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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 90

01/17/2019

02/25/2019

03/04/2019

03/07/2019

03/14/2019

Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others

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

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

Adoption of Report: Amended and re-referred to the Committee on Government Operations

Adoption of Report: Re-referred to the Committee on Commerce

Adoption of Report: Amended and re-referred to the Committee on Ways and Means

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A bill for an act

relating to health; establishing consumer protections for residents of assisted living establishments; establishing an assisted living establishment license; providing penalties; granting rulemaking authority; requiring reports; amending Minnesota Statutes 2018, sections 144.057, subdivision 1; 144.0721; 144.122; 144.651, subdivision 1, by adding a subdivision; 144A.18; 144A.19, subdivision 1; 144A.20, subdivision 1; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511; 144A.26; 144A.27; 144A.4791, subdivision 10; 144D.01, subdivisions 2a, 4, 5, by adding subdivisions; 144D.015; 144D.02; 144D.04, subdivision 1; 144D.05; 144D.06; 144D.09; 144D.10; 144D.11; 325F.72, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapter 144; proposing coding for new law as Minnesota Statutes, chapters 144I; 144J; repealing Minnesota Statutes 2018, sections 144A.44; 144A.441; 144A.442; 144D.01, subdivision 6; 144D.025; 144D.04, subdivisions 2, 3; 144D.045; 144D.065; 144D.066; 144D.07; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, 5, 6; 144G.04; 144G.05; 144G.06.

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

ARTICLE 1

ASSISTED LIVING AND HOME CARE RIGHTS AND CONSUMER PROTECTIONS

Section 1. [144J.01] DEFINITIONS.

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

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

Subd. 3. Affiliated home care provider. "Affiliated home care provider" means a home care provider licensed under chapter 144A that provides home care services to residents of an assisted living establishment under a business relationship or other affiliation with the 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);

(2) the comprehensive home care services described in section 144A.471, subdivision 7;

(3) monitoring or supervising the resident's functioning and needs to ensure the resident's well-being;

(4) assistance with laundry, shopping, and household chores;

(5) housekeeping services;

(6) providing assistance with meals or food preparation;

(7) help with arranging for or providing transportation to medical, social, recreational, personal, or social service appointments; or

(8) social or recreational services.

Subd. 13. **Housing with services establishment.** "Housing with services establishment" has the meaning given in section 144D.01, subdivision 4.

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

Subd. 15. **Unaffiliated home care provider.** "Unaffiliated home care provider" means a home care provider regularly engaged for a fee in the delivery of one or more home care services directly to a client in any setting, including to a resident of an assisted living establishment, provided the home care provider has no business relationship or affiliation with the assisted living establishment where the client contracting for or receiving home care services resides.

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

Sec. 2. **[144J.02] ASSISTED LIVING CONTRACTS.**

Subdivision 1. **Contract required.** (a) No assisted living establishment may offer or provide housing, home care services, or other 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 resident's designated representative; and

(ii) the owner or owners, or an agent of the owner or owners, of the assisted living establishment;

(2) contain all the terms concerning the provision of:

- 5.1 (i) housing; and
- 5.2 (ii) services, including all home care services, whether provided directly by the assisted
- 5.3 living establishment or by an affiliated home care provider.
- 5.4 (c) An assisted living establishment must:
- 5.5 (1) offer to prospective residents and provide to the Office of the Ombudsman for
- 5.6 Long-Term Care a complete unsigned copy of its assisted living contract; and
- 5.7 (2) give a complete copy of any signed contract and any addendums, and all supporting
- 5.8 documents and attachments, to the resident or the resident's designated representative
- 5.9 promptly after a contract and any addendum has been signed by the resident or the resident's
- 5.10 designated representative.
- 5.11 (d) A contract under this section is a consumer contract under sections 325G.29 to
- 5.12 325G.37.
- 5.13 (e) Before or at the time of execution of an assisted living contract, the assisted living
- 5.14 establishment must offer the resident the opportunity to identify a designated representative
- 5.15 in writing in the contract. The contract must contain a page or space for the name and contact
- 5.16 information of the designated representative and a box the resident must initial if the resident
- 5.17 declines to name a designated representative. Notwithstanding paragraph (f), the resident
- 5.18 has the right at any time to rescind the declination or add or change the name and contact
- 5.19 information of the designated representative.
- 5.20 (f) The resident must agree in writing to any additions or amendments to the contract.
- 5.21 Upon agreement between the resident or resident's designated representative and the assisted
- 5.22 living establishment, a new contract or an addendum to the existing contract must be executed
- 5.23 and signed.
- 5.24 Subd. 2. **Contents of contract; contact information.** (a) An assisted living contract
- 5.25 must include in a conspicuous place and manner on the contract, the legal name, the license
- 5.26 or registration number of the assisted living establishment, and the license number of any
- 5.27 affiliated home care provider.
- 5.28 (b) An assisted living contract must include the name, telephone number, and physical
- 5.29 mailing address, which may not be a public or private post office box, of:
- 5.30 (1) the assisted living establishment and any affiliated home care provider;
- 5.31 (2) the owner or owners of the assisted living establishment and of any affiliated home
- 5.32 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.

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

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

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

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

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

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

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

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

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

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

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

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

8.27 **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:

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

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

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

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

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

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

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

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

10.30 Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from
10.31 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.

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

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

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

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

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

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

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

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

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

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

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

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

14.30 (b) "Electronic monitoring device" means a camera or other device that captures, records,
14.31 or broadcasts audio, video, or both, that is placed in a resident's room or private living space
14.32 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) prohibiting audio recording;

(ii) prohibiting video recording;

(iii) prohibiting broadcasting of audio or video;

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

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

(vi) turning off the electronic monitoring device for the duration of a visit with a spiritual 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

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

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

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

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

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

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

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

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

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

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

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

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

29.27 (b) A forced arbitration requirement must not include a choice of law or choice of venue
29.28 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
29.29 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.~~

31.1 Sec. 18. **REPEALER.**

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

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

31.6 **ARTICLE 2**
31.7 **NURSING HOMES**

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

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

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

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

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

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

31.30 (2) indicates an intention to file a complaint or grievance, makes an inquiry, or asserts
31.31 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.

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

(1) discharge or transfer;

(2) demotion or refusal to promote;

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

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

(5) any form of discrimination.

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

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

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

In addition to the remedies otherwise provided by or available under law, a resident of a nursing home, or a legal representative on behalf of a resident, in addition to seeking any remedy otherwise available under law, may bring a civil action against a nursing home 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 for violation of section 144.651, subdivisions 14, 20, 26, 30, and 34.

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

ARTICLE 3

HOUSING WITH SERVICES ESTABLISHMENTS

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

Subd. 2a. ~~Arranged~~ **Affiliated home care provider.** ~~"Arranged~~ "Affiliated home care provider" means a home care provider licensed under chapter 144A or a home management provider registered under section 144A.482 that provides supportive 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 under a business relationship or other affiliation with the establishment.

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

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

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

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

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

39.11 (i) death;

39.12 (ii) life-threatening harm;

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

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

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

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

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

39.20 (i) that the resident has been relocated;

39.21 (ii) the reason for the relocation; and

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

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

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

39.26 **144D.10 MANAGER REQUIREMENTS.**

39.27 (a) The person primarily responsible for oversight and management of a housing with
39.28 services establishment, as designated by the owner of the housing with services establishment,
39.29 must obtain at least 30 hours of continuing education every two years of employment as
39.30 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 144.057, subdivision 1, is amended to read:

Subdivision 1. **Background studies required.** The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services ~~which~~ that have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, assisted living establishments licensed under chapter 144J, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in section 245C.03, subdivision 1, who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58. If the individual under study resides outside Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the information is made available by that state, and must include a check of the National Crime Information Center database;

(3) beginning July 1, 1999, all other employees in assisted living establishments licensed under chapter 144J, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; and

(5) controlling persons of a supplemental nursing services agency, as defined under section 144A.70.

If a facility or program is licensed by the Department of Human Services and subject to the background study provisions of chapter 245C and is also licensed by the Department of Health, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed programs.

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

Sec. 2. Minnesota Statutes 2018, section 144.0721, is amended to read:

144.0721 ASSESSMENTS OF CARE AND SERVICES TO NURSING HOME AND ASSISTED LIVING RESIDENTS.

Subdivision 1. **Appropriateness and quality.** Until the date of implementation of the revised case mix system based on the minimum data set, the commissioner of health shall assess the appropriateness and quality of care and services furnished to private paying residents in assisted living establishments, nursing homes, and boarding care homes that are certified for participation in the medical assistance program under United States Code, title 42, sections 1396-1396p. These assessments shall be conducted until the date of implementation of the revised case mix system with the exception of provisions requiring recommendations for changes in the level of care provided to the private paying residents.

Subd. 2. **Access to data.** With the exception of summary data, data on individuals that is collected, maintained, used, or disseminated by the commissioner of health under subdivision 1 is private data on individuals and shall not be disclosed to others except:

(1) under section 13.05;

(2) under a valid court order;

(3) to the assisted living establishment, nursing home, or boarding care home in which the individual resided at the time the assessment was completed;

(4) to the commissioner of human services; or

(5) to county home care staff for the purpose of assisting the individual to be discharged from a nursing home or boarding care home and returned to the community.

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

Sec. 3. 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

44.1 generated by the program are annually appropriated to the commissioner for use in the
44.2 maternal and child health program.

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

44.5	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
44.6	Healthcare Organizations (JCAHO) and	
44.7	American Osteopathic Association (AOA)	
44.8	hospitals	
44.9	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
44.10	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
44.11		\$183 plus \$100 per bed between July 1, 2018,
44.12		and June 30, 2020. \$183 plus \$105 per bed
44.13		beginning July 1, 2020.
44.14	<u>Level 1 assisted living establishment</u>	<u>\$.....</u>
44.15	<u>Level 2 assisted living establishment</u>	<u>\$.....</u>
44.16	<u>Level 3 assisted living establishment</u>	<u>\$.....</u>

44.17 The commissioner shall set license fees for outpatient surgical centers, boarding care
44.18 homes, and supervised living facilities at the following levels:

44.19	Outpatient surgical centers	\$3,712
44.20	Boarding care homes	\$183 plus \$91 per bed
44.21	Supervised living facilities	\$183 plus \$91 per bed.

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

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

44.28	Prospective payment surveys for hospitals	\$	900
44.29	Swing bed surveys for nursing homes	\$	1,200
44.30	Psychiatric hospitals	\$	1,400
44.31	Rural health facilities	\$	1,100
44.32	Portable x-ray providers	\$	500
44.33	Home health agencies	\$	1,800
44.34	Outpatient therapy agencies	\$	800
44.35	End stage renal dialysis providers	\$	2,100
44.36	Independent therapists	\$	800
44.37	Comprehensive rehabilitation outpatient facilities	\$	1,200

45.1	Hospice providers	\$	1,700
45.2	Ambulatory surgical providers	\$	1,800
45.3	Hospitals	\$	4,200
45.4	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.	
45.5	resurveys required to complete initial		
45.6	certification		

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

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

45.12 Sec. 4. Minnesota Statutes 2018, section 144A.18, is amended to read:

45.13 **144A.18 ADMINISTRATOR'S LICENSES; PENALTY.**

45.14 No person shall act as a nursing home administrator or assisted living establishment
45.15 administrator or purport to be a nursing home administrator or assisted living establishment
45.16 administrator unless that person is licensed by the Board of Examiners for Nursing Home
45.17 and Assisted Living Establishment Administrators. A violation of this section is a
45.18 misdemeanor.

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

45.20 Sec. 5. Minnesota Statutes 2018, section 144A.19, subdivision 1, is amended to read:

45.21 Subdivision 1. **Creation; membership.** There is hereby created the Board of Examiners
45.22 for Nursing Home and Assisted Living Establishment Administrators ~~which~~ that shall consist
45.23 of the following members:

45.24 (1) a designee of the commissioner of health who shall be a nonvoting member;

45.25 (2) a designee of the commissioner of human services who shall be a nonvoting member;

45.26 and

45.27 (3) the following members appointed by the governor:

45.28 (i) two members actively engaged in the management, operation, or ownership of
45.29 proprietary nursing homes and two members actively engaged in the management, operation,
45.30 or ownership of assisted living establishments;

(ii) two members actively engaged in the management or operation of nonprofit nursing homes and two members actively engaged in the management or operation of nonprofit assisted living establishments;

(iii) one member actively engaged in the practice of medicine;

(iv) one member actively engaged in the practice of professional nursing; and

(v) three public members as defined in section 214.02.

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

Sec. 6. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

Subdivision 1. **Criteria.** The Board of Examiners may issue licenses to qualified persons as nursing home or assisted living establishment administrators, and shall establish qualification criteria for nursing home and assisted living establishment administrators. No license shall be issued to a person as a nursing home or assisted living establishment administrator unless that person:

(1) is at least 21 years of age and otherwise suitably qualified;

(2) has satisfactorily met standards set by the Board of Examiners, which standards shall be designed to assure that nursing home and assisted living establishment administrators will be individuals who, by training or experience are qualified to serve as nursing home or assisted living establishment administrators; and

(3) has passed an examination approved by the board and designed to test for competence in the subject matters referred to in clause (2), or has been approved by the Board of Examiners through the development and application of other appropriate techniques.

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

Sec. 7. Minnesota Statutes 2018, section 144A.21, is amended to read:

144A.21 ADMINISTRATOR LICENSES.

Subdivision 1. **Transferability.** A nursing home or assisted living establishment administrator's license shall not be transferable.

Subd. 2. **Rules; renewal.** The Board of Examiners by rule shall establish forms and procedures for the processing of license renewals. A nursing home or assisted living establishment administrator's license may be renewed only in accordance with the standards adopted by the Board of Examiners pursuant to section 144A.24.

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

47.2 Sec. 8. Minnesota Statutes 2018, section 144A.23, is amended to read:

47.3 **144A.23 JURISDICTION OF BOARD.**

47.4 Except as provided in section 144A.04, subdivision 5, the board of examiners shall have
47.5 exclusive authority to determine the qualifications, skill and fitness required of any person
47.6 to serve as an administrator of a nursing home or assisted living establishment. The holder
47.7 of a license shall be deemed fully qualified to serve as the administrator of a nursing home
47.8 or assisted living establishment.

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

47.10 Sec. 9. Minnesota Statutes 2018, section 144A.24, is amended to read:

47.11 **144A.24 DUTIES OF THE BOARD.**

47.12 The Board of Examiners shall:

47.13 (1) develop and enforce standards for nursing home and assisted living establishment
47.14 administrator licensing, which standards shall be designed to assure that nursing home
47.15 administrators will be individuals of good character who, by training or experience, are
47.16 suitably qualified to serve as nursing home or assisted living establishment administrators;

47.17 (2) develop appropriate techniques, including examinations and investigations, for
47.18 determining whether applicants and licensees meet the board's standards;

47.19 (3) issue licenses and permits to those individuals who are found to meet the board's
47.20 standards;

47.21 (4) establish and implement procedures designed to assure that individuals licensed as
47.22 nursing home and assisted living establishment administrators will comply with the board's
47.23 standards;

47.24 (5) receive and investigate complaints and take appropriate action consistent with chapter
47.25 214, to revoke or suspend the license or permit of a nursing home or assisted living
47.26 establishment administrator or acting administrator who fails to comply with sections
47.27 144A.18 to 144A.27 or the board's standards;

47.28 (6) conduct a continuing study and investigation of nursing homes, and the administrators
47.29 of nursing homes and assisted living establishments within the state, with a view to the
47.30 improvement of the standards imposed for the licensing of administrators and improvement
47.31 of the procedures and methods used for enforcement of the board's standards; and

(7) approve or conduct courses of instruction or training designed to prepare individuals for licensing in accordance with the board's standards. Courses designed to meet license renewal requirements shall be designed solely to improve professional skills and shall not include classroom attendance requirements exceeding 50 hours per year. The board may approve courses conducted within or without this state.

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

Sec. 10. Minnesota Statutes 2018, section 144A.251, is amended to read:

144A.251 MANDATORY PROCEEDINGS.

In addition to its discretionary authority to initiate proceedings under section 144A.24 and chapter 214, the Board of Examiners shall initiate proceedings to suspend or revoke a nursing home or assisted living establishment administrator license or shall refuse to renew a license if within the preceding two-year period the administrator was employed at a nursing home ~~which~~ or assisted living establishment that during the period of employment incurred the following number of uncorrected violations, which violations were in the jurisdiction and control of the administrator and for which a fine was assessed and allowed to be recovered:

(1) two or more uncorrected violations which created an imminent risk of harm to a nursing home resident; or

(2) ten or more uncorrected violations of any nature.

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

Sec. 11. Minnesota Statutes 2018, section 144A.2511, is amended to read:

144A.2511 COSTS; PENALTIES.

If the Board of Examiners has initiated proceedings under section 144A.24 or 144A.251 or chapter 214, and upon completion of the proceedings has found that a nursing home or assisted living establishment administrator has violated a provision or provisions of sections 144A.18 to 144A.27, it may impose a civil penalty not exceeding \$10,000 for each separate violation, with all violations related to a single event or incident considered as one violation. The amount of the civil penalty shall be fixed so as to deprive the nursing home or assisted living establishment administrator of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the Office of Administrative Hearings,

49.1 legal and investigative services provided by the Office of the Attorney General, court
49.2 reporters, witnesses, and reproduction of records.

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

49.4 Sec. 12. Minnesota Statutes 2018, section 144A.26, is amended to read:

49.5 **144A.26 RECIPROCITY WITH OTHER STATES.**

49.6 The board of examiners may issue a nursing home or assisted living establishment
49.7 administrator's license, without examination, to any person who holds a current license as
49.8 a nursing home or assisted living establishment administrator from another jurisdiction if
49.9 the board finds that the standards for licensure in the other jurisdiction are at least the
49.10 substantial equivalent of those prevailing in this state and that the applicant is otherwise
49.11 qualified.

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

49.13 Sec. 13. Minnesota Statutes 2018, section 144A.27, is amended to read:

49.14 **144A.27 ACTING ADMINISTRATORS.**

49.15 If a licensed nursing home or assisted living establishment administrator is removed
49.16 from the position by death or other unexpected cause, the controlling persons of the nursing
49.17 home suffering the removal may designate an acting nursing home or assisted living
49.18 establishment administrator who shall secure an acting administrator's permit within 30
49.19 days of appointment as the acting administrator.

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

49.21 Sec. 14. **[144L.01] DEFINITIONS.**

49.22 Subdivision 1. **Administrator.** "Administrator" means a person who administers,
49.23 manages, supervises, or is in general administrative charge of an assisted living establishment,
49.24 whether or not the individual has an ownership interest in the assisted living establishment,
49.25 and whether or not the person's functions and duties are shared with one or more individuals,
49.26 and who is licensed under chapter 144A.

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

49.28 Subd. 3. **Affiliated home care provider.** "Affiliated home care provider" means a home
49.29 care provider licensed under chapter 144A that provides home care services to residents of

50.1 an assisted living establishment under a business relationship or other affiliation with an
50.2 assisted living establishment.

50.3 Subd. 4. **Applicant.** "Applicant" means the assisted living establishment.

50.4 Subd. 5. **Assisted living establishment.** (a) "Assisted living establishment" means an
50.5 entity that, for a fee, provides sleeping accommodations to one or more adults and offers
50.6 or provides, directly or through an affiliated home care provider, home care services to any
50.7 resident in the establishment.

50.8 (b) Assisted living establishment does not include:

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

50.11 (2) a housing with services establishment registered under chapter 144D;

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

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

50.14 (5) a supervised living facility, as defined in Minnesota Rules, part 4665.0100, subpart
50.15 10;

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

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

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

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

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

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

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

- 51.1 (13) services for persons with developmental disabilities that are provided under chapter
51.2 245D; or
- 51.3 (14) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.
- 51.4 Subd. 6. **Basic home care services.** "Basic home care services" means:
- 51.5 (1) the services described in section 144A.471, subdivision 6; and
- 51.6 (2) any of the following services:
- 51.7 (i) daily or periodic monitoring or supervision of the resident's functioning and needs
51.8 to ensure the resident's well-being;
- 51.9 (ii) provision of meals;
- 51.10 (iii) help with arranging for medical, social, recreational, personal, or social service
51.11 appointments, or arranging transportation for medical, social, recreational, personal, or
51.12 social service appointments; or
- 51.13 (iv) provision of social or recreational services.
- 51.14 Subd. 7. **Commissioner.** "Commissioner" means the commissioner of health.
- 51.15 Subd. 8. **Comprehensive home care services.** "Comprehensive home care services"
51.16 means the services described in section 144A.471, subdivision 7.
- 51.17 Subd. 9. **Controlling person.** (a) "Controlling person" means any business entity, officer,
51.18 assisted living establishment administrator, or director whose responsibilities include the
51.19 direction of the management or policies of an assisted living establishment. Controlling
51.20 person also means any person who, directly or indirectly, beneficially owns any interest in:
- 51.21 (1) any corporation, partnership, or other business association that is a controlling person
51.22 of an assisted living establishment;
- 51.23 (2) the land on which an assisted living establishment is located;
- 51.24 (3) the structure in which an assisted living establishment is located;
- 51.25 (4) any mortgage, contract for deed, or other obligation secured in whole or part by the
51.26 land or structure comprising an assisted living establishment; or
- 51.27 (5) any lease or sublease of the land, structure, or facilities comprising an assisted living
51.28 establishment.
- 51.29 (b) Controlling person does not include:

52.1 (1) a bank, savings bank, trust company, savings association, credit union, industrial
52.2 loan and thrift company, investment banking firm, or insurance company, unless the entity
52.3 directly or through a subsidiary operates an assisted living establishment;

52.4 (2) a public or government entity;

52.5 (3) an individual state official or state employee, or a member or employee of the
52.6 governing body of a political subdivision of the state that operates one or more assisted
52.7 living establishments, unless the individual is also an officer or director of an assisted living
52.8 establishment, receives any remuneration from an assisted living establishment, or owns
52.9 any of the beneficial interests not excluded in this subdivision;

52.10 (4) a natural person who is a member of a tax-exempt organization under section 290.05,
52.11 subdivision 2, unless the individual is also an officer or director of an assisted living
52.12 establishment or owns any of the beneficial interests not excluded in this subdivision; and

52.13 (5) a natural person who owns less than five percent of the outstanding common shares
52.14 of a corporation:

52.15 (i) whose securities are exempt as provided in section 80A.45, clause (6); or

52.16 (ii) whose transactions are exempt as provided in section 80A.46, clause (7).

52.17 Subd. 10. **Designated representative.** "Designated representative" means:

52.18 (1) a court-appointed guardian;

52.19 (2) a conservator;

52.20 (3) an attorney-in-fact;

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

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

52.24 Subd. 11. **Home care service agreement or service agreement.** "Home care service
52.25 agreement" or "service agreement" means the written agreement described in section
52.26 144A.43, subdivision 27, between a private client or a private client's representative and an
52.27 unaffiliated home care provider delineating the home care services that will be provided to
52.28 the private client for a fee.

52.29 Subd. 12. **Home care services.** "Home care services" means either basic or
52.30 comprehensive home care services.

52.31 Subd. 13. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

53.1 Subd. 14. **Plan for care and services.** "Plan for care and services" means the
53.2 individualized written record documenting the results of the individualized care and service
53.3 planning process based on the assessments described in section 144I.13, subdivision 3.

53.4 Subd. 15. **Resident.** "Resident" means a person living in an assisted living establishment.

53.5 Subd. 16. **Unaffiliated home care provider.** "Unaffiliated home care provider" means
53.6 an individual, organization, association, corporation, or other entity that, for a fee:

53.7 (1) has a valid current temporary license or license issued under chapter 144A, or is
53.8 exempt from licensure;

53.9 (2) is regularly engaged in the delivery of one or more home care services directly to a
53.10 resident in any residential setting; and

53.11 (3) has no business relationship or affiliation with the assisted living establishment where
53.12 the resident receiving services lives.

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

53.14 Sec. 15. **[144I.02] LICENSURE; PENALTY.**

53.15 Subdivision 1. **Licensing levels.** There shall be three levels of licensure of assisted living
53.16 establishments. Level 1 licensure is required for all assisted living establishments that offer
53.17 basic home care services. Level 2 licensure is required for all assisted living establishments
53.18 that offer comprehensive home care services. Level 3 licensure is required for all Level 1
53.19 or Level 2 licensed assisted living establishments that offer, provide, advertise, or hold
53.20 themselves out by whatever name or descriptor as offering or providing special care for
53.21 persons with cognitive impairments, including Alzheimer's disease or other forms of
53.22 dementia.

53.23 Subd. 2. **License required.** (a) No entity may open, operate, maintain, or advertise itself
53.24 as an assisted living establishment unless the entity is licensed as a Level 1 or Level 2
53.25 assisted living establishment under this chapter. The commissioner may license an entity
53.26 as an assisted living establishment if the entity meets the criteria established under this
53.27 chapter, and any adopted rules.

53.28 (b) No entity may open, operate, maintain, or advertise itself as an assisted living
53.29 establishment that offers, by any name, memory care, dementia care, or special care for
53.30 persons with cognitive impairments, including Alzheimer's disease or other forms of
53.31 dementia, unless the entity is licensed as a Level 3 assisted living establishment under this
53.32 chapter and any adopted rules.

54.1 Subd. 3. **Contents of license.** A license must:

54.2 (1) include the address of the entity to be licensed and the legal property description;

54.3 (2) specify the location and square footage of the floor space constituting the entity;

54.4 (3) incorporate by reference the plans and specifications of the entity, which must be

54.5 kept on file with the commissioner;

54.6 (4) specify the level or levels of care and services that the entity is licensed to provide;

54.7 and

54.8 (5) state any conditions or limitations imposed on the entity according to the rules of

54.9 the commissioner.

54.10 Subd. 4. **Home care provider license required.** (a) No assisted living establishment
54.11 or affiliated home care provider may offer or provide home care services to a resident unless
54.12 the establishment or provider has a valid home care provider license under chapter 144A.

54.13 (b) Assisted living establishments providing home care services directly and affiliated
54.14 home care providers must comply with sections 144A.471 to 144A.483.

54.15 Subd. 5. **Violations; penalty.** (a) Operating an assisted living establishment without a
54.16 license is a misdemeanor punishable by a fine imposed by the commissioner by adopted
54.17 rule.

54.18 (b) A person or entity that, before obtaining a license, advertises an assisted living
54.19 establishment that is required to be licensed under this chapter is guilty of a misdemeanor.

54.20 (c) A controlling person of an assisted living establishment in violation of this section
54.21 is guilty of a misdemeanor. The provisions of this subdivision shall not apply to any
54.22 controlling person who had no legal authority to affect or change decisions related to the
54.23 operation of the assisted living establishment.

54.24 (d) The sanctions in this section do not restrict other available sanctions.

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

54.26 Sec. 16. **[144L.03] LICENSE APPLICATION.**

54.27 Subdivision 1. **Form; requirements.** (a) The commissioner shall establish forms and
54.28 procedures for processing assisted living establishment license applications.

54.29 (b) An application for an assisted living establishment license must include the following
54.30 information for the assisted living establishment:

55.1 (1) the business name, street address, mailing address if different from the street address,
55.2 and legal property description of the establishment;

55.3 (2) the legal name or designation of the establishment and any affiliated home care
55.4 provider;

55.5 (3) the name, mailing address, which may not be a post office box, e-mail address, and
55.6 telephone number of:

55.7 (i) all owners, controlling persons, and managerial employees of the assisted living
55.8 establishment;

55.9 (ii) any affiliated home care provider;

55.10 (iii) all officers and members of the governing body, or comparable person for
55.11 partnerships, limited liability corporations, or other legal designation for the business
55.12 organizational structure of the assisted living establishment;

55.13 (iv) the managing agent of the establishment, if different from the owner or owners; and

55.14 (v) the on-site manager of the establishment;

55.15 (4) disclosure of:

55.16 (i) whether any owner, controlling party, managing agent, on-site manager, or controlling
55.17 person of the assisted living establishment or any affiliated home care provider has ever
55.18 been convicted of a crime or found civilly liable for an offense involving moral turpitude,
55.19 including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion,
55.20 conspiracy to defraud, or any other similar offense or violation, or any violation of section
55.21 626.557 or any other similar law in any other state, or any violation of a federal or state law
55.22 or regulation in connection with activities involving any consumer fraud, false advertising,
55.23 deceptive trade practices, or similar consumer protection law;

55.24 (ii) any judgments, private or public litigation, tax liens, written complaints, administrative
55.25 actions, or investigations by any government agency against the applicant or the applicant's
55.26 affiliated home care provider, or officer, director or manager of, or shareholder owning
55.27 more than five percent interest in the applicant or the applicant's affiliated home care provider
55.28 that are unresolved or otherwise filed or commenced within the preceding ten years;

55.29 (iii) whether the applicant or the applicant's affiliated home care provider, or any person
55.30 employed by the applicant or the applicant's affiliated home care provider, has a record of
55.31 defaulting in the payment of money collected for others, including the discharge of debts
55.32 through bankruptcy proceedings; and

56.1 (iv) whether the applicant or the applicant's home care provider's license or registration
56.2 in this or any other state to provide the services for which the applicant seeks to be licensed
56.3 has ever been revoked or suspended;

56.4 (5) a copy of the architectural and engineering plans and specifications of the facility as
56.5 prepared and certified by an architect or engineer registered to practice in this state;

56.6 (6) a showing of proof that the establishment is in compliance with the workers'
56.7 compensation insurance coverage requirement, as provided under section 176.82;

56.8 (7) a showing of proof that the establishment has sufficient liability coverage;

56.9 (8) for applicants for a Level 3 license:

56.10 (i) verification that the establishment will comply with the requirements of section
56.11 325F.72; and

56.12 (ii) evidence satisfactory to the commissioner that the assisted living establishment has
56.13 met the requirements in rules adopted by the commissioner for qualifications and training
56.14 of administrators and staff of Level 3 licensed establishments;

56.15 (9) if applicable, evidence satisfactory to the commissioner that the affiliated home care
56.16 provider has a current license, as required under section 144A.471, subdivision 1, and meets
56.17 all applicable requirements under statute and rule to provide home care services to residents;
56.18 and

56.19 (10) any other relevant information the commissioner determines is necessary to properly
56.20 evaluate an application for license.

56.21 (c) An application for any assisted living license must be signed by the owner or owners,
56.22 or an authorized agent of the owner or owners. An application submitted on behalf of a
56.23 corporation, association, or governmental unit or instrumentality must be signed by at least
56.24 two officers or managing agents of that entity.

56.25 (d) If the owner of the assisted living establishment is a corporation, an authorized agent
56.26 of the corporation must submit copies of articles of incorporation and bylaws and any
56.27 amendments as they occur, together with the names and addresses of the assisted living
56.28 establishment's officers and directors. If the assisted living establishment is owned by a
56.29 foreign corporation, an authorized agent must furnish the commissioner with a copy of the
56.30 foreign corporation's certificate of authority to do business in this state.

Subd. 2. **Agents.** (a) An application for any assisted living establishment license or for renewal of an assisted living establishment license must specify one or more controlling persons or managerial employees as agents:

(1) who shall be responsible for dealing with the commissioner on all requirements of this chapter and chapter 144J; 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 persons of the assisted living establishment, 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 persons or managerial employees of the assisted living establishment, and it is not a defense to any action arising under this chapter, that personal service was not made on each controlling person or managerial employee of the assisted living establishment. The designation of one or more controlling persons or managerial employees under this subdivision shall not affect the legal responsibility of any other controlling person or managerial employee under this chapter or chapter 144J.

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

Sec. 17. **[144L.04] LICENSE RENEWALS.**

Unless the assisted living establishment license expires or is suspended or revoked under section 144L.05, a license shall remain effective for a period of one year from the date of issuance. The commissioner must establish forms and procedures for the processing of license renewals. The commissioner must approve a license renewal application if the assisted living establishment continues to satisfy the requirements, standards, and conditions of this chapter and adopted rules.

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

Sec. 18. **[144L.05] LICENSE SUSPENSION OR REVOCATION; HEARING; RELICENSING.**

Subdivision 1. **Optional proceedings.** The commissioner may institute proceedings to suspend or revoke any assisted living establishment's license or may refuse to grant or renew an assisted living establishment's license if any action by a controlling person or employee of the assisted living establishment:

(1) violates any of the provisions of this chapter, or adopted rules;

58.1 (2) permits, aids, or abets the commission of any illegal act;

58.2 (3) performs any act contrary to the welfare of a resident of the assisted living
58.3 establishment; or

58.4 (4) obtains, or attempts to obtain, a license by fraudulent means or misrepresentation.

58.5 Subd. 2. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
58.6 within 60 days of notification to suspend or revoke an assisted living establishment's license
58.7 or must refuse to renew an assisted living establishment's license if within the preceding
58.8 two years the assisted living establishment has incurred the following number of uncorrected
58.9 or repeated violations:

58.10 (1) two or more uncorrected violations or one or more repeated violations that created
58.11 an imminent risk to direct resident care or safety; or

58.12 (2) four or more uncorrected violations or two or more repeated violations of any nature
58.13 for which the fines are in the four highest daily fine categories prescribed in rule.

58.14 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,
58.15 or refuse to renew an assisted living establishment's license if the establishment corrects
58.16 the violation.

58.17 Subd. 3. **Notice to residents.** (a) Within five working days after proceedings are initiated
58.18 by the commissioner to revoke or suspend an assisted living establishment's license, or a
58.19 decision by the commissioner not to renew an assisted living establishment's license, the
58.20 controlling person of the assisted living establishment or a designee must provide to the
58.21 commissioner and the ombudsman for long-term care the names of residents and the names
58.22 and addresses of the residents' guardians, designated representatives, and family contacts.

58.23 (b) The controlling person or designees of the assisted living establishment must provide
58.24 updated information each month until the proceeding is concluded. If the controlling person
58.25 or designee of the assisted living establishment fails to provide the information within this
58.26 time, the assisted living establishment is subject to the issuance of:

58.27 (1) a correction order; and

58.28 (2) a penalty assessment by the commissioner in rule.

58.29 (c) Notwithstanding section 144I.08, any correction order issued under this subdivision
58.30 must require that the assisted living establishment immediately comply with the request for
58.31 information and that, as of the date of the issuance of the correction order, the establishment

59.1 shall forfeit to the state a \$500 fine the first day of noncompliance and an increase in the
59.2 \$500 fine by \$100 increments for each day the noncompliance continues.

59.3 (d) Information provided under this subdivision may be used by the commissioner or
59.4 the ombudsman for long-term care only for the purpose of providing affected consumers
59.5 information about the status of the proceedings.

59.6 (e) Within ten working days after the commissioner initiates proceedings to revoke,
59.7 suspend, or not renew an assisted living establishment license, the commissioner must send
59.8 a written notice of the action and the process involved to each resident of the assisted living
59.9 establishment and the resident's designated representative or, if there is no designated
59.10 representative and if known, a family member or interested person.

59.11 (f) The commissioner shall provide the ombudsman for long-term care with monthly
59.12 information on the department's actions and the status of the proceedings.

59.13 Subd. 4. **Hearing.** An assisted living establishment license may not be suspended or
59.14 revoked, and renewal may not be denied, without a hearing held as a contested case hearing
59.15 under chapter 14. The hearing must commence within 60 days after the proceedings are
59.16 initiated. If the controlling person of the assisted living establishment designated under
59.17 section 144I.03, subdivision 2, as an agent to accept service on behalf of all of the controlling
59.18 persons of the assisted living establishment has been notified by the commissioner that the
59.19 establishment will not receive an initial license or that a license renewal has been denied,
59.20 the controlling person or a legal representative on behalf of the assisted living establishment
59.21 may request and receive a hearing on the denial. This hearing shall be held as a contested
59.22 case under chapter 14.

59.23 Subd. 5. **Mandatory revocation.** Notwithstanding the provisions of subdivision 4, the
59.24 commissioner must revoke an assisted living license if a controlling person of the assisted
59.25 living establishment is convicted of a felony or gross misdemeanor that relates to operation
59.26 of the assisted living establishment or directly affects resident safety or care. The
59.27 commissioner shall notify the assisted living establishment and the Office of Ombudsman
59.28 for Long-Term Care 30 days in advance of the date of revocation.

59.29 Subd. 6. **Relicensing.** If an assisted living establishment license is revoked, a new
59.30 application for license may be considered by the commissioner when the conditions upon
59.31 which the revocation was based have been corrected and satisfactory evidence of this fact
59.32 has been furnished to the commissioner. A new license may be granted after an inspection
59.33 has been made and the facility has been found to comply with all provisions of this chapter
59.34 and chapter 144J and adopted rules.

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

Sec. 19. **[144L.06] REGULATORY POWERS.**

(a) With the exception of the Department of Public Safety, which has the exclusive jurisdiction to enforce state fire and safety standards, the commissioner is the exclusive state agency charged with the responsibility and duty of inspecting assisted living establishments required to be licensed under this chapter and for enforcing adopted rules. The commissioner has all the powers vested and all the duties assigned with respect to assisted living establishments as the commissioner has with respect to nursing homes under sections 144A.10, subdivisions 1 to 6, 6d, 6e, 7, 8, 9, 10, and 17; and 144A.11.

(b) The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a licensed assisted living establishment if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. The identities of patients or residents must be kept private as defined in section 13.02, subdivision 12.

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

Sec. 20. **[144L.07] FEES AND FINES.**

(a) Each application for a license and each renewal application to operate an assisted living establishment must be accompanied by a fee to be prescribed by rule by the commissioner as provided in section 144.122. No fee shall be refunded. In any assisted living establishment where home care services are delivered through an affiliated home care provider, the fee will be applied to the assisted living establishment license only.

(b) The commissioner shall adopt rules to establish a schedule of fines for violations of this chapter and any applicable rules.

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

Sec. 21. **[144L.08] INJUNCTIVE RELIEF; SUBPOENAS.**

Subdivision 1. **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 an assisted living establishment, or an employee of an assisted living establishment, from illegally engaging in activities regulated by this

chapter and chapter 144J. A temporary restraining order may be granted by the court in the proceeding if continued activity by the controlling person or employee of the assisted living establishment would create an imminent risk of harm to a resident of the assisted living establishment.

Subd. 2. Subpoenas. In all matters pending before the commissioner under this chapter, the commissioner shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. Any person failing or refusing to appear or testify regarding any matter about which that person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, after having been required by order or subpoena of the commissioner to do so, may, upon application by the commissioner to the district court in any district, be ordered by the court to comply therewith. The commissioner may issue subpoenas and administer oaths to witnesses, or take their affirmation. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any named person anywhere within the state by any officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued by the district court of this state. Fees and mileage and other costs of persons subpoenaed by the commissioner shall be paid in the same manner as for proceedings in district court.

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

Sec. 22. **[144L.09] TRANSFER OF INTERESTS.**

Subdivision 1. Notice; expiration of license. Any controlling person who makes any transfer of a beneficial interest in any assisted living establishment must notify the commissioner of the transfer within 14 days of its occurrence. The notification must identify by name and address the transferor and transferee and must specify the nature and amount of the transferred interest. The commissioner upon determining that the transferred beneficial interest exceeds ten percent of the total beneficial interest in the assisted living establishment, the structure in which the facility is located, or the land upon which the structure is located may require that the license of the assisted living establishment expire 90 days after the day of transfer. The commissioner upon determining that the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the establishment, the structure in which the facility is located, or the land upon which the structure is located must require that the license of the assisted living establishment expire 90 days after the date of transfer. The

commissioner must notify the assisted living establishment by certified mail of the expiration of the license at least 60 days prior to the date of expiration.

Subd. 2. **Relicensure.** The commissioner shall prescribe procedures for relicensure under this section. The commissioner shall relicense the assisted living establishment if the establishment satisfies the requirements of this chapter and chapter 144J. An assisted living establishment must not be relicensed by the commissioner if at the time of transfer there are any uncorrected violations. The commissioner may temporarily waive correction of one or more violations if the commissioner determines that:

(1) temporary noncorrection of the violation will not create an imminent risk of harm to any assisted living establishment resident; and

(2) a controlling person of the assisted living establishment on behalf of all other controlling persons:

(i) has entered into a contract to obtain the materials or labor necessary to correct the violation, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the assisted living establishment to correct the violation is due solely to that failure; or

(ii) is otherwise making a diligent good faith effort to correct the violation.

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

Sec. 23. [144L.10] ASSISTED LIVING ESTABLISHMENT ADMINISTRATORS.

Each assisted living establishment must employ an administrator who must be licensed or permitted as an assisted living establishment administrator by the Board of Examiners for Nursing Home and Assisted Living Establishment Administrators, as provided under section 144A.18. The assisted living establishment may share the services of a licensed administrator. The administrator must maintain a sufficient on-site presence in the assisted living establishment to effectively manage the establishment in compliance with applicable statutes, rules, and regulations. The administrator must establish procedures and delegate authority for on-site operations in the administrator's absence, but is ultimately responsible for the management of the assisted living establishment. Each assisted living establishment must have posted at all times the name of the administrator and the name of the person in charge on the premises in the absence of the licensed administrator.

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

63.1 Sec. 24. [144L.11] ADMINISTRATOR OR MANAGERIAL EMPLOYEE

63.2 RESTRICTIONS.

63.3 Subdivision 1. **Restrictions.** An assisted living establishment may not employ as an
63.4 administrator or managerial employee any person who was an administrator or managerial
63.5 employee of a nursing home or another assisted living establishment during any period of
63.6 time in the previous two-year period:

63.7 (1) during which time of employment that nursing home or other assisted living
63.8 establishment incurred the following number of uncorrected violations:

63.9 (i) two or more uncorrected violations or one or more repeated violations that created
63.10 an imminent risk to direct resident care or safety; or

63.11 (ii) four or more uncorrected violations or two or more repeated violations of any nature
63.12 for which the fines are in the four highest daily fine categories prescribed in rule; or

63.13 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates
63.14 to the operation of the nursing home or assisted living establishment, or directly affects
63.15 resident safety or care.

63.16 Subd. 2. **Exception.** The provisions of subdivision 1 do not apply to any violations
63.17 incurred that were outside the jurisdiction and control of the managerial employee or the
63.18 administrator.

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

63.20 Sec. 25. [144L.12] CONTROLLING PERSON RESTRICTIONS.

63.21 Subdivision 1. **Restrictions.** The controlling person of any assisted living establishment
63.22 may not include any person who was a controlling person of a nursing home or another
63.23 assisted living establishment during any period of time in the previous two-year period:

63.24 (1) during which time of control that nursing home or other assisted living establishment
63.25 incurred the following number of uncorrected or repeated violations:

63.26 (i) two or more uncorrected violations or one or more repeated violations that created
63.27 an imminent risk to direct resident care or safety; or

63.28 (ii) four or more uncorrected violations or two or more repeated violations of any nature
63.29 for which the fines are in the four highest daily fine categories prescribed in rule; or

(2) who, during that period, was convicted of a felony or gross misdemeanor that relates to the operation of the nursing home or other assisted living establishment, or directly affects resident safety or care.

Subd. 2. **Exception.** The provisions of subdivision 1 do not apply to any controlling person of the assisted living establishment who had no legal authority to affect or change decisions related to the operation of the nursing home or other assisted living establishment that incurred the uncorrected violations.

Subd. 3. **Stay of adverse action required by controlling person restrictions.** (a) In lieu of revoking, suspending, or refusing to renew the license of an assisted living establishment where a controlling person was disqualified by subdivision 1, clause (1), the commissioner may issue an order staying the revocation, suspension, or nonrenewal of the assisted living establishment's license. The order may but need not be contingent upon the assisted living establishment's compliance with restrictions and conditions imposed on the license to ensure the proper operation of the assisted living establishment and to protect the health, safety, comfort, treatment, and well-being of the residents in the establishment. The decision to issue an order for a stay must be made within 90 days of the commissioner's determination that a controlling person of the assisted living establishment is disqualified by subdivision 1, clause (1), from operating an assisted living establishment.

(b) In determining whether to issue a stay and to impose conditions and restrictions, the commissioner must consider the following factors:

(1) the ability of the controlling person to operate other assisted living establishments in accordance with the licensure rules and laws;

(2) the conditions in the nursing home or assisted living establishment that received the number and type of uncorrected or repeated violations described in subdivision 1, clause (1); and

(3) the conditions and compliance history of each of the nursing homes and assisted living establishments operated by the controlling persons.

(c) The commissioner's decision to exercise the authority under this subdivision in lieu of revoking, suspending, or refusing to renew the license of the assisted living establishment is not subject to administrative or judicial review.

(d) The order for the stay of revocation, suspension, or nonrenewal of the assisted living establishment license must include any conditions and restrictions on the license that the commissioner deems necessary based upon the factors listed in paragraph (b).

(e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the commissioner shall inform the controlling person in writing of any conditions and restrictions that will be imposed. The controlling person shall, within ten working days, notify the commissioner in writing of a decision to accept or reject the conditions and restrictions. If the assisted living establishment rejects any of the conditions and restrictions, the commissioner must either modify the conditions and restrictions or take action to suspend, revoke, or not renew the assisted living establishment's license.

(f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the controlling person shall be responsible for compliance with the conditions and restrictions contained therein. Any time after the conditions and restrictions have been in place for 180 days, the controlling person may petition the commissioner for removal or modification of the conditions and restrictions. The commissioner must respond to the petition within 30 days of the receipt of the written petition. If the commissioner denies the petition, the controlling person may request a hearing under the provisions of chapter 14. Any hearing shall be limited to a determination of whether the conditions and restrictions shall be modified or removed. At the hearing, the controlling person has the burden of proof.

(g) The failure of the controlling person to comply with the conditions and restrictions contained in the order for stay shall result in the immediate removal of the stay and the commissioner shall take action to suspend, revoke, or not renew the license.

(h) The conditions and restrictions are effective for two years after the date they are imposed.

(i) Nothing in this subdivision shall be construed to limit in any way the commissioner's ability to impose other sanctions against an assisted living establishment licensee under the standards in state or federal law whether or not a stay of revocation, suspension, or nonrenewal is issued.

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

Sec. 26. [144L.13] MINIMUM SERVICES AND STANDARDS.

Subdivision 1. **Generally.** (a) An assisted living establishment must meet the standards and requirements of this section and offer a package of housing, care, and services that meet the needs of the residents and for which the resident contracted.

(b) Provided they are within the scope of the license and consistent with this section, assisted living establishments may:

66.1 (1) offer to residents and prospective residents services other than those required as a
66.2 minimum;

66.3 (2) offer any package of services to residents, provided the package includes those
66.4 services required as a minimum; and

66.5 (3) offer or provide services directly or through a licensed affiliated home care provider.

66.6 (c) Assisted living establishments may offer and provide assisted living services to all
66.7 or some of the residents.

66.8 Subd. 2. **Housing and safety.** (a) An assisted living establishment must maintain
66.9 minimum health, sanitation, safety, and comfort standards prescribed by the commissioner
66.10 in adopted rules with respect to the physical plant, equipment, maintenance, and operation
66.11 of the assisted living establishment, including standards with respect to evacuation of
66.12 ambulatory and nonambulatory residents and controlled egress and secured perimeters for
66.13 residents in Level 3 licensed assisted living establishments.

66.14 (b) The commissioner may temporarily waive compliance with one or more of the
66.15 standards or requirements if the commissioner determines that:

66.16 (1) temporary noncompliance with the standard or requirement will not create an
66.17 imminent risk of harm to a resident; and

66.18 (2) a controlling person of an assisted living establishment on behalf of all other
66.19 controlling persons of the establishment:

66.20 (i) has entered into a contract to obtain the materials or labor necessary to meet the
66.21 standard or requirement established by the commissioner, but the supplier or other contractor
66.22 has failed to perform the terms of the contract and the inability of the assisted living
66.23 establishment to meet the standard or requirement is due solely to that failure; or

66.24 (ii) is otherwise making a diligent good faith effort to meet the standard or requirement.

66.25 Subd. 3. **Assessments.** (a) The commissioner must establish by rule assessment standards
66.26 and protocols to determine the person's physical, cognitive, social, and service needs. The
66.27 rules must provide that the physical and cognitive components of the assessments must be
66.28 conducted by a registered nurse, as required by applicable home care licensure requirements
66.29 in chapter 144A and sections 148.171 to 148.285, and the social and service components
66.30 must be conducted by a qualified professional, with the active participation of the resident.

66.31 (b) The assessment prior to move-in must be:

67.1 (1) designed to ensure that the licensee can meet the needs and expectations of the
67.2 resident;

67.3 (2) used to develop the plan for care and services; and

67.4 (3) conducted before the earlier of the date the prospective resident enters into an assisted
67.5 living contract under section 144J.02 or moves in.

67.6 (c) The standards for assessments prior to move-in and ongoing assessments must cover:

67.7 (1) the qualifications and training required for persons conducting the social and service
67.8 components of the assessments;

67.9 (2) the elements of the physical and cognitive evaluation of the resident;

67.10 (3) evaluation of activities of daily living, as defined in section 256B.0659, subdivision
67.11 1, paragraph (b);

67.12 (4) evaluation of instrumental activities of daily living, as defined in section 256B.0659,
67.13 subdivision 1, paragraph (i);

67.14 (5) evaluation of the resident's medicine administration and management abilities;

67.15 (6) any other standards deemed necessary by the commissioner.

67.16 (d) The commissioner must develop for use by all licensees a uniform assessment tool
67.17 to be completed for all residents prior to the resident's move-in date and at subsequent
67.18 intervals as determined by rule and is based on the standards under paragraph (c).

67.19 Subd. 4. **Minimum services.** (a) A Level 1 licensee may offer all or a package of basic
67.20 home care services that at a minimum must include two meals per day, weekly housekeeping,
67.21 and weekly laundry service. A Level 1 licensee may offer therapeutic or other dementia
67.22 care services as determined by the commissioner in rule, but may not offer, provide, advertise,
67.23 or hold themselves as offering or providing dementia care services that would require a
67.24 Level 3 license. A Level 1 licensee may not offer or provide any comprehensive home care
67.25 services.

67.26 (b) A Level 2 licensee may offer all or a package of comprehensive home care services
67.27 that at a minimum must include two meals per day, weekly housekeeping, and weekly
67.28 laundry service. A Level 2 licensee may offer therapeutic or other dementia care services
67.29 as determined by the commissioner in rule, but may not offer, provide, advertise, or hold
67.30 themselves as offering or providing dementia care services that would require a Level 3
67.31 license.

(c) A Level 3 licensee must meet the requirements of a Level 2 licensee and may in addition offer, provide, advertise, or hold themselves as offering or providing dementia care services. The dementia care services offered or provided must meet the standards established by the commissioner, by rule, as provided under subdivision 5, and must be provided by staff who meet the standards established by the commissioner in rule to provide dementia care services in Level 3 establishments.

Subd. 5. **Staffing and training standards.** (a) Every assisted living establishment must:

(1) provide staff access to an on-call registered nurse 24 hours per day, seven days per week;

(2) 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 applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285; and

(3) have a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of residents for assistance with health or safety needs, who must be:

(i) awake;

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

(iii) capable of communicating with residents;

(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.

(b) The commissioner must establish, by rule, the minimum initial and ongoing training requirements for staff and administrators of Level 1, Level 2, and Level 3 assisted living establishments licensed under this chapter, including training on sections 144J.06 to 144J.10 and minimum Alzheimer's disease, dementia, memory, and any other special care training requirements.

(c) The commissioner must adopt rules that, at a minimum:

(1) require all assisted living establishments to maintain sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled needs of each resident as required by the residents' contracts, assessments, and plans for care and services;

(2) establish minimum educational, professional, skills, competency, and experiential requirements for administrators and staff of assisted living establishments; and

(3) include any additional requirements for licensing or certification of staff who are health care professionals and who are providing dementia care services in Level 3 assisted living establishments.

Subd. 6. **Medications.** The commissioner must establish, by rule, standards for Level 1, Level 2, and Level 3 assisted living establishments to provide:

(1) medication administration, as defined in section 144A.43, subdivision 11;

(2) medication management, as defined in section 144A.43, subdivision 12; and

(3) medication storage.

Subd. 7. **Dementia care standards.** The commissioner must establish, by rule, service and training standards for the care of persons with cognitive impairments, including Alzheimer's disease and dementia, that are specific for staff and administrators at each level of licensure. The standards must include, at a minimum:

(1) core criteria;

(2) minimum safety and quality requirements;

(3) assessments;

(4) care planning;

(5) therapeutic activities;

(6) cultural competencies; and

(7) dementia care training curriculum.

Sec. 27. [144L.14] TRANSFER OF RESIDENTS WITHIN ESTABLISHMENT.

(a) An assisted living establishment must provide for the safe, orderly, and appropriate transfer of residents within the establishment.

(b) If an assisted living contract permits resident transfers within the assisted living establishment, the establishment must provide at least 30 days' advance notice of the transfer to the resident and the resident's designated representative.

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

(1) the transfers of residents within the assisted living establishment are being proposed due to curtailment, reduction, capital improvements, or change in operations;

(2) the transfers of residents within the assisted living establishment are not temporary moves to accommodate physical plan upgrades or renovation; and

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

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

Sec. 28. [144L.15] REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

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 the provider continues to meet the definitions and standards for assisted living and assisted living plus in the federally approved Elderly Home and Community-Based Services Waiver Program. 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 the provider continues to meet the definitions and standards for assisted living and assisted living plus in the federally approved CADI and BI waiver plans.

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

Sec. 29. [144L.17] STATE RECEIVERSHIP.

Subdivision 1. **Petition; notice.** (a) In addition to any other remedy provided by law, the commissioner may petition the district court for an order directing the controlling person of an assisted living establishment to show cause why the commissioner should not be

71.1 appointed receiver to operate the establishment. The petition to the district court shall contain
71.2 proof by affidavit that one or more of the following exists:

71.3 (1) the commissioner has commenced proceedings to suspend or revoke the state license,
71.4 or refuses to renew a license;

71.5 (2) violations of this chapter or chapter 144J, adopted rules, or violations of other state
71.6 laws or rules create an emergency for the residents of the establishment;

71.7 (3) a threat of imminent abandonment by the owner or operator of the assisted living
71.8 establishment; or

71.9 (4) a pattern of failure to meet ongoing financial obligations such as failing to pay for
71.10 food, pharmaceuticals, personnel, or required insurance.

71.11 (b) The order to show cause shall be personally served to either the assisted living
71.12 establishment or to the person designated as the agent by the controlling person to accept
71.13 service on their behalf pursuant to section 144I.03, subdivision 2.

71.14 Subd. 2. **Appointment of receiver, rental.** (a) If, after the hearing, the court finds that
71.15 receivership is necessary as a means of protecting the health, safety, or welfare of a resident
71.16 of the assisted living establishment, the court shall appoint the commissioner as a receiver
71.17 to take charge of the establishment. The commissioner may enter into an agreement for a
71.18 managing agent to work on the commissioner's behalf in operating the assisted living
71.19 establishment during the receivership. The court shall determine a fair monthly rental for
71.20 the assisted living establishment, taking into account all relevant factors including the
71.21 condition of the establishment. This rental fee shall be paid by the receiver to the appropriate
71.22 controlling person for each month that the receivership remains in effect but shall be reduced
71.23 by the amount that the cost of the receivership provided under section 256R.52 are in excess
71.24 of the establishment rate.

71.25 (b) The controlling person may agree to waive the fair monthly rent by affidavit to the
71.26 court. Notwithstanding any other law to the contrary, no payment made to a controlling
71.27 person of an assisted living establishment by any state agency during a period of receivership
71.28 shall include any allowance for profit or be based on any formula that includes an allowance
71.29 for profit.

71.30 (c) Notwithstanding state contracting requirements in chapter 16C, the commissioner
71.31 shall establish and maintain a list of qualified licensed assisted living establishment
71.32 administrators, or other qualified persons or organizations with experience in delivering
71.33 skilled health care services, home care services, and the operation of long-term care facilities,

for those interested in being a managing agent on the commissioner's behalf during a state receivership of an establishment. The list will be a resource for choosing a managing agent and the commissioner may update the list at any time. A managing agent cannot be someone who:

(1) is the owner, licensee, or administrator of the establishment;

(2) has a financial interest in the assisted living establishment at the time of the receivership or is a related party to the owner, licensee, or administrator; or

(3) has owned or operated any nursing home, assisted living establishment, or boarding care home that has been ordered into receivership.

Subd. 3. Emergency procedure. If it appears from the petition filed under subdivision 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in an assisted living establishment requiring the receivership, the court shall issue a temporary order for appointment of a receiver within two days after receipt of the petition. Notice of the petition shall be served personally on the assisted living establishment administrator or on the person designated as the agent by the controlling person to accept service on their behalf according to section 144I.03, subdivision 2. A hearing on the petition shall be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Subd. 4. Powers and duties of receiver. (a) An assisted living establishment receiver appointed according to this section shall with all reasonable speed and within 18 months after the receivership order, determine whether to close the assisted living establishment or to make other provisions intended to keep it open. If closure is the determination, the commissioner shall provide for the orderly transfer of all of the assisted living establishment's residents to other locations according to the relocation procedures required in section 144A.161. During the receivership, the receiver may correct or eliminate those deficiencies in the assisted living establishment that seriously endanger the life, health, or safety of the residents unless the correction or elimination of deficiencies involves major alterations in the physical structure of the assisted living establishment. The receiver shall during this period operate the assisted living establishment in a manner designed to guarantee the safety and adequate care of and services to the residents. The receiver shall take no action that impairs the legal rights of a resident of the assisted living establishment. The receiver has authority to make contracts and incur lawful expenses. The receiver shall use the building,

73.1 fixtures, furnishings, and any accompanying consumable goods in the provision of care and
73.2 services to the residents during the receivership period. The receiver shall take action as is
73.3 reasonably necessary to protect or conserve the tangible assets or property during
73.4 receivership. The receiver shall collect incoming payments from all sources and apply them
73.5 to the cost incurred in the performance of the receiver's functions. No security interest in
73.6 any real or personal property comprising the assisted living establishment or contained
73.7 within it, or in any fixture of the facility, shall be impaired or diminished in priority by the
73.8 receiver. The receiver shall pay all valid obligations the assisted living establishment incurred
73.9 during the course of the receivership and may pay obligations incurred prior to the
73.10 receivership if, in the judgment of the commissioner, these payments must be made to ensure
73.11 the health, safety, or welfare of the residents, and shall deduct these expenses from rental
73.12 payments owed to any controlling person by virtue of the receivership. The receiver has
73.13 authority to hire, direct, manage, and discharge any employees of the assisted living
73.14 establishment including the administrator, director of nursing, medical director, manager
73.15 of the establishment, or affiliated home care provider.

73.16 (b) Nothing in this section shall relieve any owner, operator, or controlling person of an
73.17 assisted living establishment placed in receivership of any civil or criminal liability incurred,
73.18 or any duty imposed by law, by reason of acts or omissions of the owner, licensee, or
73.19 controlling person prior to the order for receivership under this section, nor shall anything
73.20 contained in this section be construed to suspend during the receivership any obligation of
73.21 the owner, licensee, or controlling person for payment of taxes or other operating and
73.22 maintenance expenses of the assisted living establishment nor of the owner, licensee, or
73.23 controlling person or any other person for the payment of mortgages or liens.

73.24 Subd. 5. **Receiver's fee; liability; commissioner assistance.** The commissioner, as
73.25 receiver appointed by the court, may hire a managing agent to work on the commissioner's
73.26 behalf to operate the assisted living establishment during the receivership, and that managing
73.27 agent is entitled to a reasonable fee. The receiver and its managing agent shall be liable only
73.28 in an official capacity for injury to person and property by reason of the conditions of the
73.29 assisted living establishment. The receiver and its managing agent shall not be personally
73.30 liable, except for gross negligence and intentional acts. The commissioner shall assist the
73.31 managing agent in carrying out its duties.

73.32 Subd. 6. **Termination.** Receivership imposed pursuant to this section shall terminate
73.33 18 months after the date on which it was ordered, or at any other time designated by the
73.34 court, or upon the occurrence of any of the following events:

74.1 (1) a determination by the commissioner that the assisted living establishment's license
74.2 should be renewed or should not be suspended or revoked;

74.3 (2) the granting of a new license to the assisted living establishment; or

74.4 (3) a determination by the commissioner that all of the residents of the assisted living
74.5 establishment have been provided alternative health care or services, either in another
74.6 assisted living establishment or otherwise.

74.7 Subd. 7. **Postreceivership period; establishment remaining open.** If an assisted living
74.8 establishment remains open after the receivership is concluded, a new operator is only
74.9 legally responsible under state law for its actions after the receivership has concluded.

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

74.11 Sec. 30. **[144I.18] PLACEMENT OF MONITOR.**

74.12 Subdivision 1. **Authority.** The commissioner may place a person to act as a monitor in
74.13 an assisted living establishment in any of the following circumstances:

74.14 (1) in any situation for which a receiver may be appointed under section 144I.17; or

74.15 (2) when the commissioner determines that violations of this chapter, or sections 144J.06,
74.16 144J.07, 144J.08, 144J.09, 144J.12, or 626.557, or rules or regulations adopted under those
74.17 provisions, require extended surveillance to enforce compliance or to protect the health,
74.18 safety, or welfare of the residents.

74.19 Subd. 2. **Duties of monitor.** The monitor shall observe the operation of the assisted
74.20 living establishment; provide advice to the establishment on methods of complying with
74.21 state law and rules, where documented deficiencies from the law or rules exist; and
74.22 periodically shall submit a written report to the commissioner on the ways in which the
74.23 assisted living establishment meets or fails to meet state law or rules.

74.24 Subd. 3. **Selection of monitor.** The commissioner may select as monitor an employee
74.25 of the department or may contract with any other individual to serve as a monitor. The
74.26 commissioner must publish a notice in the State Register that requests proposals from
74.27 individuals who wish to be considered for placement as monitors and that describes the
74.28 criteria for selecting individuals as monitors. The commissioner must maintain a list of
74.29 individuals who are not employees of the department who are interested in serving as
74.30 monitors. The commissioner may contract with those individuals determined to be qualified.

Subd. 4. **Payment of monitor.** An assisted living establishment in which a monitor is placed must pay to the department the actual cost associated with the placement, unless payment would create an undue hardship for the assisted living establishment.

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

Sec. 31. **[144I.19] EXPEDITED RULEMAKING.**

The commissioner shall adopt rules to carry out this chapter using the expedited rulemaking process under section 14.389, including rules establishing standards identified in sections 144I.13 and 144I.14.

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

ARTICLE 5

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:

(1) the effective date of termination;

(2) the reason for termination;

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

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

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

(6) if applicable, a statement that the notice of termination of home care services does not constitute notice of termination of the assisted living establishment or housing with

76.1 services contract with an assisted living establishment or a housing with services
76.2 establishment.

76.3 ~~(b)~~ (c) When the unaffiliated home care provider voluntarily discontinues services to
76.4 all clients, the unaffiliated home care provider must notify the commissioner, lead agencies,
76.5 and ombudsman for long-term care about its clients and comply with the requirements in
76.6 this subdivision.

76.7 (d) For the purposes of this subdivision:

76.8 (1) "assisted living establishment" has the meaning given in section 144J.01, subdivision
76.9 6. Assisted living establishment does not include a housing with services establishment
76.10 defined in section 144D.01, subdivision 4; and

76.11 (2) "unaffiliated home care provider" has the meaning given in section 144J.01,
76.12 subdivision 15.

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

76.14 Sec. 2. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

76.15 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~
76.16 ~~establishments, as defined in sections 144D.01 to 144D.07,~~ (a) Assisted living establishments,
76.17 as defined in section 144J.01, subdivision 6, that secure, segregate, or provide a special
76.18 program or special unit for residents with a diagnosis of probable Alzheimer's disease or a
76.19 related disorder or that advertise, market, or otherwise promote the establishment as providing
76.20 specialized care for Alzheimer's disease or a related disorder are considered a "special care
76.21 unit." All special care units shall provide a written disclosure to the following:

76.22 (1) the commissioner of health, if requested;

76.23 (2) the Office of Ombudsman for Long-Term Care; and

76.24 (3) each person seeking placement within a residence, or the ~~person's authorized~~ resident's
76.25 designated representative, as defined in section 144J.01, subdivision 9, before an agreement
76.26 to provide the care is entered into.

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

76.28 Sec. 3. **REPEALER.**

76.29 Minnesota Statutes 2018, sections 144D.01, subdivision 6; 144D.025; 144D.065;
76.30 144D.066; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, and 5; 144G.05; and
76.31 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.

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.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.04 HOUSING WITH SERVICES CONTRACTS.

Subd. 2. **Contents of contract.** A housing with services contract, which need not be entitled as such to comply with this section, shall include at least the following elements in itself or through supporting documents or attachments:

- (1) the name, street address, and mailing address of the establishment;
- (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;
- (3) the name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;
- (4) the name and address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;
- (5) a statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;
- (6) the term of the contract;
- (7) a description of the services to be provided to the resident in the base rate to be paid by the resident, including a delineation of the portion of the base rate that constitutes rent and a delineation of charges for each service included in the base rate;
- (8) a description of any additional services, including home care services, available for an additional fee from the establishment directly or through arrangements with the establishment, and a schedule of fees charged for these services;
- (9) a conspicuous notice informing the tenant of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated, including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;
- (10) a description of the establishment's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;
- (11) the resident's designated representative, if any;
- (12) the establishment's referral procedures if the contract is terminated;
- (13) requirements of residency used by the establishment to determine who may reside or continue to reside in the housing with services establishment;
- (14) billing and payment procedures and requirements;
- (15) a statement regarding the ability of a resident to receive services from service providers with whom the establishment does not have an arrangement;
- (16) a statement regarding the availability of public funds for payment for residence or services in the establishment; and
- (17) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the establishment is located.

Subd. 3. **Contracts in permanent files.** Housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts and

the written disclosures required under section 325F.72, if applicable, shall be made available for on-site inspection by the commissioner upon request at any time.

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

If a housing with services establishment has one or more arranged home care providers, the establishment shall arrange to have that arranged home care provider deliver the following information in writing to a prospective resident, prior to the date on which the prospective resident executes a contract with the establishment or the prospective resident's move-in date, whichever is earlier:

- (1) the name, mailing address, and telephone number of the arranged home care provider;
- (2) the name and mailing address of at least one natural person who is authorized to accept service of process on behalf of the entity described in clause (1);
- (3) a description of the process through which a home care service agreement or service plan between a resident and the arranged home care provider, if any, may be modified, amended, or terminated;
- (4) the arranged home care provider's billing and payment procedures and requirements; and
- (5) any limits to the services available from the arranged provider.

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

(a) If a housing with services establishment registered under this chapter has a special program or special care unit for residents with Alzheimer's disease or other dementias or advertises, markets, or otherwise promotes the establishment as providing services for persons with Alzheimer's disease or other dementias, whether in a segregated or general unit, employees of the establishment and of the establishment's arranged home care provider must meet the following training requirements:

(1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b), or a supervisor meeting the requirements in clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

(b) Areas of required training include:

- (1) an explanation of Alzheimer's disease and related disorders;
- (2) assistance with activities of daily living;
- (3) problem solving with challenging behaviors; and
- (4) communication skills.

(c) The establishment shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered. This information satisfies the disclosure requirements of section 325F.72, subdivision 2, clause (4).

(d) Housing with services establishments not included in paragraph (a) that provide assisted living services under chapter 144G must meet the following training requirements:

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(1) supervisors of direct-care staff must have at least four hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial four hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b) or supervisor meeting the requirements under paragraph (a), clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

Subdivision 1. **Enforcement.** (a) The commissioner shall enforce the dementia care training standards for staff working in housing with services settings and for housing managers according to clauses (1) to (3):

(1) for dementia care training requirements in section 144D.065, the commissioner shall review training records as part of the home care provider survey process for direct care staff and supervisors of direct care staff, in accordance with section 144A.474. The commissioner may also request and review training records at any time during the year;

(2) for dementia care training standards in section 144D.065, the commissioner shall review training records for maintenance, housekeeping, and food service staff and other staff not providing direct care working in housing with services settings as part of the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year; and

(3) for housing managers, the commissioner shall review the statement verifying compliance with the required training described in section 144D.10, paragraph (d), through the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year.

(b) The commissioner shall specify the required forms and what constitutes sufficient training records for the items listed in paragraph (a), clauses (1) to (3).

Subd. 2. **Fines for noncompliance.** (a) Beginning January 1, 2017, the commissioner may impose a \$200 fine for every staff person required to obtain dementia care training who does not have training records to show compliance. For violations of subdivision 1, paragraph (a), clause (1), the fine will be imposed upon the home care provider, and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. For violations of subdivision 1, paragraph (a), clauses (2) and (3), the fine will be imposed on the housing with services registrant and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. Prior to imposing the fine, the commissioner must allow two weeks for staff to complete the required training. Fines collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund.

(b) The housing with services registrant and home care provider must allow for the required training as part of employee and staff duties. Imposition of a fine by the commissioner does not negate the need for the required training. Continued noncompliance with the requirements of sections 144D.065 and 144D.10 may result in revocation or nonrenewal of the housing with services registration or home care license. The commissioner shall make public the list of all housing with services establishments that have complied with the training requirements.

Subd. 3. **Technical assistance.** From January 1, 2016, to December 31, 2016, the commissioner shall provide technical assistance instead of imposing fines for noncompliance with the training

requirements. During the year of technical assistance, the commissioner shall review the training records to determine if the records meet the requirements and inform the home care provider. The commissioner shall also provide information about available training resources.

144D.07 RESTRAINTS.

Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience.

144G.01 DEFINITIONS.

Subdivision 1. **Scope; other definitions.** For purposes of sections 144G.01 to 144G.05, the following definitions apply. In addition, the definitions provided in section 144D.01 also apply to sections 144G.01 to 144G.05.

Subd. 2. **Assisted living.** "Assisted living" means a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of this chapter.

Subd. 3. **Assisted living client; client.** "Assisted living client" or "client" means a housing with services resident who receives assisted living that is subject to the requirements of this chapter.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health.

144G.02 ASSISTED LIVING; PROTECTED TITLE; REGULATORY FUNCTION.

Subdivision 1. **Protected title; restriction on use.** No person or entity may use the phrase "assisted living," whether alone or in combination with other words and whether orally or in writing, to advertise, market, or otherwise describe, offer, or promote itself, or any housing, service, service package, or program that it provides within this state, unless the person or entity is a housing with services establishment that meets the requirements of this chapter, or is a person or entity that provides some or all components of assisted living that meet the requirements of this chapter. A person or entity entitled to use the phrase "assisted living" shall use the phrase only in the context of its participation in assisted living that meets the requirements of this chapter. A housing with services establishment offering or providing assisted living that is not made available to residents in all of its housing units shall identify the number or location of the units in which assisted living is available, and may not use the term "assisted living" in the name of the establishment registered with the commissioner under chapter 144D, or in the name the establishment uses to identify itself to residents or the public.

Subd. 2. **Authority of commissioner.** (a) The commissioner, upon receipt of information that may indicate the failure of a housing with services establishment, the arranged home care provider, an assisted living client, or an assisted living client's representative to comply with a legal requirement to which one or more of the entities may be subject, shall make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

(b) In addition to the authority with respect to licensed home care providers under section 144A.45 and with respect to housing with services establishments under chapter 144D, the commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which a housing with services establishment is located to compel the housing with services establishment or the arranged home care provider to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment or arranged home care provider is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

144G.03 ASSISTED LIVING REQUIREMENTS.

Subdivision 1. **Verification in annual registration.** A registered housing with services establishment using the phrase "assisted living," pursuant to section 144G.02, subdivision 1, shall verify to the commissioner in its annual registration pursuant to chapter 144D that the establishment is complying with sections 144G.01 to 144G.05, as applicable.

Subd. 2. **Minimum requirements for assisted living.** (a) Assisted living shall be provided or made available only to individuals residing in a registered housing with services establishment. Except as expressly stated in this chapter, a person or entity offering assisted living may define the

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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;

(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

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(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.

Subdivision 1. **Use of services.** Nothing in this chapter requires an assisted living client to utilize any service provided or made available in assisted living.

Subd. 2. **Housing with services contracts.** Nothing in this chapter requires a housing with services establishment to execute or refrain from terminating a housing with services contract with a prospective or current resident who is unable or unwilling to meet the requirements of residency, with or without assistance.

Subd. 3. **Provision of services.** Nothing in this chapter requires the arranged home care provider to offer or continue to provide services under a service agreement or service plan to a prospective or current resident of the establishment whose needs cannot be met by the arranged home care provider.

Subd. 4. **Altering operations; service packages.** Nothing in this chapter requires a housing with services establishment or arranged home care provider offering assisted living to fundamentally alter the nature of the operations of the establishment or the provider in order to accommodate the request or need for facilities or services by any assisted living client, or to refrain from requiring, as a condition of residency, that an assisted living client pay for a package of assisted living services even if the client does not choose to utilize all or some of the services in the package.

144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

Notwithstanding the provisions of this chapter, the requirements for the elderly waiver program's assisted living payment rates under section 256B.0915, subdivision 3e, shall continue to be effective and providers who do not meet the requirements of this chapter may continue to receive payment under section 256B.0915, subdivision 3e, as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved Elderly Home and Community Based Services Waiver Program (Control Number 0025.91). Providers of assisted living for the community access for disability inclusion (CADI) and Brain Injury (BI) waivers shall continue to receive payment as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved CADI and BI waiver plans.

144G.06 UNIFORM CONSUMER INFORMATION GUIDE.

The commissioner shall adopt a uniform format for the guide to be used by individual providers, and the required components of materials to be used by providers to inform assisted living clients

APPENDIX
Repealed Minnesota Statutes: H0090-3

of their legal rights, and shall make the uniform format and the required components available to assisted living providers.