

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 3630

(SENATE AUTHORS: FATEH)

DATE	D-PG	OFFICIAL STATUS
03/02/2022	5179	Introduction and first reading Referred to Aging and Long-Term Care Policy

1.1 A bill for an act

1.2 relating to health; modifying provisions governing assisted living licensure for

1.3 small facilities; eliminating restrictions on the scope of practice of licensed practical

1.4 nurses practicing in assisted living facilities; amending Minnesota Statutes 2020,

1.5 sections 144.122; 144A.4799; 144G.41, subdivision 2; 144G.45, subdivision 6;

1.6 144G.60, subdivision 3; 144G.72, subdivision 4; 144G.9999, subdivision 2;

1.7 Minnesota Statutes 2021 Supplement, sections 144G.08, subdivision 9; 144G.41,

1.8 subdivision 1; 144G.45, subdivisions 4, 5; 144G.81, subdivision 3.

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

1.10 **ARTICLE 1**

1.11 **ASSISTED LIVING LICENSURE MODIFICATIONS**

1.12 Section 1. Minnesota Statutes 2020, section 144.122, is amended to read:

1.13 **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

1.14 (a) The state commissioner of health, by rule, may prescribe procedures and fees for

1.15 filing with the commissioner as prescribed by statute and for the issuance of original and

1.16 renewal permits, licenses, registrations, and certifications issued under authority of the

1.17 commissioner. The expiration dates of the various licenses, permits, registrations, and

1.18 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include

1.19 application and examination fees and a penalty fee for renewal applications submitted after

1.20 the expiration date of the previously issued permit, license, registration, and certification.

1.21 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,

1.22 registrations, and certifications when the application therefor is submitted during the last

1.23 three months of the permit, license, registration, or certification period. Fees proposed to

1.24 be prescribed in the rules shall be first approved by the Department of Management and

1.25 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be

2.1 in an amount so that the total fees collected by the commissioner will, where practical,
 2.2 approximate the cost to the commissioner in administering the program. All fees collected
 2.3 shall be deposited in the state treasury and credited to the state government special revenue
 2.4 fund unless otherwise specifically appropriated by law for specific purposes.

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

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

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

2.16	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
2.17	Healthcare Organizations (JCAHO) and	
2.18	American Osteopathic Association (AOA)	
2.19	hospitals	
2.20	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
2.21	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
2.22		\$183 plus \$100 per bed between July 1, 2018,
2.23		and June 30, 2020. \$183 plus \$105 per bed
2.24		beginning July 1, 2020.

2.25 The commissioner shall set license fees for outpatient surgical centers, boarding care
 2.26 homes, supervised living facilities, assisted living facilities, and assisted living facilities
 2.27 with dementia care at the following levels:

2.28	Outpatient surgical centers	\$3,712
2.29	Boarding care homes	\$183 plus \$91 per bed
2.30	Supervised living facilities	\$183 plus \$91 per bed-
2.31	<u>Assisted living facilities with or without</u>	
2.32	<u>dementia care and a licensed resident capacity</u>	
2.33	<u>of ten or less</u>	<u>\$183 plus \$91 per resident</u>
2.34	Assisted living facilities with dementia care	\$3,000 plus \$100 per resident-
2.35	Assisted living facilities	\$2,000 plus \$75 per resident-

3.1 Fees collected under this paragraph are nonrefundable. ~~The fees are nonrefundable even if~~
 3.2 ~~received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017,~~
 3.3 ~~or later.~~

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

3.7	Prospective payment surveys for hospitals	\$ 900
3.8	Swing bed surveys for nursing homes	\$ 1,200
3.9	Psychiatric hospitals	\$ 1,400
3.10	Rural health facilities	\$ 1,100
3.11	Portable x-ray providers	\$ 500
3.12	Home health agencies	\$ 1,800
3.13	Outpatient therapy agencies	\$ 800
3.14	End stage renal dialysis providers	\$ 2,100
3.15	Independent therapists	\$ 800
3.16	Comprehensive rehabilitation outpatient facilities	\$ 1,200
3.17	Hospice providers	\$ 1,700
3.18	Ambulatory surgical providers	\$ 1,800
3.19	Hospitals	\$ 4,200
3.20	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.
3.21	resurveys required to complete initial	
3.22	certification	

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

3.27 (f) Notwithstanding section 16A.1283, the commissioner may adjust the fees assessed
 3.28 on assisted living facilities and assisted living facilities with dementia care under paragraph
 3.29 (d), in a revenue-neutral manner in accordance with the requirements of this paragraph:

3.30 (1) a facility seeking to renew a license shall pay a renewal fee in an amount that is up
 3.31 to ten percent lower than the applicable fee in paragraph (d) if residents who receive home
 3.32 and community-based waiver services under chapter 256S and section 256B.49 comprise
 3.33 more than 50 percent of the facility's capacity in the calendar year prior to the year in which
 3.34 the renewal application is submitted; and

4.1 (2) a facility seeking to renew a license shall pay a renewal fee in an amount that is up
 4.2 to ten percent higher than the applicable fee in paragraph (d) if residents who receive home
 4.3 and community-based waiver services under chapter 256S and section 256B.49 comprise
 4.4 less than 50 percent of the facility's capacity during the calendar year prior to the year in
 4.5 which the renewal application is submitted.

4.6 The commissioner may annually adjust the percentages in clauses (1) and (2), to ensure this
 4.7 paragraph is implemented in a revenue-neutral manner. The commissioner shall develop a
 4.8 method for determining capacity thresholds in this paragraph in consultation with the
 4.9 commissioner of human services and must coordinate the administration of this paragraph
 4.10 with the commissioner of human services for purposes of verification.

4.11 Sec. 2. Minnesota Statutes 2020, section 144A.4799, is amended to read:

4.12 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**
 4.13 **AND LICENSED ASSISTED LIVING FACILITY ADVISORY COUNCIL.**

4.14 Subdivision 1. **Membership.** The commissioner of health shall appoint ~~eight~~ ten persons
 4.15 to a home care and assisted living ~~program~~ facility advisory council consisting of the
 4.16 following:

4.17 (1) three public members as defined in section 214.02 who shall be persons who are
 4.18 currently receiving home care services or assisted living services, persons who have received
 4.19 home care services or assisted living services within five years of the application date,
 4.20 persons who have family members receiving home care services or assisted living services,
 4.21 or persons who have family members who have received home care services or assisted
 4.22 living services within five years of the application date;

4.23 (2) ~~three~~ five Minnesota assisted living facility licensees or home care licensees
 4.24 representing basic and comprehensive levels of licensure who may be a managerial official,
 4.25 an administrator, a supervising registered nurse, or an unlicensed personnel performing
 4.26 home care tasks or providing assisted living services. Of these five members, one must be
 4.27 a representative of Residential Providers Association of Minnesota and one must be a
 4.28 representative of Residential Care Providers Network;

4.29 (3) one member representing the Minnesota Board of Nursing;

4.30 (4) one member representing the Office of Ombudsman for Long-Term Care; and

4.31 (5) beginning July 1, 2021, one member of a county health and human services or county
 4.32 adult protection office.

5.1 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and
5.2 administered under section 15.059 with per diems and costs paid within the limits of available
5.3 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees
5.4 may be developed as necessary by the commissioner. Advisory council meetings are subject
5.5 to the Open Meeting Law under chapter 13D.

5.6 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide
5.7 advice regarding regulations of ~~Department of Health~~ licensed home care providers ~~in~~ under
5.8 this chapter and assisted living facilities under chapter 144G, including advice on the
5.9 following:

5.10 (1) community standards for home care practices;

5.11 (2) enforcement of licensing standards and whether certain disciplinary actions are
5.12 appropriate;

5.13 (3) ways of distributing information to licensees and consumers of home care and
5.14 residents of assisted living facilities;

5.15 (4) training standards;

5.16 (5) identifying emerging issues and opportunities in home care and assisted living
5.17 facilities;

5.18 (6) identifying the use of technology in home and telehealth capabilities;

5.19 (7) allowable home care licensing modifications and exemptions, including a method
5.20 for an integrated license with an existing license for rural licensed nursing homes to provide
5.21 limited home care services in an adjacent independent living apartment building owned by
5.22 the licensed nursing home; and

5.23 (8) recommendations for studies using the data in section 62U.04, subdivision 4, including
5.24 but not limited to studies concerning costs related to dementia and chronic disease among
5.25 an elderly population over 60 and additional long-term care costs, as described in section
5.26 62U.10, subdivision 6.

5.27 (b) The advisory council shall perform other duties as directed by the commissioner.

5.28 (c) The advisory council shall annually make recommendations to the commissioner for
5.29 the purposes in section 144A.474, subdivision 11, paragraph ~~(i)~~ (j). The recommendations
5.30 shall address ways the commissioner may improve protection of the public under existing
5.31 statutes and laws and include but are not limited to projects that create and administer
5.32 training of licensees and their employees to improve residents' lives, supporting ways that

6.1 licensees can improve and enhance quality care and ways to provide technical assistance
6.2 to licensees to improve compliance; information technology and data projects that analyze
6.3 and communicate information about trends of violations or lead to ways of improving client
6.4 care; communications strategies to licensees and the public; and other projects or pilots that
6.5 benefit clients, families, and the public.

6.6 Sec. 3. Minnesota Statutes 2021 Supplement, section 144G.41, subdivision 1, is amended
6.7 to read:

6.8 Subdivision 1. **Minimum requirements.** All assisted living facilities shall:

6.9 (1) distribute to residents the assisted living bill of rights;

6.10 (2) provide services in a manner that complies with the Nurse Practice Act in sections
6.11 148.171 to 148.285;

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

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

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

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

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

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

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

6.23 (10) notify the resident of the resident's right to have and use a lockable door to the
6.24 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with
6.25 a specific need to enter the unit shall have keys, and advance notice must be given to the
6.26 resident before entrance, when possible. An assisted living facility must not lock a resident
6.27 in the resident's unit;

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

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

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

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

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

7.10 (i) awake;

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

7.13 (iii) capable of communicating with residents;

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

7.15 (v) capable of following directions;

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

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

7.21 (A) menus must be prepared at least one week in advance, and made available to all
7.22 residents. The facility must encourage residents' involvement in menu planning. Meal
7.23 substitutions must be of similar nutritional value if a resident refuses a food that is served.
7.24 Residents must be informed in advance of menu changes;

7.25 (B) food must be prepared and served according to the Minnesota Food Code, Minnesota
7.26 Rules, chapter 4626, except for facilities with a licensed resident capacity of ten residents
7.27 or less, to which the standards described in Minnesota Rules, part 4665.2700, apply; and

7.28 (C) the facility cannot require a resident to include and pay for meals in their contract;

7.29 (ii) weekly housekeeping;

7.30 (iii) weekly laundry service;

8.1 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
8.2 for transportation to medical and social services appointments, shopping, and other recreation,
8.3 and provide the name of or other identifying information about the persons responsible for
8.4 providing this assistance;

8.5 (v) upon the request of the resident, provide reasonable assistance with accessing
8.6 community resources and social services available in the community, and provide the name
8.7 of or other identifying information about persons responsible for providing this assistance;

8.8 (vi) provide culturally sensitive programs; and

8.9 (vii) have a daily program of social and recreational activities that are based upon
8.10 individual and group interests, physical, mental, and psychosocial needs, and that creates
8.11 opportunities for active participation in the community at large; and

8.12 (14) provide staff access to an on-call registered nurse 24 hours per day, seven days per
8.13 week.

8.14 Sec. 4. Minnesota Statutes 2021 Supplement, section 144G.45, subdivision 4, is amended
8.15 to read:

8.16 Subd. 4. **Design requirements.** (a) All assisted living facilities with ~~six~~ 11 or more
8.17 residents must meet the provisions relevant to assisted living facilities in the 2018 edition
8.18 of the Facility Guidelines Institute "Guidelines for Design and Construction of Residential
8.19 Health, Care and Support Facilities" and of adopted rules. This minimum design standard
8.20 must be met for all new licenses with a licensed resident capacity of 11 residents or more
8.21 or new construction for a facility with a proposed licensed resident capacity of 11 residents
8.22 or more. In addition to the guidelines, assisted living facilities shall provide the option of a
8.23 bath in addition to a shower for all residents of facilities with a licensed capacity of 11
8.24 residents or more.

8.25 (b) If the commissioner decides to update the edition of the guidelines specified in
8.26 paragraph (a) for purposes of this subdivision, the commissioner must notify the chairs and
8.27 ranking minority members of the legislative committees and divisions with jurisdiction over
8.28 health care and public safety of the planned update by January 15 of the year in which the
8.29 new edition will become effective. Following notice from the commissioner, the new edition
8.30 shall become effective for assisted living facilities beginning August 1 of that year, unless
8.31 provided otherwise in law. The commissioner shall, by publication in the State Register,
8.32 specify a date by which facilities must comply with the updated edition. The date by which

9.1 facilities must comply shall not be sooner than six months after publication of the
9.2 commissioner's notice in the State Register.

9.3 Sec. 5. Minnesota Statutes 2021 Supplement, section 144G.45, subdivision 5, is amended
9.4 to read:

9.5 Subd. 5. **Assisted living facilities; Life Safety Code.** (a) All assisted living facilities
9.6 with ~~six~~ 11 or more residents must meet the applicable provisions of the 2018 edition of
9.7 the NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter.
9.8 The minimum design standard shall be met for all new licenses with a licensed resident
9.9 capacity of 11 residents or more or new construction for a facility with a proposed licensed
9.10 resident capacity of 11 residents or more.

9.11 (b) If the commissioner decides to update the Life Safety Code for purposes of this
9.12 subdivision, the commissioner must notify the chairs and ranking minority members of the
9.13 legislative committees and divisions with jurisdiction over health care and public safety of
9.14 the planned update by January 15 of the year in which the new Life Safety Code will become
9.15 effective. Following notice from the commissioner, the new edition shall become effective
9.16 for assisted living facilities beginning August 1 of that year, unless provided otherwise in
9.17 law. The commissioner shall, by publication in the State Register, specify a date by which
9.18 facilities must comply with the updated Life Safety Code. The date by which facilities must
9.19 comply shall not be sooner than six months after publication of the commissioner's notice
9.20 in the State Register.

9.21 Sec. 6. Minnesota Statutes 2020, section 144G.45, subdivision 6, is amended to read:

9.22 Subd. 6. **New construction; plans.** (a) For all new licensure and construction for a
9.23 facility with a proposed licensed resident capacity of 11 residents or more beginning on or
9.24 after August 1, 2021, the following must be provided to the commissioner:

9.25 (1) architectural and engineering plans and specifications for new construction must be
9.26 prepared and signed by architects and engineers who are registered in Minnesota. Final
9.27 working drawings and specifications for proposed construction must be submitted to the
9.28 commissioner for review and approval;

9.29 (2) final architectural plans and specifications must include elevations and sections
9.30 through the building showing types of construction, and must indicate dimensions and
9.31 assignments of rooms and areas, room finishes, door types and hardware, elevations and
9.32 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts
9.33 of dietary and laundry areas. Plans must show the location of fixed equipment and sections

10.1 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions
10.2 must be indicated. The roof plan must show all mechanical installations. The site plan must
10.3 indicate the proposed and existing buildings, topography, roadways, walks and utility service
10.4 lines; and

10.5 (3) final mechanical and electrical plans and specifications must address the complete
10.6 layout and type of all installations, systems, and equipment to be provided. Heating plans
10.7 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,
10.8 boilers, breeching, and accessories. Ventilation plans must include room air quantities,
10.9 ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing
10.10 plans must include the fixtures and equipment fixture schedule; water supply and circulating
10.11 piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation
10.12 of water and sewer services; and the building fire protection systems. Electrical plans must
10.13 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and
10.14 light panels, transformers, and service feeders. Plans must show location of nurse call signals,
10.15 cable lines, fire alarm stations, and fire detectors and emergency lighting.

10.16 (b) Unless construction is begun within one year after approval of the final working
10.17 drawing and specifications, the drawings must be resubmitted for review and approval.

10.18 (c) The commissioner must be notified within 30 days before completion of construction
10.19 so that the commissioner can make arrangements for a final inspection by the commissioner.

10.20 (d) At least one set of complete life safety plans, including changes resulting from
10.21 remodeling or alterations, must be kept on file in the facility.

10.22 Sec. 7. Minnesota Statutes 2021 Supplement, section 144G.81, subdivision 3, is amended
10.23 to read:

10.24 Subd. 3. **Assisted living facilities with dementia care and secured dementia care**
10.25 **unit; Life Safety Code.** (a) All assisted living facilities with dementia care with 11 residents
10.26 or more and a secured dementia care unit must meet the applicable provisions of the 2018
10.27 edition of the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. The
10.28 minimum design standards shall be met for all new licenses with a licensed resident capacity
10.29 of 11 residents or more or new construction for a facility with a proposed licensed resident
10.30 capacity of 11 residents or more.

10.31 (b) If the commissioner decides to update the Life Safety Code for purposes of this
10.32 subdivision, the commissioner must notify the chairs and ranking minority members of the
10.33 legislative committees and divisions with jurisdiction over health care and public safety of

11.1 the planned update by January 15 of the year in which the new Life Safety Code will become
11.2 effective. Following notice from the commissioner, the new edition shall become effective
11.3 for assisted living facilities with dementia care and a secured dementia care unit beginning
11.4 August 1 of that year, unless provided otherwise in law. The commissioner shall, by
11.5 publication in the State Register, specify a date by which these facilities must comply with
11.6 the updated Life Safety Code. The date by which these facilities must comply shall not be
11.7 sooner than six months after publication of the commissioner's notice in the State Register.

11.8 Sec. 8. Minnesota Statutes 2020, section 144G.9999, subdivision 2, is amended to read:

11.9 Subd. 2. **Membership.** The task force shall include representation from:

11.10 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation
11.11 in health care safety and quality;

11.12 (2) Department of Health staff with expertise in issues related to safety and adverse
11.13 health events;

11.14 (3) consumer organizations;

11.15 (4) direct care providers or their representatives;

11.16 (5) organizations representing long-term care providers and home care providers in
11.17 Minnesota, including at least one representative from each of the following organizations:

11.18 (i) Residential Providers Association of Minnesota; and

11.19 (ii) Residential Care Providers Network;

11.20 (6) the ombudsman for long-term care or a designee;

11.21 (7) national patient safety experts; and

11.22 (8) other experts in the safety and quality improvement field.

11.23 The task force shall have at least one public member who either is or has been a resident in
11.24 an assisted living setting and one public member who has or had a family member living
11.25 in an assisted living setting. The membership shall be voluntary except that public members
11.26 may be reimbursed under section 15.059, subdivision 3.

12.1

ARTICLE 2

12.2

LICENSED PRACTICAL NURSING IN ASSISTED LIVING FACILITIES

12.3 Section 1. Minnesota Statutes 2021 Supplement, section 144G.08, subdivision 9, is

12.4 amended to read:

12.5 Subd. 9. **Assisted living services.** "Assisted living services" includes one or more of

12.6 the following:

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

12.9 (2) providing standby assistance;

12.10 (3) providing verbal or visual reminders to the resident to take regularly scheduled
12.11 medication, which includes bringing the resident previously set up medication, medication
12.12 in original containers, or liquid or food to accompany the medication;12.13 (4) providing verbal or visual reminders to the resident to perform regularly scheduled
12.14 treatments and exercises;

12.15 (5) preparing specialized diets ordered by a licensed health professional;

12.16 (6) services of an advanced practice registered nurse, registered nurse, licensed practical
12.17 nurse, physical therapist, respiratory therapist, occupational therapist, speech-language
12.18 pathologist, dietitian or nutritionist, or social worker;12.19 (7) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed
12.20 health professional or licensed practical nurse within the person's scope of practice;

12.21 (8) medication management services;

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

12.23 (10) treatment and therapies;

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

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

12.29 (13) supportive services in addition to the provision of at least one of the services listed
12.30 in clauses (1) to (12).

13.1 Sec. 2. Minnesota Statutes 2021 Supplement, section 144G.41, subdivision 1, is amended
13.2 to read:

13.3 Subdivision 1. **Minimum requirements.** All assisted living facilities shall:

13.4 (1) distribute to residents the assisted living bill of rights;

13.5 (2) provide services in a manner that complies with the Nurse Practice Act in sections
13.6 148.171 to 148.285;

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

13.8 (4) have and maintain a system for delegation of health care activities to unlicensed
13.9 personnel by a registered nurse and for assignment of nursing tasks to unlicensed personnel
13.10 by a licensed practical nurse, including supervision and evaluation of the delegated or
13.11 assigned activities as required by the Nurse Practice Act in sections 148.171 to 148.285;

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

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

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

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

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

13.19 (10) notify the resident of the resident's right to have and use a lockable door to the
13.20 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with
13.21 a specific need to enter the unit shall have keys, and advance notice must be given to the
13.22 resident before entrance, when possible. An assisted living facility must not lock a resident
13.23 in the resident's unit;

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

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

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

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

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

14.7 (i) awake;

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

14.10 (iii) capable of communicating with residents;

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

14.12 (v) capable of following directions;

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

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

14.18 (A) menus must be prepared at least one week in advance, and made available to all
14.19 residents. The facility must encourage residents' involvement in menu planning. Meal
14.20 substitutions must be of similar nutritional value if a resident refuses a food that is served.
14.21 Residents must be informed in advance of menu changes;

14.22 (B) food must be prepared and served according to the Minnesota Food Code, Minnesota
14.23 Rules, chapter 4626; and

14.24 (C) the facility cannot require a resident to include and pay for meals in their contract;

14.25 (ii) weekly housekeeping;

14.26 (iii) weekly laundry service;

14.27 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
14.28 for transportation to medical and social services appointments, shopping, and other recreation,
14.29 and provide the name of or other identifying information about the persons responsible for
14.30 providing this assistance;

15.1 (v) upon the request of the resident, provide reasonable assistance with accessing
15.2 community resources and social services available in the community, and provide the name
15.3 of or other identifying information about persons responsible for providing this assistance;

15.4 (vi) provide culturally sensitive programs; and

15.5 (vii) have a daily program of social and recreational activities that are based upon
15.6 individual and group interests, physical, mental, and psychosocial needs, and that creates
15.7 opportunities for active participation in the community at large; and

15.8 (14) provide staff access to an on-call registered nurse 24 hours per day, seven days per
15.9 week.

15.10 Sec. 3. Minnesota Statutes 2020, section 144G.41, subdivision 2, is amended to read:

15.11 Subd. 2. **Policies and procedures.** Each assisted living facility must have policies and
15.12 procedures in place to address the following and keep them current:

15.13 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;

15.14 (2) conducting and handling background studies on employees;

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

15.17 (4) handling complaints regarding staff or services provided by staff;

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

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

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

15.25 (8) infection control practices;

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

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

- 16.1 (11) ensuring that nurses and licensed health professionals have current and valid licenses
 16.2 to practice;
- 16.3 (12) medication and treatment management;
- 16.4 (13) delegation of tasks by registered nurses or licensed health professionals;
- 16.5 (14) assignment by licensed practical nurses of nursing activities or tasks to other licensed
 16.6 practical nurses;
- 16.7 (15) assignment by licensed practical nurses of nursing tasks or activities to unlicensed
 16.8 personnel;
- 16.9 (16) monitoring by licensed practical nurses of nursing tasks or activities assigned to
 16.10 unlicensed personnel;
- 16.11 (17) supervision of registered nurses and licensed health professionals; and
- 16.12 ~~(15)~~ (18) supervision of unlicensed personnel performing delegated tasks.

16.13 Sec. 4. Minnesota Statutes 2020, section 144G.60, subdivision 3, is amended to read:

16.14 Subd. 3. **Licensed health professionals and nurses.** (a) Licensed health professionals
 16.15 and nurses providing services as employees of a licensed facility must possess a current
 16.16 Minnesota license or registration to practice.

16.17 (b) Licensed health professionals and ~~registered~~ nurses must be competent in assessing
 16.18 resident needs, planning appropriate services to meet resident needs, implementing services,
 16.19 and supervising staff if assigned.

16.20 (c) Nothing in this ~~section~~ chapter limits or expands the rights of nurses or licensed
 16.21 health professionals to provide services within the scope of their licenses or registrations,
 16.22 as provided by law.

16.23 Sec. 5. Minnesota Statutes 2020, section 144G.72, subdivision 4, is amended to read:

16.24 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments
 16.25 or therapies must be administered by a nurse, physician, or other licensed health professional
 16.26 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
 16.27 personnel by the licensed health professional according to the appropriate practice standards
 16.28 for delegation or assignment. When administration of a treatment or therapy is delegated
 16.29 or assigned to unlicensed personnel, the facility must ensure that the ~~registered~~ nurse or
 16.30 authorized licensed health professional has:

- 17.1 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
17.2 and the unlicensed personnel has demonstrated the ability to competently follow the
17.3 procedures;
- 17.4 (2) specified, in writing, specific instructions for each resident and documented those
17.5 instructions in the resident's record; and
- 17.6 (3) communicated with the unlicensed personnel about the individual needs of the
17.7 resident.