conclusions, and a
157.28 recommendation within ten business days from the date of hearing. The parties shall have
157.29 ten calendar days to submit exceptions to the administrative law judge's report. The record
157.30 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
157.31 final order shall be issued within ten business days from the close of the record. When an
157.32 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
157.33 the commissioner shall issue a final order affirming the temporary immediate suspension
157.34 or conditional license within ten calendar days of the commissioner's receipt of the

158.1 withdrawal or dismissal. The license holder is prohibited from operation during the temporary
158.2 suspension period.

158.3 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
158.4 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
158.5 sanction, the licensee is prohibited from operation pending a final commissioner's order
158.6 after the contested case hearing conducted under chapter 14.

158.7 (d) A licensee whose license is temporarily suspended must comply with the requirements
158.8 for notification and transfer of clients in subdivision 5. These requirements remain if an
158.9 appeal is requested.

158.10 Sec. 24. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

158.11 Subd. 5. **Plan required.** (a) The process of suspending ~~or~~, revoking, or refusing to renew
158.12 a license must include a plan for transferring affected ~~clients~~ clients' care to other providers
158.13 by the home care provider, which will be monitored by the commissioner. Within three
158.14 business calendar days of being notified of the ~~final~~ revocation, refusal to renew, or
158.15 suspension ~~action~~, the home care provider shall provide the commissioner, the lead agencies
158.16 as defined in section 256B.0911, county adult protection and case managers, and the
158.17 ombudsman for long-term care with the following information:

158.18 (1) a list of all clients, including full names and all contact information on file;

158.19 (2) a list of each client's representative or emergency contact person, including full names
158.20 and all contact information on file;

158.21 (3) the location or current residence of each client;

158.22 (4) the payor sources for each client, including payor source identification numbers; and

158.23 (5) for each client, a copy of the client's service plan, and a list of the types of services
158.24 being provided.

158.25 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
158.26 by mailing the notice to the address in the license record. The home care provider shall
158.27 cooperate with the commissioner and the lead agencies, county adult protection and county
158.28 managers, and the ombudsman for long term care during the process of transferring care of
158.29 clients to qualified providers. Within three business calendar days of being notified of the
158.30 final revocation, refusal to renew, or suspension action, the home care provider must notify
158.31 and disclose to each of the home care provider's clients, or the client's representative or
158.32 emergency contact persons, that the commissioner is taking action against the home care

159.1 provider's license by providing a copy of the revocation, refusal to renew, or suspension
159.2 notice issued by the commissioner. If the provider does not comply with the disclosure
159.3 requirements in this section, the commissioner shall notify the clients, client representatives,
159.4 or emergency contact persons, about the action being taken. Lead agencies, county adult
159.5 protection and county managers, and the Office of Ombudsman for Long-Term Care may
159.6 also provide this information. The revocation, refusal to renew, or suspension notice is
159.7 public data except for any private data contained therein.

159.8 (c) A home care provider subject to this subdivision may continue operating during the
159.9 period of time home care clients are being transferred to other providers.

159.10 Sec. 25. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

159.11 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before
159.12 the commissioner issues a temporary license, issues a license as a result of an approved
159.13 change in ownership, or renews a license, an owner or managerial official is required to
159.14 complete a background study under section 144.057. No person may be involved in the
159.15 management, operation, or control of a home care provider if the person has been disqualified
159.16 under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C,
159.17 the individual may request reconsideration of the disqualification. If the individual requests
159.18 reconsideration and the commissioner sets aside or rescinds the disqualification, the individual
159.19 is eligible to be involved in the management, operation, or control of the provider. If an
159.20 individual has a disqualification under section 245C.15, subdivision 1, and the disqualification
159.21 is affirmed, the individual's disqualification is barred from a set aside, and the individual
159.22 must not be involved in the management, operation, or control of the provider.

159.23 (b) For purposes of this section, owners of a home care provider subject to the background
159.24 check requirement are those individuals whose ownership interest provides sufficient
159.25 authority or control to affect or change decisions related to the operation of the home care
159.26 provider. An owner includes a sole proprietor, a general partner, or any other individual
159.27 whose individual ownership interest can affect the management and direction of the policies
159.28 of the home care provider.

159.29 (c) For the purposes of this section, managerial officials subject to the background check
159.30 requirement are individuals who provide direct contact as defined in section 245C.02,
159.31 subdivision 11, or individuals who have the responsibility for the ongoing management or
159.32 direction of the policies, services, or employees of the home care provider. Data collected
159.33 under this subdivision shall be classified as private data on individuals under section 13.02,
159.34 subdivision 12.

160.1 (d) The department shall not issue any license if the applicant or owner or managerial
160.2 official has been unsuccessful in having a background study disqualification set aside under
160.3 section 144.057 and chapter 245C; if the owner or managerial official, as an owner or
160.4 managerial official of another home care provider, was substantially responsible for the
160.5 other home care provider's failure to substantially comply with sections 144A.43 to
160.6 144A.482; or if an owner that has ceased doing business, either individually or as an owner
160.7 of a home care provider, was issued a correction order for failing to assist clients in violation
160.8 of this chapter.

160.9 Sec. 26. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

160.10 Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service
160.11 plan with a client, and the client continues to need home care services, the home care provider
160.12 shall provide the client and the client's representative, if any, with a 30-day written notice
160.13 of termination which includes the following information:

160.14 (1) the effective date of termination;

160.15 (2) the reason for termination;

160.16 (3) a list of known licensed home care providers in the client's immediate geographic
160.17 area;

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

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

160.23 (6) if applicable, a statement that the notice of termination of home care services does
160.24 not constitute notice of termination of the housing with services contract with a housing
160.25 with services establishment.

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

161.1 Sec. 27. Minnesota Statutes 2018, section 144A.4799, is amended to read:

161.2 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**
161.3 **ADVISORY COUNCIL.**

161.4 Subdivision 1. **Membership.** The commissioner of health shall appoint eight persons
161.5 to a home care and assisted living program advisory council consisting of the following:

161.6 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who
161.7 are currently receiving home care services ~~or~~, persons who have received home care services
161.8 within five years of the application date, persons who have family members receiving home
161.9 care services, or persons who have family members who have received home care services
161.10 within five years of the application date;

161.11 (2) three Minnesota home care licensees representing basic and comprehensive levels
161.12 of licensure who may be a managerial official, an administrator, a supervising registered
161.13 nurse, or an unlicensed personnel performing home care tasks;

161.14 (3) one member representing the Minnesota Board of Nursing; ~~and~~

161.15 (4) one member representing the office of ombudsman for long-term care; and

161.16 (5) beginning July 1, 2021, one member of a county health and human services or county
161.17 adult protection office.

161.18 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and
161.19 administered under section 15.059 with per diems and costs paid within the limits of available
161.20 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees
161.21 may be developed as necessary by the commissioner. Advisory council meetings are subject
161.22 to the Open Meeting Law under chapter 13D.

161.23 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide
161.24 advice regarding regulations of Department of Health licensed home care providers in this
161.25 chapter, including advice on the following:

161.26 (1) community standards for home care practices;

161.27 (2) enforcement of licensing standards and whether certain disciplinary actions are
161.28 appropriate;

161.29 (3) ways of distributing information to licensees and consumers of home care;

161.30 (4) training standards;

161.31 (5) identifying emerging issues and opportunities in ~~the home care field~~, including;

162.1 (6) identifying the use of technology in home and telehealth capabilities;

162.2 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method
 162.3 for an integrated license with an existing license for rural licensed nursing homes to provide
 162.4 limited home care services in an adjacent independent living apartment building owned by
 162.5 the licensed nursing home; and

162.6 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,
 162.7 including but not limited to studies concerning costs related to dementia and chronic disease
 162.8 among an elderly population over 60 and additional long-term care costs, as described in
 162.9 section 62U.10, subdivision 6.

162.10 (b) The advisory council shall perform other duties as directed by the commissioner.

162.11 (c) The advisory council shall annually ~~review the balance of the account in the state~~
 162.12 ~~government special revenue fund described in section 144A.474, subdivision 11, paragraph~~
 162.13 ~~(i), and make annual recommendations by January 15 directly to the chairs and ranking~~
 162.14 ~~minority members of the legislative committees with jurisdiction over health and human~~
 162.15 ~~services regarding appropriations to the commissioner for the purposes in section 144A.474,~~
 162.16 ~~subdivision 11, paragraph (i). The recommendations shall address ways the commissioner~~
 162.17 ~~may improve protection of the public under existing statutes and laws and include but are~~
 162.18 ~~not limited to projects that create and administer training of licensees and their employees~~
 162.19 ~~to improve residents lives, supporting ways that licensees can improve and enhance quality~~
 162.20 ~~care, ways to provide technical assistance to licensees to improve compliance; information~~
 162.21 ~~technology and data projects that analyze and communicate information about trends of~~
 162.22 ~~violations or lead to ways of improving client care; communications strategies to licensees~~
 162.23 ~~and the public; and other projects or pilots that benefit clients, families, and the public.~~

162.24 Sec. 28. Minnesota Statutes 2018, section 256.9741, subdivision 1, is amended to read:

162.25 Subdivision 1. **Long-term care facility.** "Long-term care facility" means a nursing home
 162.26 licensed under sections 144A.02 to 144A.10; a boarding care home licensed under sections
 162.27 144.50 to 144.56; an assisted living facility or an assisted living facility with dementia care
 162.28 licensed under chapter 144I; or a licensed or registered residential setting that provides or
 162.29 arranges for the provision of home care services.

162.30 Sec. 29. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

162.31 Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support~~
 162.32 ~~services according to the continuum of care coordinated assessment system established~~

163.1 ~~under Code of Federal Regulations, title 24, section 578.3~~ that is not time-limited and
163.2 provides or coordinates services necessary for a resident to maintain housing stability.

163.3 Sec. 30. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

163.4 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph
163.5 (b), an agency may not enter into an agreement with an establishment to provide housing
163.6 support unless:

163.7 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;
163.8 a board and lodging establishment; a boarding care home before March 1, 1985; or a
163.9 supervised living facility, and the service provider for residents of the facility is licensed
163.10 under chapter 245A. However, an establishment licensed by the Department of Health to
163.11 provide lodging need not also be licensed to provide board if meals are being supplied to
163.12 residents under a contract with a food vendor who is licensed by the Department of Health;

163.13 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota
163.14 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior
163.15 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;
163.16 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,
163.17 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,
163.18 subdivision 4a, as a community residential setting by the commissioner of human services;
163.19 or

163.20 (3) the ~~establishment~~ facility is registered under chapter 144D or licensed under chapter
163.21 144I and provides three meals a day.

163.22 (b) The requirements under paragraph (a) do not apply to establishments exempt from
163.23 state licensure because they are:

163.24 (1) located on Indian reservations and subject to tribal health and safety requirements;
163.25 or

163.26 (2) ~~a supportive housing establishment that has an approved habitability inspection and~~
163.27 ~~an individual lease agreement and that serves people who have experienced long-term~~
163.28 ~~homelessness and were referred through a coordinated assessment in section 256I.03,~~
163.29 ~~subdivision 15~~ supportive housing establishments where an individual has an approved
163.30 habitability inspection and an individual lease agreement.

163.31 (c) Supportive housing establishments that serve individuals who have experienced
163.32 long-term homelessness and emergency shelters must participate in the homeless management
163.33 information system and a coordinated assessment system as defined by the commissioner.

164.1 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of
 164.2 housing support unless all staff members who have direct contact with recipients:

164.3 (1) have skills and knowledge acquired through one or more of the following:

164.4 (i) a course of study in a health- or human services-related field leading to a bachelor
 164.5 of arts, bachelor of science, or associate's degree;

164.6 (ii) one year of experience with the target population served;

164.7 (iii) experience as a mental health certified peer specialist according to section 256B.0615;

164.8 or

164.9 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to
 164.10 144A.483;

164.11 (2) hold a current driver's license appropriate to the vehicle driven if transporting
 164.12 recipients;

164.13 (3) complete training on vulnerable adults mandated reporting and child maltreatment
 164.14 mandated reporting, where applicable; and

164.15 (4) complete housing support orientation training offered by the commissioner.

164.16 Sec. 31. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

164.17 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~
 164.18 ~~establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide~~
 164.19 ~~a special program or special unit for residents with a diagnosis of probable Alzheimer's~~
 164.20 ~~disease or a related disorder or that advertise, market, or otherwise promote the establishment~~
 164.21 ~~as providing specialized care for Alzheimer's disease or a related disorder are considered a~~
 164.22 ~~"special care unit." All special care units~~ Only assisted living facilities with dementia care
 164.23 licenses under chapter 144I may advertise, market, or otherwise promote the facility as
 164.24 providing specialized care for dementia or related disorders. All assisted living facilities
 164.25 with dementia care licenses shall provide a written disclosure to the following:

164.26 (1) the commissioner of health, if requested;

164.27 (2) the Office of Ombudsman for Long-Term Care; and

164.28 (3) each person seeking placement within a residence, or the person's ~~authorized~~
 164.29 ~~representative~~ legal and designated representatives, as those terms are defined in section
 164.30 144J.01, before an agreement to provide the care is entered into.

165.1 Sec. 32. Minnesota Statutes 2018, section 325F.72, subdivision 2, is amended to read:

165.2 Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

165.3 (1) a statement of the overall philosophy and how it reflects the special needs of residents
165.4 with Alzheimer's disease or other dementias;

165.5 (2) the criteria for determining who may reside in the ~~special care~~ secured dementia care
165.6 unit as defined in section 144I.01, subdivision 62;

165.7 (3) the process used for assessment and establishment of the service plan ~~or agreement~~,
165.8 including how the plan is responsive to changes in the resident's condition;

165.9 (4) staffing credentials, job descriptions, and staff duties and availability, including any
165.10 training specific to dementia;

165.11 (5) physical environment as well as design and security features that specifically address
165.12 the needs of residents with Alzheimer's disease or other dementias;

165.13 (6) frequency and type of programs and activities for residents of the ~~special care unit~~
165.14 assisted living facility with dementia care;

165.15 (7) involvement of families in resident care and availability of family support programs;

165.16 (8) fee schedules for additional services to the residents of the ~~special~~ secured dementia
165.17 care unit; and

165.18 (9) a statement that residents will be given a written notice 30 calendar days prior to
165.19 changes in the fee schedule.

165.20 Sec. 33. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

165.21 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
165.22 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
165.23 under section 144A.02; a facility or service required to be licensed under chapter 245A; an
165.24 assisted living facility required to be licensed under chapter 144I; a home care provider
165.25 licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider
165.26 licensed under sections 144A.75 to 144A.755; or a person or organization that offers,
165.27 provides, or arranges for personal care assistance services under the medical assistance
165.28 program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654,
165.29 256B.0659, or 256B.85.

165.30 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
165.31 own home or in another unlicensed location, the term "facility" refers to the provider, person,

166.1 or organization that offers, provides, or arranges for personal care services, and does not
 166.2 refer to the vulnerable adult's home or other location at which services are rendered.

166.3 **Sec. 34. REVISOR INSTRUCTION.**

166.4 The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home
 166.5 Administrators" to "Board of Executives for Long Term Services and Supports" and "Board
 166.6 of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes
 166.7 and apply to the board established in Minnesota Statutes, section 144A.19.

166.8 **Sec. 35. REPEALER.**

166.9 (a) Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed July 1, 2019.

166.10 (b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1,
 166.11 2021.

166.12 **ARTICLE 6**

166.13 **APPROPRIATIONS**

166.14 **Section 1. HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

166.15 The sums shown in the columns marked "Appropriations" are appropriated to the agencies
 166.16 and for the purposes specified in this article. The appropriations are from the general fund,
 166.17 or another named fund, and are available for the fiscal years indicated for each purpose.

166.18 The figures "2020" and "2021" used in this article mean that the appropriations listed under
 166.19 them are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively.

166.20 "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium"
 166.21 is fiscal years 2020 and 2021.

166.22 **APPROPRIATIONS**

166.23 **Available for the Year**

166.24 **Ending June 30**

166.25 **2020**

2021

166.26 **Sec. 2. COMMISSIONER OF HUMAN**
 166.27 **SERVICES**

166.28 **Subdivision 1. Total Appropriation** **\$** **7,793,000** **\$** **4,088,000**

167.1 The amounts that may be spent for each
 167.2 purpose are specified in the following
 167.3 subdivisions.

167.4 **Subd. 2. Central Office; Operations** 2,654,000 740,000

167.5 **Base Level Adjustment.** The general fund
 167.6 base for this appropriation is \$711,000 in fiscal
 167.7 year 2022 and \$711,000 in fiscal year 2023.

167.8 **Subd. 3. Central Office; Continuing Care for**
 167.9 **Older Adults** 5,139,000 2,848,000

167.10 **(a) Assisted Living Survey.** Beginning in
 167.11 fiscal year 2020, \$2,500,000 in the even
 167.12 numbered year of each biennium is to fund a
 167.13 resident experience survey and family survey
 167.14 for all housing with services sites. This
 167.15 paragraph does not expire.

167.16 **(b) Information and Assistance Grant**
 167.17 **Transfer.** \$1,000,000 in fiscal year 2020 and
 167.18 \$1,000,000 in fiscal year 2021 are transferred
 167.19 to the continuing care for older adults
 167.20 administration from the aging and adult
 167.21 services grants for developing the Home and
 167.22 Community-Based Report Card for assisted
 167.23 living. This transfer is ongoing.

167.24 **(c) Base Level Adjustment.** The general fund
 167.25 base for this appropriation is \$5,323,000 in
 167.26 fiscal year 2022 and \$2,823,000 in fiscal year
 167.27 2023.

167.28 **Subd. 4. Grant Programs; Children and**
 167.29 **Community Service Grants** 1,000,000 1,500,000

167.30 **(a) Adult Protection Grants.** \$1,000,000 in
 167.31 fiscal year 2020 and \$1,500,000 in fiscal year
 167.32 2021 are for grant funding for adult abuse
 167.33 maltreatment investigations and adult
 167.34 protective services to counties and tribes as

168.1 allocated and specified under Minnesota
 168.2 Statutes, section 256M.42.

168.3 **(b) Base Level Adjustment.** The general fund
 168.4 base for this appropriation is \$2,050,000 in
 168.5 fiscal year 2022 and \$2,655,000 in fiscal year
 168.6 2023.

168.7 **Subd. 5. Grant Programs; Aging and Adult**
 168.8 **Services Grants** (1,000,000) (1,000,000)

168.9 **Base Level Adjustment.** The general fund
 168.10 base for this appropriation is reduced by
 168.11 \$1,000,000 in fiscal year 2022 and \$1,000,000
 168.12 in fiscal year 2023.

168.13 **Sec. 3. COMMISSIONER OF HEALTH**

168.14 **Subdivision 1. Total Appropriation** \$ **10,973,000** \$ **13,519,000**

168.15	<u>Appropriations by Fund</u>		
168.16		<u>2020</u>	<u>2021</u>
168.17	<u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
168.18	<u>State Government</u>		
168.19	<u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

168.20 The amounts that may be spent for each
 168.21 purpose are specified in the following
 168.22 subdivision.

168.23 **Subd. 2. Health Protection**

168.24	<u>Appropriations by Fund</u>		
168.25	<u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
168.26	<u>State Government</u>		
168.27	<u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

168.28 **(a) Vulnerable Adults Program**
 168.29 **Improvements.** \$7,438,000 in fiscal year 2020
 168.30 and \$4,302,000 in fiscal year 2021 are from
 168.31 the general fund for the commissioner to
 168.32 continue necessary current operations
 168.33 improvements to the regulatory activities,
 168.34 systems, analysis, reporting, and

169.1 communications that contribute to the health,
169.2 safety, care quality, and abuse prevention for
169.3 vulnerable adults in Minnesota. \$1,103,000 in
169.4 fiscal year 2020 and \$1,103,000 in fiscal year
169.5 2021 are from the state government special
169.6 revenue fund to improve the frequency of
169.7 home care provider inspections. The state
169.8 government special revenue appropriations
169.9 under this paragraph are onetime
169.10 appropriations.

169.11 **(b) Vulnerable Adults Regulatory Reform.**
169.12 \$2,432,000 in fiscal year 2020 and \$8,114,000
169.13 in fiscal year 2021 are from the general fund
169.14 for the commissioner to establish the assisted
169.15 living licensure under Minnesota Statutes,
169.16 section 144I.01. This is a onetime
169.17 appropriation. The commissioner shall transfer
169.18 fine revenue previously deposited to the state
169.19 government special revenue fund under
169.20 Minnesota Statutes, section 144A.474,
169.21 subdivision 11, which is estimated to be
169.22 \$632,000, to a dedicated account in the state
169.23 treasury.

169.24 **(c) Base Level Adjustment.** The general fund
169.25 base for this appropriation is \$5,800,000 in
169.26 fiscal year 2022 and \$5,369,000 in fiscal year
169.27 2023. The state government special revenue
169.28 fund base for this appropriation is \$13,458,000
169.29 in fiscal year 2022 and \$13,458,000 in fiscal
169.30 year 2023.

169.31 **Sec. 4. APPROPRIATIONS OR TRANSFERS ENACTED MORE THAN ONCE;**
169.32 **EFFECT.**

169.33 If an appropriation or transfer in this act is enacted more than once in the 2019 legislative
169.34 session, the appropriation or transfer must be given effect only once.

144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

Assisted living clients, as defined in section 144G.01, subdivision 3, shall be provided with the home care bill of rights required by section 144A.44, except that the home care bill of rights provided to these clients must include the following provision in place of the provision in section 144A.44, subdivision 1, clause (17):

"(17) the right to reasonable, advance notice of changes in services or charges, including at least 30 days' advance notice of the termination of a service by a provider, except in cases where:

(i) the recipient of services engages in conduct that alters the conditions of employment as specified in the employment contract between the home care provider and the individual providing home care services, or creates an abusive or unsafe work environment for the individual providing home care services;

(ii) an emergency for the informal caregiver or a significant change in the recipient's condition has resulted in service needs that exceed the current service provider agreement and that cannot be safely met by the home care provider; or

(iii) the provider has not received payment for services, for which at least ten days' advance notice of the termination of a service shall be provided."

144A.442 ASSISTED LIVING CLIENTS; SERVICE TERMINATION.

If an arranged home care provider, as defined in section 144D.01, subdivision 2a, who is not also Medicare certified terminates a service agreement or service plan with an assisted living client, as defined in section 144G.01, subdivision 3, the home care provider shall provide the assisted living client and the legal or designated representatives of the client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living client or client representatives within no more than five business days of the date of the termination notice to discuss the termination;

(4) contact information for a reasonable number of other home care providers in the geographic area of the assisted living client, as required by section 144A.4791, subdivision 10;

(5) a statement that the provider will participate in a coordinated transfer of the care of the client to another provider or caregiver, as required by section 144A.44, subdivision 1, clause (18);

(6) the name and contact information of a representative of the home care provider with whom the client may discuss the notice of termination;

(7) a copy of the home care bill of rights; and

(8) a statement that the notice of termination of home care services by the home care provider does not constitute notice of termination of the housing with services contract with a housing with services establishment.

144A.472 HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL.

Subd. 4. **Multiple units.** Multiple units or branches of a licensee must be separately licensed if the commissioner determines that the units cannot adequately share supervision and administration of services from the main office.

144D.01 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 144D.01 to 144D.06, the following terms have the meanings given them.

Subd. 2. **Adult.** "Adult" means a natural person who has attained the age of 18 years.

Subd. 2a. **Arranged home care provider.** "Arranged home care provider" means a home care provider licensed under chapter 144A that provides services to some or all of the residents of a housing with services establishment and that is either the establishment itself or another entity with which the establishment has an arrangement.

APPENDIX
Repealed Minnesota Statutes: H0090-5

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 3a. **Direct-care staff.** "Direct-care staff" means staff and employees who provide home care services listed in section 144A.471, subdivisions 6 and 7.

Subd. 4. **Housing with services establishment or establishment.** (a) "Housing with services establishment" or "establishment" means:

(1) an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment; or

(2) an establishment that registers under section 144D.025.

(b) Housing with services establishment does not include:

(1) a nursing home licensed under chapter 144A;

(2) a hospital, certified boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;

(3) a board and lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or 245G;

(4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;

(5) a family adult foster care home licensed by the Department of Human Services;

(6) private homes in which the residents are related by kinship, law, or affinity with the providers of services;

(7) residential settings for persons with developmental disabilities in which the services are licensed under chapter 245D;

(8) a home-sharing arrangement such as when an elderly or disabled person or single-parent family makes lodging in a private residence available to another person in exchange for services or rent, or both;

(9) a duly organized condominium, cooperative, common interest community, or owners' association of the foregoing where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;

(10) services for persons with developmental disabilities that are provided under a license under chapter 245D; or

(11) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.

Subd. 5. **Supportive services.** "Supportive services" means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, or the central storage of medication for residents.

Subd. 7. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home that is licensed by the Department of Human Services, that is the primary residence of the license holder, and in which the license holder is the primary caregiver.

144D.015 DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE.

For purposes of consistency with terminology commonly used in long-term care insurance policies and notwithstanding chapter 144G, a housing with services establishment that is registered under section 144D.03 and that holds, or makes arrangements with an individual or entity that holds any type of home care license and all other licenses, permits, registrations, or other governmental

approvals legally required for delivery of the services the establishment offers or provides to its residents, constitutes an "assisted living facility" or "assisted living residence."

144D.02 REGISTRATION REQUIRED.

No entity may establish, operate, conduct, or maintain a housing with services establishment in this state without registering and operating as required in sections 144D.01 to 144D.06.

144D.025 OPTIONAL REGISTRATION.

An establishment that meets all the requirements of this chapter except that fewer than 80 percent of the adult residents are age 55 or older, or a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, may, at its option, register as a housing with services establishment.

144D.03 REGISTRATION.

Subdivision 1. **Registration procedures.** The commissioner shall establish forms and procedures for annual registration of housing with services establishments. The commissioner shall charge an annual registration fee of \$155. No fee shall be refunded. A registered establishment shall notify the commissioner within 30 days of the date it is no longer required to be registered under this chapter or of any change in the business name or address of the establishment, the name or mailing address of the owner or owners, or the name or mailing address of the managing agent. There shall be no fee for submission of the notice.

Subd. 1a. **Surcharge for injunctive relief actions.** The commissioner shall assess each housing with services establishment that offers or provides assisted living under chapter 144G a surcharge on the annual registration fee paid under subdivision 1, to pay for the commissioner's costs related to bringing actions for injunctive relief under section 144G.02, subdivision 2, paragraph (b), on or after July 1, 2007. The commissioner shall assess surcharges using a sliding scale under which the surcharge amount increases with the client capacity of an establishment. The commissioner shall adjust the surcharge as necessary to recover the projected costs of bringing actions for injunctive relief. The commissioner shall adjust the surcharge in accordance with section 16A.1285.

Subd. 2. **Registration information.** The establishment shall provide the following information to the commissioner in order to be registered:

- (1) the business name, street address, and mailing address of the establishment;
- (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;
- (3) the name and mailing address of the managing agent, whether through management agreement or lease agreement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any;
- (4) verification that the establishment has entered into a housing with services contract, as required in section 144D.04, with each resident or resident's representative;
- (5) verification that the establishment is complying with the requirements of section 325F.72, if applicable;
- (6) the name and address of at least one natural person who shall be responsible for dealing with the commissioner on all matters provided for in sections 144D.01 to 144D.06, and on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent, if any;
- (7) the signature of the authorized representative of the owner or owners or, if the owner or owners are not natural persons, signatures of at least two authorized representatives of each owner, one of which shall be an officer of the owner; and
- (8) whether services are included in the base rate to be paid by the resident.

Personal service on the person identified under clause (6) by the owner or owners in the registration shall be considered service on the owner or owners, and it shall not be a defense to any action that personal service was not made on each individual or entity. The designation of one or

more individuals under this subdivision shall not affect the legal responsibility of the owner or owners under sections 144D.01 to 144D.06.

144D.04 HOUSING WITH SERVICES CONTRACTS.

Subdivision 1. **Contract required.** No housing with services establishment may operate in this state unless a written housing with services contract, as defined in subdivision 2, is executed between the establishment and each resident or resident's representative and unless the establishment operates in accordance with the terms of the contract. The resident or the resident's representative shall be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

Subd. 2. **Contents of contract.** A housing with services contract, which need not be entitled as such to comply with this section, shall include at least the following elements in itself or through supporting documents or attachments:

- (1) the name, street address, and mailing address of the establishment;
- (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;
- (3) the name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;
- (4) the name and address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;
- (5) a statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;
- (6) the term of the contract;
- (7) a description of the services to be provided to the resident in the base rate to be paid by the resident, including a delineation of the portion of the base rate that constitutes rent and a delineation of charges for each service included in the base rate;
- (8) a description of any additional services, including home care services, available for an additional fee from the establishment directly or through arrangements with the establishment, and a schedule of fees charged for these services;
- (9) a conspicuous notice informing the tenant of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated, including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;
- (10) a description of the establishment's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;
- (11) the resident's designated representative, if any;
- (12) the establishment's referral procedures if the contract is terminated;
- (13) requirements of residency used by the establishment to determine who may reside or continue to reside in the housing with services establishment;
- (14) billing and payment procedures and requirements;
- (15) a statement regarding the ability of a resident to receive services from service providers with whom the establishment does not have an arrangement;
- (16) a statement regarding the availability of public funds for payment for residence or services in the establishment; and
- (17) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the establishment is located.

Subd. 2a. **Additional contract requirements.** (a) For a resident receiving one or more health-related services from the establishment's arranged home care provider, as defined in section 144D.01, subdivision 6, the contract must include the requirements in paragraph (b). A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by the home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written

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service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented in the resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915, subdivision 6 and 256B.49, subdivision 15.

(b) The contract must include a statement:

(1) regarding the ability of a resident to furnish and decorate the resident's unit within the terms of the lease;

(2) regarding the resident's right to access food at any time;

(3) regarding a resident's right to choose the resident's visitors and times of visits;

(4) regarding the resident's right to choose a roommate if sharing a unit; and

(5) notifying the resident of the resident's right to have and use a lockable door to the resident's unit. The landlord shall provide the locks on the unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible.

Subd. 3. **Contracts in permanent files.** Housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts and the written disclosures required under section 325F.72, if applicable, shall be made available for on-site inspection by the commissioner upon request at any time.

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

If a housing with services establishment has one or more arranged home care providers, the establishment shall arrange to have that arranged home care provider deliver the following information in writing to a prospective resident, prior to the date on which the prospective resident executes a contract with the establishment or the prospective resident's move-in date, whichever is earlier:

(1) the name, mailing address, and telephone number of the arranged home care provider;

(2) the name and mailing address of at least one natural person who is authorized to accept service of process on behalf of the entity described in clause (1);

(3) a description of the process through which a home care service agreement or service plan between a resident and the arranged home care provider, if any, may be modified, amended, or terminated;

(4) the arranged home care provider's billing and payment procedures and requirements; and

(5) any limits to the services available from the arranged provider.

144D.05 AUTHORITY OF COMMISSIONER.

The commissioner shall, upon receipt of information which may indicate the failure of the housing with services establishment, a resident, a resident's representative, or a service provider to comply with a legal requirement to which one or more of them may be subject, make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

The commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which an establishment is located to compel the housing with services establishment to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

144D.06 OTHER LAWS.

In addition to registration under this chapter, a housing with services establishment must comply with chapter 504B and the provisions of section 325F.72, and shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it. A housing with

services establishment is not required to obtain a lodging license under chapter 157 and related rules.

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

(a) If a housing with services establishment registered under this chapter has a special program or special care unit for residents with Alzheimer's disease or other dementias or advertises, markets, or otherwise promotes the establishment as providing services for persons with Alzheimer's disease or other dementias, whether in a segregated or general unit, employees of the establishment and of the establishment's arranged home care provider must meet the following training requirements:

(1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b), or a supervisor meeting the requirements in clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

(b) Areas of required training include:

(1) an explanation of Alzheimer's disease and related disorders;

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The establishment shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered. This information satisfies the disclosure requirements of section 325F.72, subdivision 2, clause (4).

(d) Housing with services establishments not included in paragraph (a) that provide assisted living services under chapter 144G must meet the following training requirements:

(1) supervisors of direct-care staff must have at least four hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial four hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b) or supervisor meeting the requirements under paragraph (a), clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

Subdivision 1. **Enforcement.** (a) The commissioner shall enforce the dementia care training standards for staff working in housing with services settings and for housing managers according to clauses (1) to (3):

(1) for dementia care training requirements in section 144D.065, the commissioner shall review training records as part of the home care provider survey process for direct care staff and supervisors of direct care staff, in accordance with section 144A.474. The commissioner may also request and review training records at any time during the year;

(2) for dementia care training standards in section 144D.065, the commissioner shall review training records for maintenance, housekeeping, and food service staff and other staff not providing direct care working in housing with services settings as part of the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year; and

(3) for housing managers, the commissioner shall review the statement verifying compliance with the required training described in section 144D.10, paragraph (d), through the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year.

(b) The commissioner shall specify the required forms and what constitutes sufficient training records for the items listed in paragraph (a), clauses (1) to (3).

Subd. 2. **Fines for noncompliance.** (a) Beginning January 1, 2017, the commissioner may impose a \$200 fine for every staff person required to obtain dementia care training who does not have training records to show compliance. For violations of subdivision 1, paragraph (a), clause (1), the fine will be imposed upon the home care provider, and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. For violations of subdivision 1, paragraph (a), clauses (2) and (3), the fine will be imposed on the housing with services registrant and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. Prior to imposing the fine, the commissioner must allow two weeks for staff to complete the required training. Fines collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund.

(b) The housing with services registrant and home care provider must allow for the required training as part of employee and staff duties. Imposition of a fine by the commissioner does not negate the need for the required training. Continued noncompliance with the requirements of sections 144D.065 and 144D.10 may result in revocation or nonrenewal of the housing with services registration or home care license. The commissioner shall make public the list of all housing with services establishments that have complied with the training requirements.

Subd. 3. **Technical assistance.** From January 1, 2016, to December 31, 2016, the commissioner shall provide technical assistance instead of imposing fines for noncompliance with the training requirements. During the year of technical assistance, the commissioner shall review the training records to determine if the records meet the requirements and inform the home care provider. The commissioner shall also provide information about available training resources.

144D.07 RESTRAINTS.

Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience.

144D.08 UNIFORM CONSUMER INFORMATION GUIDE.

All housing with services establishments shall make available to all prospective and current residents information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This section does not apply to an establishment registered under section 144D.025 serving the homeless.

144D.09 TERMINATION OF LEASE.

The housing with services establishment shall include with notice of termination of lease information about how to contact the ombudsman for long-term care, including the address and telephone number along with a statement of how to request problem-solving assistance.

144D.10 MANAGER REQUIREMENTS.

(a) The person primarily responsible for oversight and management of a housing with services establishment, as designated by the owner of the housing with services establishment, must obtain at least 30 hours of continuing education every two years of employment as the manager in topics relevant to the operations of the housing with services establishment and the needs of its tenants. Continuing education earned to maintain a professional license, such as nursing home administrator license, nursing license, social worker license, and real estate license, can be used to complete this requirement.

(b) For managers of establishments identified in section 325F.72, this continuing education must include at least eight hours of documented training on the topics identified in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of training on these topics for each 12 months of employment thereafter.

(c) For managers of establishments not covered by section 325F.72, but who provide assisted living services under chapter 144G, this continuing education must include at least four hours of documented training on the topics identified in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of training on these topics for each 12 months of employment thereafter.

(d) A statement verifying compliance with the continuing education requirement must be included in the housing with services establishment's annual registration to the commissioner of health. The establishment must maintain records for at least three years demonstrating that the person primarily responsible for oversight and management of the establishment has attended educational programs as required by this section.

(e) New managers may satisfy the initial dementia training requirements by producing written proof of previously completed required training within the past 18 months.

(f) This section does not apply to an establishment registered under section 144D.025 serving the homeless.

144D.11 EMERGENCY PLANNING.

(a) Each registered housing with services establishment must meet the following requirements:

(1) have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in-place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

(2) post an emergency disaster plan prominently;

(3) provide building emergency exit diagrams to all tenants upon signing a lease;

(4) post emergency exit diagrams on each floor; and

(5) have a written policy and procedure regarding missing tenants.

(b) Each registered housing with services establishment must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training available to all tenants annually. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) Each registered housing with services location must conduct and document a fire drill or other emergency drill at least every six months. To the extent possible, drills must be coordinated with local fire departments or other community emergency resources.

144G.01 DEFINITIONS.

Subdivision 1. **Scope; other definitions.** For purposes of sections 144G.01 to 144G.05, the following definitions apply. In addition, the definitions provided in section 144D.01 also apply to sections 144G.01 to 144G.05.

Subd. 2. **Assisted living.** "Assisted living" means a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of this chapter.

Subd. 3. **Assisted living client; client.** "Assisted living client" or "client" means a housing with services resident who receives assisted living that is subject to the requirements of this chapter.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health.

144G.02 ASSISTED LIVING; PROTECTED TITLE; REGULATORY FUNCTION.

Subdivision 1. **Protected title; restriction on use.** No person or entity may use the phrase "assisted living," whether alone or in combination with other words and whether orally or in writing, to advertise, market, or otherwise describe, offer, or promote itself, or any housing, service, service package, or program that it provides within this state, unless the person or entity is a housing with services establishment that meets the requirements of this chapter, or is a person or entity that provides some or all components of assisted living that meet the requirements of this chapter. A person or entity entitled to use the phrase "assisted living" shall use the phrase only in the context of its participation in assisted living that meets the requirements of this chapter. A housing with services establishment offering or providing assisted living that is not made available to residents in all of its housing units shall identify the number or location of the units in which assisted living is available, and may not use the term "assisted living" in the name of the establishment registered with the commissioner under chapter 144D, or in the name the establishment uses to identify itself to residents or the public.

Subd. 2. **Authority of commissioner.** (a) The commissioner, upon receipt of information that may indicate the failure of a housing with services establishment, the arranged home care provider, an assisted living client, or an assisted living client's representative to comply with a legal requirement to which one or more of the entities may be subject, shall make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

(b) In addition to the authority with respect to licensed home care providers under section 144A.45 and with respect to housing with services establishments under chapter 144D, the commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which a housing with services establishment is located to compel the housing with services establishment or the arranged home care provider to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment or arranged home care provider is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

144G.03 ASSISTED LIVING REQUIREMENTS.

Subdivision 1. **Verification in annual registration.** A registered housing with services establishment using the phrase "assisted living," pursuant to section 144G.02, subdivision 1, shall verify to the commissioner in its annual registration pursuant to chapter 144D that the establishment is complying with sections 144G.01 to 144G.05, as applicable.

Subd. 2. **Minimum requirements for assisted living.** (a) Assisted living shall be provided or made available only to individuals residing in a registered housing with services establishment. Except as expressly stated in this chapter, a person or entity offering assisted living may define the available services and may offer assisted living to all or some of the residents of a housing with services establishment. The services that comprise assisted living may be provided or made available directly by a housing with services establishment or by persons or entities with which the housing with services establishment has made arrangements.

(b) A person or entity entitled to use the phrase "assisted living," according to section 144G.02, subdivision 1, shall do so only with respect to a housing with services establishment, or a service, service package, or program available within a housing with services establishment that, at a minimum:

(1) provides or makes available health-related services under a home care license. At a minimum, health-related services must include:

(i) assistance with self-administration of medication, medication management, or medication administration as defined in section 144A.43; and

(ii) assistance with at least three of the following seven activities of daily living: bathing, dressing, grooming, eating, transferring, continence care, and toileting.

All health-related services shall be provided in a manner that complies with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

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(2) provides necessary assessments of the physical and cognitive needs of assisted living clients by a registered nurse, as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(3) has and maintains a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(4) provides staff access to an on-call registered nurse 24 hours per day, seven days per week;

(5) has and maintains a system to check on each assisted living client at least daily;

(6) provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements;

(7) has a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs, who shall be:

(i) awake;

(ii) located in the same building, in an attached building, or on a contiguous campus with the housing with services establishment in order to respond within a reasonable amount of time;

(iii) capable of communicating with assisted living clients;

(iv) capable of recognizing the need for assistance;

(v) capable of providing either the assistance required or summoning the appropriate assistance; and

(vi) capable of following directions;

(8) offers to provide or make available at least the following supportive services to assisted living clients:

(i) two meals per day;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the client, reasonable assistance with arranging for transportation to medical and social services appointments, and the name of or other identifying information about the person or persons responsible for providing this assistance;

(v) upon the request of the client, reasonable assistance with accessing community resources and social services available in the community, and the name of or other identifying information about the person or persons responsible for providing this assistance; and

(vi) periodic opportunities for socialization; and

(9) makes available to all prospective and current assisted living clients information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This information must be made available beginning no later than six months after the commissioner makes the uniform format and required components available to providers according to section 144G.06.

Subd. 3. Exemption from awake-staff requirement. A housing with services establishment that offers or provides assisted living is exempt from the requirement in subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and responsible for responding to requests for assistance must be awake, if the establishment meets the following requirements:

(1) the establishment has a maximum capacity to serve 12 or fewer assisted living clients;

(2) the person or persons available and responsible for responding to requests for assistance are physically present within the housing with services establishment in which the assisted living clients reside;

(3) the establishment has a system in place that is compatible with the health, safety, and welfare of the establishment's assisted living clients;

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(4) the establishment's housing with services contract, as required by section 144D.04, includes a statement disclosing the establishment's qualification for, and intention to rely upon, this exemption;

(5) the establishment files with the commissioner, for purposes of public information but not review or approval by the commissioner, a statement describing how the establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement available to actual and prospective assisted living clients; and

(6) the establishment indicates on its housing with services registration, under section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the exemption under this subdivision.

Subd. 4. Nursing assessment. (a) A housing with services establishment offering or providing assisted living shall:

(1) offer to have the arranged home care provider conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a service plan prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier; and

(2) inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier.

(b) An arranged home care provider is not obligated to conduct a nursing assessment by a registered nurse when requested by a prospective resident if either the geographic distance between the prospective resident and the provider, or urgent or unexpected circumstances, do not permit the assessment to be conducted prior to the date on which the prospective resident executes a contract or moves in, whichever is earlier. When such circumstances occur, the arranged home care provider shall offer to conduct a telephone conference whenever reasonably possible.

(c) The arranged home care provider shall comply with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285, with respect to the provision of a nursing assessment prior to the delivery of nursing services and the execution of a home care service plan or service agreement.

Subd. 5. Assistance with arranged home care provider. The housing with services establishment shall provide each assisted living client with identifying information about a person or persons reasonably available to assist the client with concerns the client may have with respect to the services provided by the arranged home care provider. The establishment shall keep each assisted living client reasonably informed of any changes in the personnel referenced in this subdivision. Upon request of the assisted living client, such personnel or designee shall provide reasonable assistance to the assisted living client in addressing concerns regarding services provided by the arranged home care provider.

Subd. 6. Termination of housing with services contract. If a housing with services establishment terminates a housing with services contract with an assisted living client, the establishment shall provide the assisted living client, and the legal or designated representative of the assisted living client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the section of the contract that authorizes the termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living client and, if applicable, client representatives, within no more than five business days of the date of the termination notice to discuss the termination;

(4) an explanation that:

(i) the assisted living client must vacate the apartment, along with all personal possessions, on or before the effective date of termination;

(ii) failure to vacate the apartment by the date of termination may result in the filing of an eviction action in court by the establishment, and that the assisted living client may present a defense, if any, to the court at that time; and

(iii) the assisted living client may seek legal counsel in connection with the notice of termination;

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(5) a statement that, with respect to the notice of termination, reasonable accommodation is available for the disability of the assisted living client, if any; and

(6) the name and contact information of the representative of the establishment with whom the assisted living client or client representatives may discuss the notice of termination.

144G.04 RESERVATION OF RIGHTS.

Subdivision 1. **Use of services.** Nothing in this chapter requires an assisted living client to utilize any service provided or made available in assisted living.

Subd. 2. **Housing with services contracts.** Nothing in this chapter requires a housing with services establishment to execute or refrain from terminating a housing with services contract with a prospective or current resident who is unable or unwilling to meet the requirements of residency, with or without assistance.

Subd. 3. **Provision of services.** Nothing in this chapter requires the arranged home care provider to offer or continue to provide services under a service agreement or service plan to a prospective or current resident of the establishment whose needs cannot be met by the arranged home care provider.

Subd. 4. **Altering operations; service packages.** Nothing in this chapter requires a housing with services establishment or arranged home care provider offering assisted living to fundamentally alter the nature of the operations of the establishment or the provider in order to accommodate the request or need for facilities or services by any assisted living client, or to refrain from requiring, as a condition of residency, that an assisted living client pay for a package of assisted living services even if the client does not choose to utilize all or some of the services in the package.

144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

Notwithstanding the provisions of this chapter, the requirements for the elderly waiver program's assisted living payment rates under section 256B.0915, subdivision 3e, shall continue to be effective and providers who do not meet the requirements of this chapter may continue to receive payment under section 256B.0915, subdivision 3e, as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved Elderly Home and Community Based Services Waiver Program (Control Number 0025.91). Providers of assisted living for the community access for disability inclusion (CADI) and Brain Injury (BI) waivers shall continue to receive payment as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved CADI and BI waiver plans.

144G.06 UNIFORM CONSUMER INFORMATION GUIDE.

The commissioner shall adopt a uniform format for the guide to be used by individual providers, and the required components of materials to be used by providers to inform assisted living clients of their legal rights, and shall make the uniform format and the required components available to assisted living providers.