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State of Minnesota

HOUSE OF REPRESENTATIVES

First Division Engrossment

NINETY-FIRST SESSION

H. F. No. 90

01/17/2019 Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others

02/25/2019 The bill was read for the first time and referred to the Committee on Health and Human Services Policy

03/04/2019 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division

03/07/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations

03/14/2019 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

Division Action

03/15/2019 Referred by Chair to the Health and Human Services Finance Division

03/25/2019 Referred by Chair to the Long-Term Care Division

Division action, to adopt as amended and return to Health and Human Services Finance Division

1.1 A bill for an act

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

1.3 establishments; establishing an assisted living establishment license; providing

1.4 penalties; granting rulemaking authority; requiring reports; amending Minnesota

1.5 Statutes 2018, sections 144.122; 144.651, subdivision 1, by adding a subdivision;

1.6 144A.4791, subdivision 10; 144D.01, subdivisions 2a, 4, 5, by adding subdivisions;

1.7 144D.015; 144D.02; 144D.04, subdivision 1; 144D.05; 144D.06; 144D.09;

1.8 144D.10; 144D.11; 325F.72, subdivisions 1, 4; proposing coding for new law in

1.9 Minnesota Statutes, chapter 144; proposing coding for new law as Minnesota

1.10 Statutes, chapters 144I; 144J; repealing Minnesota Statutes 2018, sections 144A.44;

1.11 144A.441; 144A.442; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04;

1.12 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;

1.13 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06.

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

1.15 ARTICLE 1

1.16 ASSISTED LIVING AND HOME CARE RIGHTS AND CONSUMER

1.17 PROTECTIONS

1.18 Section 1. 144J.01 DEFINITIONS.

1.19 Subdivision 1. Applicability. For the purposes of this chapter, the following terms have

1.20 the meanings given them unless the context clearly indicates otherwise.

1.21 Subd. 2. Adult. "Adult" means a person who is at least 18 years of age.

1.22 Subd. 3. Affiliated home care provider. "Affiliated home care provider" means a home

1.23 care provider licensed under chapter 144A that provides home care services to residents of

1.24 an assisted living establishment under a business relationship or other affiliation with the

1.25 establishment.

2.1 Subd. 4. **Agent.** "Agent" means an employee of, or person or entity contracting or  
2.2 affiliated with, the assisted living establishment.

2.3 Subd. 5. **Assisted living contract.** "Assisted living contract" means the legal agreement  
2.4 between an assisted living establishment and a resident for the provision of:

2.5 (1) housing;

2.6 (2) home care services, whether directly or through an affiliated home care provider;  
2.7 and

2.8 (3) any other services.

2.9 Subd. 6. **Assisted living establishment.** (a) "Assisted living establishment" means an  
2.10 entity that is governed under chapter 144G or, after July 1, 2020, is licensed by the  
2.11 commissioner of health to provide housing and offer or provide home care services directly  
2.12 or through an affiliated home care provider. For the purposes of this chapter, unless otherwise  
2.13 provided, an assisted living establishment also includes a housing with services establishment  
2.14 registered under chapter 144D.

2.15 (b) Assisted living establishment does not include:

2.16 (1) shelters, transitional housing, or any other residential units serving exclusively or  
2.17 primarily homeless individuals, as defined in section 116L.361;

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

2.19 (3) a hospital, as defined in section 144.50, subdivision 2;

2.20 (4) a boarding care home, as defined in Minnesota Rules, part 4655.0100, subpart 3;

2.21 (5) a supervised living facility, as defined in Minnesota Rules, part 4665.0100, subpart  
2.22 10;

2.23 (6) a board and lodging establishment licensed under chapter 157 or 245G or governed  
2.24 under Minnesota Rules, parts 9520.0500 to 9520.0670;

2.25 (7) any establishment that serves as a shelter for battered women or other similar purpose;

2.26 (8) adult foster care licensed by the Department of Human Services;

2.27 (9) private homes in which the residents are related to the providers of services by  
2.28 kinship, law, or affinity;

2.29 (10) residential settings for persons with developmental disabilities in which the services  
2.30 are licensed under chapter 245D;

(11) a home-sharing arrangement, including but not limited to arrangements where an older person, person with a disability, or single-parent family makes lodging in a private residence available to another person in exchange for services or rent, or both;

(12) a condominium, cooperative, common interest community, or owners' association organized under chapter 515B where at least 80 percent of the units that comprise the condominium, cooperative, common interest community, or association are occupied by individuals who are the owners, members, or shareholders of the units;

(13) services for persons with developmental disabilities that are provided under a license under chapter 245D; or

(14) a temporary family health care dwelling as defined in section 394.307, subdivision 1.

Subd. 7. **Client.** "Client" means a person to whom an unaffiliated home care provider provides home care services under a home care contract.

Subd. 8. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 9. **Designated representative.** "Designated representative" means:

(1) a court-appointed guardian;

(2) a conservator;

(3) an attorney-in-fact;

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

(5) a person designated in writing by the resident and identified in the resident's records on file with the assisted living establishment.

Subd. 10. **Home care provider.** "Home care provider" means an affiliated or unaffiliated home care provider.

Subd. 11. **Home care service agreement or service agreement.** "Home care service agreement" or "service agreement" means the written plan described in section 144A.43, subdivision 27, between the home care client or the client's designated representative and an unaffiliated home care provider describing the home care services that will be provided to the client.

Subd. 12. **Home care services.** "Home care services" means:

(1) the basic home care services described in section 144A.471, subdivision 6, clauses (1) to (5);

- 4.1 (2) the comprehensive home care services described in section 144A.471, subdivision  
4.2 7;
- 4.3 (3) monitoring or supervising the resident's functioning and needs to ensure the resident's  
4.4 well-being;
- 4.5 (4) assistance with laundry, shopping, and household chores;
- 4.6 (5) housekeeping services;
- 4.7 (6) providing assistance with meals or food preparation;
- 4.8 (7) help with arranging for or providing transportation to medical, social, recreational,  
4.9 personal, or social service appointments; or
- 4.10 (8) social or recreational services.
- 4.11 Subd. 13. **Housing with services establishment.** "Housing with services establishment"  
4.12 has the meaning given in section 144D.01, subdivision 4.
- 4.13 Subd. 14. **Resident.** "Resident" means a person living in an assisted living establishment.
- 4.14 Subd. 15. **Unaffiliated home care provider.** "Unaffiliated home care provider" means  
4.15 a home care provider regularly engaged for a fee in the delivery of one or more home care  
4.16 services directly to a client in any setting, including to a resident of an assisted living  
4.17 establishment, provided the home care provider has no business relationship or affiliation  
4.18 with the assisted living establishment where the client contracting for or receiving home  
4.19 care services resides.
- 4.20 **EFFECTIVE DATE.** This section is effective August 1, 2019.
- 4.21 Sec. 2. **[144J.02] ASSISTED LIVING CONTRACTS.**
- 4.22 Subdivision 1. **Contract required.** (a) No assisted living establishment may offer or  
4.23 provide housing, home care services, or other services to a resident unless it has executed  
4.24 a written contract with the resident.
- 4.25 (b) The contract must:
- 4.26 (1) be signed by both:
- 4.27 (i) the resident or the resident's designated representative; and
- 4.28 (ii) the owner or owners, or an agent of the owner or owners, of the assisted living  
4.29 establishment;
- 4.30 (2) contain all the terms concerning the provision of:

(i) housing; and

(ii) services, including all home care services, whether provided directly by the assisted living establishment or by an affiliated home care provider.

(c) An assisted living establishment must:

(1) offer to prospective residents and provide to the Office of the Ombudsman for Long-Term Care a complete unsigned copy of its assisted living contract; and

(2) give a complete copy of any signed contract and any addendums, and all supporting documents and attachments, to the resident or the resident's designated representative promptly after a contract and any addendum has been signed by the resident or the resident's designated representative.

(d) A contract under this section is a consumer contract under sections 325G.29 to 325G.37.

(e) Before or at the time of execution of an assisted living contract, the assisted living establishment must offer the resident the opportunity to identify a designated representative in writing in the contract. The contract must contain a page or space for the name and contact information of the designated representative and a box the resident must initial if the resident declines to name a designated representative. Notwithstanding paragraph (f), the resident has the right at any time to rescind the declination or add or change the name and contact information of the designated representative.

(f) The resident must agree in writing to any additions or amendments to the contract. Upon agreement between the resident or resident's designated representative and the assisted living establishment, a new contract or an addendum to the existing contract must be executed and signed.

**Subd. 2. Contents of contract; contact information.** (a) An assisted living contract must include in a conspicuous place and manner on the contract, the legal name, the license or registration number of the assisted living establishment, and the license number of any affiliated home care provider.

(b) An assisted living contract must include the name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the assisted living establishment and any affiliated home care provider;

(2) the owner or owners of the assisted living establishment and of any affiliated home care provider;

6.1 (3) the managing agent of the assisted living establishment; and

6.2 (4) at least one natural person who is authorized to accept service of process on behalf  
6.3 of the assisted living establishment and each affiliated home care provider.

6.4 Subd. 3. **Duration of contract.** An assisted living contract must include:

6.5 (1) a description of all the terms and conditions of the contract, including a description  
6.6 of and any limitations to the housing and home care services to be provided for the contracted  
6.7 amount;

6.8 (2) a delineation of the cost and nature of any other services to be provided for an  
6.9 additional fee;

6.10 (3) a delineation and description of any additional fees the resident may be required to  
6.11 pay if the resident's condition changes during the term of the contract;

6.12 (4) a delineation of the grounds under which the resident may be discharged, evicted,  
6.13 or transferred or have services terminated; and

6.14 (5) billing and payment procedures and requirements.

6.15 Subd. 4. **Complaint procedures.** An assisted living contract must include a description  
6.16 of the assisted living establishment's complaint resolution process available to residents,  
6.17 including the name and contact information of the person representing the assisted living  
6.18 establishment who is designated to handle and resolve complaints.

6.19 Subd. 5. **Notice required.** An assisted living contract must include a clear and  
6.20 conspicuous notice of:

6.21 (1) the right under section 144J.13 to challenge a discharge, eviction, or transfer or  
6.22 service termination;

6.23 (2) the assisted living establishment's policy regarding transfer of residents within the  
6.24 establishment, under what circumstances transfer may occur, and whether or not consent  
6.25 of the resident being asked to transfer is required;

6.26 (3) the toll-free complaint line for the long-term care ombudsman and the Office of  
6.27 Health Facility Complaints;

6.28 (4) the resident's right to obtain services from an unaffiliated home care provider;

6.29 (5) the availability of public funds for eligible residents to pay for housing or services,  
6.30 or both; and

(6) the contact information to obtain long-term care consulting services under section 256B.0911.

Subd. 6. **Contracts in permanent files.** Assisted living contracts and related documents executed by each resident or the resident's designated representative must be maintained by the assisted living establishment in files from the date of execution of the assisted living contract until three years after the contract is terminated or expires. Assisted living contracts and any applicable written disclosures required under section 325F.72 shall be made available for on-site inspection by the commissioner upon request at any time.

Subd. 7. **Waivers of liability prohibited.** An assisted living contract must not include a waiver of assisted living establishment liability for the health and safety or personal property of a resident. An assisted living contract must not include any provision that the assisted living establishment knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

**EFFECTIVE DATE.** This section is effective for all assisted living contracts entered into on or after January 1, 2020. Prior to January 1, 2020, assisted living establishments are governed by the contract requirements in Minnesota Statutes, sections 144D.04 and 144D.045.

Sec. 3. **[144J.03] HOUSING AND SERVICE-RELATED MATTERS.**

Subdivision 1. **Responsibility for housing and services.** The assisted living establishment is directly responsible to the resident for all housing and service-related matters provided directly or through an affiliated home care provider. Housing and service-related matters include but are not limited to the handling of complaints, the provision of notices, and the initiation of any adverse action against the resident involving housing or services provided by the assisted living establishment or any agent, including an affiliated home care provider.

Subd. 2. **Uniform checklist disclosure of services.** (a) On and after July 1, 2020, an assisted living establishment must provide to prospective residents, the prospective resident's designated representative, and any other person or persons the resident chooses:

(1) a written checklist listing all services permitted under the assisted living establishment's license and identifying all services the assisted living establishment offers to provide under the assisted living contract; and

(2) an oral explanation of the services offered under the assisted living contract.

(b) The requirements of paragraph (a) must be completed prior to the execution of an assisted living contract.

(c) The commissioner must, in consultation with all interested stakeholders, design the uniform checklist disclosure form for use as provided under paragraph (a).

Subd. 3. **Reservation of rights.** Nothing in this chapter or chapter 144I:

(1) requires a resident to utilize any service provided by or through, or made available in, an assisted living establishment;

(2) prevents an assisted living establishment from requiring, as a condition of the assisted living contract, that the resident pay for a package of services even if the resident does not choose to utilize all or some of the services in the package;

(3) requires an assisted living establishment to fundamentally alter the nature of the operations of the establishment in order to accommodate a resident's request; or

(4) affects the duty of an assisted living establishment to grant a resident's request for reasonable accommodations.

Sec. 4. **[144J.04] NOTICE TO RESIDENTS OF CHANGE IN OWNERSHIP OR MANAGEMENT.**

An assisted living establishment must provide prompt written notice to the resident or resident's designated representative of any change of legal name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the owner or owners of the assisted living establishment or affiliated home care provider or, after July 1, 2020, the assisted living establishment or affiliated home care provider or housing with services registrant, if different from the owner or owners of the assisted living establishment;

(2) the manager of the assisted living establishment; and

(3) the natural person authorized to accept legal process on behalf of the assisted living establishment or affiliated home care provider.

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



9.1 Sec. 5. [144J.05] NOTICES IN PLAIN LANGUAGE AND LANGUAGE  
9.2 ACCOMMODATIONS.

9.3 Assisted living establishments and affiliated home care providers must provide all notices  
9.4 in plain language that residents can understand and make reasonable accommodations for  
9.5 residents who have communication disabilities and those whose primary language is a  
9.6 language other than English.

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

9.8 Sec. 6. [144J.06] ASSISTED LIVING AND HOME CARE RIGHTS.

9.9 Subdivision 1. **Definitions.** (a) "Assisted living establishment" includes an affiliated  
9.10 home care provider.

9.11 (b) "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the  
9.12 intentional and nontherapeutic infliction of physical pain or injury, or any persistent course  
9.13 of conduct intended to produce mental or emotional distress.

9.14 (c) "Resident" means a person residing in an assisted living establishment or any person  
9.15 receiving home care services from an affiliated or unaffiliated home care provider.

9.16 Subd. 2. **Applicability.** All home care providers, including those exempted from home  
9.17 care licensure under section 144A.471, subdivision 8, must comply with this section and  
9.18 the commissioner shall enforce this section against home care providers exempt from  
9.19 licensure in the same manner as for licensees.

9.20 Subd. 3. **Legislative intent.** It is the intent of the legislature to promote the interests and  
9.21 well-being of residents. It is the intent of this section that every resident's civil and religious  
9.22 liberties, including the right to independent personal decisions and knowledge of available  
9.23 choices, shall not be infringed and that the assisted living establishment or home care  
9.24 provider must encourage and assist in the fullest possible exercise of these rights. The rights  
9.25 established under this section for the benefit of residents do not limit the rights residents  
9.26 have under other applicable law.

9.27 Subd. 4. **Right to information about rights.** (a) Before receiving services, residents  
9.28 have the right to receive from the assisted living establishment or unaffiliated home care  
9.29 provider written information about rights under this section in plain language and in terms  
9.30 residents can understand. The provider must make reasonable accommodations for residents  
9.31 who have communication disabilities and those who speak a language other than English.  
9.32 The information must include:

(1) what recourse the resident has if rights are violated;

(2) the name, address, telephone number, and e-mail contact information of organizations that provide advocacy and legal services for residents to enforce their rights including but not limited to the designated protection and advocacy organization in Minnesota that provides advice and representation to individuals with disabilities; and

(3) the name, address, telephone number, and e-mail contact information for government agencies where the resident or private client may file a maltreatment report, complain, or seek assistance, including the Office of Health Facility Complaints, the long-term care ombudsman, and state and county agencies that regulate assisted living establishments and home care providers.

(b) Upon request, residents and their designated representatives have the right to current assisted living establishment or home care provider policies, inspection findings of state and local health authorities, and further explanation of the rights provided under this section, consistent with chapter 13 and section 626.557.

Subd. 5. **Right to courteous treatment.** Residents have the right to be treated with courtesy and respect, and to have the resident's property treated with respect.

Subd. 6. **Right to appropriate care and services.** (a) Residents have the right to care and services that are appropriate based on the resident's needs and according to an up-to-date plan for care and services. All plans for care and services must be designed to enable residents to achieve their highest level of emotional, psychological, physical, medical, and functional well-being and safety.

(b) Residents have the right to receive medical and personal care and services with continuity by people who are properly trained and competent to perform their duties and in sufficient numbers to adequately provide the services agreed to in the assisted living contract or home care service agreement.

Subd. 7. **Right to information about individuals providing services.** Residents have the right to be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, and other choices that are available for addressing the resident's needs.

Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from maltreatment.

11.1 Subd. 9. **Right to participate in care and service planning; notice of change.** Residents  
11.2 have the right to actively participate in the planning, modification, and evaluation of their  
11.3 care and services. This right includes:

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

11.6 (2) the opportunity to request and participate in formal care conferences;

11.7 (3) the right to include a family member or the resident's designated representative, or  
11.8 both; and

11.9 (4) the right to be told in advance of, and take an active part in decisions regarding, any  
11.10 recommended changes in the plan for care and services.

11.11 Subd. 10. **Right to disclosure of contract services and rights to purchase outside**  
11.12 **services.** (a) Residents have the right to be informed, prior to receiving care or services  
11.13 from an affiliated or unaffiliated home care provider and during their stay in an assisted  
11.14 living establishment of:

11.15 (1) care and services which are included under the terms of the assisted living contract  
11.16 and the home care service agreement, if applicable;

11.17 (2) information about care and other public services or private services that may be  
11.18 available in the community at additional charges; and

11.19 (3) any limits to the services available from the assisted living establishment or an  
11.20 unaffiliated home care provider.

11.21 (b) If an assisted living contract or home care service agreement permits changes in  
11.22 services, residents have the right to reasonable, advance notice of any change.

11.23 (c) Residents have the right to purchase or rent goods or services not included in the  
11.24 assisted living contract rate or home care service agreement rate from a supplier of their  
11.25 choice unless otherwise provided by law. The supplier must ensure that these purchases are  
11.26 sufficient to meet the medical or treatment needs of the residents.

11.27 (d) Residents have the right to change home care providers after services have begun,  
11.28 within the limits of health insurance, long-term care insurance, medical assistance, or other  
11.29 health programs, and contractual agreements.

11.30 (e) Home care providers must make every effort to assist residents in obtaining  
11.31 information regarding whether the Medicare, medical assistance, or other public program  
11.32 will pay for any or all of the services.

12.1 Subd. 11. **Right to information about charges.** (a) Before services are initiated, residents  
12.2 have the right to be notified:

12.3 (1) of home care provider charges for the services;

12.4 (2) as to what extent payment may be expected from health insurance, public programs,  
12.5 or other sources, if known; and

12.6 (3) what charges the resident may be responsible for paying.

12.7 (b) If an assisted living contract or home care service agreement permits changes in  
12.8 charges, residents have the right to reasonable, advance notice of any change.

12.9 Subd. 12. **Right to information about health care treatment.** Where applicable,  
12.10 residents have the right to be given by their physicians complete and current information  
12.11 concerning their diagnosis, cognitive functioning level, treatment, alternatives, risks, and  
12.12 prognosis as required by the physician's legal duty to disclose. This information must be in  
12.13 terms and language the residents can reasonably be expected to understand. This information  
12.14 shall include the likely medical or major psychological results of the treatment and its  
12.15 alternatives. Residents receiving home care services from the assisted living establishment  
12.16 directly, or through an affiliated home care provider, may be accompanied by a family  
12.17 member or other designated representative, or both.

12.18 Subd. 13. **Right to refuse services or care.** (a) Residents have the right to refuse services  
12.19 or care.

12.20 (b) Home care providers and assisted living establishments must document in the  
12.21 resident's record that the home care provider informed residents who refuse care, services,  
12.22 treatment, medication, or dietary restrictions of the likely medical, health-related, or  
12.23 psychological consequences of the refusal.

12.24 (c) In cases where a resident is incapable of understanding the circumstances but has  
12.25 not been adjudicated incompetent, or when legal requirements limit the right to refuse  
12.26 medical treatment, the conditions and circumstances must be fully documented by the  
12.27 attending physician in the resident's record.

12.28 Subd. 14. **Right to personal, treatment, and communication privacy.** (a) In assisted  
12.29 living establishments, residents have the right to:

12.30 (1) every consideration of their privacy, individuality, and cultural identity as related to  
12.31 their social, religious, and psychological well-being. Staff must respect the privacy of a  
12.32 resident's space by knocking on the door and seeking consent before entering, except in an  
12.33 emergency or where clearly inadvisable;

13.1 (2) respectfulness and privacy as they relate to the resident's medical and personal care  
13.2 program. Case discussion, consultation, examination, and treatment are confidential and  
13.3 must be conducted discreetly. Privacy must be respected during toileting, bathing, and other  
13.4 activities of personal hygiene, except as needed for resident safety or assistance;

13.5 (3) communicate privately with persons of their choice;

13.6 (4) enter and, if not residing in a secure assisted living establishment, leave the facility  
13.7 as they choose;

13.8 (5) private communication with a representative of a protection and advocacy services  
13.9 agency; and

13.10 (6) access Internet service at their expense, unless offered by the home care provider or  
13.11 assisted living establishment.

13.12 (b) Personal mail must be sent by the assisted living establishment without interference  
13.13 and received unopened unless medically or programmatically contraindicated and  
13.14 documented by the physician or advanced practice registered nurse in the resident's record.  
13.15 Residents must be provided access to a telephone to make and receive calls as well as speak  
13.16 privately. Assisted living establishments that are unable to provide a private area must make  
13.17 reasonable arrangements to accommodate the privacy of residents' calls.

13.18 Subd. 15. **Right to confidentiality of records.** Residents have the right to have personal,  
13.19 financial, and medical information kept private, to approve or refuse release of information  
13.20 to any outside party, and to be advised of the assisted living establishment and home care  
13.21 providers' policies and procedures regarding disclosure of the information. Residents must  
13.22 be notified when personal records are requested by any outside party.

13.23 Subd. 16. **Right to visitors and social participation.** (a) Residents have the right of  
13.24 reasonable access at reasonable times, or any time when the resident's welfare is in immediate  
13.25 jeopardy, to any available rights protection services and advocacy services.

13.26 (b) Residents have the right to meet with or receive visits at reasonable times by the  
13.27 resident's guardian, conservator, health care agent, family, attorney, advocate, religious or  
13.28 social work counselor, or any person of the resident's choosing, or at any time when the  
13.29 resident's welfare is in immediate jeopardy.

13.30 (c) Residents have the right to participate in commercial, religious, social, community,  
13.31 and political activities without interference and at their discretion if the activities do not  
13.32 infringe on the right to privacy of other residents.

Subd. 17. **Right to designate representative.** Residents have the right to name a designated representative. Before or at the time of execution of an assisted living contract, assisted living establishments must offer the resident the opportunity to identify a designated representative in writing in the contract. Residents have the right at any time at or after they enter into an assisted living contract to name a designated representative.

Subd. 18. **Right to form family and advisory councils.** Residents in assisted living establishments and their families have the right to organize, maintain, and participate in resident family and advisory councils. Assisted living establishments must provide assistance and space for meetings and afford privacy. Staff or visitors may attend only upon the council's invitation. A staff person must be designated the responsibility of providing this assistance and responding to written requests that result from council meetings. Resident and family councils must be encouraged to make recommendations regarding establishment policies.

Subd. 19. **Right to complain.** Residents have the right to:

(1) complain or inquire about either care or services that are provided or not provided;

(2) complain about the lack of courtesy or respect to the resident or to the resident's property;

(3) know how to contact the agent of the assisted living establishment or unaffiliated home care provider who is responsible for handling complaints and inquiries;

(4) have the assisted living establishment or the unaffiliated home care provider conduct an investigation, attempt to resolve, and provide a timely response to the complaint or inquiry; and

(5) recommend changes in policies and services to staff and others of their choice.

Subd. 20. **Right to assert rights.** Residents, their designated representatives, or any person or persons on behalf of the resident have the right to assert the rights granted to residents under this section or any other section.

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

Sec. 7. **[144J.07] ELECTRONIC MONITORING.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

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

- 15.1 (c) "Facility" means a facility that is:
- 15.2 (1) licensed as a nursing home under chapter 144A;
- 15.3 (2) licensed as a boarding care home under sections 144.50 to 144.56; or
- 15.4 (3) an assisted living establishment, as defined in section 144J.01, subdivision 6.
- 15.5 (d) "Resident" means a person 18 years of age or older residing in a facility.
- 15.6 (e) "Resident representative" means a court-appointed guardian, health care agent under
- 15.7 section 145C.01, subdivision 2, or a person chosen by the resident and identified in the
- 15.8 resident's records on file with the facility.
- 15.9 Subd. 2. **Electronic monitoring authorized.** (a) A facility must allow a resident or a
- 15.10 resident representative to conduct electronic monitoring of the resident's room or private
- 15.11 living space as provided in this section.
- 15.12 (b) Nothing in this section precludes the use of electronic monitoring of health care
- 15.13 allowed under other law.
- 15.14 Subd. 3. **Consent on behalf of a resident.** (a) If the resident has not affirmatively
- 15.15 objected to electronic monitoring and the resident's health care provider determines that the
- 15.16 resident lacks the ability to understand and appreciate the nature and consequences of
- 15.17 electronic monitoring, the resident representative may consent on behalf of the resident,
- 15.18 subject to paragraph (b). For purposes of this subdivision, a resident affirmatively objects
- 15.19 when the resident orally, visually, or through the use of auxiliary aids or services declines
- 15.20 electronic monitoring.
- 15.21 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
- 15.22 be asked by the resident representative if the resident wants electronic monitoring to be
- 15.23 conducted. The resident representative must explain to the resident:
- 15.24 (1) the reason for placing the electronic monitoring device;
- 15.25 (2) the type of electronic monitoring device to be used;
- 15.26 (3) that the resident may place conditions on the electronic monitoring device's use, as
- 15.27 provided under subdivision 7, paragraph (a), clause (6);
- 15.28 (4) with whom the recording may be shared under this section; and
- 15.29 (5) the resident's ability to decline all recording.
- 15.30 The resident's response must be documented on the notification and consent form.

(c) A resident may set conditions for use of the electronic monitoring device, including the list of standard conditions provided under subdivision 7, paragraph (a), clause (6).

(d) A resident may request that the electronic monitoring device be turned off or the visual or audio recording component of the electronic monitoring device be blocked at any time.

(e) A resident may withdraw the consent made on the resident's behalf at any time by affirmatively objecting to the monitoring.

Subd. 4. **Roommate consent.** (a) Prior to implementing electronic monitoring, a resident or a resident representative must obtain the written consent on the notification and consent form of any other resident residing in the room or private living space.

(b) If the roommate has not affirmatively objected to the electronic monitoring in accordance with this subdivision and the roommate's physician determines that the roommate lacks the ability to understand and appreciate the nature and consequences of electronic monitoring, the roommate's resident representative may consent on behalf of the roommate. The roommate and the roommate's resident representative must be told:

(1) the reason for placing the electronic monitoring device;

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

(3) that they can place conditions on the electronic monitoring device's use, including those listed under subdivision 7, paragraph (a), clause (6);

(4) with whom the recording may be shared under this section; and

(5) their ability to decline all recording.

(c) A roommate or roommate's resident representative may consent to electronic monitoring with any conditions of the roommate's choosing, including the list of standard conditions listed under subdivision 7, paragraph (a), clause (6). A roommate may request that the visual or audio recording component of the electronic monitoring device be disabled or blocked at any time.

(d) The roommate or roommate's resident representative may withdraw consent at any time by submitting written notice to the facility.

(e) Any resident currently conducting electronic monitoring must obtain consent from any new roommate before the resident continues authorized electronic monitoring. If a new roommate does not consent to electronic monitoring and the resident conducting the electronic



17.1 monitoring does not remove the electronic monitoring device, the facility must remove the  
17.2 electronic monitoring device.

17.3 Subd. 5. **Reasonable accommodation.** (a) If a resident of a facility who is residing in  
17.4 a shared room wants to conduct electronic monitoring and another resident living in or  
17.5 moving into the same shared room refuses to consent to the use of an electronic monitoring  
17.6 device, the facility must make a reasonable attempt to accommodate the resident who wants  
17.7 to conduct electronic monitoring. A facility has met the requirement to make a reasonable  
17.8 attempt when upon notification that a roommate has not consented to the use of an electronic  
17.9 monitoring device in the resident's room, the facility offers to move the resident to another  
17.10 shared room that is available at the time of the request.

17.11 (b) If a resident chooses to reside in a private room in a facility in order to accommodate  
17.12 the use of an electronic monitoring device, the resident must pay the private room rate. If  
17.13 a facility is unable to accommodate a resident due to lack of space, the facility must  
17.14 reevaluate the request every two weeks until the request is fulfilled. Notwithstanding any  
17.15 other provision of this chapter, a facility is not required to provide a private room or a  
17.16 single-bed room to a resident who is not a private-pay resident.

17.17 Subd. 6. **Notice of monitoring to the facility; exceptions to required notice.** (a)  
17.18 Electronic monitoring may begin only after the resident or resident representative who  
17.19 intends to place an electronic monitoring device completes and submits to the facility a  
17.20 notification and consent form prescribed by the commissioner.

17.21 (b) Notwithstanding paragraph (a), the resident or resident representative who intends  
17.22 to place an electronic monitoring device may do so without submitting a notification and  
17.23 consent form to the facility:

17.24 (1) for up to 30 days if the resident or the resident representative reasonably fears  
17.25 retaliation against the resident by the facility and timely submits a Minnesota Adult Abuse  
17.26 Reporting Center report or police report, or both, upon evidence from the electronic  
17.27 monitoring device that suspected maltreatment has occurred;

17.28 (2) for up to 30 days if there has not been a timely written response from the facility to  
17.29 a written communication from the resident or resident representative expressing a concern  
17.30 prompting the desire for placement of an electronic monitoring device; or

17.31 (3) for up to 30 days if the resident or resident representative has already submitted a  
17.32 Minnesota Adult Abuse Reporting Center report or police report regarding the resident's  
17.33 concerns prompting the desire for placement.

18.1 Subd. 7. **Notification and consent form requirements.** (a) The notification and consent  
18.2 form must include, at a minimum, the following information:

18.3 (1) the resident's signed consent to electronic monitoring or the signature of the resident  
18.4 representative, if applicable. If the resident representative signs the consent form, the form  
18.5 must document the following:

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

18.8 (ii) who was present when the resident was asked; and

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

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

18.13 (i) the date the roommate was asked if the roommate consents to electronic monitoring;

18.14 (ii) who was present when the roommate was asked; and

18.15 (iii) an acknowledgment that the roommate did not affirmatively object;

18.16 (3) the type of electronic monitoring device to be used;

18.17 (4) any installation needs, including the mounting of a device to a wall or ceiling;

18.18 (5) the proposed date of installation for scheduling purposes;

18.19 (6) a list of standard conditions or restrictions that the resident or a roommate may elect  
18.20 to place on the use of the electronic monitoring device including but not limited to:

18.21 (i) prohibiting audio recording;

18.22 (ii) prohibiting video recording;

18.23 (iii) prohibiting broadcasting of audio or video;

18.24 (iv) turning off the electronic monitoring device or blocking the visual recording  
18.25 component of the electronic monitoring device for the duration of an exam or procedure by  
18.26 a health care professional;

18.27 (v) turning off the electronic monitoring device or blocking the visual recording  
18.28 component of the electronic monitoring device while dressing or bathing is performed; and

18.29 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual  
18.30 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;

19.1 (7) any other condition or restriction elected by the resident or roommate on the use of  
19.2 an electronic monitoring device;

19.3 (8) a signature box for documenting that the resident or roommate has withdrawn consent;  
19.4 and

19.5 (9) a statement of the circumstances under which a recording may be disseminated under  
19.6 subdivision 10.

19.7 (b) Subject to subdivision 6, paragraph (b), copies of the completed notification and  
19.8 consent form must be provided to the resident and the resident's roommate, if applicable.  
19.9 Copies of all completed notification and consent forms must be submitted to the facility,  
19.10 and the facility must keep the notification and consent forms on file in a location separate  
19.11 from the resident's clinical record.

19.12 (c) The commissioner must prepare a notification and consent form required in this  
19.13 section no later than August 1, 2019, and must make the form available on the department's  
19.14 website.

19.15 Subd. 8. **Costs and installation.** (a) A resident or resident representative choosing to  
19.16 conduct electronic monitoring must do so at the resident's own expense, including paying  
19.17 for the purchase, installation, maintenance, and removal costs.

19.18 (b) If a resident chooses to install an electronic monitoring device that uses Internet  
19.19 technology for visual or audio monitoring and Internet service is not included in the rate or  
19.20 available through facility, the resident may be responsible for contracting with an Internet  
19.21 service provider.

19.22 (c) The facility must make a reasonable attempt to accommodate the resident's installation  
19.23 needs, including allowing access to the facility's telecommunications or equipment room.  
19.24 A facility has the burden of proving that a requested accommodation is not reasonable.

19.25 (d) All electronic monitoring device installations and supporting services must be  
19.26 Underwriters Laboratories-listed.

19.27 Subd. 9. **Notice to visitors.** A facility must post a sign at each entrance accessible to  
19.28 visitors that states: "Electronic monitoring devices may be present to record persons and  
19.29 activities" using bold typeface and using a font size that can be easily seen. The facility is  
19.30 responsible for installing and maintaining the signage required in this subdivision.

19.31 Subd. 10. **Dissemination of data.** (a) No person may access any video or audio recording  
19.32 created through electronic monitoring without the written consent of the resident or the  
19.33 resident representative.

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

(c) Disseminating a recording or a copy of a recording that was made according to this section but in violation of this subdivision may be grounds for civil or criminal liability.

(d) An employee of a facility who is the subject of proposed corrective or disciplinary action based upon evidence obtained by electronic monitoring must be given access to that evidence for purposes of defending against the proposed action. The recording or a copy of the recording must be treated confidentially by the employee and must not be further disseminated to any other person except as required under law. Any copy of the recording must be returned to the facility or resident who provided the copy when it is no longer needed for purposes of defending against a proposed action.

Subd. 11. **Facility liability.** (a) A facility is not civilly or criminally liable for the inadvertent or unintentional disclosure of a recording by a resident or a resident representative for any purpose not authorized by this section.

(b) A facility is not civilly or criminally liable for a violation of a resident's right to privacy based solely on the use of electronic monitoring conducted as provided for in this section.

Subd. 12. **Obstruction of electronic monitoring.** (a) A person must not knowingly hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a resident's room or private living space without the permission of the resident or the resident's legal representative.

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

Subd. 13. **Resident rights and protection.** A facility must not:

(1) refuse to admit a potential resident or remove a resident because the facility disagrees with the potential resident's, the resident's, or the resident representative's decisions regarding electronic monitoring;

(2) retaliate against any resident for consenting or refusing to consent to electronic monitoring under this section; or

21.1 (3) prevent the placement or use of an electronic monitoring device by a resident who  
21.2 has provided the facility with notice and consent as required under this section.

21.3 Subd. 14. **Penalties.** The commissioner may issue a correction order upon a finding that  
21.4 the facility has failed to comply with this section. The commissioner may impose a fine of  
21.5 up to \$500 upon a finding of noncompliance with a correction order issued under this  
21.6 subdivision.

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

21.8 Sec. 8. **[144J.08] USE OF RESTRAINTS IN ASSISTED LIVING**  
21.9 **ESTABLISHMENTS.**

21.10 Residents of assisted living establishments must be free from any physical or chemical  
21.11 restraints imposed for purposes of discipline or convenience.

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

21.13 Sec. 9. **[144J.09] RETALIATION PROHIBITED IN ASSISTED LIVING**  
21.14 **ESTABLISHMENTS.**

21.15 (a) No assisted living establishment or agent of the assisted living establishment may  
21.16 retaliate against a resident or employee if the resident, employee, or any person on behalf  
21.17 of the resident:

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

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

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

21.23 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic  
21.24 problems or concerns to the administrator or manager of an assisted living establishment,  
21.25 the long-term care ombudsman, a regulatory or other government agency, or a legal or  
21.26 advocacy organization;

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

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

- 22.1 (7) participates or indicates an intention to participate in any investigation or  
22.2 administrative or judicial proceeding;
- 22.3 (8) contracts or indicates an intention to contract to receive services from a service  
22.4 provider of the resident's choice other than the assisted living establishment; or
- 22.5 (9) places or indicates an intention to place a camera or electronic monitoring device in  
22.6 the resident's private space as provided under section 144J.07.
- 22.7 (b) For purposes of this section, to "retaliate" against a resident includes but is not limited  
22.8 to any of the following actions taken or threatened by an assisted living establishment or  
22.9 an agent of the assisted living establishment against a resident, or any person with a familial,  
22.10 personal, legal, or professional relationship with the resident:
- 22.11 (1) discharge, eviction, transfer, or termination of services;
- 22.12 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 22.13 (3) any form of discrimination;
- 22.14 (4) restriction or prohibition of access:
- 22.15 (i) of the resident to the facility or visitors; or
- 22.16 (ii) of a family member or a person with a personal, legal, or professional relationship  
22.17 with the resident, to the resident;
- 22.18 (5) imposition of involuntary seclusion or the withholding of food, care, or services;
- 22.19 (6) restriction of any of the rights granted to residents under state or federal law;
- 22.20 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or  
22.21 living arrangements;
- 22.22 (8) arbitrary increase in charges or fees;
- 22.23 (9) removal, tampering with, or deprivation of technology, communication, or electronic  
22.24 monitoring devices; or
- 22.25 (10) any oral or written communication of false information about a person advocating  
22.26 on behalf of the resident.
- 22.27 (c) For purposes of this section, to "retaliate" against an employee includes but is not  
22.28 limited to any of the following actions taken or threatened by the assisted living establishment  
22.29 or an agent of the assisted living establishment against an employee:
- 22.30 (1) discharge or transfer;

23.1 (2) demotion or refusal to promote;

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

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

23.4 (5) any form of discrimination.

23.5 (d) There is a rebuttable presumption that any action, described in paragraph (b) or (c)  
23.6 and taken within 90 days of an initial action described in paragraph (a), is retaliatory. This  
23.7 presumption does not apply to a discharge, eviction, transfer, or termination of services that  
23.8 occurs for a reason permitted under section 144J.13, subdivision 3 or 6, provided the assisted  
23.9 living establishment complied with the applicable requirements in, and allowed the resident  
23.10 or a designated representative to exercise any rights in, section 144J.13, subdivisions 2 to  
23.11 8, for the discharge, eviction, transfer, or termination of services.

23.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

23.13 Sec. 10. **[144J.10] DECEPTIVE MARKETING AND BUSINESS PRACTICES**  
23.14 **PROHIBITED.**

23.15 (a) For the purposes of this section, "provider" includes an assisted living establishment  
23.16 and an affiliated home care provider.

23.17 (b) Deceptive marketing and business practices by providers are prohibited. No employee  
23.18 or agent of any provider may:

23.19 (1) make any false, fraudulent, deceptive, or misleading statements or representations,  
23.20 or material omissions, in marketing, advertising, or any other description or representation  
23.21 of care or services;

23.22 (2) fail to inform a resident in writing of any limitations to care services available prior  
23.23 to executing an assisted living contract or home care service agreement; or

23.24 (3) advertise or represent that the assisted living establishment has a special care unit,  
23.25 such as for dementia or memory care, without:

23.26 (i) complying with disclosure requirements under sections 325F.72 and any training  
23.27 requirements required by law or rule; and

23.28 (ii) after July 1, 2020, meeting and complying with all the requirements under chapter  
23.29 144I and any adopted rules.

24.1 (c) A violation of this section constitutes a violation of section 325F.69, subdivision 1.  
24.2 The attorney general or a county attorney may enforce this section using the remedies in  
24.3 section 325F.70.

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

24.5 Sec. 11. **[144J.11] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

24.6 Assisted living establishments and affiliated home care providers must, regardless of  
24.7 the source of payment and for all persons seeking to reside or residing in the assisted living  
24.8 establishment:

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

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

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

24.13 Sec. 12. **[144J.12] ASSESSMENT OF RESIDENTS.**

24.14 (a) For each prospective resident, an assisted living establishment must conduct an initial  
24.15 assessment to determine the person's physical, cognitive, social, and service needs, and  
24.16 propose a plan for care and services based on the assessment, before the earlier of the date  
24.17 the prospective resident:

24.18 (1) enters into an assisted living contract under section 144J.02; or

24.19 (2) moves in.

24.20 (b) An assisted living establishment must conduct ongoing physical, cognitive, social,  
24.21 and service assessments to identify changes in the resident's conditions and indicate necessary  
24.22 changes in the resident's plan for care and services based on the assessment.

24.23 (c) The portion of the assessment that involves the prospective resident or resident's  
24.24 physical and cognitive condition must be conducted by a registered nurse, as required by  
24.25 applicable home care licensure requirements in chapter 144A and sections 148.171 to  
24.26 148.285. The social and service components must be conducted by a qualified professional.

24.27 (d) The prospective resident has the right to participate in the care and service planning  
24.28 process and may include the prospective resident's designated representative, one or more  
24.29 family members, any health care and social service professionals of the resident's choosing,  
24.30 and the prospective resident's home care provider.



25.1 (e) The commissioner must adopt rules establishing assessment standards.

25.2 **EFFECTIVE DATE.** This section is effective July 1, 2020.

25.3 Sec. 13. **[144J.13] ASSISTED LIVING ESTABLISHMENTS; INVOLUNTARY**  
25.4 **DISCHARGES AND SERVICE TERMINATIONS.**

25.5 Subdivision 1. **Definition.** "Termination of housing or services" means an involuntary  
25.6 discharge, eviction, transfer, or service termination.

25.7 Subd. 2. **Prerequisite to termination of housing or services.** Before terminating a  
25.8 resident's housing or services, an assisted living establishment must explain in detail the  
25.9 reasons for the termination and work with the resident, the resident's designated  
25.10 representative, the resident's family, applicable agencies, and any relevant health-related or  
25.11 social service professionals to identify and offer reasonable accommodations, interventions,  
25.12 or alternatives to avoid the termination.

25.13 Subd. 3. **Permissible reasons to terminate housing or services.** (a) An assisted living  
25.14 establishment is prohibited from terminating housing or services for grounds other than  
25.15 those specified in paragraphs (b) and (c).

25.16 (b) A resident's housing or services may not be terminated except upon a written  
25.17 determination, supported by documentation, by the assisted living establishment administrator  
25.18 that termination is necessary because:

25.19 (1) it is mandated by law or court order;

25.20 (2) the resident has engaged in a documented pattern of conduct that:

25.21 (i) endangers the resident's own health, safety, or well-being;

25.22 (ii) endangers the health or safety of other residents or staff of the assisted living  
25.23 establishment or affiliated home care provider; or

25.24 (iii) repeatedly and substantially interferes with the rights, health, safety, or well-being  
25.25 of other residents; or

25.26 (3) the resident has committed any of the acts enumerated under section 504B.171,  
25.27 subdivision 1.

25.28 (c) A resident's housing or services may be terminated if the needs of the resident exceed  
25.29 the scope of the services for which the resident contracted for or, after July 1, 2020, exceed  
25.30 the scope of the assisted living establishment's license, only:

(1) upon a certification by the assisted living establishment administrator, based on an evaluation by a disinterested, licensed health care professional; and

(2) if the resident's needs cannot be safely met by reasonable accommodations, interventions, or alternatives.

(d) An assisted living establishment may initiate discharge, eviction, transfer, or termination of home care services procedures for nonpayment, provided the assisted living establishment:

(1) makes reasonable efforts to accommodate temporary financial hardship and provide information on government or private subsidies that may be available;

(2) timely responds to county social service agency questions regarding Medicaid or other public benefit eligibility and payment process; and

(3) provides the notice required under subdivision 4 to the ombudsman for long-term care.

A temporary interruption in benefits does not constitute nonpayment.

(e) When an affiliated home care provider voluntarily discontinues services to all residents, the affiliated home care provider must notify the commissioner, lead agencies, and ombudsman for long-term care about the residents and comply with the requirements of subdivisions 4 and 5.

Subd. 4. **Advance notice required.** An assisted living establishment must provide at least 30 days' advance notice to the resident and the ombudsman for long-term care of a termination of housing or services, except as provided in subdivision 6.

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

(1) the effective date of termination of housing or services;

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

(3) a list of known assisted living establishments and unaffiliated home care providers in the immediate geographic area;

(4) a statement that the resident has the right to appeal the termination, an explanation of how and to whom to appeal, and contact information for the Office of Administrative Hearings;

- 27.1 (5) information on how to contact the ombudsman for long-term care;
- 27.2 (6) if the resident must relocate, a statement that the assisted living establishment must
- 27.3 actively participate in a coordinated transfer of care of the resident to another provider or
- 27.4 caregiver, as required under subdivision 8.
- 27.5 (7) the name and contact information of a person employed by the assisted living
- 27.6 establishment with whom the resident may discuss the notice of termination of housing or
- 27.7 services; and
- 27.8 (8) if the termination is for services, a statement, if applicable, that the notice of
- 27.9 termination of services does not constitute a termination of housing or an eviction from the
- 27.10 resident's home, and that the resident has the right to remain in the assisted living
- 27.11 establishment if the resident can secure necessary home care services from an unaffiliated
- 27.12 home care provider.
- 27.13 Subd. 6. **Exception for emergencies.** (a) An assisted living establishment may relocate
- 27.14 a resident from an assisted living establishment with less than 30 days' notice if:
- 27.15 (1) emergency relocation is ordered by the resident's physician; or
- 27.16 (2) the assisted living establishment administrator, based on documented evidence,
- 27.17 determines that the resident needs to be immediately relocated because the resident or
- 27.18 another resident or staff member of the assisted living establishment is at imminent risk of:
- 27.19 (i) death;
- 27.20 (ii) life-threatening harm;
- 27.21 (iii) substantial harm, as that term is defined in section 609.02, subdivision 7a; or
- 27.22 (iv) great bodily harm, as that term is defined in section 609.02, subdivision 8.
- 27.23 (b) An assisted living establishment relocating a resident under this subdivision must:
- 27.24 (1) ensure that the resident is moved to a safe and appropriate location;
- 27.25 (2) immediately notify the ombudsman for long-term care and the resident's designated
- 27.26 representative or, if no designated representative and if known, a family member or interested
- 27.27 person:
- 27.28 (i) that the resident has been relocated;
- 27.29 (ii) the reason for the relocation; and
- 27.30 (iii) the name, address, telephone number, and any other relevant contact information
- 27.31 of the location to which the resident has been transferred; and

(3) upon removal of the conditions precipitating the emergency transfer, work and coordinate with the resident or the resident's designated representative and family, if applicable, to enable the resident to return to the assisted living establishment or, if return is not feasible or if any of the conditions under subdivision 3 exist, provide the resident with all the rights available under this section.

Subd. 7. **Right to appeal termination of housing or services.** (a) A resident or resident's designated representative has the right to appeal a termination of housing or services and request a hearing from the Office of Administrative Hearings. An appeal must be filed, in writing, to the Office of Administrative Hearings.

(b) The Office of Administrative Hearings must conduct an expedited hearing as soon as practicable after the office receives the request. The hearing must be held at the assisted living establishment where the resident lives, unless it is impractical, or the parties agree to a different place.

(c) The assisted living establishment bears the burden of proof to establish the termination of housing or services is permissible.

(d) During the pendency of an appeal and until a final determination is made by the Office of Administrative Hearings:

(1) housing or services may not be terminated; and

(2) the resident must be readmitted if the resident was hospitalized for medical necessity.

(e) The commissioner of health may order the assisted living establishment to rescind the termination of housing and services if the termination was in violation of state or federal law.

(f) Nothing in this section limits the right of a resident or the resident's designated representative to request or receive assistance from the ombudsman for long-term care and the protection and advocacy agency concerning the termination of housing or services.

Subd. 8. **Discharge planning.** (a) Unless the resident or the designated representative indicates a desire to assume full control of arranging the resident's relocation, the assisted living establishment from which a resident must relocate under this section:

(1) has an affirmative duty to ensure a coordinated and orderly transfer of the resident to a safe location that is appropriate for the resident; and

(2) must consult and cooperate with the resident, the resident's designated representative, family members, any interested professionals, and applicable agencies to make arrangements to relocate the resident.

(b) The assisted living establishment must prepare a written relocation plan. The plan must:

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

(2) specify the measures to be taken until relocation to protect the resident and meet the resident's health and safety needs.

(c) An assisted living establishment may not relocate the resident unless the place to which the resident is to be relocated indicates it will accept the resident.

(d) An assisted living establishment must timely convey the resident's records and any medication for which it is responsible to the location to which the resident will be transferred.

(e) An assisted living establishment must notify the ombudsman for long-term care, the Department of Health, and, if the resident is a vulnerable adult as defined in section 626.5572, subdivision 21, adult protective services, if:

(1) the resident whose housing or services are being terminated does not have a designated representative, family member, an agency responsible for the resident's placement, or any other person who agrees to assist with or assumes responsibility for the relocation; or

(2) a safe and appropriate relocation place for the resident whose housing or services are being terminated cannot be found.

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

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

(a) An assisted living establishment must affirmatively disclose to the resident any forced arbitration provision in an assisted living contract that precludes, limits, or delays the ability of a resident from taking a civil action. For contracts entered into on or after July 1, 2020, forced arbitration provisions must be conspicuously disclosed in a contract.

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

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

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

Sec. 15. **[144J.15] PRIVATE ENFORCEMENT OF RIGHTS.**

(a) For a violation of section 144J.06, subdivisions 9, 16, 19, or 20, or 144J.09, a resident or resident's designated representative may bring a civil action against an assisted living establishment and recover actual damages or \$3,000, whichever is greater, plus costs, including costs of investigation, and reasonable attorney fees, and receive other equitable relief as determined by the court in addition to seeking any other remedy otherwise available under law.

(b) For a violation of section 144J.10, 144J.11, or 144J.14, a resident is entitled to a permanent injunction, and any other legal or equitable relief as determined by the court, including but not limited to reformation of the contract and restitution for harm suffered, plus reasonable attorney fees and costs.

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

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

(a) Assisted living establishments are subject to and must comply with chapter 504B.

(b) Housing with services establishments who operate under title protection under chapter 144G and, after July 1, 2020, all licensed assisted living establishments must comply with section 325F.72.

(c) Assisted living establishments are not required to obtain a lodging license under chapter 157 and related rules.

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

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

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

Sec. 18. **REPEALER.**

(a) Minnesota Statutes 2018, sections 144A.44; 144A.441; 144A.442; 144D.07; 144G.03, subdivision 6; and 144G.04, are repealed effective August 1, 2019.

(b) Minnesota Statutes 2018, sections 144D.04, subdivisions 2 and 3; and 144D.045, are repealed effective January 1, 2020.

**ARTICLE 2**  
**NURSING HOMES**

Section 1. Minnesota Statutes 2018, section 144.651, subdivision 1, is amended to read:

Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of this section to promote the interests and well being of the patients and residents of health care facilities. No health care facility may require a patient or resident to waive these rights as a condition of admission to the facility. Any designated representative, guardian, or conservator of a patient or resident ~~or, in the absence of a guardian or conservator, an interested person,~~ may seek enforcement of these rights on behalf of a patient or resident. ~~An interested person~~ A designated representative may also seek enforcement of these rights on behalf of a patient or resident who has a guardian or conservator through administrative agencies or in district court ~~having jurisdiction over guardianships and conservatorships,~~ under section 144.6512. Pending the outcome of an enforcement proceeding the health care facility may, in good faith, comply with the instructions of a guardian or conservator. It is the intent of this section that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible exercise of these rights.

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

Sec. 2. Minnesota Statutes 2018, section 144.651, is amended by adding a subdivision to read:

**Subd. 34. Retaliation prohibited.** (a) A facility may not retaliate against a patient, resident, or employee if the resident or any person with a familial, personal, legal, or professional relationship with the patient or resident:

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

(2) indicates an intention to file a complaint or grievance, makes an inquiry, or asserts any right;

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

32.3 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic  
32.4 problems or concerns to the administrator or manager of a facility, the ombudsman for  
32.5 long-term care, a regulatory or other government agency, or a legal or advocacy organization;

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

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

32.9 (7) participates or indicates an intention to participate in any investigation or  
32.10 administrative or judicial proceeding.

32.11 (b) For purposes of this subdivision, "facility" includes an agent of the facility.

32.12 (c) For the purposes of this subdivision, to "retaliate" against a patient or resident includes  
32.13 but is not limited to any of the following actions taken or threatened by the facility against  
32.14 a patient or resident, or any person with a familial, personal, legal, or professional relationship  
32.15 with the patient or resident:

32.16 (1) discharge, transfer, or termination of services;

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

32.18 (3) any form of discrimination;

32.19 (4) restricting or prohibiting access:

32.20 (i) of the patient or resident to the facility or visitors; or

32.21 (ii) of a family member or a person with a personal, legal, or professional relationship  
32.22 with the patient or resident, to the patient or resident;

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

32.24 (6) restriction of any of the rights granted to patients and residents under state or federal  
32.25 law;

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

32.28 (8) arbitrary increase in charges or fees; or

32.29 (9) removal, tampering with, or deprivation of technology, communication, or electronic  
32.30 monitoring devices.



33.1 (d) For purposes of this subdivision, to "retaliate" against an employee includes but is  
33.2 not limited to any of the following actions taken or threatened by the facility:

33.3 (1) discharge or transfer;

33.4 (2) demotion or refusal to promote;

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

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

33.7 (5) any form of discrimination.

33.8 (e) There is a rebuttable presumption that any action described in paragraph (b) or (c)  
33.9 and taken within 90 days of an initial action described in paragraph (a) is retaliatory.

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

33.11 Sec. 3. **[144.6512] ENFORCEMENT OF THE HEALTH CARE BILL OF RIGHTS**  
33.12 **BY NURSING HOME RESIDENTS.**

33.13 In addition to the remedies otherwise provided by or available under law, a resident of  
33.14 a nursing home, or a legal representative on behalf of a resident, in addition to seeking any  
33.15 remedy otherwise available under law, may bring a civil action against a nursing home and  
33.16 recover actual damages or \$3,000, whichever is greater, plus costs, including costs of  
33.17 investigation, and reasonable attorney fees, and receive other equitable relief as determined  
33.18 by the court for violation of section 144.651, subdivisions 14, 20, 26, 30, and 34.

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

### 33.20 **ARTICLE 3**

### 33.21 **HOUSING WITH SERVICES ESTABLISHMENTS**

33.22 Section 1. Minnesota Statutes 2018, section 144D.01, subdivision 2a, is amended to read:

33.23 Subd. 2a. ~~Arranged~~ **Affiliated home care provider.** ~~"Arranged~~ "Affiliated home care  
33.24 provider" means a home care provider licensed under chapter 144A or a home management  
33.25 provider registered under section 144A.482 that provides supportive services to some or all  
33.26 of the residents of a housing with services establishment and that is either the establishment  
33.27 itself or another entity with which the establishment has an arrangement under a business  
33.28 relationship or other affiliation with the establishment.

33.29 **EFFECTIVE DATE.** This section is effective July 1, 2020.

34.1 Sec. 2. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to  
34.2 read:

34.3 Subd. 2b. **Client.** "Client" means a person to whom an unaffiliated home care provider  
34.4 provides supportive services.

34.5 Sec. 3. Minnesota Statutes 2018, section 144D.01, subdivision 4, is amended to read:

34.6 Subd. 4. **Housing with services establishment or establishment.** (a) "Housing with  
34.7 services establishment" or "establishment" means:

34.8 ~~(1) an establishment providing sleeping accommodations to one or more adult residents;~~  
34.9 ~~at least 80 percent of which are 55 years of age or older, and offering or providing, for a~~  
34.10 ~~fee, one or more regularly scheduled health-related services or two or more regularly~~  
34.11 ~~scheduled supportive services, whether offered or provided directly or by the establishment~~  
34.12 ~~or by another entity arranged for by the establishment; or an affiliated home care provider.~~

34.13 ~~(2) an establishment that registers under section 144D.025.~~

34.14 (b) Housing with services establishment does not include:

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

34.16 (2) a hospital, ~~certified~~ as defined in section 144.50, subdivision 2;

34.17 (3) a boarding care home, or as defined in Minnesota Rules, part 4655.0010, subpart 3;

34.18 (4) a supervised living facility licensed under sections 144.50 to 144.56, as defined in  
34.19 Minnesota Rules, part 4665.0100, subpart 10;

34.20 ~~(3) (5) a board and lodging establishment licensed under chapter 157 and or 245G, or~~  
34.21 ~~governed under Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or~~  
34.22 ~~245G;~~

34.23 (6) an assisted living establishment, as defined in section 144I.01, subdivision 6, that is  
34.24 not a housing with services establishment;

34.25 ~~(4) a board and lodging~~ (7) any establishment ~~which that~~ serves as a shelter for battered  
34.26 women or other similar purpose;

34.27 ~~(5) a family~~ (8) adult foster care home licensed by the Department of Human Services;

34.28 ~~(6) (9) private homes in which the residents are related by kinship, law, or affinity with~~  
34.29 ~~the providers of services;~~

35.1 ~~(7)~~ (10) residential settings for persons with developmental disabilities in which the  
35.2 services are licensed under chapter 245D;

35.3 ~~(8)~~ (11) a home-sharing arrangement ~~such as when an elderly or disabled, including but~~  
35.4 ~~not limited to arrangements where an older person or person with a disability~~ or single-parent  
35.5 family makes lodging in a private residence available to another person in exchange for  
35.6 services or rent, or both;

35.7 ~~(9)~~ (12) a ~~duly organized~~ condominium, cooperative, common interest community, or  
35.8 owners' association ~~of the foregoing~~ organized under chapter 515B where at least 80 percent  
35.9 of the units that comprise the condominium, cooperative, or common interest community  
35.10 are occupied by individuals who are the owners, members, or shareholders of the units;

35.11 ~~(10)~~ (13) services for persons with developmental disabilities that are provided under a  
35.12 license under chapter 245D; or

35.13 ~~(11)~~ (14) a temporary family health care dwelling as defined in sections 394.307 and  
35.14 462.3593.

35.15 **EFFECTIVE DATE.** This section is effective July 1, 2020.

35.16 Sec. 4. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to  
35.17 read:

35.18 Subd. 4a. **Resident.** "Resident" means a person living in a housing with services  
35.19 establishment.

35.20 **EFFECTIVE DATE.** This section is effective July 1, 2020.

35.21 Sec. 5. Minnesota Statutes 2018, section 144D.01, subdivision 5, is amended to read:

35.22 Subd. 5. **Supportive services.** "Supportive services" means ~~help with personal laundry,~~  
35.23 ~~handling or assisting with personal funds of residents, or arranging for medical services,~~  
35.24 ~~health-related services, social services,;~~

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

35.26 (2) housekeeping services;

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

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

35.30 (5) provision of social or recreational services.

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.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 6. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to read:

**Subd. 8. Unaffiliated home care provider.** "Unaffiliated home care provider" means a home care provider licensed under chapter 144A or a home management provider registered under section 144A.482 that is regularly engaged for a fee in the delivery of one or more home care services directly to a client in any setting, including supportive services to a resident of a housing with services establishment, provided the home care provider has no business relationship or affiliation with the housing with services establishment in which the client contracting for or receiving supportive services resides.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 7. Minnesota Statutes 2018, section 144D.015, is amended to read:

**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 establishment," an "assisted living facility," or "assisted living residence."

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 8. Minnesota Statutes 2018, section 144D.02, is amended to read:

**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.11. After July 1, 2020, a housing with services establishment, either directly or through an affiliated home care provider, may provide only supportive services. No housing with services establishment may offer or provide services that require an assisted living license under chapter 144I.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 9. Minnesota Statutes 2018, section 144D.04, subdivision 1, is amended to read:

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,~~ satisfying the requirements of section 144J.02 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.~~

**EFFECTIVE DATE.** This section is effective January 1, 2020.

Sec. 10. Minnesota Statutes 2018, section 144D.05, is amended to read:

**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~~ all the authority and power vested under chapters 144 and 144I.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 11. Minnesota Statutes 2018, section 144D.06, is amended to read:

**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.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 12. Minnesota Statutes 2018, section 144D.09, is amended to read:

**144D.09 TERMINATION OF LEASE HOUSING OR SUPPORTIVE SERVICES.**

**Subdivision 1. Prerequisite to termination of housing or supportive services.** ~~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.~~ Before involuntarily terminating a resident's housing or supportive services, whether provided directly or through an affiliated home care provider, a housing with services establishment must explain in detail the reasons for the termination and work with the resident, the resident's representative, the resident's family, applicable agencies, and any professionals to identify and offer reasonable accommodations, interventions, or alternatives to avoid termination of housing or supportive services.

**Subd. 2. Advance notice required.** A housing with services establishment must provide at least 30 days' advance notice to the resident of a termination of housing or supportive services, except as provided in subdivision 4.

**Subd. 3. Content of notice.** The notice required under subdivision 2 must contain, at a minimum:

(1) the effective date of termination;

(2) the reason or reasons for termination;

(3) a list of known housing with services establishments and unaffiliated home care providers in the immediate geographic area;

(4) the name and contact information of a person employed by the housing with services establishment with whom the resident may discuss the notice of termination;

(5) 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; and

(6) if the termination is for supportive services, a statement, if applicable, that the notice of termination of supportive services does not constitute a termination of housing or an

eviction from the resident's housing, and that the resident has the right to remain in the housing with services establishment if the resident can secure necessary supportive services from an unaffiliated home care provider.

Subd. 4. **Exception for emergencies.** (a) A housing with services establishment may provide less than 30 days' notice when:

(1) an emergency relocation is ordered by the resident's physician or an advanced practice registered nurse; or

(2) the resident needs to be immediately relocated because, due to the resident's behavior, the resident or another resident or staff member of the housing with services establishment is at imminent risk of:

(i) death;

(ii) life-threatening harm;

(iii) substantial bodily harm, as defined in section 609.02, subdivision 7a; or

(iv) great bodily harm, as defined in section 609.02, subdivision 8.

(b) A housing with services establishment relocating a resident under this subdivision must:

(1) ensure that the resident is relocated to a safe and appropriate location; and

(2) immediately notify the person or persons representing the resident, or who are in a familial or other personal relationship with the resident:

(i) that the resident has been relocated;

(ii) the reason for the relocation; and

(iii) the name, address, telephone number, and any other relevant contact information of the location to which the resident has been transferred.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 13. Minnesota Statutes 2018, section 144D.10, is amended to read:

**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)~~ (b) 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)~~ (c) New managers ~~may~~ must satisfy ~~the initial and document satisfaction of~~ dementia training requirements ~~by producing written proof of previously completed required training within the past 18 months~~ adopted by the commissioner in rule.

~~(f) This section does not apply to an establishment registered under section 144D.025 serving the homeless.~~

**EFFECTIVE DATE.** This section is effective July 1, 2020.

Sec. 14. Minnesota Statutes 2018, section 144D.11, is amended to read:

**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~~ residents upon signing a ~~lease~~ contract under section 144J.02;

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

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

(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~~ residents 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.

**EFFECTIVE DATE.** This section is effective July 1, 2020.

#### ARTICLE 4

#### 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:

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

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

Outpatient surgical centers	\$3,712
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.
<u>Assisted living facilities with dementia care</u>	<u>\$..... plus \$..... per bed.</u>
<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>
<u>Basic care facilities</u>	<u>\$..... plus \$..... per bed.</u>

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

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

43.1	Prospective payment surveys for hospitals	\$	900
43.2	Swing bed surveys for nursing homes	\$	1,200
43.3	Psychiatric hospitals	\$	1,400
43.4	Rural health facilities	\$	1,100
43.5	Portable x-ray providers	\$	500
43.6	Home health agencies	\$	1,800
43.7	Outpatient therapy agencies	\$	800
43.8	End stage renal dialysis providers	\$	2,100
43.9	Independent therapists	\$	800
43.10	Comprehensive rehabilitation outpatient facilities	\$	1,200
43.11	Hospice providers	\$	1,700
43.12	Ambulatory surgical providers	\$	1,800
43.13	Hospitals	\$	4,200
43.14	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.	
43.15	resurveys required to complete initial		
43.16	certification		

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

43.21        **EFFECTIVE DATE.** This section is effective .....

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

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

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

43.26        Subd. 3. **Agent.** "Agent" means the person upon whom all notices and orders shall be  
43.27 served and who is authorized to accept service of notices and orders on behalf of the facility.

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

43.30        Subd. 5. **Assisted living administrator.** "Assisted living administrator" means a person  
43.31 who administers, manages, supervises, or is in general administrative charge of a basic care  
43.32 facility or assisted living facility, whether or not the individual has an ownership interest  
43.33 in the facility, and whether or not the person's functions or duties are shared with one or

more individuals and who is licensed by the Board of Executives for Long Term Services and Supports pursuant to section 144I.31.

Subd. 6. **Assisted living facility.** "Assisted living facility" means a licensed facility that: (1) provides sleeping accommodations to one or more adults; and (2) provides basic care services and comprehensive assisted living services. For purposes of this chapter, assisted living facility does not include:

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

(ii) a nursing home licensed under chapter 144A;

(iii) a hospital, certified boarding care, or supervised living facility licensed under sections 144.50 to 144.56;

(iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments that provide dementia care services;

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

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

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

(viii) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community 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;

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

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

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

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

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

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

(xv) a basic care facility licensed under this chapter.

Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic care services and one or more of the following:

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

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

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) treatment and therapies;

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

(7) providing other complex or specialty health care services.

Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with dementia care" means a licensed assisted living facility that also provides dementia care services. An assisted living facility with dementia care may also have a secured dementia care unit.

Subd. 9. **Assisted living facility and basic care facility contract.** "Assisted living facility and basic care facility contract" means the legal agreement between an assisted living facility or a basic care facility, whichever is applicable, and a resident for the provision of housing and services.

Subd. 10. **Basic care facility.** "Basic care facility" means a licensed facility that: (1) provides sleeping accommodations to one or more adults; and (2) may only provide basic care services. For purposes of this chapter, basic care facility does not include:

(i) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as that term is defined in section 116L.361;

(ii) a nursing home licensed under chapter 144A;

(iii) a hospital, certified boarding care, or supervised living facility licensed under sections 144.50 to 144.56;

(iv) a lodging establishment licensed under chapter 157, except lodging establishments that provide dementia care services;

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

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

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

(viii) a duly organized condominium, cooperative and common interest community or owners' association of the condominium, cooperative, and common interest community 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;

(ix) temporary family health care dwelling as defined in sections 394.307 and 462.3593;

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

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

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

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

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

(xv) an assisted living facility licensed under this chapter.

Subd. 11. **Basic care services.** "Basic care services" means assistive tasks provided by licensed or unlicensed personnel that include:

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

(2) providing standby assistance;

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

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

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

(6) having, maintaining, and documenting a system to visually check on each resident a minimum of once daily or more than once daily depending on the person-centered care plan; and

(7) supportive services in addition to the provision of at least one of the activities in clauses (1) to (5).

Subd. 12. **Change of ownership.** "Change of ownership" means a change in the individual or legal entity that is responsible for the operation of a facility.

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

Subd. 14. **Compliance officer.** "Compliance officer" means a designated individual who is qualified by knowledge, training, and experience in health care or risk management to promote, implement, and oversee the facility's compliance program. The compliance officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance processes; and address fraud, abuse, and waste under this chapter and state and federal law.

Subd. 15. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 16. **Controlling individual.** (a) "Controlling individual" means an owner of a facility licensed under this chapter and the following individuals, if applicable:

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

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (b); and

(4) each managerial official whose responsibilities include the direction of the management or policies of the facility.

(b) Controlling individual also means any owner who directly or indirectly owns five percent or more interest in:

(1) the land on which the facility is located, including a real estate investment trust (REIT);

(2) the structure in which a facility is located;

(3) any mortgage, contract for deed, or other obligation secured in whole or part by the land or structure comprising the facility; or

(4) any lease or sublease of the land, structure, or facilities comprising the facility.

(c) Controlling individual does not include:

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

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

(3) an individual who is a state or federal official, or a state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more facilities, unless the individual is also an officer,



49.1 owner, or managerial official of the facility, receives remuneration from the facility, or  
49.2 owns any of the beneficial interests not excluded in this subdivision;

49.3 (4) an individual who owns less than five percent of the outstanding common shares of  
49.4 a corporation:

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

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

49.7 (5) an individual who is a member of an organization exempt from taxation under section  
49.8 290.05, unless the individual is also an officer, owner, or managerial official of the license  
49.9 or owns any of the beneficial interests not excluded in this subdivision. This clause does  
49.10 not exclude from the definition of controlling individual an organization that is exempt from  
49.11 taxation; or

49.12 (6) an employee stock ownership plan trust, or a participant or board member of an  
49.13 employee stock ownership plan, unless the participant or board member is a controlling  
49.14 individual.

49.15 Subd. 17. **Dementia.** "Dementia" means the loss of intellectual function of sufficient  
49.16 severity that interferes with an individual's daily functioning. Dementia affects an individual's  
49.17 memory and ability to think, reason, speak, and move. Symptoms may also include changes  
49.18 in personality, mood, and behavior. Irreversible dementias include but are not limited to:

49.19 (1) Alzheimer's disease;

49.20 (2) vascular dementia;

49.21 (3) Lewy body dementia;

49.22 (4) frontal-temporal lobe dementia;

49.23 (5) alcohol dementia;

49.24 (6) Huntington's disease; and

49.25 (7) Creutzfeldt-Jakob disease.

49.26 Subd. 18. **Dementia care services.** "Dementia care services" means a distinct form of  
49.27 long-term care designed to meet the specific needs of an individual with dementia.

49.28 Subd. 19. **Dementia-trained staff.** "Dementia-trained staff" means any employee that  
49.29 has completed the minimum training requirements and has demonstrated knowledge and  
49.30 understanding in supporting individuals with dementia.

Subd. 20. **Designated representative.** "Designated representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

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

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

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

(4) a power of attorney acting in accordance with the powers granted to the attorney-in-fact under chapter 523; or

(5) the resident representative.

Subd. 21. **Dietary supplement.** "Dietary supplement" means a product taken by mouth that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissue, glandulars, or metabolites.

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

Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual or organization with the possession of at least five percent equity in capital, stock, or profits of an organization, or who is a member of a limited liability company. An individual with a five percent or more direct ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 24. **Facility.** "Facility" means a basic care facility, an assisted living facility, and an assisted living facility with dementia care.

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

Subd. 26. **Indirect ownership interest.** "Indirect ownership interest" means an individual or organization with a direct ownership interest in an entity that has a direct or indirect ownership interest in a facility of at least five percent or more. An individual with a five percent or more indirect ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 27. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice the professions described in section 214.01, subdivision 2.

Subd. 28. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the resident occupancy level requested by a licensee and approved by the commissioner.

Subd. 29. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner issues a license for a facility and who is responsible for the management, control, and operation of a facility. A facility must be managed, controlled, and operated in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Subd. 30. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or any persistent course of conduct intended to produce mental or emotional distress.

Subd. 31. **Management agreement.** "Management agreement" means a written, executed agreement between a licensee and manager regarding the provision of certain services on behalf of the licensee.

Subd. 32. **Managerial official.** "Managerial official" means an individual who has the decision-making authority related to the operation of the facility and the responsibility for the ongoing management or direction of the policies, services, or employees of the facility.

Subd. 33. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 34. **Medication administration.** "Medication administration" means performing a set of tasks that includes the following:

(1) checking the client's medication record;

(2) preparing the medication as necessary;

(3) administering the medication to the client;

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

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

Subd. 35. **Medication management.** "Medication management" means the provision of any of the following medication-related services to a resident:

52.1 (1) performing medication setup;

52.2 (2) administering medications;

52.3 (3) storing and securing medications;

52.4 (4) documenting medication activities;

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

52.7 (6) coordinating refills;

52.8 (7) handling and implementing changes to prescriptions;

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

52.10 (9) coordinating and communicating with the prescriber.

52.11 Subd. 36. **Medication reconciliation.** "Medication reconciliation" means the process  
52.12 of identifying the most accurate list of all medications the resident is taking, including the  
52.13 name, dosage, frequency, and route by comparing the resident record to an external list of  
52.14 medications obtained from the resident, hospital, prescriber or other provider.

52.15 Subd. 37. **Medication setup.** "Medication setup" means arranging medications by a  
52.16 nurse, pharmacy, or authorized prescriber for later administration by the resident or by  
52.17 facility staff.

52.18 Subd. 38. **New construction.** "New construction" means a new building, renovation,  
52.19 modification, reconstruction, physical changes altering the use of occupancy, or an addition  
52.20 to a building.

52.21 Subd. 39. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to  
52.22 148.285.

52.23 Subd. 40. **Occupational therapist.** "Occupational therapist" means a person who is  
52.24 licensed under sections 148.6401 to 148.6449.

52.25 Subd. 41. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

52.26 Subd. 42. **Owner.** "Owner" means an individual or organization that has a direct or  
52.27 indirect ownership interest of five percent or more in a facility. For purposes of this chapter,  
52.28 "owner of a nonprofit corporation" means the president and treasurer of the board of directors  
52.29 or, for an entity owned by an employee stock ownership plan, means the president and  
52.30 treasurer of the entity. A government entity that is issued a license under this chapter shall  
52.31 be designated the owner. An individual with a five percent or more direct or indirect

53.1 ownership is presumed to have an effect on the operation of the facility with respect to  
53.2 factors affecting the care or training provided.

53.3 Subd. 43. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not  
53.4 required by federal law to bear the symbol "Rx only."

53.5 Subd. 44. **Person-centered planning and service delivery.** "Person-centered planning  
53.6 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph  
53.7 (b).

53.8 Subd. 45. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision  
53.9 3.

53.10 Subd. 46. **Physical therapist.** "Physical therapist" means a person who is licensed under  
53.11 sections 148.65 to 148.78.

53.12 Subd. 47. **Physician.** "Physician" means a person who is licensed under chapter 147.

53.13 Subd. 48. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;  
53.14 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

53.15 Subd. 49. **Prescription.** "Prescription" has the meaning given in section 151.01,  
53.16 subdivision 16a.

53.17 Subd. 50. **Provisional license.** "Provisional license" means the initial license the  
53.18 department issues after approval of a complete written application and before the department  
53.19 completes the provisional license survey and determines that the provisional licensee is in  
53.20 substantial compliance.

53.21 Subd. 51. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be  
53.22 completed at predetermined times or according to a predetermined routine.

53.23 Subd. 52. **Reminder.** "Reminder" means providing a verbal or visual reminder to a  
53.24 resident.

53.25 Subd. 53. **Resident.** "Resident" means a person living in an assisted living facility or a  
53.26 basic care facility.

53.27 Subd. 54. **Resident record.** "Resident record" means all records that document  
53.28 information about the services provided to the resident.

53.29 Subd. 55. **Resident representative.** "Resident representative" means a person designated  
53.30 in writing by the resident and identified in the resident's records on file with the facility.

54.1        Subd. 56. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed  
54.2 under chapter 147C.

54.3        Subd. 57. **Revenues.** "Revenues" means all money received by a licensee derived from  
54.4 the provision of home care services, including fees for services and appropriations of public  
54.5 money for home care services.

54.6        Subd. 58. **Service agreement.** "Service agreement" means the written agreement between  
54.7 the resident or the resident's representative and the provisional licensee or licensee about  
54.8 the services that will be provided to the resident.

54.9        Subd. 59. **Social worker.** "Social worker" means a person who is licensed under chapter  
54.10 148D or 148E.

54.11       Subd. 60. **Speech-language pathologist.** "Speech-language pathologist" has the meaning  
54.12 given in section 148.512.

54.13       Subd. 61. **Standby assistance.** "Standby assistance" means the presence of another  
54.14 person within arm's reach to minimize the risk of injury while performing daily activities  
54.15 through physical intervention or cueing to assist a resident with an assistive task by providing  
54.16 cues, oversight, and minimal physical assistance.

54.17       Subd. 62. **Substantial compliance.** "Substantial compliance" means complying with  
54.18 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks  
54.19 to residents.

54.20       Subd. 63. **Supportive services.** "Supportive services" means:

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

54.22       (2) housekeeping services;

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

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

54.26       (5) provision of social or recreational services.

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

54.29       Subd. 64. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure  
54.30 for compliance with this chapter.

Subd. 65. **Surveyor.** "Surveyor" means a staff person of the department who is authorized to conduct surveys of basic care facilities and assisted living facilities and applicants.

Subd. 66. **Termination of housing or services.** "Termination of housing or services" means a discharge, eviction, transfer, or service termination initiated by the facility. A facility-initiated termination is one which the resident objects to and did not originate through a resident's verbal or written request. A resident-initiated termination is one where a resident or, if appropriate, a designated representative provided a verbal or written notice of intent to leave the facility. A resident-initiated termination does not include the general expression of a desire to return home or the elopement of residents with cognitive impairment.

Subd. 67. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care, other than medications, ordered or prescribed by a licensed health professional and provided to a resident to cure, rehabilitate, or ease symptoms.

Subd. 68. **Unit of government.** "Unit of government" means a city, county, town, school district, other political subdivision of the state, or an agency of the state or federal government, that includes any instrumentality of a unit of government.

Subd. 69. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise licensed or certified by a governmental health board or agency who provide services to a resident.

Subd. 70. **Verbal.** "Verbal" means oral and not in writing.

Sec. 3. **[144L.02] BASIC CARE FACILITY AND ASSISTED LIVING FACILITY LICENSE.**

Subdivision 1. **License required.** Beginning August 1, 2021, an entity may not operate a basic care facility or an assisted living facility in Minnesota unless it is licensed under this chapter.

Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for a basic care facility and an assisted living facility licensure.

(b) A basic care category is a basic care facility that provides basic care services. A basic care category facility shall not provide comprehensive assisted living services.

(c) An assisted living category is an assisted living facility that provides basic care services and comprehensive assisted living services.

(d) An assisted living facility with dementia care category is an assisted living facility that provides basic care services, comprehensive assisted living services, and dementia care

56.1 services. An assisted living facility with dementia care may also provide dementia care  
56.2 services in a secure dementia care unit.

56.3 Subd. 3. **Violations; penalty.** (a) Operating a facility without a license is a misdemeanor  
56.4 punishable by a fine imposed by the commissioner.

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

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

56.9 Sec. 4. [144I.03] PROVISIONAL LICENSE.

56.10 Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants,  
56.11 the commissioner shall issue a provisional license to each of the licensure categories specified  
56.12 in section 144I.02, subdivision 2, which is effective for up to one year from the license  
56.13 effective date, except that a provisional license may be extended according to subdivision  
56.14 2, paragraph (c).

56.15 (b) Basic care facilities and assisted living facilities are subject to evaluation and approval  
56.16 by the commissioner of the facility's physical environment and its operational aspects before  
56.17 a change in ownership or capacity, or an addition of services which necessitates a change  
56.18 in the facility's physical environment.

56.19 Subd. 2. **Initial survey; licensure.** (a) During the provisional license period, the  
56.20 commissioner shall survey the provisional licensee after the commissioner is notified or  
56.21 has evidence that the provisional licensee has residents and is providing services.

56.22 (b) Within two days of beginning to provide services, the provisional licensee must  
56.23 provide notice to the commissioner that it is serving residents by sending an e-mail to the  
56.24 e-mail address provided by the commissioner. If the provisional licensee does not provide  
56.25 services during the provisional license year period, then the provisional license expires at  
56.26 the end of the period and the applicant must reapply for the provisional facility license.

56.27 (c) If the provisional licensee notifies the commissioner that the licensee has residents  
56.28 within 45 days prior to the provisional license expiration, the commissioner may extend the  
56.29 provisional license for up to 60 days in order to allow the commissioner to complete the  
56.30 on-site survey required under this section and follow-up survey visits.

56.31 (d) If the provisional licensee is in substantial compliance with the survey, the  
56.32 commissioner shall issue a facility license. If the provisional licensee is not in substantial



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

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

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

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

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

(1) a reconsideration is in process;

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

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

Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license is denied must comply with the requirements for notification and transfer of residents in section 144I.26.

Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section 144I.26, subdivision 5, paragraph (b), is \$1,000.

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

**Subdivision 1. License applications.** (a) Each application for a facility license, including a provisional license, must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the business name and legal entity name of the operating entity; street address and mailing address of the facility; and the names, e-mail addresses, telephone numbers, and mailing addresses of all owners, controlling individuals, managerial officials, and the assisted living administrator;

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

(3) the licensed bed capacity and the license category;

(4) the license fee in the amount specified in section 144.122;

(5) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant, owner, controlling individual, managerial official, or assisted living administrator that are unresolved or otherwise filed or commenced within the preceding ten years;

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

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

(8) disclosure that the provider has no liability coverage or, if the provider has coverage, documentation of coverage;

(9) a copy of the executed lease agreement if applicable;

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

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

(12) a copy of the executed agreement if the facility has contracted services with another organization or individual for services such as managerial, billing, consultative, or medical personnel staffing;

(13) a copy of the organizational chart that identifies all organizations and individuals with any ownership interests in the facility;

(14) whether any applicant, owner, controlling individual, managerial official, or assisted living administrator of the facility has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation; any violation of section 626.557 or any other similar law in any other state; or any violation of a federal or state law or regulation in connection with activities involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(15) whether the applicant or any owner, controlling individual, managerial official, or assisted living administrator of the facility has a record of defaulting in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings;

(16) documentation that the applicant has designated one or more owners, controlling individuals, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or controlling individual under this chapter;

(17) the signature of the owner or owners, or an authorized agent of the owner or owners of the facility applicant. An application submitted on behalf of a business entity must be signed by at least two owners or controlling individuals;

(18) identification of all states where the applicant or individual having a five percent or more ownership, currently or previously has been licensed as owner or operator of a long-term care, community-based, or health care facility or agency where its license or federal certification has been denied, suspended, restricted, conditioned, or revoked under a private or state-controlled receivership, or where these same actions are pending under the laws of any state or federal authority; and

(19) any other information required by the commissioner.

Subd. 2. **Agents.** (a) An application for a facility license or for renewal of a facility license must specify one or more owners, controlling individuals, or employees as agents:

(1) who shall be responsible for dealing with the commissioner on all requirements of this chapter; and

(2) on whom personal service of all notices and orders shall be made and who shall be authorized to accept service on behalf of all of the controlling individuals of the facility in proceedings under this chapter.

(b) Notwithstanding any law to the contrary, personal service on the designated person or persons named in the application is deemed to be service on all of the controlling

individuals or managerial employees of the facility and it is not a defense to any action arising under this chapter that personal service was not made on each controlling individual or managerial official of the facility. The designation of one or more controlling individuals or managerial officials under this subdivision shall not affect the legal responsibility of any other controlling individual or managerial official under this chapter.

Subd. 3. **Fees.** (a) An initial applicant, renewal applicant, or applicant filing a change of ownership for a basic care facility or assisted living facility licensure must submit the application fee required in section 144I.122 to the commissioner along with a completed application.

(b) The penalty for late submission of the renewal application after expiration of the license is \$200. The penalty for operating a facility after expiration of the license and before a renewal license is issued, is \$250 each day after expiration of the license until the renewal license issuance date. The facility is still subject to the criminal gross misdemeanor penalties for operating after license expiration.

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

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

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

Subdivision 1. **Transfers prohibited.** Any facility license issued by the commissioner may not be transferred to another party.

Subd. 2. **New license required.** (a) Before acquiring ownership of a facility, a prospective applicant must apply for a new license. The licensee of a basic care facility or an assisted living facility must change whenever the following events occur, including but not limited to:

(1) the licensee's form of legal organization is changed;

(2) the licensee transfers ownership of the facility business enterprise to another party regardless of whether ownership of some or all of the real property or personal property assets of the assisted living facility is also transferred;

61.1 (3) the licensee dissolves, consolidates, or merges with another legal organization and  
61.2 the licensee's legal organization does not survive;

61.3 (4) during any continuous 24-month period, 50 percent or more of the licensed entity is  
61.4 transferred, whether by a single transaction or multiple transactions, to:

61.5 (i) a different person; or

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

61.8 (5) any other event or combination of events that results in a substitution, elimination,  
61.9 or withdrawal of the licensee's control of the facility.

61.10 (b) As used in this section, "control" means the possession, directly or indirectly, of the  
61.11 power to direct the management, operation, and policies of the licensee or facility, whether  
61.12 through ownership, voting control, by agreement, by contract, or otherwise.

61.13 (c) The current facility licensee must provide written notice to the department and  
61.14 residents, or designated representatives, at least 60 calendar days prior to the anticipated  
61.15 date of the change of licensee.

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

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

61.19 Subdivision 1. **Background studies required.** (a) Before the commissioner issues a  
61.20 provisional license, issues a license as a result of an approved change of ownership, or  
61.21 renews a license, a controlling individual or managerial official is required to complete a  
61.22 background study under section 144.057. No person may be involved in the management,  
61.23 operation, or control of a facility if the person has been disqualified under chapter 245C.  
61.24 For the purposes of this section, managerial officials subject to the background check  
61.25 requirement are individuals who provide direct contact.

61.26 (b) The commissioner shall not issue a license if the controlling individual or managerial  
61.27 official has been unsuccessful in having a background study disqualification set aside under  
61.28 section 144.057 and chapter 245C.

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

62.1        Subd. 2. **Reconsideration.** If an individual is disqualified under section 144.057 or  
62.2 chapter 245C, the individual may request reconsideration of the disqualification. If the  
62.3 individual requests reconsideration and the commissioner sets aside or rescinds the  
62.4 disqualification, the individual is eligible to be involved in the management, operation, or  
62.5 control of the facility. If an individual has a disqualification under section 245C.15,  
62.6 subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred  
62.7 from a set aside, and the individual must not be involved in the management, operation, or  
62.8 control of the facility.

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

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

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

62.15       Except as provided in section ....., a license that is not a provisional license may be  
62.16 renewed for a period of up to one year if the licensee satisfies the following:

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

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

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

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

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

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

62.26       A provisional licensee or licensee shall notify the commissioner in writing prior to any  
62.27 financial or contractual change and within 60 calendar days after any change in the  
62.28 information required in section 144I.04, subdivision 1.

Sec. 10. [144L.09] CONSIDERATION OF APPLICATIONS.

(a) The commissioner shall consider an applicant's performance history in Minnesota and in other states, including repeat violations or rule violations, before issuing a provisional license, license, or renewal license.

(b) An applicant must not have a history within the last five years in Minnesota or in any other state of a license or certification involuntarily suspended or voluntarily terminated during any enforcement process in a facility that provides care to children, the elderly or ill individuals, or individuals with disabilities.

(c) Failure to provide accurate information or demonstrate required performance history may result in the denial of a license.

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

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

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

(3) the applicant refused to allow representatives or agents of the department to inspect its books, records, and files, or any portion of the premises;

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

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

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

(e) For all new licensees after a change in ownership, the commissioner shall complete a survey within six months after the new license is issued.

Sec. 11. **[144I.10] MINIMUM BASIC CARE FACILITY AND ASSISTED LIVING  
FACILITY REQUIREMENTS.**

Subdivision 1. **Minimum requirements.** All licensed facilities shall:

(1) distribute to residents, families, and resident representatives the basic care and assisted living bill of rights in section 144J.06;

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

(3) utilize person-centered planning and service delivery process as defined in section 245D.07;

(4) have and maintain 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 the Nurse Practice Act in sections 148.171 to 148.285;

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

(6) allow residents the ability to furnish and decorate the resident's unit within the terms of the lease;

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

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

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

(10) notify the resident of the resident's right to have and use a lockable door to the resident's unit. The licensee 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;

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

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

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



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

65.4 (12) ensures that a person or persons are available 24 hours per day, seven days per  
65.5 week, who are responsible for responding to the requests of residents for assistance with  
65.6 health or safety needs, who shall be:

65.7 (i) awake;

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

65.10 (iii) capable of communicating with residents;

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

65.12 (v) capable of following directions. For an assisted living facility providing dementia  
65.13 care, the awake person must be physically present in the locked or secure unit; and

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

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

65.19 (A) modified special diets that are appropriate to residents' needs and choices;

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

65.24 (C) food must be prepared and served according to the Minnesota Food Code, Minnesota  
65.25 Rules, chapter 4626; and

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

65.27 (ii) weekly housekeeping;

65.28 (iii) weekly laundry service;

65.29 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging  
65.30 for transportation to medical and social services appointments, shopping, and other recreation,

66.1 and provide the name of or other identifying information about the person or persons  
66.2 responsible for providing this assistance;

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

66.7 (vi) have a daily program of social and recreational activities that are based upon  
66.8 individual and group interests, physical, mental, and psychosocial needs, and that creates  
66.9 opportunities for active participation in the community at large.

66.10 Subd. 2. **Policies and procedures.** (a) Each facility must have policies and procedures  
66.11 in place to address the following and keep them current:

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

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

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

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

66.18 (5) conducting initial evaluation of residents' needs and the providers' ability to provide  
66.19 those services;

66.20 (6) conducting initial and ongoing resident evaluations and assessments and how changes  
66.21 in a resident's condition are identified, managed, and communicated to staff and other health  
66.22 care providers as appropriate;

66.23 (7) orientation to and implementation of the basic care and assisted living bill of rights;

66.24 (8) infection control practices;

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

66.26 (10) conducting appropriate screenings, or documentation of prior screenings, to show  
66.27 that staff are free of tuberculosis, consistent with current United States Centers for Disease  
66.28 Control and Prevention standards.

66.29 (b) For assisted living facilities and assisted living facilities with dementia care, the  
66.30 following are also required:

67.1 (1) conducting initial and ongoing assessments of the resident's needs by a registered  
67.2 nurse or appropriate licensed health professional, including how changes in the resident's  
67.3 conditions are identified, managed, and communicated to staff and other health care  
67.4 providers, as appropriate;

67.5 (2) ensuring that nurses and licensed health professionals have current and valid licenses  
67.6 to practice;

67.7 (3) medication and treatment management;

67.8 (4) delegation of tasks by registered nurses or licensed health professionals;

67.9 (5) supervision of registered nurses and licensed health professionals; and

67.10 (6) supervision of unlicensed personnel performing delegated tasks.

67.11 Subd. 3. **Infection control program.** The facility shall establish and maintain an infection  
67.12 control program.

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

67.15 Subd. 5. **Resident and family or resident representative councils.** (a) If a resident,  
67.16 family, or designated representative chooses to establish a council, the licensee shall support  
67.17 the council's establishment. The facility must provide assistance and space for meetings and  
67.18 afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A  
67.19 staff person must be designated the responsibility of providing this assistance and responding  
67.20 to written requests that result from council meetings. Resident council minutes are public  
67.21 data and shall be available to all residents in the facility. Family or resident representatives  
67.22 may attend resident councils upon invitation by a resident on the council.

67.23 (b) All assisted living facilities shall engage their residents and families or designated  
67.24 representatives in the operation of their community and document the methods and results  
67.25 of this engagement.

67.26 Subd. 6. **Resident grievances.** All facilities must post in a conspicuous place information  
67.27 about the facilities' grievance procedure, and the name, telephone number, and e-mail contact  
67.28 information for the individuals who are responsible for handling resident grievances. The  
67.29 notice must also have the contact information for the Minnesota Adult Abuse Reporting  
67.30 Center, the common entry point, and the state and applicable regional Office of Ombudsman  
67.31 for Long-Term Care.

68.1 Subd. 7. **Protecting resident rights.** A facility shall ensure that every resident has access  
68.2 to consumer advocacy or legal services by:

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

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

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

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

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

68.14 Subd. 8. **Protection-related rights.** (a) In addition to the rights required in the basic  
68.15 care and assisted living bill of rights under section 144I.06, the following rights must be  
68.16 provided to all residents. The facility must promote and protect these rights for each resident  
68.17 by making residents aware of these rights and ensuring staff are trained to support these  
68.18 rights:

68.19 (1) the right to furnish and decorate the resident's unit within the terms of the lease;

68.20 (2) the right to access food at any time;

68.21 (3) the right to choose visitors and the times of visits;

68.22 (4) the right to choose a roommate if sharing a unit;

68.23 (5) the right to personal privacy including the right to have and use a lockable door on  
68.24 the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff  
68.25 member with a specific need to enter the unit shall have keys, and advance notice must be  
68.26 given to the resident before entrance, when possible;

68.27 (6) the right to engage in chosen activities;

68.28 (7) the right to engage in community life;

68.29 (8) the right to control personal resources; and

68.30 (9) the right to individual autonomy, initiative, and independence in making life choices  
68.31 including a daily schedule and with whom to interact.

(b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for an individual resident only if determined necessary for health and safety reasons identified by the facility through an initial assessment or reassessment under section 144I.15, subdivision 9, and documented in the written service agreement under section 144I.15, subdivision 10. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented by the case manager in the resident's coordinated service and support plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

Subd. 9. **Payment for services under disability waivers.** For new facilities, home and community-based services under section 256B.49 are not available when the new facility setting is adjoined to, or on the same property as, an institution as defined in Code of Federal Regulations, title 42, section 441.301(c).

Subd. 10. **No discrimination based on source of payment.** All facilities must, regardless of the source of payment and for all persons seeking to reside or residing in the facility:

(1) provide equal access to quality care; and

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

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

Sec. 12. **[144I.11] FACILITY RESPONSIBILITIES; HOUSING AND SERVICE-RELATED MATTERS.**

Subdivision 1. **Responsibility for housing and services.** The facility is directly responsible to the resident for all housing and service-related matters provided, irrespective of a management contract. Housing and service-related matters include but are not limited to the handling of complaints, the provision of notices, and the initiation of any adverse action against the resident involving housing or services provided by the facility.

Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, a facility must provide to prospective residents, the prospective resident's designated representative, and any other person or persons the resident chooses:

(1) a written checklist listing all services permitted under the facility's license, identifying all services the facility offers to provide under the assisted living facility and basic care facility contract, and identifying all services allowed under the license that the facility does not provide; and

70.1 (2) an oral explanation of the services offered under the contract.

70.2 (b) The requirements of paragraph (a) must be completed prior to the execution of the  
70.3 resident contract.

70.4 (c) The commissioner must, in consultation with all interested stakeholders, design the  
70.5 uniform checklist disclosure form for use as provided under paragraph (a).

70.6 Subd. 3. **Reservation of rights.** Nothing in this chapter:

70.7 (1) requires a resident to utilize any service provided by or through, or made available  
70.8 in, a facility;

70.9 (2) prevents a facility from requiring, as a condition of the contract, that the resident pay  
70.10 for a package of services even if the resident does not choose to use all or some of the  
70.11 services in the package. For residents who are eligible for home and community-based  
70.12 waiver services under sections 256B.0915 and 256B.49, payment for services will follow  
70.13 the policies of those programs;

70.14 (3) requires a facility to fundamentally alter the nature of the operations of the facility  
70.15 in order to accommodate a resident's request; or

70.16 (4) affects the duty of a facility to grant a resident's request for reasonable  
70.17 accommodations.

70.18 Sec. 13. **[144L.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

70.19 (a) A facility must provide for the safe, orderly, and appropriate transfer of residents  
70.20 within the facility.

70.21 (b) If a basic care and assisted living contract permits resident transfers within the facility,  
70.22 the facility must provide at least 30 days' advance notice of the transfer to the resident and  
70.23 the resident's designated representative.

70.24 (c) In situations where there is a curtailment, reduction, capital improvement, or change  
70.25 in operations within a facility, the facility must minimize the number of transfers needed  
70.26 to complete the project or change in operations, consider individual resident needs and  
70.27 preferences, and provide reasonable accommodation for individual resident requests regarding  
70.28 the room transfer. The facility must provide notice to the Office of Ombudsman for  
70.29 Long-Term Care and, when appropriate, the Office of Ombudsman for Mental Health and  
70.30 Developmental Disabilities in advance of any notice to residents, residents' designated  
70.31 representatives, and families when all of the following circumstances apply:

71.1 (1) the transfers of residents within the facility are being proposed due to curtailment,  
71.2 reduction, capital improvements, or change in operations;

71.3 (2) the transfers of residents within the facility are not temporary moves to accommodate  
71.4 physical plan upgrades or renovation; and

71.5 (3) the transfers involve multiple residents being moved simultaneously.

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

71.7 Sec. 14. **[144L.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.**

71.8 Subdivision 1. **Display of license.** The original current license must be displayed at the  
71.9 main entrance of the facility. The facility must provide a copy of the license to any person  
71.10 who requests it.

71.11 Subd. 2. **Quality management.** The facility shall engage in quality management  
71.12 appropriate to the size of the facility and relevant to the type of services provided. The  
71.13 quality management activity means evaluating the quality of care by periodically reviewing  
71.14 resident services, complaints made, and other issues that have occurred and determining  
71.15 whether changes in services, staffing, or other procedures need to be made in order to ensure  
71.16 safe and competent services to residents. Documentation about quality management activity  
71.17 must be available for two years. Information about quality management must be available  
71.18 to the commissioner at the time of the survey, investigation, or renewal.

71.19 Subd. 3. **Facility restrictions.** (a) This subdivision does not apply to licensees that are  
71.20 Minnesota counties or other units of government.

71.21 (b) A facility or staff person cannot accept a power-of-attorney from residents for any  
71.22 purpose, and may not accept appointments as guardians or conservators of residents.

71.23 (c) A facility cannot serve as a resident's representative.

71.24 Subd. 4. **Handling resident's finances and property.** (a) A facility may assist residents  
71.25 with household budgeting, including paying bills and purchasing household goods, but may  
71.26 not otherwise manage a resident's property. A facility must provide a resident with receipts  
71.27 for all transactions and purchases paid with the resident's funds. When receipts are not  
71.28 available, the transaction or purchase must be documented. A facility must maintain records  
71.29 of all such transactions.

71.30 (b) A facility or staff person may not borrow a resident's funds or personal or real  
71.31 property, nor in any way convert a resident's property to the facility's or staff person's  
71.32 possession.

(c) Nothing in this section precludes a facility or staff from accepting gifts of minimal value or precludes the acceptance of donations or bequests made to a facility that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

**Subd. 5. Reporting maltreatment of vulnerable adults; abuse prevention plan.** (a) All facilities must comply with the requirements for the reporting of maltreatment of vulnerable adults in section 626.557. Each facility must establish and implement a written procedure to ensure that all cases of suspected maltreatment are reported.

(b) Each facility must develop and implement an individual abuse prevention plan for each vulnerable adult. The plan shall contain an individualized review or assessment of the person's susceptibility to abuse by another individual, including other vulnerable adults; the person's risk of abusing other vulnerable adults; and statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes of the abuse prevention plan, abuse includes self-abuse.

**Subd. 6. Reporting suspected crime and maltreatment.** (a) A facility shall support protection and safety through access to the state's systems for reporting suspected criminal activity and suspected vulnerable adult maltreatment by:

(1) posting the 911 emergency number in common areas and near telephones provided by the assisted living facility;

(2) posting information and the reporting number for the common entry point under section 626.557 to report suspected maltreatment of a vulnerable adult; and

(3) providing reasonable accommodations with information and notices in plain language.

**Subd. 7. Employee records.** (a) The facility must maintain current records of each paid employee, regularly scheduled volunteers providing services, and each individual contractor providing services. The records must include the following information:

(1) evidence of current professional licensure, registration, or certification if licensure, registration, or certification is required by this statute or other rules;

(2) records of orientation, required annual training and infection control training, and competency evaluations;

(3) current job description, including qualifications, responsibilities, and identification of staff persons providing supervision;

(4) documentation of annual performance reviews that identify areas of improvement needed and training needs;



73.1 (5) for individuals providing facility services, verification that required health screenings  
73.2 under section 144I.034, subdivision 7, have taken place and the dates of those screenings;  
73.3 and

73.4 (6) documentation of the background study as required under section 144.057.

73.5 (b) Each employee record must be retained for at least three years after a paid employee,  
73.6 volunteer, or contractor ceases to be employed by, provide services at, or be under contract  
73.7 with the facility. If a facility ceases operation, employee records must be maintained for  
73.8 three years after facility operations cease.

73.9 Subd. 8. **Compliance officer.** Every assisted living facility shall have a compliance  
73.10 officer who is a licensed assisted living administrator. An individual licensed as a nursing  
73.11 home administrator, an assisted living administrator, or a health services executive shall  
73.12 automatically meet the qualifications of a compliance officer.

73.13 Sec. 15. **[144I.14] FACILITY RESPONSIBILITIES; STAFF.**

73.14 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing  
73.15 services must be trained and competent in the provision of services consistent with current  
73.16 practice standards appropriate to the resident's needs and be informed of the basic care and  
73.17 assisted living bill of rights under section 144I.21.

73.18 Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals  
73.19 and nurses providing services as employees of a licensed facility must possess a current  
73.20 Minnesota license or registration to practice.

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

73.24 (c) Nothing in this section limits or expands the rights of nurses or licensed health  
73.25 professionals to provide services within the scope of their licenses or registrations, as  
73.26 provided by law.

73.27 Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

73.28 (1) successfully completed a training and competency evaluation appropriate to the  
73.29 services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

73.30 (2) demonstrated competency by satisfactorily completing a written or oral test on the  
73.31 tasks the unlicensed personnel will perform and on the topics listed in subdivision 6,

74.1 paragraph (b); and successfully demonstrated competency of topics in subdivision 6,  
74.2 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

74.3 Unlicensed personnel providing basic care services shall not perform delegated nursing or  
74.4 therapy tasks.

74.5 (b) Unlicensed personnel performing delegated nursing tasks in an assisted living facility  
74.6 must:

74.7 (1) have successfully completed training and demonstrated competency by successfully  
74.8 completing a written or oral test of the topics in subdivision 6, paragraphs (b) and (c), and  
74.9 a practical skills test on tasks listed in subdivision 6, paragraphs (b), clauses (5) and (7),  
74.10 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

74.11 (2) satisfy the current requirements of Medicare for training or competency of home  
74.12 health aides or nursing assistants, as provided by Code of Federal Regulations, title 42,  
74.13 section 483 or 484.36; or

74.14 (3) have, before April 19, 1993, completed a training course for nursing assistants that  
74.15 was approved by the commissioner.

74.16 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned  
74.17 by a licensed health professional must meet the requirements for delegated tasks in  
74.18 subdivision 4 and any other training or competency requirements within the licensed health  
74.19 professional's scope of practice relating to delegation or assignment of tasks to unlicensed  
74.20 personnel.

74.21 Subd. 4. **Delegation of assisted living services.** A registered nurse or licensed health  
74.22 professional may delegate tasks only to staff who are competent and possess the knowledge  
74.23 and skills consistent with the complexity of the tasks and according to the appropriate  
74.24 Minnesota practice act. The assisted living facility must establish and implement a system  
74.25 to communicate up-to-date information to the registered nurse or licensed health professional  
74.26 regarding the current available staff and their competency so the registered nurse or licensed  
74.27 health professional has sufficient information to determine the appropriateness of delegating  
74.28 tasks to meet individual resident needs and preferences.

74.29 Subd. 5. **Temporary staff.** When a facility contracts with a temporary staffing agency,  
74.30 those individuals must meet the same requirements required by this section for personnel  
74.31 employed by the facility and shall be treated as if they are staff of the facility.

- 75.1        Subd. 6. Requirements for instructors, training content, and competency evaluations  
75.2 for unlicensed personnel. (a) Instructors and competency evaluators must meet the following  
75.3 requirements:
- 75.4        (1) training and competency evaluations of unlicensed personnel providing basic care  
75.5 services must be conducted by individuals with work experience and training in providing  
75.6 basic care services; and
- 75.7        (2) training and competency evaluations of unlicensed personnel providing comprehensive  
75.8 assisted living services must be conducted by a registered nurse, or another instructor may  
75.9 provide training in conjunction with the registered nurse.
- 75.10       (b) Training and competency evaluations for all unlicensed personnel must include the  
75.11 following:
- 75.12       (1) documentation requirements for all services provided;
- 75.13       (2) reports of changes in the resident's condition to the supervisor designated by the  
75.14 facility;
- 75.15       (3) basic infection control, including blood-borne pathogens;
- 75.16       (4) maintenance of a clean and safe environment;
- 75.17       (5) appropriate and safe techniques in personal hygiene and grooming, including:
- 75.18       (i) hair care and bathing;
- 75.19       (ii) care of teeth, gums, and oral prosthetic devices;
- 75.20       (iii) care and use of hearing aids; and
- 75.21       (iv) dressing and assisting with toileting;
- 75.22       (6) training on the prevention of falls;
- 75.23       (7) standby assistance techniques and how to perform them;
- 75.24       (8) medication, exercise, and treatment reminders;
- 75.25       (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 75.26       (10) preparation of modified diets as ordered by a licensed health professional;
- 75.27       (11) communication skills that include preserving the dignity of the resident and showing  
75.28 respect for the resident and the resident's preferences, cultural background, and family;
- 75.29       (12) awareness of confidentiality and privacy;

76.1 (13) understanding appropriate boundaries between staff and residents and the resident's  
76.2 family;

76.3 (14) procedures to use in handling various emergency situations; and

76.4 (15) awareness of commonly used health technology equipment and assistive devices.

76.5 (c) In addition to paragraph (b), training and competency evaluation for unlicensed  
76.6 personnel providing comprehensive assisted living services must include:

76.7 (1) observing, reporting, and documenting resident status;

76.8 (2) basic knowledge of body functioning and changes in body functioning, injuries, or  
76.9 other observed changes that must be reported to appropriate personnel;

76.10 (3) reading and recording temperature, pulse, and respirations of the resident;

76.11 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;

76.12 (5) safe transfer techniques and ambulation;

76.13 (6) range of motioning and positioning; and

76.14 (7) administering medications or treatments as required.

76.15 (d) When the registered nurse or licensed health professional delegates tasks, that person  
76.16 must ensure that prior to the delegation the unlicensed personnel is trained in the proper  
76.17 methods to perform the tasks or procedures for each resident and are able to demonstrate  
76.18 the ability to competently follow the procedures and perform the tasks. If an unlicensed  
76.19 personnel has not regularly performed the delegated assisted living task for a period of 24  
76.20 consecutive months, the unlicensed personnel must demonstrate competency in the task to  
76.21 the registered nurse or appropriate licensed health professional. The registered nurse or  
76.22 licensed health professional must document instructions for the delegated tasks in the  
76.23 resident's record.

76.24 Subd. 7. **Tuberculosis prevention and control.** A facility must establish and maintain  
76.25 a comprehensive tuberculosis infection control program according to the most current  
76.26 tuberculosis infection control guidelines issued by the United States Centers for Disease  
76.27 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the  
76.28 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a  
76.29 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,  
76.30 students, and volunteers. The Department of Health shall provide technical assistance  
76.31 regarding implementation of the guidelines.

Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility 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 residents;

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

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

(b) Each facility must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training annually available to all residents. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) Each facility must meet any additional requirements adopted in rule.

**Sec. 16. [144L.15] FACILITY RESPONSIBILITIES WITH RESPECT TO RESIDENTS.**

Subdivision 1. **Basic care and assisted living bill of rights; notification to resident.** (a) A facility shall provide the resident and the designated representative a written notice of the rights under section 144J.06 before the initiation of services to that resident. The facility shall make all reasonable efforts to provide notice of the rights to the resident and the designated representative in a language the resident and designated representative can understand.

(b) In addition to the text of the bill of rights in section 144J.06, the notice shall also contain the following statement describing how to file a complaint.

"If you have a complaint about the facility or the person providing your services, you may call the Minnesota Adult Abuse Reporting Center at 1-844-880-1574, or you may contact the Office of Health Facility Complaints, Minnesota Department of Health. You may also contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities."

(c) The statement must include the telephone number, website address, e-mail address, mailing address, and street address of the Office of Health Facility Complaints at the Minnesota Department of Health, the Office of Ombudsman for Long-Term Care, and the

78.1 Office of Ombudsman for Mental Health and Developmental Disabilities. The statement  
78.2 must include the facility's name, address, e-mail, telephone number, and name or title of  
78.3 the person at the facility to whom problems or complaints may be directed. It must also  
78.4 include a statement that the facility will not retaliate because of a complaint.

78.5 (d) A facility must obtain written acknowledgment of the resident's receipt of the bill of  
78.6 rights or shall document why an acknowledgment cannot be obtained. The acknowledgment  
78.7 may be obtained from the resident and the designated representative. Acknowledgment of  
78.8 receipt shall be retained in the resident's record.

78.9 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide  
78.10 all notices in plain language that residents can understand and make reasonable  
78.11 accommodations for residents who have communication disabilities and those whose primary  
78.12 language is a language other than English.

78.13 Subd. 3. **Notice of services for dementia, Alzheimer's disease, or related disorders.** A  
78.14 facility that provides services to residents with dementia shall provide in written or electronic  
78.15 form, to residents and families or other persons who request it, a description of the training  
78.16 program and related training it provides, including the categories of employees trained, the  
78.17 frequency of training, and the basic topics covered.

78.18 Subd. 4. **Services oversight and information.** A facility shall provide each resident  
78.19 with identifying and contact information about the persons who can assist with health care  
78.20 or supportive services being provided. A facility shall keep each resident informed of changes  
78.21 in the personnel referenced in this subdivision.

78.22 Subd. 5. **Notice to residents; change in ownership or management.** A facility must  
78.23 provide prompt written notice to the resident or designated representative of any change of  
78.24 legal name, telephone number, and physical mailing address, which may not be a public or  
78.25 private post office box, of:

78.26 (1) the licensee of the facility;

78.27 (2) the manager of the facility, if applicable; and

78.28 (3) the agent authorized to accept legal process on behalf of the facility.

78.29 Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless  
78.30 the facility has staff, sufficient in qualifications, competency, and numbers, to adequately  
78.31 provide the services agreed to in the service agreement and that are within the facility's  
78.32 scope of practice.

Subd. 7. **Referrals.** If a facility reasonably believes that a resident is in need of another medical or health service, including a licensed health professional, or social service provider, the facility shall:

(1) determine the resident's preferences with respect to obtaining the service; and

(2) inform the resident of the resources available, if known, to assist the resident in obtaining services.

Subd. 8. **Initiation of services.** When a facility initiates services and the individualized review or assessment required in subdivision 9 has not been completed, the facility must complete a temporary plan and agreement with the resident for services.

Subd. 9. **Initial reviews, assessments, and monitoring.** (a) A basic care facility shall complete an individualized initial review of the resident's needs and preferences. The initial review must be completed within 30 days of the start of services. Resident monitoring and review must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 days from the date of the last review.

(b) An assisted living facility shall conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a temporary service agreement prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. If necessitated by either the geographic distance between the prospective resident and the facility, or urgent or unexpected circumstances, the assessment may be conducted using telecommunication methods based on practice standards that meet the resident's needs and reflect person-centered planning and care delivery. The nursing assessment must be completed within five days of the start of services.

(c) Resident reassessment and monitoring must be conducted no more than 14 days after initiation of services. Ongoing resident reassessment and monitoring must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 days from the last date of the assessment.

(d) Residents who are not receiving any services shall not be required to undergo an initial review or nursing assessment.

(e) A facility must 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 facility or the date on which a prospective resident moves in, whichever is earlier.

- 80.1        Subd. 10. Service agreement, implementation, and revisions to service agreement. (a)  
80.2        No later than 14 days after the date that services are first provided, a facility shall finalize  
80.3        a current written service agreement.
- 80.4        (b) The service agreement and any revisions must include a signature or other  
80.5        authentication by the facility and by the resident or the designated representative documenting  
80.6        agreement on the services to be provided. The service agreement must be revised, if needed,  
80.7        based on resident review or reassessment under subdivision 9. The facility must provide  
80.8        information to the resident about changes to the facility's fee for services and how to contact  
80.9        the Office of Ombudsman for Long-Term Care.
- 80.10       (c) The facility must implement and provide all services required by the current service  
80.11       agreement.
- 80.12       (d) The service agreement and the revised service agreement must be entered into the  
80.13       resident's record, including notice of a change in a resident's fees when applicable.
- 80.14       (e) Staff providing services must be informed of the current written service agreement.
- 80.15       (f) The service agreement must include:
- 80.16       (1) a description of the services to be provided, the fees for services, and the frequency  
80.17       of each service, according to the resident's current review or assessment and resident  
80.18       preferences;
- 80.19       (2) the identification of staff or categories of staff who will provide the services;
- 80.20       (3) the schedule and methods of monitoring reviews or assessments of the resident;
- 80.21       (4) the schedule and methods of monitoring staff providing services; and
- 80.22       (5) a contingency plan that includes:
- 80.23       (i) the action to be taken by the facility and by the resident and the designated  
80.24       representative if the scheduled service cannot be provided;
- 80.25       (ii) information and a method for a resident and the designated representative to contact  
80.26       the facility;
- 80.27       (iii) the names and contact information of persons the resident wishes to have notified  
80.28       in an emergency or if there is a significant adverse change in the resident's condition,  
80.29       including identification of and information as to who has authority to sign for the resident  
80.30       in an emergency; and



81.1 (iv) the circumstances in which emergency medical services are not to be summoned  
81.2 consistent with chapters 145B and 145C, and declarations made by the resident under those  
81.3 chapters.

81.4 Subd. 11. **Use of restraints.** Residents of assisted living facilities must be free from any  
81.5 physical or chemical restraints. Restraints are only permissible if determined necessary for  
81.6 health and safety reasons identified by the facility through an initial assessment or  
81.7 reassessment, under subdivision 9, and documented in the written service agreement under  
81.8 subdivision 10.

81.9 Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,  
81.10 family member, or other caregiver of the resident requests that an employee or other agent  
81.11 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the  
81.12 request:

81.13 (1) shall take no action to discontinue the treatment; and

81.14 (2) shall promptly inform the supervisor or other agent of the facility of the resident's  
81.15 request.

81.16 (b) Upon being informed of a request for discontinuance of treatment, the facility shall  
81.17 promptly:

81.18 (1) inform the resident that the request will be made known to the physician or advanced  
81.19 practice registered nurse who ordered the resident's treatment;

81.20 (2) inform the physician or advanced practice registered nurse of the resident's request;  
81.21 and

81.22 (3) work with the resident and the resident's physician or advanced practice registered  
81.23 nurse to comply with chapter 145C.

81.24 (c) This section does not require the facility to discontinue treatment, except as may be  
81.25 required by law or court order.

81.26 (d) This section does not diminish the rights of residents to control their treatments,  
81.27 refuse services, or terminate their relationships with the facility.

81.28 (e) This section shall be construed in a manner consistent with chapter 145B or 145C,  
81.29 whichever applies, and declarations made by residents under those chapters.

81.30 Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to  
81.31 the protections in section 152.34.

82.1        Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter  
82.2        504B.

82.3        Sec. 17. **[144L.16] PROVISION OF SERVICES.**

82.4        Subdivision 1. **Availability of contact person to staff.** (a) A basic care facility must  
82.5        have a person available to staff for consultation relating to the provision of services or about  
82.6        the resident.

82.7        (b) Assisted living facilities and assisted living facilities that provide dementia care must  
82.8        have a registered nurse available for consultation to staff performing delegated nursing tasks  
82.9        and must have an appropriate licensed health professional available if performing other  
82.10       delegated services such as therapies.

82.11       (c) The appropriate contact person must be readily available either in person, by  
82.12       telephone, or by other means to the staff at times when the staff is providing services.

82.13       Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care  
82.14       services must be supervised periodically where the services are being provided to verify  
82.15       that the work is being performed competently and to identify problems and solutions to  
82.16       address issues relating to the staff's ability to provide the services. The supervision of the  
82.17       unlicensed personnel must be done by staff of the facility having the authority, skills, and  
82.18       ability to provide the supervision of unlicensed personnel and who can implement changes  
82.19       as needed, and train staff.

82.20       (b) Supervision includes direct observation of unlicensed personnel while the unlicensed  
82.21       personnel are providing the services and may also include indirect methods of gaining input  
82.22       such as gathering feedback from the resident. Supervisory review of staff must be provided  
82.23       at a frequency based on the staff person's competency and performance.

82.24       Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff  
82.25       who perform delegated nursing or therapy tasks must be supervised by an appropriate  
82.26       licensed health professional or a registered nurse per the assisted living facility's policy  
82.27       where the services are being provided to verify that the work is being performed competently  
82.28       and to identify problems and solutions related to the staff person's ability to perform the  
82.29       tasks. Supervision of staff performing medication or treatment administration shall be  
82.30       provided by a registered nurse or appropriate licensed health professional and must include  
82.31       observation of the staff administering the medication or treatment and the interaction with  
82.32       the resident.

(b) The direct supervision of staff performing delegated tasks must be provided within 30 days after the date on which the individual begins working for the facility and first performs the delegated tasks for residents and thereafter as needed based on performance. This requirement also applies to staff who have not performed delegated tasks for one year or longer.

Subd. 4. **Documentation.** A facility must retain documentation of supervision activities in the personnel records.

Sec. 18. **[144L.17] MEDICATION MANAGEMENT.**

Subdivision 1. **Medication management services.** (a) This section applies only to assisted living facilities that provide medication management services. Medication management services shall not be provided by a basic care facility.

(b) An assisted living facility that provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and resident and designated representative, if any; disposing of unused medications; and educating residents and designated representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 23.

Subd. 2. **Provision of medication management services.** (a) For each resident who requests medication management services, the assisted living facility shall, prior to providing medication management services, have a registered nurse, licensed health professional, or authorized prescriber under section 151.37 conduct an assessment to determine what medication management services will be provided and how the services will be provided. This assessment must be conducted face-to-face with the resident. The assessment must include an identification and review of all medications the resident is known to be taking.

84.1 The review and identification must include indications for medications, side effects,  
84.2 contraindications, allergic or adverse reactions, and actions to address these issues.

84.3 (b) The assessment must identify interventions needed in management of medications  
84.4 to prevent diversion of medication by the resident or others who may have access to the  
84.5 medications and provide instructions to the resident and designated representative on  
84.6 interventions to manage the resident's medications and prevent diversion of medications.  
84.7 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or  
84.8 improper disposition of medications.

84.9 Subd. 3. **Individualized medication monitoring and reassessment.** The assisted living  
84.10 facility must monitor and reassess the resident's medication management services as needed  
84.11 under subdivision 2 when the resident presents with symptoms or other issues that may be  
84.12 medication-related and, at a minimum, annually.

84.13 Subd. 4. **Resident refusal.** The assisted living facility must document in the resident's  
84.14 record any refusal for an assessment for medication management by the resident. The assisted  
84.15 living facility must discuss with the resident the possible consequences of the resident's  
84.16 refusal and document the discussion in the resident's record.

84.17 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving  
84.18 medication management services, the assisted living facility must prepare and include in  
84.19 the service agreement a written statement of the medication management services that will  
84.20 be provided to the resident. The assisted living facility must develop and maintain a current  
84.21 individualized medication management record for each resident based on the resident's  
84.22 assessment that must contain the following:

84.23 (1) a statement describing the medication management services that will be provided;

84.24 (2) a description of storage of medications based on the resident's needs and preferences,  
84.25 risk of diversion, and consistent with the manufacturer's directions;

84.26 (3) documentation of specific resident instructions relating to the administration of  
84.27 medications;

84.28 (4) identification of persons responsible for monitoring medication supplies and ensuring  
84.29 that medication refills are ordered on a timely basis;

84.30 (5) identification of medication management tasks that may be delegated to unlicensed  
84.31 personnel;

84.32 (6) procedures for staff notifying a registered nurse or appropriate licensed health  
84.33 professional when a problem arises with medication management services; and

85.1 (7) any resident-specific requirements relating to documenting medication administration,  
85.2 verifications that all medications are administered as prescribed, and monitoring of  
85.3 medication use to prevent possible complications or adverse reactions.

85.4 (b) The medication management record must be current and updated when there are any  
85.5 changes.

85.6 (c) Medication reconciliation must be completed when a licensed nurse, licensed health  
85.7 professional, or authorized prescriber is providing medication management.

85.8 Subd. 6. **Administration of medication.** Medications may be administered by a nurse,  
85.9 physician, or other licensed health practitioner authorized to administer medications or by  
85.10 unlicensed personnel who have been delegated medication administration tasks by a  
85.11 registered nurse.

85.12 Subd. 7. **Delegation of medication administration.** When administration of medications  
85.13 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered  
85.14 nurse has:

85.15 (1) instructed the unlicensed personnel in the proper methods to administer the  
85.16 medications, and the unlicensed personnel has demonstrated the ability to competently  
85.17 follow the procedures;

85.18 (2) specified, in writing, specific instructions for each resident and documented those  
85.19 instructions in the resident's records; and

85.20 (3) communicated with the unlicensed personnel about the individual needs of the  
85.21 resident.

85.22 Subd. 8. **Documentation of administration of medications.** Each medication  
85.23 administered by the assisted living facility staff must be documented in the resident's record.  
85.24 The documentation must include the signature and title of the person who administered the  
85.25 medication. The documentation must include the medication name, dosage, date and time  
85.26 administered, and method and route of administration. The staff must document the reason  
85.27 why medication administration was not completed as prescribed and document any follow-up  
85.28 procedures that were provided to meet the resident's needs when medication was not  
85.29 administered as prescribed and in compliance with the resident's medication management  
85.30 plan.

85.31 Subd. 9. **Documentation of medication setup.** Documentation of dates of medication  
85.32 setup, name of medication, quantity of dose, times to be administered, route of administration,  
85.33 and name of person completing medication setup must be done at the time of setup.

Subd. 10. Medication management for residents who will be away from home. (a)

An assisted living facility that is providing medication management services to the resident must develop and implement policies and procedures for giving accurate and current medications to residents for planned or unplanned times away from home according to the resident's individualized medication management plan. The policies and procedures must state that:

(1) for planned time away, the medications must be obtained from the pharmacy or set up by the licensed nurse according to appropriate state and federal laws and nursing standards of practice;

(2) for unplanned time away, when the pharmacy is not able to provide the medications, a licensed nurse or unlicensed personnel shall give the resident and designated representative medications in amounts and dosages needed for the length of the anticipated absence, not to exceed seven calendar days;

(3) the resident or designated representative must be provided written information on medications, including any special instructions for administering or handling the medications, including controlled substances;

(4) the medications must be placed in a medication container or containers appropriate to the provider's medication system and must be labeled with the resident's name and the dates and times that the medications are scheduled; and

(5) the resident and designated representative must be provided in writing the facility's name and information on how to contact the facility.

(b) For unplanned time away when the licensed nurse is not available, the registered nurse may delegate this task to unlicensed personnel if:

(1) the registered nurse has trained the unlicensed staff and determined the unlicensed staff is competent to follow the procedures for giving medications to residents; and

(2) the registered nurse has developed written procedures for the unlicensed personnel, including any special instructions or procedures regarding controlled substances that are prescribed for the resident. The procedures must address:

(i) the type of container or containers to be used for the medications appropriate to the provider's medication system;

(ii) how the container or containers must be labeled;

87.1 (iii) written information about the medications to be given to the resident or designated  
87.2 representative;

87.3 (iv) how the unlicensed staff must document in the resident's record that medications  
87.4 have been given to the resident and the designated representative, including documenting  
87.5 the date the medications were given to the resident or the designated representative and who  
87.6 received the medications, the person who gave the medications to the resident, the number  
87.7 of medications that were given to the resident, and other required information;

87.8 (v) how the registered nurse shall be notified that medications have been given to the  
87.9 resident or designated representative and whether the registered nurse needs to be contacted  
87.10 before the medications are given to the resident or the designated representative;

87.11 (vi) a review by the registered nurse of the completion of this task to verify that this task  
87.12 was completed accurately by the unlicensed personnel; and

87.13 (vii) how the unlicensed personnel must document in the resident's record any unused  
87.14 medications that are returned to the facility, including the name of each medication and the  
87.15 doses of each returned medication.

87.16 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must  
87.17 determine whether the facility shall require a prescription for all medications the provider  
87.18 manages. The assisted living facility must inform the resident or the designated representative  
87.19 whether the facility requires a prescription for all over-the-counter and dietary supplements  
87.20 before the facility agrees to manage those medications.

87.21 Subd. 12. **Medications; over-the-counter drugs; dietary supplements not**  
87.22 **prescribed.** An assisted living facility providing medication management services for  
87.23 over-the-counter drugs or dietary supplements must retain those items in the original labeled  
87.24 container with directions for use prior to setting up for immediate or later administration.  
87.25 The facility must verify that the medications are up to date and stored as appropriate.

87.26 Subd. 13. **Prescriptions.** There must be a current written or electronically recorded  
87.27 prescription as defined in section 151.01, subdivision 16a, for all prescribed medications  
87.28 that the assisted living facility is managing for the resident.

87.29 Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12  
87.30 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions  
87.31 for controlled substances must comply with chapter 152.

88.1 Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized  
88.2 prescriber must be received by a nurse or pharmacist. The order must be handled according  
88.3 to Minnesota Rules, part 6800.6200.

88.4 Subd. 16. **Written or electronic prescription.** When a written or electronic prescription  
88.5 is received, it must be communicated to the registered nurse in charge and recorded or placed  
88.6 in the resident's record.

88.7 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,  
88.8 or electronically must be kept confidential according to sections 144.291 to 144.298 and  
88.9 144A.44.

88.10 Subd. 18. **Medications provided by resident or family members.** When the assisted  
88.11 living facility is aware of any medications or dietary supplements that are being used by  
88.12 the resident and are not included in the assessment for medication management services,  
88.13 the staff must advise the registered nurse and document that in the resident's record.

88.14 Subd. 19. **Storage of medications.** An assisted living facility must store all prescription  
88.15 medications in securely locked and substantially constructed compartments according to  
88.16 the manufacturer's directions and permit only authorized personnel to have access.

88.17 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate  
88.18 or later administration, must be kept in the original container in which it was dispensed by  
88.19 the pharmacy bearing the original prescription label with legible information including the  
88.20 expiration or beyond-use date of a time-dated drug.

88.21 Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or  
88.22 saved for use by anyone other than the resident.

88.23 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by  
88.24 the assisted living facility must be given to the resident or the designated representative  
88.25 when the resident's service agreement ends or medication management services are no  
88.26 longer part of the service agreement. Medications for a resident who is deceased or that  
88.27 have been discontinued or have expired may be given to the resident or the designated  
88.28 representative for disposal.

88.29 (b) The assisted living facility shall dispose of any medications remaining with the  
88.30 facility that are discontinued or expired or upon the termination of the service contract or  
88.31 the resident's death according to state and federal regulations for disposition of medications  
88.32 and controlled substances.



(c) Upon disposition, the facility must document in the resident's record the disposition of the medication including the medication's name, strength, prescription number as applicable, quantity, to whom the medications were given, date of disposition, and names of staff and other individuals involved in the disposition.

Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication management must develop and implement procedures for loss or spillage of all controlled substances defined in Minnesota Rules, part 6800.4220. These procedures must require that when a spillage of a controlled substance occurs, a notation must be made in the resident's record explaining the spillage and the actions taken. The notation must be signed by the person responsible for the spillage and include verification that any contaminated substance was disposed of according to state or federal regulations.

(b) The procedures must require that the facility providing medication management investigate any known loss or unaccounted for prescription drugs and take appropriate action required under state or federal regulations and document the investigation in required records.

**Sec. 19. [144L.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

Subdivision 1. **Treatment and therapy management services.** This section applies only to assisted living facilities that provide comprehensive assisted living services. Treatment and therapy management services shall not be provided by a basic care facility.

Subd. 2. **Policies and procedures.** (a) An assisted living facility that provides treatment and therapy management services must develop, implement, and maintain up-to-date written treatment or therapy management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse or appropriate licensed health professional consistent with current practice standards and guidelines.

(b) The written policies and procedures must address requesting and receiving orders or prescriptions for treatments or therapies, providing the treatment or therapy, documenting treatment or therapy activities, educating and communicating with residents about treatments or therapies they are receiving, monitoring and evaluating the treatment or therapy, and communicating with the prescriber.

Subd. 3. **Individualized treatment or therapy management plan.** For each resident receiving management of ordered or prescribed treatments or therapy services, the assisted living facility must prepare and include in the service agreement a written statement of the treatment or therapy services that will be provided to the resident. The facility must also

90.1 develop and maintain a current individualized treatment and therapy management record

90.2 for each resident which must contain at least the following:

90.3 (1) a statement of the type of services that will be provided;

90.4 (2) documentation of specific resident instructions relating to the treatments or therapy  
90.5 administration;

90.6 (3) identification of treatment or therapy tasks that will be delegated to unlicensed  
90.7 personnel;

90.8 (4) procedures for notifying a registered nurse or appropriate licensed health professional  
90.9 when a problem arises with treatments or therapy services; and

90.10 (5) any resident-specific requirements relating to documentation of treatment and therapy  
90.11 received, verification that all treatment and therapy was administered as prescribed, and  
90.12 monitoring of treatment or therapy to prevent possible complications or adverse reactions.  
90.13 The treatment or therapy management record must be current and updated when there are  
90.14 any changes.

90.15 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments  
90.16 or therapies must be administered by a nurse, physician, or other licensed health professional  
90.17 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed  
90.18 personnel by the licensed health professional according to the appropriate practice standards  
90.19 for delegation or assignment. When administration of a treatment or therapy is delegated  
90.20 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or  
90.21 authorized licensed health professional has:

90.22 (1) instructed the unlicensed personnel in the proper methods with respect to each resident  
90.23 and the unlicensed personnel has demonstrated the ability to competently follow the  
90.24 procedures;

90.25 (2) specified, in writing, specific instructions for each resident and documented those  
90.26 instructions in the resident's record; and

90.27 (3) communicated with the unlicensed personnel about the individual needs of the  
90.28 resident.

90.29 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment  
90.30 or therapy administered by an assisted living facility must be in the resident's record. The  
90.31 documentation must include the signature and title of the person who administered the  
90.32 treatment or therapy and must include the date and time of administration. When treatment  
90.33 or therapies are not administered as ordered or prescribed, the provider must document the

91.1 reason why it was not administered and any follow-up procedures that were provided to  
91.2 meet the resident's needs.

91.3 Subd. 6. **Treatment and therapy orders.** There must be an up-to-date written or  
91.4 electronically recorded order from an authorized prescriber for all treatments and therapies.  
91.5 The order must contain the name of the resident, a description of the treatment or therapy  
91.6 to be provided, and the frequency, duration, and other information needed to administer the  
91.7 treatment or therapy. Treatment and therapy orders must be renewed at least every 12  
91.8 months.

91.9 Subd. 7. **Right to outside service provider; other payors.** Under section 144J.06, a  
91.10 resident is free to retain therapy and treatment services from an off-site service provider.  
91.11 Assisted living facilities must make every effort to assist residents in obtaining information  
91.12 regarding whether the Medicare program, the medical assistance program under chapter  
91.13 256B, or another public program will pay for any or all of the services.

91.14 Sec. 20. **[144L.19] RESIDENT RECORD REQUIREMENTS.**

91.15 Subdivision 1. **Resident record.** (a) The facility must maintain records for each resident  
91.16 for whom it is providing services. Entries in the resident records must be current, legible,  
91.17 permanently recorded, dated, and authenticated with the name and title of the person making  
91.18 the entry.

91.19 (b) Resident records, whether written or electronic, must be protected against loss,  
91.20 tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable  
91.21 relevant federal and state laws. The facility shall establish and implement written procedures  
91.22 to control use, storage, and security of resident's records and establish criteria for release  
91.23 of resident information.

91.24 (c) The facility may not disclose to any other person any personal, financial, or medical  
91.25 information about the resident, except:

91.26 (1) as may be required by law;

91.27 (2) to employees or contractors of the facility, another facility, other health care  
91.28 practitioner or provider, or inpatient facility needing information in order to provide services  
91.29 to the resident, but only the information that is necessary for the provision of services;

91.30 (3) to persons authorized in writing by the resident or the resident's representative to  
91.31 receive the information, including third-party payers; and

92.1 (4) to representatives of the commissioner authorized to survey or investigate facilities  
92.2 under this chapter or federal laws.

92.3 Subd. 2. **Access to records.** The facility must ensure that the appropriate records are  
92.4 readily available to employees and contractors authorized to access the records. Resident  
92.5 records must be maintained in a manner that allows for timely access, printing, or  
92.6 transmission of the records. The records must be made readily available to the commissioner  
92.7 upon request.

92.8 Subd. 3. **Contents of resident record.** Contents of a resident record include the following  
92.9 for each resident:

92.10 (1) identifying information, including the resident's name, date of birth, address, and  
92.11 telephone number;

92.12 (2) the name, address, and telephone number of an emergency contact, family members,  
92.13 designated representative, if any, or others as identified;

92.14 (3) names, addresses, and telephone numbers of the resident's health and medical service  
92.15 providers, if known;

92.16 (4) health information, including medical history, allergies, and when the provider is  
92.17 managing medications, treatments or therapies that require documentation, and other relevant  
92.18 health records;

92.19 (5) the resident's advance directives, if any;

92.20 (6) copies of any health care directives, guardianships, powers of attorney, or  
92.21 conservatorships;

92.22 (7) the facility's current and previous assessments and service agreements;

92.23 (8) all records of communications pertinent to the resident's services;

92.24 (9) documentation of significant changes in the resident's status and actions taken in  
92.25 response to the needs of the resident, including reporting to the appropriate supervisor or  
92.26 health care professional;

92.27 (10) documentation of incidents involving the resident and actions taken in response to  
92.28 the needs of the resident, including reporting to the appropriate supervisor or health care  
92.29 professional;

92.30 (11) documentation that services have been provided as identified in the service  
92.31 agreement;

(12) documentation that the resident has received and reviewed the basic care and assisted living bill of rights;

(13) documentation of complaints received and any resolution;

(14) a discharge summary, including service termination notice and related documentation, when applicable; and

(15) other documentation required under this chapter and relevant to the resident's services or status.

**Subd. 4. Transfer of resident records.** If a resident transfers to another facility or another health care practitioner or provider, or is admitted to an inpatient facility, the facility, upon request of the resident or the resident's representative, shall take steps to ensure a coordinated transfer including sending a copy or summary of the resident's record to the new facility or the resident, as appropriate.

**Subd. 5. Record retention.** Following the resident's discharge or termination of services, a facility must retain a resident's record for at least five years or as otherwise required by state or federal regulations. Arrangements must be made for secure storage and retrieval of resident records if the facility ceases to operate.

**Sec. 21. [144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

**Subdivision 1. Orientation of staff and supervisors.** All staff providing and supervising direct services must complete an orientation to facility licensing requirements and regulations before providing services to residents. The orientation may be incorporated into the training required under subdivision 6. The orientation need only be completed once for each staff person and is not transferable to another facility.

**Subd. 2. Content.** (a) The orientation must contain the following topics:

(1) an overview of this chapter;

(2) an introduction and review of the facility's policies and procedures related to the provision of assisted living services by the individual staff person;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of vulnerable adults under section 626.557;

(5) basic care and assisted living bill of rights under section 144J.06;

94.1 (6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities  
94.2 related to ensuring the exercise and protection of those rights;

94.3 (7) the principles of person-centered service planning and delivery and how they apply  
94.4 to direct support services provided by the staff person;

94.5 (8) handling of residents' complaints, reporting of complaints, and where to report  
94.6 complaints, including information on the Minnesota Adult Abuse Reporting Center and the  
94.7 Office of Health Facility Complaints;

94.8 (9) consumer advocacy services of the Office of Ombudsman for Long-Term Care,  
94.9 Office of Ombudsman for Mental Health and Developmental Disabilities, Minnesota Adult  
94.10 Abuse Reporting Center (MAARC), Managed Care Ombudsman at the Department of  
94.11 Human Services, county-managed care advocates, or other relevant advocacy services; and

94.12 (10) a review of the types of assisted living services the employee will be providing and  
94.13 the facility's category of licensure.

94.14 (b) In addition to the topics in paragraph (a), orientation may also contain training on  
94.15 providing services to residents with hearing loss. Any training on hearing loss provided  
94.16 under this subdivision must be high quality and research based, may include online training,  
94.17 and must include training on one or more of the following topics:

94.18 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
94.19 and the challenges it poses to communication;

94.20 (2) health impacts related to untreated age-related hearing loss, such as increased  
94.21 incidence of dementia, falls, hospitalizations, isolation, and depression; or

94.22 (3) information about strategies and technology that may enhance communication and  
94.23 involvement, including communication strategies, assistive listening devices, hearing aids,  
94.24 visual and tactile alerting devices, communication access in real time, and closed captions.

94.25 Subd. 3. **Verification and documentation of orientation.** Each facility shall retain  
94.26 evidence in the employee record of each staff person having completed the orientation  
94.27 required by this section.

94.28 Subd. 4. **Orientation to resident.** Staff providing services must be oriented specifically  
94.29 to each individual resident and the services to be provided. This orientation may be provided  
94.30 in person, orally, in writing, or electronically.

94.31 Subd. 5. **Training required relating to dementia.** All direct care staff and supervisors  
94.32 providing direct services must receive training that includes a current explanation of

95.1 Alzheimer's disease and related disorders, effective approaches to use to problem solve  
95.2 when working with a resident's challenging behaviors, and how to communicate with  
95.3 residents who have dementia or related memory disorders.

95.4 Subd. 6. **Required annual training.** (a) All staff that perform direct services must  
95.5 complete at least eight hours of annual training for each 12 months of employment. The  
95.6 training may be obtained from the facility or another source and must include topics relevant  
95.7 to the provision of assisted living services. The annual training must include:

95.8 (1) training on reporting of maltreatment of vulnerable adults under section 626.557;

95.9 (2) review of the basic care and assisted living bill of rights in section 144J.06;

95.10 (3) review of infection control techniques used in the home and implementation of  
95.11 infection control standards including a review of hand washing techniques; the need for and  
95.12 use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials  
95.13 and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable  
95.14 equipment; disinfecting environmental surfaces; and reporting communicable diseases;

95.15 (4) effective approaches to use to problem solve when working with a resident's  
95.16 challenging behaviors, and how to communicate with residents who have Alzheimer's  
95.17 disease or related disorders;

95.18 (5) review of the facility's policies and procedures relating to the provision of assisted  
95.19 living services and how to implement those policies and procedures;

95.20 (6) review of protection-related rights as stated in section 144I.10, subdivision 8, and  
95.21 staff responsibilities related to ensuring the exercise and protection of those rights; and

95.22 (7) the principles of person-centered service planning and delivery and how they apply  
95.23 to direct support services provided by the staff person.

95.24 (b) In addition to the topics in paragraph (a), annual training may also contain training  
95.25 on providing services to residents with hearing loss. Any training on hearing loss provided  
95.26 under this subdivision must be high quality and research based, may include online training,  
95.27 and must include training on one or more of the following topics:

95.28 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
95.29 and challenges it poses to communication;

95.30 (2) the health impacts related to untreated age-related hearing loss, such as increased  
95.31 incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Subd. 7. **Documentation.** A facility must retain documentation in the employee records of staff who have satisfied the orientation and training requirements of this section.

Subd. 8. **Implementation.** A facility must implement all orientation and training topics covered in this section.

Sec. 22. **[144L.21] TRAINING IN DEMENTIA CARE REQUIRED.**

Subdivision 1. **Assisted living facility dementia training requirements.** (a) Assisted living facilities and assisted living facilities with dementia care 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:



97.1 (1) an explanation of Alzheimer's disease and related disorders;

97.2 (2) assistance with activities of daily living;

97.3 (3) problem solving with challenging behaviors; and

97.4 (4) communication skills.

97.5 (c) The facility shall provide to consumers in written or electronic form a description of  
97.6 the training program, the categories of employees trained, the frequency of training, and  
97.7 the basic topics covered.

97.8 Subd. 2. **Basic care facility dementia training requirements.** (a) Basic care facilities  
97.9 must meet the following training requirements:

97.10 (1) supervisors of direct-care staff must have at least four hours of initial training on  
97.11 topics specified under paragraph (b) within 120 working hours of the employment start  
97.12 date, and must have at least two hours of training on topics related to dementia care for each  
97.13 12 months of employment thereafter;

97.14 (2) direct-care employees must have completed at least four hours of initial training on  
97.15 topics specified under paragraph (b) within 160 working hours of the employment start  
97.16 date. Until this initial training is complete, an employee must not provide direct care unless  
97.17 there is another employee on site who has completed the initial four hours of training on  
97.18 topics related to dementia care and who can act as a resource and assist if issues arise. A  
97.19 trainer of the requirements under paragraph (b) or a supervisor meeting the requirements  
97.20 under clause (1) must be available for consultation with the new employee until the training  
97.21 requirement is complete. Direct-care employees must have at least two hours of training on  
97.22 topics related to dementia for each 12 months of employment thereafter;

97.23 (3) staff who do not provide direct care, including maintenance, housekeeping, and food  
97.24 service staff, must have at least four hours of initial training on topics specified under  
97.25 paragraph (b) within 160 working hours of the employment start date, and must have at  
97.26 least two hours of training on topics related to dementia care for each 12 months of  
97.27 employment thereafter; and

97.28 (4) new employees may satisfy the initial training requirements by producing written  
97.29 proof of previously completed required training within the past 18 months.

97.30 (b) Areas of required training include:

97.31 (1) an explanation of Alzheimer's disease and related disorders;

97.32 (2) assistance with activities of daily living;

98.1 (3) problem solving with challenging behaviors; and

98.2 (4) communication skills.

98.3 (c) The facility shall provide to consumers in written or electronic form a description of  
98.4 the training program, the categories of employees trained, the frequency of training, and  
98.5 the basic topics covered.

98.6 Sec. 23. **[144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

98.7 Subdivision 1. **Restrictions.** The controlling individual of a facility may not include  
98.8 any person who was a controlling individual of any other nursing home, basic care facility,  
98.9 assisted living facility, or assisted living facility with dementia care during any period of  
98.10 time in the previous two-year period:

98.11 (1) during which time of control the nursing home, basic care facility, assisted living  
98.12 facility, or assisted living facility with dementia care incurred the following number of  
98.13 uncorrected or repeated violations:

98.14 (i) two or more uncorrected violations or one or more repeated violations that created  
98.15 an imminent risk to direct resident care or safety; or

98.16 (ii) four or more uncorrected violations or two or more repeated violations of any nature,  
98.17 including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

98.18 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates  
98.19 to the operation of the nursing home, basic care facility, assisted living facility, or assisted  
98.20 living facility with dementia care, or directly affects resident safety or care.

98.21 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the  
98.22 facility who had no legal authority to affect or change decisions related to the operation of  
98.23 the nursing home, basic care facility, assisted living facility, or assisted living facility with  
98.24 dementia care that incurred the uncorrected violations.

98.25 Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a)  
98.26 In lieu of revoking, suspending, or refusing to renew the license of a facility where a  
98.27 controlling individual was disqualified by subdivision 1, clause (1), the commissioner may  
98.28 issue an order staying the revocation, suspension, or nonrenewal of the facility's license.  
98.29 The order may but need not be contingent upon the facility's compliance with restrictions  
98.30 and conditions imposed on the license to ensure the proper operation of the facility and to  
98.31 protect the health, safety, comfort, treatment, and well-being of the residents in the facility.  
98.32 The decision to issue an order for a stay must be made within 90 days of the commissioner's

99.1 determination that a controlling individual of the facility is disqualified by subdivision 1,  
99.2 clause (1), from operating a facility.

99.3 (b) In determining whether to issue a stay and to impose conditions and restrictions, the  
99.4 commissioner must consider the following factors:

99.5 (1) the ability of the controlling individual to operate other facilities in accordance with  
99.6 the licensure rules and laws;

99.7 (2) the conditions in the nursing home, basic care facility, assisted living facility, or  
99.8 assisted living facility with dementia care that received the number and type of uncorrected  
99.9 or repeated violations described in subdivision 1, clause (1); and

99.10 (3) the conditions and compliance history of each of the nursing homes, basic care  
99.11 facilities, assisted living facilities, and assisted living facilities with dementia care owned  
99.12 or operated by the controlling individuals.

99.13 (c) The commissioner's decision to exercise the authority under this subdivision in lieu  
99.14 of revoking, suspending, or refusing to renew the license of the facility is not subject to  
99.15 administrative or judicial review.

99.16 (d) The order for the stay of revocation, suspension, or nonrenewal of the facility license  
99.17 must include any conditions and restrictions on the license that the commissioner deems  
99.18 necessary based on the factors listed in paragraph (b).

99.19 (e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the  
99.20 commissioner shall inform the controlling individual in writing of any conditions and  
99.21 restrictions that will be imposed. The controlling individual shall, within ten working days,  
99.22 notify the commissioner in writing of a decision to accept or reject the conditions and  
99.23 restrictions. If the facility rejects any of the conditions and restrictions, the commissioner  
99.24 must either modify the conditions and restrictions or take action to suspend, revoke, or not  
99.25 renew the facility's license.

99.26 (f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the  
99.27 controlling individual shall be responsible for compliance with the conditions and restrictions.  
99.28 Any time after the conditions and restrictions have been in place for 180 days, the controlling  
99.29 individual may petition the commissioner for removal or modification of the conditions and  
99.30 restrictions. The commissioner must respond to the petition within 30 days of receipt of the  
99.31 written petition. If the commissioner denies the petition, the controlling individual may  
99.32 request a hearing under the provisions of chapter 14. Any hearing shall be limited to a

100.1 determination of whether the conditions and restrictions shall be modified or removed. At  
100.2 the hearing, the controlling individual bears the burden of proof.

100.3 (g) The failure of the controlling individual to comply with the conditions and restrictions  
100.4 contained in the order for stay shall result in the immediate removal of the stay and the  
100.5 commissioner shall take action to suspend, revoke, or not renew the license.

100.6 (h) The conditions and restrictions are effective for two years after the date they are  
100.7 imposed.

100.8 (i) Nothing in this subdivision shall be construed to limit in any way the commissioner's  
100.9 ability to impose other sanctions against a facility licensee under the standards in state or  
100.10 federal law whether or not a stay of revocation, suspension, or nonrenewal is issued.

100.11 Sec. 24. **[144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.**

100.12 Subdivision 1. **Notification.** (a) If the proposed or current licensee uses a manager, the  
100.13 licensee must have a written management agreement that is consistent with this chapter.

100.14 (b) The proposed or current licensee must notify the commissioner of its use of a manager  
100.15 upon:

100.16 (1) initial application for a license;

100.17 (2) retention of a manager following initial application;

100.18 (3) change of managers; and

100.19 (4) modification of an existing management agreement.

100.20 (c) The proposed or current licensee must provide to the commissioner a written  
100.21 management agreement, including an organizational chart showing the relationship between  
100.22 the proposed or current licensee, management company, and all related organizations.

100.23 (d) The written management agreement must be submitted:

100.24 (1) 60 days before:

100.25 (i) the initial licensure date;

100.26 (ii) the proposed change of ownership date; or

100.27 (iii) the effective date of the management agreement; or

100.28 (2) 30 days before the effective date of any amendment to an existing management  
100.29 agreement.

101.1 (e) The proposed licensee or the current licensee must notify the residents and their  
101.2 representatives 60 days before entering into a new management agreement.

101.3 (f) A proposed licensee must submit a management agreement.

101.4 Subd. 2. **Management agreement; licensee.** (a) The licensee is legally responsible for:

101.5 (1) the daily operations and provisions of services in the facility;

101.6 (2) ensuring the facility is operated in a manner consistent with all applicable laws and  
101.7 rules;

101.8 (3) ensuring the manager acts in conformance with the management agreement; and

101.9 (4) ensuring the manager does not present as, or give the appearance that the manager  
101.10 is the licensee.

101.11 (b) The licensee must not give the manager responsibilities that are so extensive that the  
101.12 licensee is relieved of daily responsibility for the daily operations and provision of services  
101.13 in the assisted living facility. If the licensee does so, the commissioner must determine that  
101.14 a change of ownership has occurred.

101.15 (c) The licensee and manager must act in accordance with the terms of the management  
101.16 agreement. If the commissioner determines they are not, then the department may impose  
101.17 enforcement remedies.

101.18 (d) The licensee may enter into a management agreement only if the management  
101.19 agreement creates a principal/agent relationship between the licensee and manager.

101.20 (e) The manager shall not subcontract the manager's responsibilities to a third party.

101.21 Subd. 3. **Terms of agreement.** A management agreement at a minimum must:

101.22 (1) describe the responsibilities of the licensee and manager, including items, services,  
101.23 and activities to be provided;

101.24 (2) require the licensee's governing body, board of directors, or similar authority to  
101.25 appoint the administrator;

101.26 (3) provide for the maintenance and retention of all records in accordance with this  
101.27 chapter and other applicable laws;

101.28 (4) allow unlimited access by the commissioner to documentation and records according  
101.29 to applicable laws or regulations;

101.30 (5) require the manager to immediately send copies of inspections and notices of  
101.31 noncompliance to the licensee;

102.1 (6) state that the licensee is responsible for reviewing, acknowledging, and signing all  
102.2 facility initial and renewal license applications;

102.3 (7) state that the manager and licensee shall review the management agreement annually  
102.4 and notify the commissioner of any change according to applicable regulations;

102.5 (8) acknowledge that the licensee is the party responsible for complying with all laws  
102.6 and rules applicable to the facility;

102.7 (9) require the licensee to maintain ultimate responsibility over personnel issues relating  
102.8 to the operation of the facility and care of the residents including but not limited to staffing  
102.9 plans, hiring, and performance management of employees, orientation, and training;

102.10 (10) state the manager will not present as, or give the appearance that the manager is  
102.11 the licensee; and

102.12 (11) state that a duly authorized manager may execute resident leases or agreements on  
102.13 behalf of the licensee, but all such resident leases or agreements must be between the licensee  
102.14 and the resident.

102.15 Subd. 4. **Commissioner review.** The commissioner may review a management agreement  
102.16 at any time. Following the review, the department may require:

102.17 (1) the proposed or current licensee or manager to provide additional information or  
102.18 clarification;

102.19 (2) any changes necessary to:

102.20 (i) bring the management agreement into compliance with this chapter; and

102.21 (ii) ensure that the licensee has not been relieved of the legal responsibility for the daily  
102.22 operations of the facility; and

102.23 (3) the licensee to participate in monthly meetings and quarterly on-site visits to the  
102.24 facility.

102.25 Subd. 5. **Resident funds.** (a) If the management agreement delegates day-to-day  
102.26 management of resident funds to the manager, the licensee:

102.27 (1) retains all fiduciary and custodial responsibility for funds that have been deposited  
102.28 with the facility by the resident;

102.29 (2) is directly accountable to the resident for such funds; and

103.1 (3) must ensure any party responsible for holding or managing residents' personal funds  
103.2 is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident  
103.3 funds and provides proof of bond or insurance.

103.4 (b) If responsibilities for the day-to-day management of the resident funds are delegated  
103.5 to the manager, the manager must:

103.6 (1) provide the licensee with a monthly accounting of the resident funds; and

103.7 (2) meet all legal requirements related to holding and accounting for resident funds.

103.8 Sec. 25. **[144I.24] MINIMUM SITE, PHYSICAL ENVIRONMENT AND FIRE**  
103.9 **SAFETY REQUIREMENTS.**

103.10 Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required  
103.11 for all basic care facilities, assisted living facilities, and assisted living facilities with dementia  
103.12 care:

103.13 (1) public utilities must be available, and working or inspected and approved water and  
103.14 septic systems are in place;

103.15 (2) the location is publicly accessible to fire department services and emergency medical  
103.16 services;

103.17 (3) the location's topography provides sufficient natural drainage and is not subject to  
103.18 flooding;

103.19 (4) all-weather roads and walks must be provided within the lot lines to the primary  
103.20 entrance and the service entrance, including employees' and visitors' parking at the site; and

103.21 (5) the location must include space for outdoor activities for residents.

103.22 (b) An assisted living facility with a dementia care unit must also meet the following  
103.23 requirements:

103.24 (1) a hazard vulnerability assessment or safety risk must be performed on and around  
103.25 the property. The hazards indicated on the assessment must be assessed and mitigated to  
103.26 protect the residents from harm; and

103.27 (2) the facility shall be protected throughout by an approved supervised automatic  
103.28 sprinkler system by August 1, 2029.

103.29 Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2019,  
103.30 each basic care facility, assisted living facility, and assisted living facility with dementia  
103.31 care must have a comprehensive fire protection system that includes:

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

104.5 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard  
104.6 10; and

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

104.11 (b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the  
104.12 residential board and care requirements in the Life Safety Code.

104.13 Subd. 3. **Local laws apply.** Basic care facilities and assisted living facilities shall be in  
104.14 compliance with all applicable state and local governing laws, regulations, standards,  
104.15 ordinances, and codes for fire safety, building, and zoning requirements.

104.16 Subd. 4. **Basic care facilities and assisted living facilities; design.** (a) After July 31,  
104.17 2021, all basic care facilities and assisted living facilities with six or more residents must  
104.18 meet the provisions relevant to assisted living facilities of the most current edition of the  
104.19 Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health,  
104.20 Care and Support Facilities" and of adopted rules. This minimum design standard shall be  
104.21 met for all new licenses, new construction, modifications, renovations, alterations, change  
104.22 of use, or additions. In addition to the guidelines, assisted living facilities, and assisted living  
104.23 facilities with dementia care shall provide the option of a bath in addition to a shower for  
104.24 all residents.

104.25 (b) The commissioner shall establish an implementation timeline for mandatory usage  
104.26 of the latest published guidelines. However, the commissioner shall not enforce the latest  
104.27 published guidelines before six months after the date of publication.

104.28 Subd. 5. **Basic care facilities and assisted living facilities; life safety code.** (a) After  
104.29 August 1, 2021, all basic care facilities and assisted living facilities with six or more residents  
104.30 shall meet the applicable provisions of the most current edition of the NFPA Standard 101,  
104.31 Life Safety Code, Residential Board and Care Occupancies chapter. This minimum design  
104.32 standard shall be met for all new licenses, new construction, modifications, renovations,  
104.33 alterations, change of use, or additions.



(b) The commissioner shall establish an implementation timeline for mandatory usage of the latest published Life Safety Code. However, the commissioner shall not enforce the latest published guidelines before six months after the date of publication.

Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a) Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use or additions.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the newest-published Life Safety Code. However, the commissioner shall not enforce the newly-published guidelines before 6 months after the date of publication.

Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning on or after August 1, 2021, the following must be provided to the commissioner:

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

(2) final architectural plans and specifications must include elevations and sections through the building showing types of construction, and must indicate dimensions and assignments of rooms and areas, room finishes, door types and hardware, elevations and details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts of dietary and laundry areas. Plans must show the location of fixed equipment and sections and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions must be indicated. The roof plan must show all mechanical installations. The site plan must indicate the proposed and existing buildings, topography, roadways, walks and utility service lines; and

(3) final mechanical and electrical plans and specifications must address the complete layout and type of all installations, systems, and equipment to be provided. Heating plans must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers, boilers, breeching and accessories. Ventilation plans must include room air quantities, ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing plans must include the fixtures and equipment fixture schedule; water supply and circulating piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation

106.1 of water and sewer services; and the building fire protection systems. Electrical plans must  
106.2 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and  
106.3 light panels, transformers, and service feeders. Plans must show location of nurse call signals,  
106.4 cable lines, fire alarm stations, and fire detectors and emergency lighting.

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

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

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

106.11 Subd. 8. **Variances or waivers.** (a) A facility may request that the commissioner grant  
106.12 a variance or waiver from the provisions of this section. A request for a waiver must be  
106.13 submitted to the commissioner in writing. Each request must contain:

106.14 (1) the specific requirement for which the variance or waiver is requested;

106.15 (2) the reasons for the request;

106.16 (3) the alternative measures that will be taken if a variance or waiver is granted;

106.17 (4) the length of time for which the variance or waiver is requested; and

106.18 (5) other relevant information deemed necessary by the commissioner to properly evaluate  
106.19 the request for the waiver.

106.20 (b) The decision to grant or deny a variance or waiver must be based on the  
106.21 commissioner's evaluation of the following criteria:

106.22 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or  
106.23 well-being of a patient;

106.24 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to  
106.25 those prescribed in this section; and

106.26 (3) whether compliance with the requirements would impose an undue burden on the  
106.27 applicant.

106.28 (c) The commissioner must notify the applicant in writing of the decision. If a variance  
106.29 or waiver is granted, the notification must specify the period of time for which the variance  
106.30 or waiver is effective and the alternative measures or conditions, if any, to be met by the  
106.31 applicant.

(d) Alternative measures or conditions attached to a variance or waiver have the force and effect of this chapter and are subject to the issuance of correction orders and fines in accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a violation of this section is that specified for the specific requirement for which the variance or waiver was requested.

(e) A request for the renewal of a variance or waiver must be submitted in writing at least 45 days before its expiration date. Renewal requests must contain the information specified in paragraph (b). A variance or waiver must be renewed by the department if the applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

(f) The department must deny, revoke, or refuse to renew a variance or waiver if it is determined that the criteria in paragraph (a) are not met. The applicant must be notified in writing of the reasons for the decision and informed of the right to appeal the decision.

(g) An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under chapter 14. The applicant must submit, within 15 days of the receipt of the department's decision, a written request for a hearing. The request for hearing must set forth in detail the reasons why the applicant contends the decision of the department should be reversed or modified. At the hearing, the applicant has the burden of proving by a preponderance of the evidence that the applicant satisfied the criteria specified in paragraph (b), except in a proceeding challenging the revocation of a variance or waiver.

Sec. 26. **[144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.**

Subdivision 1. **Contract required.** (a) An assisted living facility, basic care facility, or assisted living facility with dementia care may not offer or provide housing or services to a resident unless it has executed a written contract with the resident.

(b) The contract must:

(1) be signed by both:

(i) the resident or the designated representative; and

(ii) the licensee or an agent of the facility; and

(2) contain all the terms concerning the provision of:

(i) housing; and

108.1 (ii) services, whether provided directly by the facility or by management agreement.

108.2 (c) A facility must:

108.3 (1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term  
108.4 Care a complete unsigned copy of its contract; and

108.5 (2) give a complete copy of any signed contract and any addendums, and all supporting  
108.6 documents and attachments, to the resident or the designated representative promptly after  
108.7 a contract and any addendum has been signed by the resident or the designated representative.

108.8 (d) A contract under this section is a consumer contract under sections 325G.29 to  
108.9 325G.37.

108.10 (e) Before or at the time of execution of the contract, the facility must offer the resident  
108.11 the opportunity to identify a designated or resident representative or both in writing in the  
108.12 contract. The contract must contain a page or space for the name and contact information  
108.13 of the designated or resident representative or both and a box the resident must initial if the  
108.14 resident declines to name a designated or resident representative. Notwithstanding paragraph  
108.15 (f), the resident has the right at any time to rescind the declination or add or change the  
108.16 name and contact information of the designated or resident representative.

108.17 (f) The resident must agree in writing to any additions or amendments to the contract.  
108.18 Upon agreement between the resident or resident's designated representative and the facility,  
108.19 a new contract or an addendum to the existing contract must be executed and signed.

108.20 Subd. 2. **Contents and contract; contact information.** (a) The contract must include  
108.21 in a conspicuous place and manner on the contract the legal name and the license number  
108.22 of the facility.

108.23 (b) The contract must include the name, telephone number, and physical mailing address,  
108.24 which may not be a public or private post office box, of:

108.25 (1) the facility and contracted service provider when applicable;

108.26 (2) the licensee of the facility;

108.27 (3) the managing agent of the facility, if applicable; and

108.28 (4) at least one natural person who is authorized to accept service of process on behalf  
108.29 of the facility.

108.30 (c) The contract must include:

109.1 (1) a description of all the terms and conditions of the contract, including a description  
109.2 of and any limitations to the housing and/or services to be provided for the contracted  
109.3 amount;

109.4 (2) a delineation of the cost and nature of any other services to be provided for an  
109.5 additional fee;

109.6 (3) a delineation and description of any additional fees the resident may be required to  
109.7 pay if the resident's condition changes during the term of the contract;

109.8 (4) a delineation of the grounds under which the resident may be discharged, evicted,  
109.9 or transferred or have services terminated; and

109.10 (5) billing and payment procedures and requirements.

109.11 (d) The contract must include a description of the facility's complaint resolution process  
109.12 available to residents, including the name and contact information of the person representing  
109.13 the facility who is designated to handle and resolve complaints.

109.14 (e) The contract must include a clear and conspicuous notice of:

109.15 (1) the right under section 144I.26 to challenge a discharge, eviction, or transfer or  
109.16 service termination;

109.17 (2) the facility's policy regarding transfer of residents within the facility, under what  
109.18 circumstances a transfer may occur, and whether or not consent of the resident being asked  
109.19 to transfer is required;

109.20 (3) the toll-free complaint line for the MAARC, the Office of Ombudsman for Long-Term  
109.21 Care, the Ombudsman for Mental Health and Developmental Disabilities, and the Office  
109.22 of Health Facility Complaints;

109.23 (4) the resident's right to obtain services from an unaffiliated service provider;

109.24 (5) a description of the assisted living facility's policies related to medical assistance  
109.25 waivers under sections 256B.0915 and 256B.49, including:

109.26 (i) whether the provider is enrolled with the commissioner of human services to provide  
109.27 customized living services under medical assistance waivers;

109.28 (ii) whether there is a limit on the number of people residing at the assisted living facility  
109.29 who can receive customized living services at any point in time. If so, the limit must be  
109.30 provided;

110.1 (iii) whether the assisted living facility requires a resident to pay privately for a period  
110.2 of time prior to accepting payment under medical assistance waivers, and if so, the length  
110.3 of time that private payment is required;

110.4 (iv) a statement that medical assistance waivers provide payment for services, but do  
110.5 not cover the cost of rent;

110.6 (v) a statement that residents may be eligible for assistance with rent through the housing  
110.7 support program; and

110.8 (vi) a description of the rent requirements for people who are eligible for medical  
110.9 assistance waivers but who are not eligible for assistance through the housing support  
110.10 program; and

110.11 (6) the contact information to obtain long-term care consulting services under section  
110.12 256B.0911.

110.13 (f) The contract must include a description of the facility's complaint resolution process  
110.14 available to residents, including the name and contact information of the person representing  
110.15 the facility who is designated to handle and resolve complaints.

110.16 **Subd. 3. Additional contract requirements for assisted living facilities and assisted**  
110.17 **living facilities with dementia care.** (a) Assisted living facility and assisted living facility  
110.18 with dementia care contracts must include the requirements in paragraph (b). A restriction  
110.19 of a resident's rights under this subdivision is allowed only if determined necessary for  
110.20 health and safety reasons identified by the facility's registered nurse in an initial assessment  
110.21 or reassessment, under section 144I.15, subdivision 9, and documented in the written service  
110.22 agreement under section 144I.15, subdivision 10. Any restrictions of those rights for  
110.23 individuals served under sections 256B.0915 and 256B.49 must be documented in the  
110.24 resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915,  
110.25 subdivision 6, and 256B.49, subdivision 15.

110.26 (b) The contract must include a statement:

110.27 (1) regarding the ability of a resident to furnish and decorate the resident's unit within  
110.28 the terms of the lease;

110.29 (2) regarding the resident's right to access food at any time;

110.30 (3) regarding a resident's right to choose the resident's visitors and times of visits;

110.31 (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. 4. **Filing.** The contract and related documents executed by each resident or the designated representative must be maintained by the facility in files from the date of execution until three years after the contract is terminated or expires. The contracts and all associated documents will be available for on-site inspection by the commissioner at any time. The documents shall be available for viewing or copies shall be made available to the resident and the designated representative at any time.

Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of facility liability for the health and safety or personal property of a resident. The contract must not include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

Sec. 27. **[144L.26] INVOLUNTARY DISCHARGES AND SERVICE TERMINATIONS.**

Subdivision 1. **Prerequisite to termination of housing or services.** Before terminating a resident's housing or services, a facility must explain in detail the reasons for the termination and work with the resident, designated representatives, resident representatives, the resident's family, applicable agencies, and any relevant health-related or social service professionals to identify and offer reasonable accommodations and modifications, interventions, or alternatives to avoid the termination.

Subd. 2. **Permissible reasons to terminate housing or services.** (a) A facility is prohibited from terminating housing or services for grounds other than those specified in paragraphs (b) and (c).

(b) A resident's housing or services shall not be terminated unless a termination is necessary and there is a written determination, supported by documentation, of the necessity of the termination. A termination is considered necessary only if:

(1) it is mandated by law or court order;

(2) the resident has engaged in a documented pattern of conduct that:

(i) endangers the health or safety of other residents or staff of the facility; or

- 112.1 (ii) repeatedly and substantially interferes with the rights, health, safety, or well-being  
112.2 of other residents;
- 112.3 (3) the facility intends to cease operation;
- 112.4 (4) the facility's license is being restricted by the commissioner of health in a manner  
112.5 that requires the termination;
- 112.6 (5) the resident has committed any of the acts enumerated under section 504B.171,  
112.7 subdivision 1; or
- 112.8 (6) the resident's needs exceed the scope of the services for which the resident contracted  
112.9 and:
- 112.10 (i) the facility administrator has certified that the resident's needs exceed the scope of  
112.11 services for which the resident contracted, based on an evaluation by a disinterested, licensed  
112.12 health care professional; and
- 112.13 (ii) the resident's needs cannot be safely met by reasonable accommodations or  
112.14 modifications, interventions, or alternatives.
- 112.15 (c) A facility may terminate housing or services for nonpayment, provided the facility:
- 112.16 (1) makes reasonable efforts to accommodate temporary financial hardship and provide  
112.17 information on government or private subsidies that may be available; and
- 112.18 (2) provides the notice required under subdivision 3.
- 112.19 (d) A temporary interruption in benefits does not constitute nonpayment.
- 112.20 Subd. 3. **Advance notice required.** A facility must provide at least 30 calendar days'  
112.21 advance notice to the resident, the ombudsman for long-term care, and the resident's  
112.22 designated representatives and resident representatives or, if no designated representative  
112.23 or resident representative is known, a family member, if known, of a termination of housing  
112.24 or services, except as provided in subdivision 5 or 6, paragraph (f). If the facility's license  
112.25 is restricted by the commissioner, then the facility must follow the directions by the  
112.26 commissioner for resident relocations or ceasing services to residents and these notice  
112.27 provisions do not apply.
- 112.28 Subd. 4. **Content of notice.** The notice required under subdivision 3 must contain, at a  
112.29 minimum:
- 112.30 (1) the effective date of termination of housing or services;



- 113.1 (2) a detailed explanation of the basis for the termination, including but not limited to  
113.2 clinical or other supporting rationale;
- 113.3 (3) a list of known facilities in the immediate geographic area;
- 113.4 (4) a statement that the resident has the right to appeal the termination, an explanation  
113.5 of how and to whom to appeal, and contact information for the Office of Administrative  
113.6 Hearings;
- 113.7 (5) information on how to contact the ombudsman for long-term care and the ombudsman  
113.8 for mental health and developmental disabilities;
- 113.9 (6) a description of the steps taken to avoid termination and the issues raised in accordance  
113.10 with subdivision 1 and a statement that the resident has the right to request further meetings  
113.11 to attempt to resolve the proposed termination;
- 113.12 (7) a description of the resident's right to avoid a termination, if possible, through  
113.13 reasonable accommodations or modifications, interventions, or alternatives;
- 113.14 (8) a statement that the facility must actively participate in a coordinated transfer of the  
113.15 resident to another location or service provider, as required under subdivision 7;
- 113.16 (9) the name and contact information of a person employed by the facility with whom  
113.17 the resident may discuss the notice of termination of housing or services;
- 113.18 (10) if the termination is for services, a statement, if applicable, that the notice of  
113.19 termination of services does not constitute a termination of housing or an eviction from the  
113.20 resident's home, and that the resident has the right to remain in the facility; and
- 113.21 (11) the location to which the resident is being transferred and the contact information  
113.22 for any new service provider to be used by the resident, or a statement that a location or  
113.23 service provider will be identified prior to termination in accordance in subdivision 7.
- 113.24 If any information in the notice changes prior to the housing or service termination, the  
113.25 facility must update the notice and provide it to the resident, resident's designated  
113.26 representatives, and resident representatives or, if no designated representative or resident  
113.27 representative is known, a family member as soon as practicable.
- 113.28 Subd. 5. **Exception for emergencies.** (a) A facility may relocate a resident from a facility  
113.29 with notice of less than 30 calendar days and as soon as practicable if:
- 113.30 (1) emergency relocation is required for a resident's urgent medical needs and is ordered  
113.31 by the resident's physician;

- 114.1 (2) the resident needs to be immediately relocated because the resident or another resident  
114.2 or staff member of the facility is at imminent risk of:
- 114.3 (i) death;  
114.4 (ii) life-threatening harm;  
114.5 (iii) substantial harm, as defined in section 609.02, subdivision 7a; or  
114.6 (iv) great bodily harm, as defined in section 609.02, subdivision 8, and that harm is  
114.7 identified by the facility administrator based on documented evidence; or
- 114.8 (3) the breach involves any of the acts enumerated in section 504B.171, subdivision 1.
- 114.9 (b) A facility relocating a resident under this subdivision must:
- 114.10 (1) ensure that the resident is moved to a safe and appropriate location;  
114.11 (2) immediately notify the resident's designated representatives and resident  
114.12 representatives or, if no designated representative or resident representative is known, a  
114.13 family member or interested person, if known:
- 114.14 (i) that the resident has been relocated;  
114.15 (ii) the reason for the relocation; and  
114.16 (iii) the name, address, telephone number, and any other relevant contact information  
114.17 of the location to which the resident has been transferred and any new service provider;
- 114.18 (3) if the resident is not expected to or does not return to the facility within 24 hours of  
114.19 the emergency relocation and a notice of termination of housing or services has not been  
114.20 issued pursuant to subdivision 4, provide a written notice to the resident, ombudsman for  
114.21 long-term care, resident representatives or designated representatives if known, or if no  
114.22 designated representative or resident representative is known, then to a family member, if  
114.23 known, stating at least:
- 114.24 (i) that the resident is currently expected to return to the facility or, if applicable, that  
114.25 the resident is expected to return to the facility upon the removal of certain conditions  
114.26 pursuant to paragraph (a) and a detailed description of those conditions;
- 114.27 (ii) if reasonably ascertainable, an estimated date of the resident's return to the facility;  
114.28 (iii) a statement that, if the resident wishes to immediately return to the facility and is  
114.29 denied readmission, the resident has the right to appeal any refusal to readmit and contact  
114.30 information for the Office of Administrative Hearings;
- 114.31 (iv) information on how to contact the ombudsman for long-term care;

115.1 (v) the name, address, telephone number, and any other relevant contact information of  
115.2 the location to which the resident has been transferred and any new service provider; and

115.3 (vi) upon removal of the conditions precipitating the emergency transfer, immediately  
115.4 work and coordinate with the resident and the resident's designated representatives, resident  
115.5 representatives, and family, if applicable, to enable the resident to return to the facility.

115.6 (c) If the facility determines that the resident cannot return to the facility or cannot  
115.7 receive services from the facility upon return, then the resident, ombudsman for long-term  
115.8 care, resident's designated representatives and resident representatives if known or, if no  
115.9 designated representative or resident representative is known, then a family member, if  
115.10 known, must be given as soon as practicable, but in any event no later than 24 hours after  
115.11 the determination:

115.12 (1) a notice of the termination of housing or services pursuant to subdivision 4;

115.13 (2) a statement of the right to appeal pursuant to subdivision 6 and the right to appeal  
115.14 the facility's refusal to readmit the resident; and

115.15 (3) a statement of the right to termination planning pursuant to subdivision 7 and that  
115.16 the planning may not cease until a safe and appropriate location and, if applicable, service  
115.17 provider has been identified.

115.18 Subd. 6. **Right to appeal termination of housing or services.** (a) A resident, designated  
115.19 representative, resident representative, or family member has the right to appeal a termination  
115.20 of housing or services under subdivision 2 or a facility's refusal to readmit the resident after  
115.21 an emergency relocation under subdivision 5 and to request a hearing from the Office of  
115.22 Administrative Hearings. An appeal must be filed in writing to the Office of Administrative  
115.23 Hearings. An appeal of a refusal to readmit shall be construed as an appeal of any related  
115.24 termination of housing or services.

115.25 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon  
115.26 as practicable and in any event no later than 14 calendar days after the office receives the  
115.27 request and within three business days in the event of an appeal of a refusal to readmit. The  
115.28 hearing must be held at the facility where the resident lives, unless it is impractical or the  
115.29 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing  
115.30 may also be attended by telephone as allowed by the administrative law judge, after  
115.31 considering how a telephonic hearing will affect the resident's ability to participate. The  
115.32 hearing shall be limited to the amount of time necessary for the participants to expeditiously  
115.33 present the facts about the proposed termination. The administrative law judge shall issue  
115.34 a recommendation to the commissioner as soon as practicable and in any event no later than

116.1 ten calendar days after the hearing or within two days in the case of a refusal to readmit.

116.2 Attorney representation is not required at the hearing, nor does appearing without an attorney  
116.3 constitute the unauthorized practice of law.

116.4 (c) The facility bears the burden of proof to establish that the termination of housing or  
116.5 services or the refusal to readmit the resident is permissible.

116.6 (d) During the pendency of an appeal for a termination of housing or services and until  
116.7 a final determination is made by the Office of Administrative Hearings:

116.8 (1) housing or services may not be terminated; and

116.9 (2) the resident may not be relocated except as provided for under subdivision 5. In the  
116.10 event of relocation, the resident must be readmitted unless the conditions described in  
116.11 subdivision 5, paragraph (a), exist.

116.12 (e) The commissioner of health may order the facility to rescind the termination of  
116.13 housing or services if:

116.14 (1) the termination was in violation of state or federal law;

116.15 (2) the resident has cured or is able to cure the reason for the termination, or has identified  
116.16 any reasonable accommodations or modifications, interventions, or alternatives to avoid  
116.17 the termination; or

116.18 (3) termination planning is in violation of subdivision 7.

116.19 (f) If a termination of housing or services is denied only because of a failure to identify  
116.20 a safe and appropriate location or service provider under subdivision 7, the facility, upon  
116.21 finding such a safe and appropriate location or service provider, may reissue a termination  
116.22 of housing or services with notice of less than 30 calendar days.

116.23 (g) The commissioner of health may order the immediate readmission of a resident to  
116.24 the facility if:

116.25 (1) the refusal to readmit is in violation of state or federal law;

116.26 (2) the facility has not complied with subdivision 5 or the conditions described in  
116.27 subdivision 5, paragraph (a), do not exist; or

116.28 (3) the resident has cured or is able to cure the reason for the relocation, or has identified  
116.29 any reasonable accommodations or modifications, interventions, or alternatives to avoid  
116.30 the continuance of the relocation.

(h) Nothing in this section limits the right of a resident or the resident's designated representatives, resident representatives, or family to request or receive assistance from the ombudsman for long-term care and the protection and advocacy agency under Code of Federal Regulations, title 45, section 1326.21, concerning the termination of housing or services.

(i) Residents are not required to request a meeting with the facility prior to submitting an appeal hearing request.

Subd. 7. **Housing or service termination planning.** (a) If a facility terminates housing or services, the facility:

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

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

(3) must consult and cooperate with the resident, the resident's designated representatives, resident representatives, family members, any interested professionals, including case managers, and applicable agencies to make arrangements to relocate the resident, including consideration of the resident's goals.

(b) A safe location is not a private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility may not terminate a resident's housing or services if the resident will, as a result of the termination, become homeless, as defined in section 116L.361, subdivision 5, or if an adequate and safe discharge location or adequate and needed service provider has not been identified.

(c) The facility must prepare a written relocation plan. The plan must:

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

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

(d) A facility may not relocate the resident unless the place to which the resident will be relocated indicates acceptance of the resident. If a resident continues to need and desire the services provided by the facility, the facility may not terminate services unless another service provider has indicated that it will provide those services.

118.1 (e) If a resident is relocated to another facility or a nursing home provider, the facility  
118.2 must timely convey to that provider:

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

118.4 (2) the name, telephone number, and address of the resident's representatives and resident  
118.5 representatives, if any;

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

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

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

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

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

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

118.15 Subd. 8. **Final accounting; return of money and property.** (a) Within 30 days of the  
118.16 date of the termination of housing or services, the facility shall:

118.17 (1) provide to the resident, resident representatives, and designated representatives a  
118.18 final statement of account;

118.19 (2) provide any refunds due; and

118.20 (3) return any money, property, or valuables held in trust or custody by the facility.

118.21 (b) As required by section 504B.178, a facility may not collect a nonrefundable security  
118.22 deposit unless it is applied to the first month's charges.

118.23 Sec. 28. **[144I.27] PLANNED CLOSURES.**

118.24 Subdivision 1. **Closure plan required.** In the event that a facility elects to voluntarily  
118.25 close the facility, the facility must notify the commissioner and the Office of Ombudsman  
118.26 for Long-Term Care in writing by submitting a proposed closure plan.

118.27 Subd. 2. **Content of closure plan.** The facility's proposed closure plan must include:

118.28 (1) the procedures and actions the facility will implement to notify residents of the  
118.29 closure, including a copy of the written notice to be given to residents, designated  
118.30 representatives, resident representatives, or family;

(2) the procedures and actions the facility will implement to ensure all residents receive appropriate termination planning in accordance with section 144I.26, subdivision 7, and final accountings and returns under section 144I.26, subdivision 8;

(3) assessments of the needs and preferences of individual residents; and

(4) procedures and actions the facility will implement to maintain compliance with this chapter until all residents have relocated.

Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan shall be subject to the commissioner's approval and subdivision 6. The facility shall take no action to close the residence prior to the commissioner's approval of the plan. The commissioner shall approve or otherwise respond to the plan as soon as practicable.

(b) The commissioner of health may require the facility to work with a transitional team comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, and other professionals the commissioner deems necessary to assist in the proper relocation of residents.

Subd. 4. **Termination planning and final accounting requirements.** Prior to termination, the facility must follow the termination planning requirements under section 144I.26, subdivision 7, and final accounting and return requirements under section 144I.26, subdivision 8, for residents. The facility must implement the plan approved by the commissioner and ensure that arrangements for relocation and continued care that meet each resident's social, emotional, and health needs are effectuated prior to closure.

Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan and at least 60 calendar days before closing, except as provided under subdivision 6, the facility must notify residents, designated representatives, and resident representatives or, if a resident has no designated representative or resident representative, a family member, if known, of the closure, the proposed date of closure, the contact information of the ombudsman for long-term care, and that the facility will follow the termination planning requirements under section 144I.26, subdivision 7, and final accounting and return requirements under section 144I.26, subdivision 8.

Subd. 6. **Emergency closures.** (a) In the event the facility must close because the commissioner deems the facility can no longer remain open, the facility must meet all requirements in subdivisions 1 to 5, except for any requirements the commissioner finds would endanger the health and safety of residents. In the event the commissioner determines a closure must occur with less than 60 calendar days' notice, the facility shall provide notice to residents as soon as practicable or as directed by the commissioner.

(b) Upon request from the commissioner, a facility must provide the commissioner with any documentation related to the appropriateness of its relocation plan, or to any assertion that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining open would otherwise endanger the health and safety of residents pursuant to paragraph (a).

Subd. 7. **Other rights.** Nothing in this section or section 144I.26 affects the rights and remedies available under chapter 504B, except to the extent those rights or remedies are inconsistent with this section.

Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements of this section or section 144I.26

**Sec. 29. [144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.**

Subdivision 1. **Notice required before relocation within location.** (a) A facility must:

(1) notify a resident and the resident's representative, if any, at least 14 calendar days prior to a proposed nonemergency relocation to a different room at the same location; and

(2) obtain consent from the resident and the resident's representative, if any.

(b) A resident must be allowed to stay in the resident's room. If a resident consents to a move, any needed reasonable modifications must be made to the new room to accommodate the resident's disabilities.

Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before deciding whether the room the resident will be moved to fits the resident's psychological, cognitive, and health care needs, including the accessibility of the bathroom.

Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for at least one year and resides in a private room, and whose payments subsequently will be made under the medical assistance program under chapter 256B, may not be relocated to a shared room without the consent of the resident or the resident's representative, if any.

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

**Sec. 30. [144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

Subdivision 1. **Regulations.** The commissioner shall regulate facilities pursuant to this chapter. The regulations shall include the following:

(1) provisions to assure, to the extent possible, the health, safety, well-being, and appropriate treatment of residents while respecting individual autonomy and choice;



- 121.1 (2) requirements that facilities furnish the commissioner with specified information  
121.2 necessary to implement this chapter;
- 121.3 (3) standards of training of facility personnel;
- 121.4 (4) standards for provision of services;
- 121.5 (5) standards for medication management;
- 121.6 (6) standards for supervision of services;
- 121.7 (7) standards for resident evaluation or assessment;
- 121.8 (8) standards for treatments and therapies;
- 121.9 (9) requirements for the involvement of a resident's health care provider, the  
121.10 documentation of the health care provider's orders, if required, and the resident's service  
121.11 agreement;
- 121.12 (10) the maintenance of accurate, current resident records;
- 121.13 (11) the establishment of levels of licenses based on services provided; and
- 121.14 (12) provisions to enforce these regulations and the basic care and assisted living bill of  
121.15 rights.
- 121.16 Subd. 2. **Regulatory functions.** (a) The commissioner shall:
- 121.17 (1) license, survey, and monitor without advance notice facilities in accordance with  
121.18 this chapter;
- 121.19 (2) survey every provisional licensee within one year of the provisional license issuance  
121.20 date subject to the provisional licensee providing licensed services to residents;
- 121.21 (3) survey facility licensees annually;
- 121.22 (4) investigate complaints of facilities;
- 121.23 (5) issue correction orders and assess civil penalties;
- 121.24 (6) take action as authorized in section 144I.33; and
- 121.25 (7) take other action reasonably required to accomplish the purposes of this chapter.
- 121.26 (b) Beginning August 1, 2021, the commissioner shall review blueprints for all new  
121.27 facility construction and must approve the plans before construction may be commenced.
- 121.28 (c) The commissioner shall provide on-site review of the construction to ensure that all  
121.29 physical environment standards are met before the facility license is complete.

122.1 Sec. 31. **[144L.30] SURVEYS AND INVESTIGATIONS.**

122.2 **Subdivision 1. Regulatory powers.** (a) The Department of Health is the exclusive state  
122.3 agency charged with the responsibility and duty of surveying and investigating all facilities  
122.4 required to be licensed under this chapter. The commissioner of health shall enforce all  
122.5 sections of this chapter and the rules adopted under this chapter.

122.6 (b) The commissioner, upon request of the facility, must be given access to relevant  
122.7 information, records, incident reports, and other documents in the possession of the facility  
122.8 if the commissioner considers them necessary for the discharge of responsibilities. For  
122.9 purposes of surveys and investigations and securing information to determine compliance  
122.10 with licensure laws and rules, the commissioner need not present a release, waiver, or  
122.11 consent to the individual. The identities of residents must be kept private as defined in  
122.12 section 13.02, subdivision 12.

122.13 **Subd. 2. Surveys.** The commissioner shall conduct surveys of each basic care facility,  
122.14 assisted living facility, and assisted living facility with dementia care. The commissioner  
122.15 shall conduct a survey of each facility on a frequency of at least once each year. The  
122.16 commissioner may conduct surveys more frequently than once a year based on the license  
122.17 level, the provider's compliance history, the number of clients served, or other factors as  
122.18 determined by the department deemed necessary to ensure the health, safety, and welfare  
122.19 of residents and compliance with the law.

122.20 **Subd. 3. Follow-up surveys.** The commissioner may conduct follow-up surveys to  
122.21 determine if the facility has corrected deficient issues and systems identified during a survey  
122.22 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,  
122.23 mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be  
122.24 concluded with an exit conference and written information provided on the process for  
122.25 requesting a reconsideration of the survey results.

122.26 **Subd. 4. Scheduling surveys.** Surveys and investigations shall be conducted without  
122.27 advance notice to the facilities. Surveyors may contact the facility on the day of a survey  
122.28 to arrange for someone to be available at the survey site. The contact does not constitute  
122.29 advance notice.

122.30 **Subd. 5. Information provided by facility.** The facility shall provide accurate and  
122.31 truthful information to the department during a survey, investigation, or other licensing  
122.32 activities.

122.33 **Subd. 6. Providing resident records.** Upon request of a surveyor, facilities shall provide  
122.34 a list of current and past residents or designated representatives that includes addresses and

123.1 telephone numbers and any other information requested about the services to residents  
123.2 within a reasonable period of time.

123.3 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the  
123.4 commissioner finds upon survey or during a complaint investigation that a facility, a  
123.5 managerial official, or an employee of the provider is not in compliance with this chapter.  
123.6 The correction order shall cite the specific statute and document areas of noncompliance  
123.7 and the time allowed for correction.

123.8 (b) The commissioner shall mail or e-mail copies of any correction order to the facility  
123.9 within 30 calendar days after the survey exit date. A copy of each correction order and  
123.10 copies of any documentation supplied to the commissioner shall be kept on file by the  
123.11 facility and public documents shall be made available for viewing by any person upon  
123.12 request. Copies may be kept electronically.

123.13 (c) By the correction order date, the facility must document in the facility's records any  
123.14 action taken to comply with the correction order. The commissioner may request a copy of  
123.15 this documentation and the facility's action to respond to the correction order in future  
123.16 surveys, upon a complaint investigation, and as otherwise needed.

123.17 Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4  
123.18 violations under section 144I.31, the department shall conduct a follow-up survey within  
123.19 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall  
123.20 focus on whether the previous violations have been corrected and may also address any  
123.21 new violations that are observed while evaluating the corrections that have been made.

123.22 Sec. 32. **[144I.31] VIOLATIONS AND FINES.**

123.23 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision  
123.24 may be assessed based on the level and scope of the violations described in subdivision 2  
123.25 as follows and imposed immediately with no opportunity to correct the violation prior to  
123.26 imposition:

123.27 (1) Level 1, no fines or enforcement;

123.28 (2) Level 2, a fine of \$500 per violation, in addition to any of the enforcement  
123.29 mechanisms authorized in section 144I.33 for widespread violations;

123.30 (3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected  
123.31 by the violation, in addition to any of the enforcement mechanisms authorized in section  
123.32 144I.33;

124.1 (4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident, in addition to any  
124.2 of the enforcement mechanisms authorized in section 144I.33; and

124.3 (5) for maltreatment violations as defined in the Minnesota Vulnerable Adults Act in  
124.4 section 626.557 including abuse, neglect, financial exploitation, and drug diversion that are  
124.5 determined against the facility, an immediate fine shall be imposed of \$5,000 per incident,  
124.6 plus \$200 for each resident affected by the violation.

124.7 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized  
124.8 by both level and scope, and fines shall be assessed as follows:

124.9 (1) level of violation:

124.10 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on  
124.11 the resident and does not affect health or safety;

124.12 (ii) Level 2 is a violation that did not harm a resident's health or safety but had the  
124.13 potential to have harmed a resident's health or safety, but was not likely to cause serious  
124.14 injury, impairment, or death;

124.15 (iii) Level 3 is a violation that harmed a resident's health or safety, not including serious  
124.16 injury, impairment, or death, or a violation that has the potential to lead to serious injury,  
124.17 impairment, or death; and

124.18 (iv) Level 4 is a violation that results in serious injury, impairment, or death; and

124.19 (2) scope of violation:

124.20 (i) isolated, when one or a limited number of residents are affected or one or a limited  
124.21 number of staff are involved or the situation has occurred only occasionally;

124.22 (ii) pattern, when more than a limited number of residents are affected, more than a  
124.23 limited number of staff are involved, or the situation has occurred repeatedly but is not  
124.24 found to be pervasive; and

124.25 (iii) widespread, when problems are pervasive or represent a systemic failure that has  
124.26 affected or has the potential to affect a large portion or all of the residents.

124.27 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a  
124.28 facility has not corrected violations by the date specified in the correction order or conditional  
124.29 license resulting from a survey or complaint investigation, the commissioner shall provide  
124.30 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance  
124.31 to the facility. The noncompliance notice must list the violations not corrected.

125.1        Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may  
125.2 issue an immediate fine. The licensee must still correct the violation in the time specified.  
125.3 The issuance of an immediate fine may occur in addition to any enforcement mechanism  
125.4 authorized under section 144I.33. The immediate fine may be appealed as allowed under  
125.5 this section.

125.6        (b) The licensee must pay the fines assessed on or before the payment date specified. If  
125.7 the licensee fails to fully comply with the order, the commissioner may issue a second fine  
125.8 or suspend the license until the licensee complies by paying the fine. A timely appeal shall  
125.9 stay payment of the fine until the commissioner issues a final order.

125.10       (c) A licensee shall promptly notify the commissioner in writing when a violation  
125.11 specified in the order is corrected. If upon reinspection the commissioner determines that  
125.12 a violation has not been corrected as indicated by the order, the commissioner may issue  
125.13 an additional fine. The commissioner shall notify the licensee by mail to the last known  
125.14 address in the licensing record that a second fine has been assessed. The licensee may appeal  
125.15 the second fine as provided under this subdivision.

125.16       (d) A facility that has been assessed a fine under this section has a right to a  
125.17 reconsideration or hearing under this section and chapter 14.

125.18       Subd. 5. **Facility cannot avoid payment.** When a fine has been assessed, the licensee  
125.19 may not avoid payment by closing, selling, or otherwise transferring the license to a third  
125.20 party. In such an event, the licensee shall be liable for payment of the fine.

125.21       Subd. 6. **Additional penalties.** In addition to any fine imposed under this section, the  
125.22 commissioner may assess a penalty amount based on costs related to an investigation that  
125.23 results in a final order assessing a fine or other enforcement action authorized by this chapter.

125.24       Subd. 7. **Deposit of fines.** Fines collected under this subdivision shall be deposited in  
125.25 the state government special revenue fund and credited to an account separate from the  
125.26 revenue collected under section 144A.472. Subject to an appropriation by the legislature,  
125.27 the revenue from the fines collected must be used by the commissioner for special projects  
125.28 to improve home care in Minnesota as recommended by the advisory council established  
125.29 in section 144A.4799.

125.30       Sec. 33. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

125.31       Subdivision 1. **Reconsideration process required.** The commissioner shall make  
125.32 available to facilities a correction order reconsideration process. This process may be used  
125.33 to challenge the correction order issued, including the level and scope described in section

126.1 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction  
126.2 order, the correction order is not stayed while it is under reconsideration. The department  
126.3 shall post information on its website that the licensee requested reconsideration of the  
126.4 correction order and that the review is pending.

126.5 Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in  
126.6 writing, a correction order reconsideration regarding any correction order issued to the  
126.7 facility. The written request for reconsideration must be received by the commissioner  
126.8 within 15 calendar days of the correction order receipt date. The correction order  
126.9 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that  
126.10 participated in writing or reviewing the correction order being disputed. The correction  
126.11 order reconsiderations may be conducted in person, by telephone, by another electronic  
126.12 form, or in writing, as determined by the commissioner. The commissioner shall respond  
126.13 in writing to the request from a facility for a correction order reconsideration within 60 days  
126.14 of the date the facility requests a reconsideration. The commissioner's response shall identify  
126.15 the commissioner's decision regarding each citation challenged by the facility.

126.16 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be  
126.17 one or more of the following:

126.18 (1) supported in full: the correction order is supported in full, with no deletion of findings  
126.19 to the citation;

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

126.22 (3) correction order cited an incorrect licensing requirement: the correction order is  
126.23 amended by changing the correction order to the appropriate statute and/or rule;

126.24 (4) correction order was issued under an incorrect citation: the correction order is amended  
126.25 to be issued under the more appropriate correction order citation;

126.26 (5) the correction order is rescinded;

126.27 (6) fine is amended: it is determined that the fine assigned to the correction order was  
126.28 applied incorrectly; or

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

126.30 Subd. 4. **Updating the correction order website.** If the correction order findings are  
126.31 changed by the commissioner, the commissioner shall update the correction order website.

126.32 Subd. 5. **Provisional licensees.** This section does not apply to provisional licensees.

127.1 Sec. 34. **[144L.33] ENFORCEMENT.**

127.2 Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional  
127.3 license, refuse to grant a license as a result of a change in ownership, renew a license,  
127.4 suspend or revoke a license, or impose a conditional license if the owner, controlling  
127.5 individual, or employee of a basic care facility, assisted living facility, or assisted living  
127.6 facility with dementia care:

127.7 (1) is in violation of, or during the term of the license has violated, any of the requirements  
127.8 in this chapter or adopted rules;

127.9 (2) permits, aids, or abets the commission of any illegal act in the provision of assisted  
127.10 living services;

127.11 (3) performs any act detrimental to the health, safety, and welfare of a resident;

127.12 (4) obtains the license by fraud or misrepresentation;

127.13 (5) knowingly made or makes a false statement of a material fact in the application for  
127.14 a license or in any other record or report required by this chapter;

127.15 (6) denies representatives of the department access to any part of the facility's books,  
127.16 records, files, or employees;

127.17 (7) interferes with or impedes a representative of the department in contacting the facility's  
127.18 residents;

127.19 (8) interferes with or impedes a representative of the department in the enforcement of  
127.20 this chapter or has failed to fully cooperate with an inspection, survey, or investigation by  
127.21 the department;

127.22 (9) destroys or makes unavailable any records or other evidence relating to the assisted  
127.23 living facility's compliance with this chapter;

127.24 (10) refuses to initiate a background study under section 144.057 or 245A.04;

127.25 (11) fails to timely pay any fines assessed by the commissioner;

127.26 (12) violates any local, city, or township ordinance relating to housing or services;

127.27 (13) has repeated incidents of personnel performing services beyond their competency  
127.28 level; or

127.29 (14) has operated beyond the scope of the facility's license category.

127.30 (b) A violation by a contractor providing the services of the facility is a violation by  
127.31 facility.

128.1 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional  
128.2 license designation may include terms that must be completed or met before a suspension  
128.3 or conditional license designation is lifted. A conditional license designation may include  
128.4 restrictions or conditions that are imposed on the facility. Terms for a suspension or  
128.5 conditional license may include one or more of the following and the scope of each will be  
128.6 determined by the commissioner:

128.7 (1) requiring a consultant to review, evaluate, and make recommended changes to the  
128.8 facility's practices and submit reports to the commissioner at the cost of the facility;

128.9 (2) requiring supervision of the facility or staff practices at the cost of the facility by an  
128.10 unrelated person who has sufficient knowledge and qualifications to oversee the practices  
128.11 and who will submit reports to the commissioner;

128.12 (3) requiring the facility or employees to obtain training at the cost of the facility;

128.13 (4) requiring the facility to submit reports to the commissioner;

128.14 (5) prohibiting the facility from admitting any new residents for a specified period of  
128.15 time; or

128.16 (6) any other action reasonably required to accomplish the purpose of this subdivision  
128.17 and subdivision 1.

128.18 (b) A facility subject to this subdivision may continue operating during the period of  
128.19 time residents are being transferred to another service provider.

128.20 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies  
128.21 provided by law, the commissioner may, without a prior contested case hearing, immediately  
128.22 temporarily suspend a license or prohibit delivery of housing or services by a facility for  
128.23 not more than 90 calendar days or issue a conditional license, if the commissioner determines  
128.24 that there are:

128.25 (1) Level 4 violations; or

128.26 (2) violations that pose an imminent risk of harm to the health or safety of residents.

128.27 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

128.28 (c) A notice stating the reasons for the immediate temporary suspension or conditional  
128.29 license and informing the licensee of the right to an expedited hearing under subdivision  
128.30 11 must be delivered by personal service to the address shown on the application or the last  
128.31 known address of the licensee. The licensee may appeal an order immediately temporarily  
128.32 suspending a license or issuing a conditional license. The appeal must be made in writing



129.1 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
129.2 the commissioner within five calendar days after the licensee receives notice. If an appeal  
129.3 is made by personal service, it must be received by the commissioner within five calendar  
129.4 days after the licensee received the order.

129.5 (d) A licensee whose license is immediately temporarily suspended must comply with  
129.6 the requirements for notification and transfer of residents in subdivision 9. The requirements  
129.7 in subdivision 9 remain if an appeal is requested.

129.8 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,  
129.9 paragraph (a), the commissioner must revoke a license if a controlling individual of the  
129.10 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility  
129.11 or directly affects resident safety or care. The commissioner shall notify the facility and the  
129.12 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of  
129.13 revocation.

129.14 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings  
129.15 within 60 calendar days of notification to suspend or revoke a facility's license or must  
129.16 refuse to renew a facility's license if within the preceding two years the facility has incurred  
129.17 the following number of uncorrected or repeated violations:

129.18 (1) two or more uncorrected violations or one or more repeated violations that created  
129.19 an imminent risk to direct resident care or safety; or

129.20 (2) four or more uncorrected violations or two or more repeated violations of any nature  
129.21 for which the fines are in the four highest daily fine categories prescribed in rule.

129.22 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,  
129.23 or refuse to renew a facility's license if the facility corrects the violation.

129.24 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated  
129.25 by the commissioner to revoke or suspend a facility's license, or a decision by the  
129.26 commissioner not to renew a living facility's license, the controlling individual of the facility  
129.27 or a designee must provide to the commissioner and the ombudsman for long-term care the  
129.28 names of residents and the names and addresses of the residents' guardians, designated  
129.29 representatives, and family contacts.

129.30 (b) The controlling individual or designees of the facility must provide updated  
129.31 information each month until the proceeding is concluded. If the controlling individual or  
129.32 designee of the facility fails to provide the information within this time, the facility is subject  
129.33 to the issuance of:

130.1 (1) a correction order; and

130.2 (2) a penalty assessment by the commissioner in rule.

130.3 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this  
130.4 subdivision must require that the facility immediately comply with the request for information  
130.5 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the  
130.6 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100  
130.7 increments for each day the noncompliance continues.

130.8 (d) Information provided under this subdivision may be used by the commissioner or  
130.9 the ombudsman for long-term care only for the purpose of providing affected consumers  
130.10 information about the status of the proceedings.

130.11 (e) Within ten business days after the commissioner initiates proceedings to revoke,  
130.12 suspend, or not renew a facility license, the commissioner must send a written notice of the  
130.13 action and the process involved to each resident of the facility and the resident's designated  
130.14 representative or, if there is no designated representative and if known, a family member  
130.15 or interested person.

130.16 (f) The commissioner shall provide the ombudsman for long-term care with monthly  
130.17 information on the department's actions and the status of the proceedings.

130.18 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew  
130.19 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57  
130.20 to 14.69. The hearing must commence within 60 calendar days after the proceedings are  
130.21 initiated. In addition to any other remedy provided by law, the commissioner may, without  
130.22 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services  
130.23 by a provider for not more than 90 calendar days, or issue a conditional license if the  
130.24 commissioner determines that there are Level 3 violations that do not pose an imminent  
130.25 risk of harm to the health or safety of the facility residents, provided:

130.26 (1) advance notice is given to the facility;

130.27 (2) after notice, the facility fails to correct the problem;

130.28 (3) the commissioner has reason to believe that other administrative remedies are not  
130.29 likely to be effective; and

130.30 (4) there is an opportunity for a contested case hearing within 30 calendar days unless  
130.31 there is an extension granted by an administrative law judge.

131.1 (b) If the commissioner determines there are Level 4 violations or violations that pose  
131.2 an imminent risk of harm to the health or safety of the facility residents, the commissioner  
131.3 may immediately temporarily suspend a license, prohibit delivery of services by a facility,  
131.4 or issue a conditional license without meeting the requirements of paragraph (a), clauses  
131.5 (1) to (4).

131.6 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in  
131.7 section 144I.31.

131.8 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

131.9 (1) be mailed or delivered to the commissioner or the commissioner's designee;

131.10 (2) contain a brief and plain statement describing every matter or issue contested; and

131.11 (3) contain a brief and plain statement of any new matter that the applicant or assisted  
131.12 living facility believes constitutes a defense or mitigating factor.

131.13 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew  
131.14 a license must include a plan for transferring affected residents' cares to other providers by  
131.15 the facility that will be monitored by the commissioner. Within three calendar days of being  
131.16 notified of the final revocation, refusal to renew, or suspension, the licensee shall provide  
131.17 the commissioner, the lead agencies as defined in section 256B.0911, county adult protection  
131.18 and case managers, and the ombudsman for long-term care with the following information:

131.19 (1) a list of all residents, including full names and all contact information on file;

131.20 (2) a list of each resident's representative or emergency contact person, including full  
131.21 names and all contact information on file;

131.22 (3) the location or current residence of each resident;

131.23 (4) the payor sources for each resident, including payor source identification numbers;

131.24 and

131.25 (5) for each resident, a copy of the resident's service agreement and a list of the types  
131.26 of services being provided.

131.27 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied  
131.28 by mailing the notice to the address in the license record. The licensee shall cooperate with  
131.29 the commissioner and the lead agencies, county adult protection and county managers, and  
131.30 the ombudsman for long-term care during the process of transferring care of residents to  
131.31 qualified providers. Within three calendar days of being notified of the final revocation,  
131.32 refusal to renew, or suspension action, the facility must notify and disclose to each of the

132.1 residents, or the resident's representative or emergency contact persons, that the commissioner  
 132.2 is taking action against the facility's license by providing a copy of the revocation or  
 132.3 suspension notice issued by the commissioner. If the facility does not comply with the  
 132.4 disclosure requirements in this section, the commissioner, lead agencies, county adult  
 132.5 protection and county managers, and ombudsman for long-term care shall notify the residents,  
 132.6 designated representatives, or emergency contact persons about the actions being taken.  
 132.7 The revocation, refusal to renew, or suspension notice is public data except for any private  
 132.8 data contained therein.

132.9 (c) A facility subject to this subdivision may continue operating while residents are being  
 132.10 transferred to other service providers.

132.11 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal  
 132.12 of a sanction under this section, other than for a temporary suspension, the commissioner  
 132.13 shall request assignment of an administrative law judge. The commissioner's request must  
 132.14 include a proposed date, time, and place of hearing. A hearing must be conducted by an  
 132.15 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
 132.16 90 calendar days of the request for assignment, unless an extension is requested by either  
 132.17 party and granted by the administrative law judge for good cause or for purposes of discussing  
 132.18 settlement. In no case shall one or more extensions be granted for a total of more than 90  
 132.19 calendar days unless there is a criminal action pending against the licensee. If, while a  
 132.20 licensee continues to operate pending an appeal of an order for revocation, suspension, or  
 132.21 refusal to renew a license, the commissioner identifies one or more new violations of law  
 132.22 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,  
 132.23 the commissioner shall act immediately to temporarily suspend the license.

132.24 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's  
 132.25 timely appeal of a temporary suspension or issuance of a conditional license, the  
 132.26 commissioner shall request assignment of an administrative law judge. The request must  
 132.27 include a proposed date, time, and place of a hearing. A hearing must be conducted by an  
 132.28 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
 132.29 30 calendar days of the request for assignment, unless an extension is requested by either  
 132.30 party and granted by the administrative law judge for good cause. The commissioner shall  
 132.31 issue a notice of hearing by certified mail or personal service at least ten business days  
 132.32 before the hearing. Certified mail to the last known address is sufficient. The scope of the  
 132.33 hearing shall be limited solely to the issue of whether the temporary suspension or issuance  
 132.34 of a conditional license should remain in effect and whether there is sufficient evidence to  
 132.35 conclude that the licensee's actions or failure to comply with applicable laws are Level 3

133.1 or Level 4 violations as defined in section 144I.31, or that there were violations that posed  
133.2 an imminent risk of harm to the resident's health and safety.

133.3 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
133.4 recommendation within ten business days from the date of hearing. The parties shall have  
133.5 ten calendar days to submit exceptions to the administrative law judge's report. The record  
133.6 shall close at the end of the ten-day period for submission of exceptions. The commissioner's  
133.7 final order shall be issued within ten business days from the close of the record. When an  
133.8 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,  
133.9 the commissioner shall issue a final order affirming the temporary immediate suspension  
133.10 or conditional license within ten calendar days of the commissioner's receipt of the  
133.11 withdrawal or dismissal. The licensee is prohibited from operation during the temporary  
133.12 suspension period.

133.13 (c) When the final order under paragraph (b) affirms an immediate suspension, and a  
133.14 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that  
133.15 sanction, the licensee is prohibited from operation pending a final commissioner's order  
133.16 after the contested case hearing conducted under chapter 14.

133.17 (d) A licensee whose license is temporarily suspended must comply with the requirements  
133.18 for notification and transfer of residents under subdivision 9. These requirements remain if  
133.19 an appeal is requested.

133.20 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under  
133.21 section 144I.31, and an action against a license under this section, a licensee must request  
133.22 a hearing no later than 15 business days after the licensee receives notice of the action.

133.23 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner  
133.24 and managerial officials of a facility whose Minnesota license has not been renewed or that  
133.25 has been revoked because of noncompliance with applicable laws or rules shall not be  
133.26 eligible to apply for nor will be granted a basic care facility license, an assisted living facility  
133.27 license, or an assisted living facility with dementia care license, or be given status as an  
133.28 enrolled personal care assistance provider agency or personal care assistant by the Department  
133.29 of Human Services under section 256B.0659, for five years following the effective date of  
133.30 the nonrenewal or revocation. If the owner and/or managerial officials already have  
133.31 enrollment status, the enrollment will be terminated by the Department of Human Services.

133.32 (b) The commissioner shall not issue a license to a facility for five years following the  
133.33 effective date of license nonrenewal or revocation if the owner or managerial official,  
133.34 including any individual who was an owner or managerial official of another licensed

134.1 provider, had a Minnesota license that was not renewed or was revoked as described in  
134.2 paragraph (a).

134.3 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend  
134.4 or revoke, the license of a facility that includes any individual as an owner or managerial  
134.5 official who was an owner or managerial official of a facility whose Minnesota license was  
134.6 not renewed or was revoked as described in paragraph (a) for five years following the  
134.7 effective date of the nonrenewal or revocation.

134.8 (d) The commissioner shall notify the facility 30 calendar days in advance of the date  
134.9 of nonrenewal, suspension, or revocation of the license. Within ten business days after the  
134.10 receipt of the notification, the facility may request, in writing, that the commissioner stay  
134.11 the nonrenewal, revocation, or suspension of the license. The facility shall specify the  
134.12 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance  
134.13 with the licensure laws and regulations; any limits on the authority or responsibility of the  
134.14 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,  
134.15 or suspension; and any other information to establish that the continuing affiliation with  
134.16 these individuals will not jeopardize resident health, safety, or well-being. The commissioner  
134.17 shall determine whether the stay will be granted within 30 calendar days of receiving the  
134.18 facility's request. The commissioner may propose additional restrictions or limitations on  
134.19 the facility's license and require that granting the stay be contingent upon compliance with  
134.20 those provisions. The commissioner shall take into consideration the following factors when  
134.21 determining whether the stay should be granted:

134.22 (1) the threat that continued involvement of the owners and managerial officials with  
134.23 the facility poses to resident health, safety, and well-being;

134.24 (2) the compliance history of the facility; and

134.25 (3) the appropriateness of any limits suggested by the facility.

134.26 If the commissioner grants the stay, the order shall include any restrictions or limitation on  
134.27 the provider's license. The failure of the facility to comply with any restrictions or limitations  
134.28 shall result in the immediate removal of the stay and the commissioner shall take immediate  
134.29 action to suspend, revoke, or not renew the license.

134.30 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may  
134.31 be considered by the commissioner when the conditions upon which the revocation was  
134.32 based have been corrected and satisfactory evidence of this fact has been furnished to the  
134.33 commissioner. A new license may be granted after an inspection has been made and the  
134.34 facility has complied with all provisions of this chapter and adopted rules.

Subd. 15. **Informal conference.** At any time, the applicant or facility and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve issues.

Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a facility or an employee of the facility from illegally engaging in activities regulated by sections under this chapter. The commissioner may bring an action under this subdivision in the district court in Ramsey County or in the district in which the facility is located. The court may grant a temporary restraining order in the proceeding if continued activity by the person who is involved in the management, operation, or control of a facility, or by an employee of the facility, would create an imminent risk of harm to a resident.

Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. If a person fails or refuses to comply with a subpoena or order of the commissioner to appear or testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, the commissioner may apply to the district court in any district, and the court shall order the person to comply with the commissioner's order or subpoena. The commissioner of health may administer oaths to witnesses or take their affirmation. Depositions may be taken in or outside the state in the manner provided by law for taking depositions in civil actions. A subpoena or other process or paper may be served on a named person anywhere in the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for a process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.

Sec. 35. **[144L.34] INNOVATION VARIANCE.**

Subdivision 1. **Definition.** For purposes of this section, "innovation variance" means a specified alternative to a requirement of this chapter. An innovation variance may be granted to allow a facility to offer services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the residents, and is likely to improve the services provided. The innovative variance cannot change any

136.1 of the resident's rights under the basic care and assisted living bill of rights under section  
136.2 144J.06.

136.3 Subd. 2. **Conditions.** The commissioner may impose conditions on granting an innovation  
136.4 variance that the commissioner considers necessary.

136.5 Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any  
136.6 innovation variance and may renew a limited innovation variance.

136.7 Subd. 4. **Applications; innovation variance.** An application for innovation variance  
136.8 from the requirements of this chapter may be made at any time, must be made in writing to  
136.9 the commissioner, and must specify the following:

136.10 (1) the statute or rule from which the innovation variance is requested;

136.11 (2) the time period for which the innovation variance is requested;

136.12 (3) the specific alternative action that the licensee proposes;

136.13 (4) the reasons for the request; and

136.14 (5) justification that an innovation variance will not impair the services provided, will  
136.15 not adversely affect the health, safety, or welfare of residents, and is likely to improve the  
136.16 services provided.

136.17 The commissioner may require additional information from the facility before acting on  
136.18 the request.

136.19 Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for  
136.20 an innovation variance in writing within 45 days of receipt of a complete request. Notice  
136.21 of a denial shall contain the reasons for the denial. The terms of a requested innovation  
136.22 variance may be modified upon agreement between the commissioner and the facility.

136.23 Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an  
136.24 innovation variance shall be deemed to be a violation of this chapter.

136.25 Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny  
136.26 renewal of an innovation variance if:

136.27 (1) it is determined that the innovation variance is adversely affecting the health, safety,  
136.28 or welfare of the residents;

136.29 (2) the facility has failed to comply with the terms of the innovation variance;

136.30 (3) the facility notifies the commissioner in writing that it wishes to relinquish the  
136.31 innovation variance and be subject to the statute previously varied; or



137.1 (4) the revocation or denial is required by a change in law.

137.2 Sec. 36. **[144L.35] RESIDENT QUALITY OF CARE AND OUTCOMES**  
137.3 **IMPROVEMENT TASK FORCE.**

137.4 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of  
137.5 care and outcomes improvement task force to examine and make recommendations, on an  
137.6 ongoing basis, on how to apply proven safety and quality improvement practices and  
137.7 infrastructure to settings and providers that provide long-term services and supports.

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

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

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

137.13 (3) consumer organizations;

137.14 (4) direct care providers or their representatives;

137.15 (5) organizations representing long-term care providers and home care providers in  
137.16 Minnesota;

137.17 (6) national patient safety experts; and

137.18 (7) other experts in the safety and quality improvement field.

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

137.23 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations  
137.24 to the commissioner and the legislature on changes needed to promote safety and quality  
137.25 improvement practices in long-term care settings and with long-term care providers. The  
137.26 task force shall meet no fewer than four times per year. The task force shall be established  
137.27 by July 1, 2020.

137.28 Sec. 37. **[144L.36] EXPEDITED RULEMAKING AUTHORIZED.**

137.29 (a) The commissioner shall adopt rules for all basic care facilities and assisted living  
137.30 facilities that promote person-centered planning and service and optimal quality of life, and

138.1 that ensure resident rights are protected, resident choice is allowed, and public health and  
138.2 safety is ensured.

138.3 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process  
138.4 in section 14.389, except that the rulemaking process is exempt from section 14.389,  
138.5 subdivision 5.

138.6 (c) The commissioner shall adopt rules that include but are not limited to the following:

138.7 (1) staffing minimums and ratios for each level of licensure to best protect the health  
138.8 and safety of residents no matter their vulnerability;

138.9 (2) training prerequisites and ongoing training for administrators and caregiving staff;

138.10 (3) requirements for licensees to ensure minimum nutrition and dietary standards required  
138.11 by section 144I.10 are provided;

138.12 (4) procedures for discharge planning and ensuring resident appeal rights;

138.13 (5) core dementia care requirements and training in all levels of licensure;

138.14 (6) requirements for assisted living facilities with dementia care in terms of training,  
138.15 care standards, noticing changes of condition, assessments, and health care;

138.16 (7) preadmission criteria, initial assessments, and continuing assessments;

138.17 (8) emergency disaster and preparedness plans;

138.18 (9) uniform checklist disclosure of services;

138.19 (10) uniform consumer information guide elements and other data collected; and

138.20 (11) uniform assessment tool.

138.21 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall  
138.22 publish final rules by December 31, 2020.

138.23 **Sec. 38. TRANSITION PERIOD.**

138.24 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited  
138.25 rulemaking process.

138.26 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new  
138.27 basic care facility, assisted living facility, and assisted living facility with dementia care  
138.28 licensure by hiring staff, developing forms, and communicating with stakeholders about  
138.29 the new facility licensing.

(c) Effective August 1, 2021, all existing housing with services establishments providing home care services under Minnesota Statutes, chapter 144A, must convert their registration to licensure under Minnesota Statutes, chapter 144I.

(d) Effective August 1, 2021, all new basic care facilities, assisted living facilities, and assisted living facilities with dementia care must be licensed by the commissioner.

(e) Effective August 1, 2021, all basic care facilities, assisted living facilities, and assisted living facilities with dementia care must be licensed by the commissioner.

**Sec. 39. REPEALER.**

Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are repealed effective August 1, 2021.

**ARTICLE 5**

**DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE**

**Section 1. [144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE.**

Subdivision 1. **Applicability.** This section applies only to assisted living facilities with dementia care.

Subd. 2. **Demonstrated capacity.** (a) The applicant must have the ability to provide services in a manner that is consistent with the requirements in this section. The commissioner shall consider the following criteria, including, but not limited to:

(1) the experience of the applicant in managing residents with dementia or previous long-term care experience; and

(2) the compliance history of the applicant in the operation of any care facility licensed, certified, or registered under federal or state law.

(b) If the applicant does not have experience in managing residents with dementia, the applicant must employ a consultant for at least the first six months of operation. The consultant must meet the requirements in paragraph (a), clause (1), and make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant must have experience in dementia care operations. The applicant must implement the recommendations of the consultant and document an acceptable plan

140.1 which may be reviewed by the commissioner upon request to address the consultant's  
140.2 identified concerns. The commissioner may review and approve the selection of the  
140.3 consultant.

140.4 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an  
140.5 assisted living facility with dementia care license to ensure compliance with the physical  
140.6 environment requirements.

140.7 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the  
140.8 license.

140.9 Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing  
140.10 at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility  
140.11 with dementia care license. For voluntary relinquishment, the facility must:

140.12 (1) give all residents and their designated representatives 45 calendar days' notice. The  
140.13 notice must include:

140.14 (i) the proposed effective date of the relinquishment;

140.15 (ii) changes in staffing;

140.16 (iii) changes in services including the elimination or addition of services; and

140.17 (iv) staff training that shall occur when the relinquishment becomes effective;

140.18 (2) submit a transitional plan to the commissioner demonstrating how the current residents  
140.19 shall be evaluated and assessed to reside in other housing settings that are not an assisted  
140.20 living facility with dementia care, that are physically unsecured, or that would require  
140.21 move-out or transfer to other settings;

140.22 (3) change service or care plans as appropriate to address any needs the residents may  
140.23 have with the transition;

140.24 (4) notify the commissioner when the relinquishment process has been completed; and

140.25 (5) revise advertising materials and disclosure information to remove any reference that  
140.26 the facility is an assisted living facility with dementia care.

140.27 Sec. 2. **[144L.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**  
140.28 **LIVING FACILITIES WITH DEMENTIA CARE.**

140.29 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care  
140.30 is responsible for the care and housing of the persons with dementia and the provision of

141.1 person-centered care that promotes each resident's dignity, independence, and comfort. This  
141.2 includes the supervision, training, and overall conduct of the staff.

141.3 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living  
141.4 license requirements and the criteria in this section.

141.5 (b) The administrator of an assisted living facility with dementia care license must  
141.6 complete and document that at least ten hours of the required annual continuing educational  
141.7 requirements relate to the care of individuals with dementia. Continuing education credits  
141.8 must be obtained through commissioner-approved sources that may include college courses,  
141.9 preceptor credits, self-directed activities, course instructor credits, corporate training,  
141.10 in-service training, professional association training, web-based training, correspondence  
141.11 courses, telecourses, seminars, and workshops.

141.12 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing  
141.13 of assisted living facilities, the assisted living facility with dementia care licensee must  
141.14 develop and implement policies and procedures that address the:

141.15 (1) philosophy of how services are provided based upon the assisted living facility  
141.16 licensee's values, mission, and promotion of person-centered care and how the philosophy  
141.17 shall be implemented;

141.18 (2) evaluation of behavioral symptoms and design of supports for intervention plans;

141.19 (3) wandering and egress prevention that provides detailed instructions to staff in the  
141.20 event a resident elopes;

141.21 (4) assessment of residents for the use and effects of medications, including psychotropic  
141.22 medications;

141.23 (5) staff training specific to dementia care;

141.24 (6) description of life enrichment programs and how activities are implemented;

141.25 (7) description of family support programs and efforts to keep the family engaged;

141.26 (8) limiting the use of public address and intercom systems for emergencies and  
141.27 evacuation drills only;

141.28 (9) transportation coordination and assistance to and from outside medical appointments;  
141.29 and

141.30 (10) safekeeping of resident's possessions.

142.1 (b) The policies and procedures must be provided to residents and the resident's  
142.2 representative at the time of move-in.

142.3 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

142.4 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide  
142.5 residents with dementia-trained staff who have been instructed in the person-centered care  
142.6 approach. All direct care and other community staff assigned to care for dementia residents  
142.7 must be specially trained to work with residents with Alzheimer's disease and other  
142.8 dementias.

142.9 (b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for  
142.10 dementia residents.

142.11 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of  
142.12 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and  
142.13 needs of residents.

142.14 (d) In an emergency situation when trained staff are not available to provide services,  
142.15 the facility may assign staff who have not completed the required training. The particular  
142.16 emergency situation must be documented and must address:

142.17 (1) the nature of the emergency;

142.18 (2) how long the emergency lasted; and

142.19 (3) the names and positions of staff that provided coverage.

142.20 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide  
142.21 support to residents with dementia have a basic understanding and fundamental knowledge  
142.22 of the residents' emotional and unique health care needs using person-centered planning  
142.23 delivery. Direct care dementia-trained staff and other staff must be trained on the topics  
142.24 identified during the expedited rulemaking process. These requirements are in addition to  
142.25 the licensing requirements for training.

142.26 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under  
142.27 section 144I.31.

142.28 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must  
142.29 have experience and knowledge in the care of individuals with dementia.

142.30 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may  
142.31 include various methods of instruction, such as classroom style, web-based training, video,  
142.32 or one-to-one training. The licensee must have a method for determining and documenting

143.1 each staff person's knowledge and understanding of the training provided. All training must  
143.2 be documented.

143.3 Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

143.4 Subdivision 1. **Dementia care services.** (a) In addition to the minimum services required  
143.5 of assisted living facilities, an assisted living facility with dementia care must also provide  
143.6 the following services:

143.7 (1) assistance with activities of daily living that address the needs of each resident with  
143.8 dementia due to cognitive or physical limitations. These services must meet or be in addition  
143.9 to the requirements in the licensing rules for the facility. Services must be provided in a  
143.10 person-centered manner that promotes resident choice, dignity, and sustains the resident's  
143.11 abilities;

143.12 (2) health care services provided according to the licensing statutes and rules of the  
143.13 facility;

143.14 (3) a daily meal program for nutrition and hydration must be provided and available  
143.15 throughout each resident's waking hours. The individualized nutritional plan for each resident  
143.16 must be documented in the resident's service or care plan. In addition, an assisted living  
143.17 facility with dementia care must provide meaningful activities that promote or help sustain  
143.18 the physical and emotional well-being of residents. The activities must be person-directed  
143.19 and available during residents' waking hours.

143.20 (b) Each resident must be evaluated for activities according to the licensing rules of the  
143.21 facility. In addition, the evaluation must address the following:

143.22 (1) past and current interests;

143.23 (2) current abilities and skills;

143.24 (3) emotional and social needs and patterns;

143.25 (4) physical abilities and limitations;

143.26 (5) adaptations necessary for the resident to participate; and

143.27 (6) identification of activities for behavioral interventions.

143.28 (c) An individualized activity plan must be developed for each resident based on their  
143.29 activity evaluation. The plan must reflect the resident's activity preferences and needs.

(d) A selection of daily structured and non-structured activities must be provided and included on the resident's activity service or care plan as appropriate. Daily activity options based on resident evaluation may include but are not limited to:

(1) occupation or chore related tasks;

(2) scheduled and planned events such as entertainment or outings;

(3) spontaneous activities for enjoyment or those that may help defuse a behavior;

(4) one-to-one activities that encourage positive relationships between residents and staff such as telling a life story, reminiscing, or playing music;

(5) spiritual, creative, and intellectual activities;

(6) sensory stimulation activities;

(7) physical activities that enhance or maintain a resident's ability to ambulate or move;  
and

(8) outdoor activities.

(e) Behavioral symptoms that negatively impact the resident and others in the assisted living facility must be evaluated and included on the service or care plan. The staff must initiate and coordinate outside consultation or acute care when indicated.

(f) Support must be offered to family and other significant relationships on a regularly scheduled basis but not less than quarterly.

(g) Access to secured outdoor space and walkways that allow residents to enter and return without staff assistance must be provided.

## ARTICLE 6

### MISCELLANEOUS

Section 1. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

Subd. 10. **Termination of service plan.** (a) ~~If a~~ An unaffiliated home care provider must provide at least 30 days' advance notice of termination of a client's service plan.

(b) If an unaffiliated home care provider terminates a service plan with a client, and the client continues to need home care services, the home care provider shall provide the client and the client's representative, if any, with a written notice of termination which includes the following information:



145.1 (1) the effective date of termination;

145.2 (2) the reason for termination;

145.3 (3) a list of known licensed home care providers in the client's immediate geographic  
145.4 area;

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

145.8 (5) the name and contact information of a person employed by the unaffiliated home  
145.9 care provider with whom the client may discuss the notice of termination; and

145.10 (6) if applicable, a statement that the notice of termination of home care services does  
145.11 not constitute notice of termination of the assisted living establishment or housing with  
145.12 services contract with an assisted living establishment or a housing with services  
145.13 establishment.

145.14 ~~(b)~~ (c) When the unaffiliated home care provider voluntarily discontinues services to  
145.15 all clients, the unaffiliated home care provider must notify the commissioner, lead agencies,  
145.16 and ombudsman for long-term care about its clients and comply with the requirements in  
145.17 this subdivision.

145.18 (d) For the purposes of this subdivision:

145.19 (1) "assisted living establishment" has the meaning given in section 144J.01, subdivision  
145.20 6. Assisted living establishment does not include a housing with services establishment  
145.21 defined in section 144D.01, subdivision 4; and

145.22 (2) "unaffiliated home care provider" has the meaning given in section 144J.01,  
145.23 subdivision 15.

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

145.25 Sec. 2. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

145.26 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~  
145.27 ~~establishments, as defined in sections 144D.01 to 144D.07, (a) Assisted living establishments,~~  
145.28 as defined in section 144J.01, subdivision 6, that secure, segregate, or provide a special  
145.29 program or special unit for residents with a diagnosis of probable Alzheimer's disease or a  
145.30 related disorder or that advertise, market, or otherwise promote the establishment as providing  
145.31 specialized care for Alzheimer's disease or a related disorder are considered a "special care  
145.32 unit." All special care units shall provide a written disclosure to the following:

- 146.1 (1) the commissioner of health, if requested;
- 146.2 (2) the Office of Ombudsman for Long-Term Care; and
- 146.3 (3) each person seeking placement within a residence, or the ~~person's authorized~~ resident's
- 146.4 designated representative, as defined in section 144J.01, subdivision 9, before an agreement
- 146.5 to provide the care is entered into.

146.6 **EFFECTIVE DATE.** This section is effective July 1, 2020.

146.7 Sec. 3. **REPEALER.**

146.8 Minnesota Statutes 2018, sections 144D.01, subdivision 6; 144D.025; 144D.065;

146.9 144D.066; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, and 5; 144G.05; and

146.10 144G.06, are repealed effective July 1, 2020.

**144A.44 HOME CARE BILL OF RIGHTS.**

Subdivision 1. **Statement of rights.** A person who receives home care services has these rights:

- (1) the right to receive written information about rights before receiving services, including what to do if rights are violated;
- (2) the right to receive care and services according to a suitable and up-to-date plan, and subject to accepted health care, medical or nursing standards, to take an active part in developing, modifying, and evaluating the plan and services;
- (3) the right to be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, other choices that are available for addressing home care needs, and the potential consequences of refusing these services;
- (4) the right to be told in advance of any recommended changes by the provider in the service plan and to take an active part in any decisions about changes to the service plan;
- (5) the right to refuse services or treatment;
- (6) the right to know, before receiving services or during the initial visit, any limits to the services available from a home care provider;
- (7) the right to be told before services are initiated what the provider charges for the services; to what extent payment may be expected from health insurance, public programs, or other sources, if known; and what charges the client may be responsible for paying;
- (8) the right to know that there may be other services available in the community, including other home care services and providers, and to know where to find information about these services;
- (9) the right to choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, or other health programs;
- (10) the right to have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information;
- (11) the right to access the client's own records and written information from those records in accordance with sections 144.291 to 144.298;
- (12) the right to be served by people who are properly trained and competent to perform their duties;
- (13) the right to be treated with courtesy and respect, and to have the client's property treated with respect;
- (14) the right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act;
- (15) the right to reasonable, advance notice of changes in services or charges;
- (16) the right to know the provider's reason for termination of services;
- (17) the right to at least ten days' advance notice of the termination of a service by a provider, except in cases where:
  - (i) the client engages in conduct that significantly alters the terms of the service plan with the home care provider;
  - (ii) the client, person who lives with the client, or others create an abusive or unsafe work environment for the person providing home care services; or
  - (iii) an emergency or a significant change in the client's condition has resulted in service needs that exceed the current service plan and that cannot be safely met by the home care provider;
- (18) the right to a coordinated transfer when there will be a change in the provider of services;
- (19) the right to complain about services that are provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's property;

(20) the right to know how to contact an individual associated with the home care provider who is responsible for handling problems and to have the home care provider investigate and attempt to resolve the grievance or complaint;

(21) the right to know the name and address of the state or county agency to contact for additional information or assistance; and

(22) the right to assert these rights personally, or have them asserted by the client's representative or by anyone on behalf of the client, without retaliation.

Subd. 2. **Interpretation and enforcement of rights.** These rights are established for the benefit of clients who receive home care services. All home care providers, including those exempted under section 144A.471, must comply with this section. The commissioner shall enforce this section and the home care bill of rights requirement against home care providers exempt from licensure in the same manner as for licensees. A home care provider may not request or require a client to surrender any of these rights as a condition of receiving services. This statement of rights does not replace or diminish other rights and liberties that may exist relative to clients receiving home care services, persons providing home care services, or providers licensed under sections 144A.43 to 144A.482.

#### **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.

**144D.01 DEFINITIONS.**

**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.

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.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, or the central storage of medication for residents.

#### **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.**

#### **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.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

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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.**

**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,

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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 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.

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;



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(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. 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.**

**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.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.**

#### **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

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(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.

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(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

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(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:

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- (2) assistance with activities of daily living;
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- (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.**

**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.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.**

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(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.

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(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.

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**144D.07 RESTRAINTS.**

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Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience.

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**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.**

#### **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.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.

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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.**

#### **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.02 ASSISTED LIVING; PROTECTED TITLE; REGULATORY FUNCTION.**

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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.**

#### **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



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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;

(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

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(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;
- (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

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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;
- (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.

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;

(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;

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(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;

(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;

(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.**

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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.

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#### **144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.**

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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.

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**144G.06 UNIFORM CONSUMER INFORMATION GUIDE.**

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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.

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