

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3088

(SENATE AUTHORS: LOUREY, Fischbach, Dibble, Nelson and Eken)

DATE	D-PG	OFFICIAL STATUS
03/08/2018	6360	Introduction and first reading Referred to Aging and Long-Term Care Policy

1.1 A bill for an act

1.2 relating to health; making changes to statutory provisions affecting older and

1.3 vulnerable adults; modifying the Minnesota Health Records Act and the health

1.4 care bill of rights; modifying regulation of nursing homes, home care providers,

1.5 housing with services establishments, and assisted living services; modifying

1.6 requirements for reporting maltreatment of vulnerable adults; establishing an

1.7 advisory task force; providing for access to information and data sharing; requiring

1.8 reports; imposing civil and criminal penalties; amending Minnesota Statutes 2016,

1.9 sections 144.291, subdivision 2; 144.6501, subdivision 3, by adding a subdivision;

1.10 144.651, subdivisions 1, 2, 4, 6, 14, 16, 17, 20, 21, by adding subdivisions;

1.11 144A.10, subdivision 1; 144A.44; 144A.441; 144A.442; 144A.45, subdivisions

1.12 1, 2; 144A.474, subdivisions 1, 8, 9; 144A.4791, subdivision 10; 144A.53,

1.13 subdivisions 1, 4; 144D.01, subdivision 1; 144D.02; 144D.04, by adding a

1.14 subdivision; 144D.09; 144G.01, subdivision 1; 325F.71; 573.02, subdivision 2;

1.15 609.2231, subdivision 8; 626.557, subdivisions 3, 4, 9, 9a, 9b, 9c, 9d, 10b, 12b,

1.16 14, 17; 626.5572, by adding a subdivision; Minnesota Statutes 2017 Supplement,

1.17 sections 144A.474, subdivision 11; 144D.04, subdivision 2; 256.045, subdivisions

1.18 3, 4; proposing coding for new law in Minnesota Statutes, chapters 144; 144D;

1.19 144G; repealing Minnesota Statutes 2016, sections 144G.03, subdivision 6; 256.021.

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

1.21 Section 1. CITATION.

1.22 Sections 1 to 60 may be cited as the "Older and Vulnerable Adults Rights and Protection

1.23 Act of 2018."

1.24 Sec. 2. Minnesota Statutes 2016, section 144.291, subdivision 2, is amended to read:

1.25 Subd. 2. **Definitions.** For the purposes of sections 144.291 to 144.298, the following

1.26 terms have the meanings given.

1.27 (a) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

2.1 (b) "Health information exchange" means a legal arrangement between health care
2.2 providers and group purchasers to enable and oversee the business and legal issues involved
2.3 in the electronic exchange of health records between the entities for the delivery of patient
2.4 care.

2.5 (c) "Health record" means any information, whether oral or recorded in any form or
2.6 medium, that relates to the past, present, or future physical or mental health or condition of
2.7 a patient; the provision of health care to a patient; or the past, present, or future payment
2.8 for the provision of health care to a patient.

2.9 (d) "Identifying information" means the patient's name, address, date of birth, gender,
2.10 parent's or guardian's name regardless of the age of the patient, and other nonclinical data
2.11 which can be used to uniquely identify a patient.

2.12 (e) "Individually identifiable form" means a form in which the patient is or can be
2.13 identified as the subject of the health records.

2.14 (f) "Medical emergency" means medically necessary care which is immediately needed
2.15 to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent
2.16 placing the physical or mental health of the patient in serious jeopardy.

2.17 (g) "Patient" means:

2.18 (1) a natural person who has received health care services from a provider for treatment
2.19 or examination of a medical, psychiatric, or mental condition;

2.20 (2) the surviving spouse, children, sibling, guardian, conservator, and parents of a
2.21 deceased patient, ~~or~~ unless the authority of the surviving spouse, children, sibling, guardian,
2.22 conservator, or parents has been restricted by either a court or the deceased person who
2.23 received health care services;

2.24 (3) a person the patient appoints in writing as a representative, including a health care
2.25 agent acting according to chapter 145C, unless the authority of the agent has been limited
2.26 by the principal in the principal's health care directive-; and

2.27 (4) except for minors who have received health care services under sections 144.341 to
2.28 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as
2.29 a parent or guardian in the absence of a parent or guardian.

2.30 (h) "Patient information service" means a service providing the following query options:
2.31 a record locator service as defined in paragraph (j) or a master patient index or clinical data
2.32 repository as defined in section 62J.498, subdivision 1.

3.1 (i) "Provider" means:

3.2 (1) any person who furnishes health care services and is regulated to furnish the services
3.3 under chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148D, 148F, 150A, 151, 153, or
3.4 153A;

3.5 (2) a home care provider licensed under section 144A.471;

3.6 (3) a health care facility licensed under this chapter or chapter 144A; and

3.7 (4) a physician assistant registered under chapter 147A.

3.8 (j) "Record locator service" means an electronic index of patient identifying information
3.9 that directs providers in a health information exchange to the location of patient health
3.10 records held by providers and group purchasers.

3.11 (k) "Related health care entity" means an affiliate, as defined in section 144.6521,
3.12 subdivision 3, paragraph (b), of the provider releasing the health records.

3.13 Sec. 3. Minnesota Statutes 2016, section 144.6501, subdivision 3, is amended to read:

3.14 Subd. 3. **Contracts of admission.** (a) A facility shall make complete unsigned copies
3.15 of its admission contract available to potential applicants and to the state or local long-term
3.16 care ombudsman immediately upon request.

3.17 (b) A facility shall post conspicuously within the facility, in a location accessible to
3.18 public view, either a complete copy of its admission contract or notice of its availability
3.19 from the facility.

3.20 (c) An admission contract must be printed in black type of at least ten-point type size.
3.21 The facility shall give a complete copy of the admission contract to the resident or the
3.22 resident's legal representative promptly after it has been signed by the resident or legal
3.23 representative.

3.24 (d) The admission contract must contain the name, address, and contact information of
3.25 the current owner, manager, and if different from the owner, license holder of the facility,
3.26 and the name and physical mailing address, which may not be a public or private post office
3.27 box, of at least one natural person who is authorized to accept service of process.

3.28 ~~(d)~~ (e) An admission contract is a consumer contract under sections 325G.29 to 325G.37.

3.29 ~~(e)~~ (f) All admission contracts must state in bold capital letters the following notice to
3.30 applicants for admission: "NOTICE TO APPLICANTS FOR ADMISSION. READ YOUR
3.31 ADMISSION CONTRACT. ORAL STATEMENTS OR COMMENTS MADE BY THE

4.1 FACILITY OR YOU OR YOUR REPRESENTATIVE ARE NOT PART OF YOUR
 4.2 ADMISSION CONTRACT UNLESS THEY ARE ALSO IN WRITING. DO NOT RELY
 4.3 ON ORAL STATEMENTS OR COMMENTS THAT ARE NOT INCLUDED IN THE
 4.4 WRITTEN ADMISSION CONTRACT."

4.5 Sec. 4. Minnesota Statutes 2016, section 144.6501, is amended by adding a subdivision
 4.6 to read:

4.7 Subd. 3a. **Changes to contracts of admission.** The facility must provide prompt written
 4.8 notice to the resident or resident's legal representative of a new owner, manager, and if
 4.9 different from the owner, license holder of the facility, and the name and physical mailing
 4.10 address, which may not be a public or private post office box of any new or additional
 4.11 natural person not identified in the admission contract who is authorized to accept service
 4.12 of process.

4.13 Sec. 5. Minnesota Statutes 2016, section 144.651, subdivision 1, is amended to read:

4.14 Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of
 4.15 this section to promote the interests and well being of the patients and residents of health
 4.16 care facilities. It is the intent of this section that every patient's and resident's civil and
 4.17 religious liberties, including the right to independent personal decisions and knowledge of
 4.18 available choices, must not be infringed and that the facility must encourage and assist in
 4.19 the fullest possible exercise of these rights. The rights provided under this section are
 4.20 established for the benefit of patients and residents. No health care facility may require or
 4.21 request a patient or resident to waive any of these rights at any time or for any reason
 4.22 including as a condition of admission to the facility. Any guardian or conservator of a patient
 4.23 or resident or, in the absence of a guardian or conservator, An interested person, may seek
 4.24 enforcement of these rights on behalf of a patient or resident, as provided under section
 4.25 144.6512. An interested person may also seek enforcement of these rights on behalf of a
 4.26 patient or resident who has a guardian or conservator through administrative agencies or in
 4.27 district court having jurisdiction over guardianships and conservatorships. Pending the
 4.28 outcome of an enforcement proceeding the health care facility may, in good faith, comply
 4.29 with the instructions of a guardian or conservator. It is the intent of this section that every
 4.30 patient's civil and religious liberties, including the right to independent personal decisions
 4.31 and knowledge of available choices, shall not be infringed and that the facility shall encourage
 4.32 and assist in the fullest possible exercise of these rights.

5.1 Sec. 6. Minnesota Statutes 2016, section 144.651, subdivision 2, is amended to read:

5.2 Subd. 2. **Definitions.** (a) For the purposes of this section and sections 144.6511 and
 5.3 144.6512, the terms defined in this subdivision have the meanings given them.

5.4 (b) "Patient" means:

5.5 (1) a person who is admitted to an acute care inpatient facility for a continuous period
 5.6 longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or
 5.7 mental health of that person;

5.8 (2) a minor who is admitted to a residential program as defined in section 253C.01;

5.9 (3) for purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, and 18 to 20, "patient" also
 5.10 means a person who receives health care services at an outpatient surgical center or at a
 5.11 birth center licensed under section 144.615. "Patient" also means a minor who is admitted
 5.12 to a residential program as defined in section 253C.01; and

5.13 (4) for purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any
 5.14 person who is receiving mental health treatment on an outpatient basis or in a community
 5.15 support program or other community-based program.

5.16 (c) "Resident" means a person who is admitted to, resides in, or receives services from:

5.17 (1) a nonacute care facility including extended care facilities;

5.18 (2) a housing with services establishment operating under assisted living title protection
 5.19 under chapter 144G;

5.20 (3) a home care service provider required to be licensed under chapter 144A that provides
 5.21 services in a living unit registered as a housing with services establishment under chapter
 5.22 144D;

5.23 (4) a nursing homes, and home;

5.24 (5) a boarding care homes home for care required because of prolonged mental or physical
 5.25 illness or disability, recovery from injury or disease, or advancing age; and

5.26 (6) for purposes of all subdivisions except subdivisions 28 and 29 1 to 27, "resident"
 5.27 also means a person who is admitted to and 30 to 34, a facility licensed as a board and
 5.28 lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised
 5.29 living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates
 5.30 a rehabilitation program licensed under Minnesota Rules, parts 9530.6405 9530.6510 to
 5.31 9530.6590.

6.1 (d) "Health care facility" or "facility" means:

6.2 (1) an acute care inpatient facility;

6.3 (2) a residential program as defined in section 253C.01;

6.4 (3) for the purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, and 18 to 20, an outpatient
6.5 surgical center or a birth center licensed under section 144.615;

6.6 (4) for the purposes of subdivisions 1, 3 to 16, 18, 20, and 30, a setting in which outpatient
6.7 mental health services are provided, or a community support program or other
6.8 community-based program providing mental health treatment;

6.9 (5) a nonacute care facility, including extended care facilities;

6.10 (6) a housing with services establishment operating under assisted living title protection
6.11 under chapter 144G;

6.12 (7) any living unit of a housing with services establishment registered under chapter
6.13 144D, in which home care services are provided to a resident by a home care provider
6.14 licensed under chapter 144A;

6.15 (8) a nursing home;

6.16 (9) a boarding care home for care required because of prolonged mental or physical
6.17 illness or disability, recovery from injury or disease, or advancing age; or

6.18 (10) for the purposes of subdivisions 1 to 27 and 30 to 34, a facility licensed as a board
6.19 and lodging facility under Minnesota Rules, chapter 4625, or a supervised living facility
6.20 under Minnesota Rules, chapter 4665, and which operates a rehabilitation program licensed
6.21 under Minnesota Rules, parts 9530.6410 to 9530.6590.

6.22 (e) "Interested person" has the meaning given under section 524.5-102, subdivision 7.
6.23 An interested person does not include a person whose authority has been restricted by the
6.24 patient or resident, or by a court.

6.25 Sec. 7. Minnesota Statutes 2016, section 144.651, subdivision 4, is amended to read:

6.26 Subd. 4. **Information about rights.** (a) Patients and residents shall, at admission, be
6.27 told that there are legal rights for their protection during their stay at the facility or throughout
6.28 their course of treatment and maintenance in the community and that these are described
6.29 in an accompanying written statement in plain language and in terms patients and residents
6.30 can understand of the applicable rights and responsibilities set forth in this section. The
6.31 written statement must also include the name and address of the state or county agency to

7.1 contact for additional information or assistance. In the case of patients admitted to residential
 7.2 programs as defined in section 253C.01, the written statement shall also describe the right
 7.3 of a person 16 years old or older to request release as provided in section 253B.04,
 7.4 subdivision 2, and shall list the names and telephone numbers of individuals and organizations
 7.5 that provide advocacy and legal services for patients in residential programs.

7.6 (b) Reasonable accommodations shall be made for people who have communication
 7.7 disabilities and those who speak a language other than English.

7.8 (c) Current facility policies, inspection findings of state and local health authorities, and
 7.9 further explanation of the written statement of rights shall be available to patients, residents,
 7.10 their guardians or their chosen representatives upon reasonable request to the administrator
 7.11 or other designated staff person, consistent with chapter 13, the Data Practices Act, and
 7.12 section 626.557, relating to vulnerable adults.

7.13 Sec. 8. Minnesota Statutes 2016, section 144.651, subdivision 6, is amended to read:

7.14 Subd. 6. **Appropriate health care.** Patients and residents shall have the right to
 7.15 appropriate medical and personal care based on individual needs. Appropriate care for
 7.16 residents means care designed to enable residents to achieve their highest level of physical
 7.17 and mental functioning-, provided with reasonable regularity and continuity of staff
 7.18 assignment as far as facility policy allows by persons who are properly trained and competent
 7.19 to perform their duties. This right is limited where the service is not reimbursable by public
 7.20 or private resources.

7.21 Sec. 9. Minnesota Statutes 2016, section 144.651, subdivision 14, is amended to read:

7.22 Subd. 14. **Freedom from maltreatment.** (a) Patients and residents shall be free from
 7.23 maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means
 7.24 conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic
 7.25 infliction of physical pain or injury, or any persistent course of conduct intended to produce
 7.26 mental or emotional distress. Every patient and resident has the right to immediate notification
 7.27 by a facility of alleged maltreatment, including the details of any report submitted by the
 7.28 facility under section 626.557 to the common entry point, as defined in section 626.5572,
 7.29 subdivision 5. An interested person, as defined in section 626.5572, subdivision 12a, also
 7.30 has the right to information about maltreatment and the details of a report.

7.31 (b) Every patient and resident shall also be free from nontherapeutic chemical and
 7.32 physical restraints, except in fully documented emergencies, or as authorized in writing

8.1 after examination by a patient's or resident's physician for a specified and limited period of
8.2 time, and only when necessary to protect the resident from self-injury or injury to others.

8.3 Sec. 10. Minnesota Statutes 2016, section 144.651, is amended by adding a subdivision
8.4 to read:

8.5 Subd. 14a. **Placement of cameras in private space.** (a) For purposes of this subdivision:

8.6 (1) "resident representative" has the meaning given in Code of Federal Regulations, title
8.7 42, section 483.5; and

8.8 (2) "camera" includes other electronic monitoring devices.

8.9 (b) Every resident has the right to place a camera in the resident's private space. A facility
8.10 shall not interfere with the placement. The resident may define when, where, and under
8.11 what circumstances the camera may be temporarily turned off and has the right to change
8.12 these preferences at any time.

8.13 (c) If the resident resides in shared space, the resident must document a discussion
8.14 regarding placement of a camera with any roommate or the roommate's guardian or health
8.15 care agent. If consent from the roommate or the roommate's guardian or health care agent
8.16 cannot be obtained, the facility must make a reasonable accommodation to either provide
8.17 a private room or another shared room in which the roommate consents to placement of a
8.18 camera.

8.19 (d) Costs for placement of a camera are incurred by the resident, except that the resident
8.20 may utilize the facility's Internet service if otherwise made available to the resident.

8.21 (e) A health care agent or guardian may place a camera in the resident's private space
8.22 on behalf of the resident after documenting a discussion with the resident, which includes
8.23 informing the resident of the resident's right to privacy and a right to be free from
8.24 maltreatment, and confirming that the resident does not object to the placement of a camera
8.25 in the resident's private space.

8.26 (f) A resident representative who is not the health care agent or guardian may place a
8.27 camera in the resident's private space on behalf of the resident after documenting a discussion
8.28 with any health care agent or guardian of the resident regarding the placement, and
8.29 confirming that the resident and any health care agent or guardian do not object to the
8.30 placement.

8.31 (g) An interested person who is not the health care agent, guardian, or resident
8.32 representative may place a camera in the resident's private space on behalf of the resident

9.1 after documenting a discussion with any health care agent, guardian, or resident representative
9.2 of the resident regarding the placement, and confirming that any health care agent, guardian,
9.3 or resident representative does not object to the placement. Where there is no health care
9.4 agent, guardian, or resident representative of the resident, an interested person must document
9.5 a discussion with the ombudsman for long-term care regarding the placement, and must
9.6 confirm that the ombudsman does not object to the placement.

9.7 If conflict arises between multiple interested parties, the ombudsman for long-term care
9.8 shall be consulted.

9.9 (h) The health care agent, guardian, resident representative, or interested person who
9.10 has placed the camera, after discussion with the resident, may define when, where, and
9.11 under what circumstances the camera may be temporarily turned off and has the right to
9.12 change these preferences at any time.

9.13 (i) No one may seek placement of a camera in the resident's private space on behalf of
9.14 a resident if the placement has been restricted or rescinded in writing by a resident or a
9.15 court.

9.16 (j) The facility may not tamper with or remove any camera placed in the resident's private
9.17 space or attempt to persuade, coerce, or influence the resident not to place a camera in the
9.18 resident's private space. The facility shall not retaliate against the resident for placement of
9.19 a camera. A facility does not violate Minnesota law or rules if a camera for which the facility
9.20 was unaware is found during a survey or investigation by the Department of Health.

9.21 Sec. 11. Minnesota Statutes 2016, section 144.651, subdivision 16, is amended to read:

9.22 Subd. 16. **Confidentiality of records.** Patients and residents shall be assured confidential
9.23 treatment of their personal, financial, and medical records, and may approve or refuse their
9.24 release to any individual outside the facility. Residents shall be notified when personal
9.25 records are requested by any individual outside the facility and may select someone to
9.26 accompany them when the records or information are the subject of a personal interview.
9.27 Patients and residents have a right to access their own records and written information from
9.28 those records. Copies of records and written information from the records shall be made
9.29 available in accordance with this subdivision and sections 144.291 to 144.298. This right
9.30 does not apply to complaint investigations and inspections by the Department of Health,
9.31 where required by third-party payment contracts, or where otherwise provided by law.

10.1 Sec. 12. Minnesota Statutes 2016, section 144.651, subdivision 17, is amended to read:

10.2 Subd. 17. **Disclosure of services available.** Patients and residents shall be informed,
10.3 prior to or at the time of admission and during their stay, of services which are included in
10.4 the facility's basic per diem or daily room rate and that other services are available at
10.5 additional charges. Patients and residents have the right to reasonable advance notice of
10.6 changes in services or charges. A facility may not collect a nonrefundable deposit, unless
10.7 it is applied to the first month's charges. Facilities shall make every effort to assist patients
10.8 and residents in obtaining information regarding whether the Medicare or medical assistance
10.9 program will pay for any or all of the aforementioned services.

10.10 Sec. 13. Minnesota Statutes 2016, section 144.651, subdivision 20, is amended to read:

10.11 Subd. 20. **Grievances.** (a) Patients and residents shall be encouraged and assisted,
10.12 throughout their stay in a facility or their course of treatment, to understand and exercise
10.13 their rights as patients, residents, and citizens. Patients and residents may voice grievances,
10.14 assert the rights granted under this section personally, or have these rights asserted by an
10.15 interested person, and recommend changes in policies and services to facility staff and
10.16 others of their choice, free from restraint, interference, coercion, discrimination, retaliation,
10.17 or reprisal, including threat of discharge. Notice of the grievance procedure of the facility
10.18 or program, as well as addresses and telephone numbers for the Office of Health Facility
10.19 Complaints and the area nursing home ombudsman pursuant to the Older Americans Act,
10.20 section 307(a)(12) shall be posted in a conspicuous place.

10.21 (b) Patients, residents, and interested persons have the right to complain about services
10.22 that are provided, services that are not being provided, and the lack of courtesy or respect
10.23 to the patient or resident or the patient's or resident's property. The facility must investigate
10.24 and attempt resolution of the complaint or grievance. The patient or resident has the right
10.25 to be informed of the name of the individual who is responsible for handling grievances.

10.26 (c) Notice must be posted in a conspicuous place of the facility's or program's grievance
10.27 procedure, as well as telephone numbers and, where applicable, addresses for the common
10.28 entry point, defined in section 626.5572, subdivision 5, a protection and advocacy agency,
10.29 and the area nursing home ombudsman pursuant to the Older Americans Act, section
10.30 307(a)(12).

10.31 (d) Every acute care inpatient facility, every residential program as defined in section
10.32 253C.01, every nonacute care facility, and every facility employing more than two people
10.33 that provides outpatient mental health services shall have a written internal grievance
10.34 procedure that, at a minimum, sets forth the process to be followed; specifies time limits,

11.1 including time limits for facility response; provides for the patient or resident to have the
11.2 assistance of an advocate; requires a written response to written grievances; and provides
11.3 for a timely decision by an impartial decision maker if the grievance is not otherwise resolved.
11.4 Compliance by hospitals, residential programs as defined in section 253C.01 which are
11.5 hospital-based primary treatment programs, and outpatient surgery centers with section
11.6 144.691 and compliance by health maintenance organizations with section 62D.11 is deemed
11.7 to be compliance with the requirement for a written internal grievance procedure.

11.8 Sec. 14. Minnesota Statutes 2016, section 144.651, subdivision 21, is amended to read:

11.9 Subd. 21. **Communication privacy.** Patients and residents may associate and
11.10 communicate privately with persons of their choice and enter and, except as provided by
11.11 the Minnesota Commitment Act, leave the facility as they choose. Patients and residents
11.12 shall have access, at their own expense, unless provided by the facility, to writing instruments,
11.13 stationery, ~~and~~ postage, and Internet service. Personal mail shall be sent without interference
11.14 and received unopened unless medically or programmatically contraindicated and
11.15 documented by the physician in the medical record. There shall be access to a telephone
11.16 where patients and residents can make and receive calls as well as speak privately. Facilities
11.17 which are unable to provide a private area shall make reasonable arrangements to
11.18 accommodate the privacy of patients' or residents' calls. Upon admission to a facility where
11.19 federal law prohibits unauthorized disclosure of patient or resident identifying information
11.20 to callers and visitors, the patient or resident, or the legal guardian or conservator of the
11.21 patient or resident, shall be given the opportunity to authorize disclosure of the patient's or
11.22 resident's presence in the facility to callers and visitors who may seek to communicate with
11.23 the patient or resident. To the extent possible, the legal guardian or conservator of a patient
11.24 or resident shall consider the opinions of the patient or resident regarding the disclosure of
11.25 the patient's or resident's presence in the facility. This right is limited where medically
11.26 inadvisable, as documented by the attending physician in a patient's or resident's care record.
11.27 Where programmatically limited by a facility abuse prevention plan pursuant to section
11.28 626.557, subdivision 14, paragraph (b), this right shall also be limited accordingly.

11.29 Sec. 15. Minnesota Statutes 2016, section 144.651, is amended by adding a subdivision
11.30 to read:

11.31 Subd. 34. **Retaliation prohibited.** (a) A facility or person must not retaliate against a
11.32 patient, resident, employee, or interested person who:

- 12.1 (1) files a complaint or grievance or asserts any rights on behalf of the patient or resident
12.2 as provided under subdivision 20;
- 12.3 (2) submits a maltreatment report, whether mandatory or voluntary, on behalf of the
12.4 patient or resident under section 626.557, subdivision 3, 4, or 4a;
- 12.5 (3) advocates on behalf of the patient or resident for necessary or improved care and
12.6 services or enforcement of rights under this section or other law;
- 12.7 (4) contracts to receive services from a service provider of the resident's choice; or
- 12.8 (5) places a camera or electronic monitoring device in the resident's private space as
12.9 provided in subdivision 14a.
- 12.10 (b) There is a rebuttable presumption that adverse action is retaliatory if taken against
12.11 a patient, resident, employee, or interested person within 90 days of a patient, resident,
12.12 employee, or interested person filing a grievance as provided in paragraph (a), submitting
12.13 a maltreatment report, or otherwise advocating on behalf of a patient or resident.
- 12.14 (c) For purposes of this section, "adverse action" means any action taken by a facility
12.15 or person against the patient, resident, employee, or interested person that includes but is
12.16 not limited to:
- 12.17 (1) discharge or transfer from the facility;
- 12.18 (2) discharge from or termination of employment;
- 12.19 (3) demotion or reduction in remuneration for services;
- 12.20 (4) restriction or prohibition of access either to the facility or to the patient or resident;
- 12.21 (5) any restriction of any of the rights set forth in state or federal law;
- 12.22 (6) any restriction of access to or use of amenities or services;
- 12.23 (7) termination of a services or lease agreement, or both;
- 12.24 (8) a sudden increase in costs for services not already contemplated at the time of the
12.25 action taken;
- 12.26 (9) removal, tampering with, or deprivation of technology, communication, or electronic
12.27 monitoring devices of the patient or resident;
- 12.28 (10) reporting maltreatment in bad faith; or
- 12.29 (11) making any oral or written communication of false information about a person
12.30 advocating on behalf of the patient or resident.

13.1 Sec. 16. [144.6511] DECEPTIVE MARKETING AND BUSINESS PRACTICES.

13.2 (a) Deceptive marketing and business practices are prohibited.

13.3 (b) For the purposes of this section, it is a deceptive practice for a facility to:

13.4 (1) make any false, fraudulent, deceptive, or misleading statements in marketing,
13.5 advertising, or any other oral or written description or representation of care or services,
13.6 whether in oral, written, or electronic form;

13.7 (2) arrange for or provide health care or services that are inferior to, substantially different
13.8 from, or substantially more expensive than those offered, promised, marketed, or advertised;

13.9 (3) fail to deliver any care or services the provider or facility promised or represented
13.10 that the facility was able to provide;

13.11 (4) fail to inform the patient or resident in writing of any limitations to care services
13.12 available prior to executing a contract for admission;

13.13 (5) fail to fulfill a written or oral promise that the facility shall continue the same services
13.14 and the same lease terms if a private pay resident converts to the elderly waiver program;

13.15 (6) fail to disclose and clearly explain the purpose of a nonrefundable community fee
13.16 or other fee prior to contracting for services with a patient or resident;

13.17 (7) advertise or represent, orally or in writing, that the facility is or has a special care
13.18 unit, such as for dementia or memory care, without complying with training and disclosure
13.19 requirements under sections 144D.065 and 325F.72, and any other applicable law; or

13.20 (8) define the terms "facility," "contract of admission," "admission contract," "admission
13.21 agreement," "legal representative," or "responsible party" to mean anything other than the
13.22 meanings of those terms under section 144.6501.

13.23 Sec. 17. [144.6512] ENFORCEMENT OF THE HEALTH CARE BILL OF RIGHTS.

13.24 In addition to the remedies otherwise provided by or available under law, a patient or
13.25 resident, or an interested person on behalf of the patient or resident, may bring a civil action
13.26 against a facility to recover actual, incidental, and consequential damages or \$5,000,
13.27 whichever is greater, costs and disbursements, including costs of investigation, and reasonable
13.28 attorney fees, and receive other equitable relief as determined by the court for a violation
13.29 of sections 144.6501, subdivision 2, or 144.651 and 144.6511.

14.1 Sec. 18. Minnesota Statutes 2016, section 144A.10, subdivision 1, is amended to read:

14.2 Subdivision 1. **Enforcement authority.** The commissioner of health is the exclusive
 14.3 state agency charged with the responsibility and duty of inspecting all facilities required to
 14.4 be licensed under section 144A.02, and issuing correction orders and imposing fines as
 14.5 provided in this section, Minnesota Rules, chapter 4658, or any other applicable law. The
 14.6 commissioner of health shall enforce the rules established pursuant to sections 144A.01 to
 14.7 144A.155, subject only to the authority of the Department of Public Safety respecting the
 14.8 enforcement of fire and safety standards in nursing homes and the responsibility of the
 14.9 commissioner of human services under sections 245A.01 to 245A.16 or 252.28.

14.10 The commissioner may request and must be given access to relevant information, records,
 14.11 incident reports, or other documents in the possession of a licensed facility if the
 14.12 commissioner considers them necessary for the discharge of responsibilities. For the purposes
 14.13 of inspections and securing information to determine compliance with the licensure laws
 14.14 and rules, the commissioner need not present a release, waiver, or consent of the individual.
 14.15 A nursing home's refusal to cooperate in providing lawfully requested information is grounds
 14.16 for a correction order or fine. The identities of patients or residents must be kept private as
 14.17 defined by section 13.02, subdivision 12.

14.18 Sec. 19. Minnesota Statutes 2016, section 144A.44, is amended to read:

14.19 **144A.44 HOME CARE BILL OF RIGHTS.**

14.20 Subdivision 1. **Statement of rights.** (a) All home care providers, and individuals or
 14.21 organizations exempt from home care licensure by section 144A.471, subdivision 8, must
 14.22 comply with this section. A person who receives home care services has ~~these rights~~ the
 14.23 right to:

14.24 (1) ~~the right to~~ receive written information about rights before receiving services,
 14.25 including what to do if rights are violated;

14.26 (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan, and
 14.27 subject to accepted health care, medical or nursing standards, to take an active part in
 14.28 developing, modifying, and evaluating the plan and services;

14.29 (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who
 14.30 will be providing the services, the frequency of visits proposed to be furnished, other choices
 14.31 that are available for addressing home care needs, and the potential consequences of refusing
 14.32 these services;

- 15.1 (4) ~~the right to~~ be told in advance of any recommended changes by the provider in the
15.2 service plan and to take an active part in any decisions about changes to the service plan;
- 15.3 (5) ~~the right to~~ refuse services or treatment;
- 15.4 (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to
15.5 the services available from a home care provider;
- 15.6 (7) ~~the right to~~ be told before services are initiated what the provider charges for the
15.7 services; to what extent payment may be expected from health insurance, public programs,
15.8 or other sources, if known; and what charges the client may be responsible for paying;
- 15.9 (8) ~~the right to~~ know that there may be other services available in the community,
15.10 including other home care services and providers, and to know where to find information
15.11 about these services;
- 15.12 (9) ~~the right to~~ choose freely among available providers and to change providers after
15.13 services have begun, within the limits of health insurance, long-term care insurance, medical
15.14 assistance, or other health programs;
- 15.15 (10) ~~the right to~~ have personal, financial, and medical information kept private, and to
15.16 be advised of the provider's policies and procedures regarding disclosure of such information;
- 15.17 (11) ~~the right to~~ access the client's own records and written information from those
15.18 records in accordance with sections 144.291 to 144.298;
- 15.19 (12) ~~the right to~~ be served by people who are properly trained and competent to perform
15.20 their duties;
- 15.21 (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property
15.22 treated with respect;
- 15.23 (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation,
15.24 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
15.25 of Minors Act;
- 15.26 (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;
- 15.27 (16) ~~the right to~~ know the provider's reason for termination of services;
- 15.28 (17) ~~the right to~~ at least ~~ten~~ 30 days' advance notice of the termination of a service by a
15.29 provider, except in cases where:
- 15.30 (i) the client engages in conduct that significantly alters the terms of the service plan
15.31 with the home care provider;

16.1 (ii) the client, person who lives with the client, or others create an abusive or unsafe
16.2 work environment for the person providing home care services; or

16.3 (iii) an emergency or a significant change in the client's condition has resulted in service
16.4 needs that exceed the current service plan and that cannot be safely met by the home care
16.5 provider;

16.6 (18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of
16.7 services;

16.8 (19) ~~the right to~~ complain about services that are provided, or fail to be provided, and
16.9 the lack of courtesy or respect to the client or the client's property;

16.10 (20) ~~the right to~~ know how to contact an individual associated with the home care provider
16.11 who is responsible for handling problems and to have the home care provider investigate
16.12 and attempt to resolve the grievance or complaint;

16.13 (21) ~~the right to~~ know the name and address of the state or county agency to contact for
16.14 additional information or assistance; ~~and~~

16.15 (22) ~~the right to~~ assert these rights personally, or have them asserted by the client's
16.16 representative or by anyone on behalf of the client, without retaliation; and

16.17 (23) reasonable access at reasonable times to available legal or advocacy services so
16.18 that the client may receive assistance in understanding, exercising, and protecting the rights
16.19 in this section and other law.

16.20 (b) A home care provider shall:

16.21 (1) encourage and assist in the fullest possible exercise of these rights;

16.22 (2) provide the names and telephone numbers of individuals and organizations that
16.23 provide advocacy and legal services for clients;

16.24 (3) make every effort to assist clients in obtaining information regarding whether the
16.25 Medicare or medical assistance program will pay for services;

16.26 (4) make reasonable accommodations for people who have communication disabilities
16.27 and those who speak a language other than English; and

16.28 (5) provide all information and notices in plain language and in terms the client can
16.29 understand.

16.30 Subd. 2. **Interpretation and enforcement of rights.** ~~These rights are established for~~
16.31 ~~the benefit of clients who receive home care services. All home care providers, including~~

17.1 ~~those exempted under section 144A.471, must comply with this section. The commissioner~~
 17.2 ~~shall enforce this section and the home care bill of rights requirement against home care~~
 17.3 ~~providers exempt from licensure in the same manner as for licensees. A home care provider~~
 17.4 ~~may not request or require a client to surrender any of these rights as a condition of receiving~~
 17.5 ~~services. This statement of~~ The rights does provided under this section are established for
 17.6 the benefit of clients who receive home care services, do not replace or diminish other rights
 17.7 and liberties that may exist relative to clients receiving home care services, persons providing
 17.8 home care services, or providers licensed under sections 144A.43 to 144A.482, and may
 17.9 not be waived. Any oral or written waiver of the rights provided under this section is void
 17.10 and unenforceable.

17.11 Subd. 3. **Deceptive marketing and business practices.** (a) Deceptive marketing and
 17.12 business practices are prohibited.

17.13 (b) For the purposes of this section, it is a deceptive marketing and business practice to:

17.14 (1) engage in any conduct listed in section 144.6511;

17.15 (2) seek or collect a nonrefundable deposit, unless the deposit is applied to the first
 17.16 month's charges;

17.17 (3) fail to disclose and clearly explain the purpose of a nonrefundable community fee
 17.18 or other fee prior to contracting for services with a client; or

17.19 (4) make any oral or written statement or representation, either directly or in marketing
 17.20 or advertising materials that contradict, conflict with, or otherwise are inconsistent with the
 17.21 provisions set forth in the admissions agreement, service agreement, contract, lease, or
 17.22 Uniform Consumer Information Guide under section 144G.06.

17.23 Subd. 4. **Enforcement of rights.** The commissioner shall enforce this section and the
 17.24 requirements in the home care bill of rights against home care providers exempt from
 17.25 licensure in the same manner as for licensees.

17.26 Subd. 5. **Private enforcement of rights.** In addition to the remedies otherwise available
 17.27 under law, a person who receives home care services, an assisted living client, or an interested
 17.28 person on behalf of the person who receives home care services may bring a civil action
 17.29 against a home care provider and recover actual, incidental, and consequential damages or
 17.30 \$5,000, whichever is greater, costs and disbursements, including costs of investigation, and
 17.31 reasonable attorney fees, and receive other equitable relief as determined by the court for
 17.32 a violation of this section or section 144A.441. For purposes of this section, an interested
 17.33 person has the meaning given in section 144.651, subdivision 2, except that an interested

18.1 person does not include a person whose authority has been restricted by the person receiving
 18.2 home care services or assisted living, or by a court.

18.3 Sec. 20. Minnesota Statutes 2016, section 144A.441, is amended to read:

18.4 **144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.**

18.5 Assisted living clients, as defined in section 144G.01, subdivision 3, shall be provided
 18.6 with the home care bill of rights required by section 144A.44, except that the home care
 18.7 bill of rights provided to these clients must include the following provision in place of the
 18.8 provision in section 144A.44, subdivision 1, paragraph (a), clause (17):

18.9 "(17) the right to reasonable, advance notice of changes in services or charges, including
 18.10 at least 30 days' advance notice of the termination of a service by a provider, except in cases
 18.11 where:

18.12 (i) ~~the recipient of services engages in conduct that alters the conditions of employment~~
 18.13 ~~as specified in the employment contract between the home care provider and the individual~~
 18.14 ~~providing home care services, or creates~~ and the home care provider can document an
 18.15 abusive or unsafe work environment for the individual providing home care services;

18.16 (ii) a doctor or treating physician documents that an emergency for the informal caregiver
 18.17 or a significant change in the recipient's condition has resulted in service needs that exceed
 18.18 the current service provider agreement and that cannot be safely met by the home care
 18.19 provider; or

18.20 (iii) the provider has not received payment for services, for which at least ten days'
 18.21 advance notice of the termination of a service shall be provided."

18.22 Sec. 21. Minnesota Statutes 2016, section 144A.442, is amended to read:

18.23 **144A.442 ASSISTED LIVING CLIENTS; SERVICE ARRANGED HOME CARE**
 18.24 **PROVIDER RESPONSIBILITIES; TERMINATION OF SERVICES.**

18.25 Subdivision 1. Legislative intent. It is the intent of the legislature to ensure to the greatest
 18.26 extent possible stability of services for persons residing in housing with services
 18.27 establishments.

18.28 Subd. 2. Definitions. For the purposes of this section, "arranged home care provider"
 18.29 has the meaning given in section 144D.01, subdivision 2a, and "assisted living client" has
 18.30 the meaning given in section 144G.01, subdivision 3.

19.1 Subd. 3. Notice; permissible reasons to terminate services. (a) Except as provided in
 19.2 paragraph (b), an arranged home care provider must provide at least 30 days' notice prior
 19.3 to terminating a service contract. Notwithstanding any other provision of law, an arranged
 19.4 home care provider may terminate services only if the assisted living client:

19.5 (1) engages in conduct that significantly alters the terms of the service plan with the
 19.6 arranged home care provider and does not cure the alteration within 30 days of receiving
 19.7 written notice of the conduct; or

19.8 (2) breaches the services agreement, which includes failure to pay for services, and has
 19.9 not cured the breach within 30 days of receiving written notice of the nonpayment.

19.10 (b) Notwithstanding paragraph (a), the arranged home care provider may terminate
 19.11 services with ten days' notice if the assisted living client:

19.12 (1) creates, and the arranged home care provider can document, an abusive or unsafe
 19.13 work environment for the individual providing home care services; or

19.14 (2) has service needs that exceed the current service plan and cannot be safely met by
 19.15 the arranged home care provider and a doctor or treating physician documents that an
 19.16 emergency or a significant change in the assisted living client's condition has occurred.

19.17 Subd. 4. Contents of service termination notice. If an arranged home care provider,
 19.18 ~~as defined in section 144D.01, subdivision 2a, who is not also Medicare-certified~~ terminates
 19.19 a service agreement or service plan with an assisted living client, ~~as defined in section~~
 19.20 ~~144G.01, subdivision 3,~~ the arranged home care provider shall provide the assisted living
 19.21 client and the legal or designated representatives of the client, if any, with a an advance
 19.22 written notice of service termination as provided under subdivision 3, which includes must
 19.23 include the following information:

19.24 (1) the effective date of service termination;

19.25 (2) the reason for service termination;

19.26 (3) without extending the termination notice period, an affirmative offer to meet with
 19.27 the assisted living client or ~~client representatives~~ client's representative within no more than
 19.28 five business days of the date of the service termination notice to discuss the termination;

19.29 (4) contact information for a reasonable number of other home care providers in the
 19.30 geographic area of the assisted living client, as required by section 144A.4791, subdivision
 19.31 10;

20.1 (5) a statement that the arranged home care provider will participate in a coordinated
 20.2 transfer of the care of the client to another provider or caregiver, as required by section
 20.3 144A.44, subdivision 1, paragraph (a), clause (18);

20.4 (6) a statement that the assisted living client has the right to a meeting at the client's
 20.5 request with a representative of the arranged home care provider to discuss and attempt to
 20.6 avoid the service termination;

20.7 (7) the name and contact information of a representative of the arranged home care
 20.8 provider with whom the assisted living client may discuss the notice of service termination;

20.9 ~~(7)~~ (8) a copy of the home care bill of rights; ~~and~~

20.10 ~~(8)~~ (9) a statement that the notice of service termination of home care services by the
 20.11 arranged home care provider does not constitute notice of termination of the ~~housing with~~
 20.12 ~~services contract with a housing with services establishment.~~ lease; and

20.13 (10) a statement that the assisted living client has the right to appeal the service
 20.14 termination to the Office of Administrative Hearings and that includes the contact information
 20.15 for the Office of Administrative Hearings.

20.16 **Subd. 5. Right to appeal service termination.** (a) At any time prior to the expiration
 20.17 of the notice period provided under subdivision 3 and section 144A.441, an assisted living
 20.18 client may appeal the service termination by making a written request for a hearing to the
 20.19 Office of Administrative Hearings. The Office of Administrative Hearings must conduct
 20.20 the hearing no later than 14 days after the office receives the appeal request from the assisted
 20.21 living client. The hearing must be held in the housing with services establishment where
 20.22 the client resides, unless it is impractical or the parties agree to a different place.

20.23 (b) The arranged home care provider may not discontinue services to an assisted living
 20.24 client who makes a timely appeal of a notice of service termination unless the Office of
 20.25 Administrative Hearings has made a final determination on the appeal in favor of the arranged
 20.26 home care provider.

20.27 (c) Assisted living clients are not required to request a meeting as available under
 20.28 subdivision 4, clause (6), prior to submitting an appeal hearing request.

20.29 (d) The commissioner of health may order the arranged home care provider to rescind
 20.30 the service contract termination if the proposed termination is in violation of state or federal
 20.31 law.

21.1 (e) Nothing in this section limits the right of an assisted living client or the client's
 21.2 representative to request or receive assistance from the Office of Ombudsman for Long-Term
 21.3 Care and a protection and advocacy agency concerning the proposed service termination.

21.4 Subd. 6. **Discontinuation of services.** An arranged home care provider's responsibilities
 21.5 when voluntarily discontinuing services to all clients are governed by section 144A.4791,
 21.6 subdivision 10.

21.7 Sec. 22. Minnesota Statutes 2016, section 144A.45, subdivision 1, is amended to read:

21.8 Subdivision 1. **Regulations.** The commissioner shall regulate home care providers
 21.9 pursuant to sections 144A.43 to 144A.482. The regulations shall include the following:

21.10 (1) provisions to assure, to the extent possible, the health, safety, well-being, and
 21.11 appropriate treatment of persons who receive home care services while respecting a client's
 21.12 autonomy and choice;

21.13 (2) requirements that home care providers furnish the commissioner with specified
 21.14 information necessary to implement sections 144A.43 to 144A.482;

21.15 (3) standards of training of home care provider personnel;

21.16 (4) standards for provision of home care services;

21.17 (5) standards for medication management;

21.18 (6) standards for supervision of home care services;

21.19 (7) standards for client evaluation or assessment;

21.20 (8) requirements for the involvement of a client's health care provider, the documentation
 21.21 of health care providers' orders, if required, and the client's service plan;

21.22 (9) standards for the maintenance of accurate, current client records;

21.23 (10) the establishment of basic and comprehensive levels of licenses based on services
 21.24 provided; and

21.25 (11) provisions to enforce these regulations and the home care bill of rights, including
 21.26 provisions for issuing penalties and fines as allowed under law.

21.27 Sec. 23. Minnesota Statutes 2016, section 144A.45, subdivision 2, is amended to read:

21.28 Subd. 2. **Regulatory functions.** The commissioner shall:

22.1 (1) license, survey, and monitor without advance notice, home care providers in
22.2 accordance with sections 144A.43 to 144A.482;

22.3 (2) survey every temporary licensee within one year of the temporary license issuance
22.4 date subject to the temporary licensee providing home care services to a client or clients;

22.5 (3) survey all licensed home care providers ~~on an interval that will promote the health~~
22.6 ~~and safety of clients~~ annually;

22.7 (4) with the consent of the client, visit the home where services are being provided;

22.8 (5) issue correction orders and assess civil penalties in accordance with ~~section~~ sections
22.9 144.653, subdivisions 5 to 8, 144A.474, and 144A.475, for violations of sections 144A.43
22.10 to 144A.482;

22.11 (6) take action as authorized in section 144A.475; and

22.12 (7) take other action reasonably required to accomplish the purposes of sections 144A.43
22.13 to 144A.482.

22.14 Sec. 24. Minnesota Statutes 2016, section 144A.474, subdivision 1, is amended to read:

22.15 Subdivision 1. **Surveys.** The commissioner shall conduct surveys of each home care
22.16 provider. ~~By June 30, 2016, The commissioner shall conduct a survey of home care providers~~
22.17 ~~on a frequency of at least once every three years. Survey frequency may be based on the~~
22.18 ~~license level, the provider's compliance history, the number of clients served, or other factors~~
22.19 ~~as determined by the department deemed necessary to ensure the health, safety, and welfare~~
22.20 ~~of clients and compliance with the law~~ annually.

22.21 Sec. 25. Minnesota Statutes 2016, section 144A.474, subdivision 8, is amended to read:

22.22 Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the
22.23 commissioner finds upon survey or during a complaint investigation that a home care
22.24 provider, a managerial official, or an employee of the provider is not in compliance with
22.25 sections 144A.43 to 144A.482. The correction order shall cite the specific statute and
22.26 document areas of noncompliance and the time allowed for correction. In addition to issuing
22.27 a correction order, the commissioner may impose an immediate fine. The home care provider
22.28 must submit a correction plan to the commissioner.

22.29 (b) The commissioner shall mail copies of any correction order to the last known address
22.30 of the home care provider, or electronically scan the correction order and e-mail it to the
22.31 last known home care provider e-mail address, within 30 calendar days after the survey exit

23.1 date. A copy of each correction order, the amount of any immediate fine issued, the correction
 23.2 plan, and copies of any documentation supplied to the commissioner shall be kept on file
 23.3 by the home care provider, and public documents shall be made available for viewing by
 23.4 any person upon request. Copies may be kept electronically.

23.5 (c) By the correction order date, the home care provider must document in the provider's
 23.6 records and submit in writing to the commissioner any action taken to comply with the
 23.7 correction order. ~~The commissioner may request a copy of this documentation and the home~~
 23.8 ~~care provider's action to respond to the correction order in future surveys, upon a complaint~~
 23.9 ~~investigation, and as otherwise needed.~~

23.10 Sec. 26. Minnesota Statutes 2016, section 144A.474, subdivision 9, is amended to read:

23.11 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under
 23.12 subdivision 11, or any violations determined to be widespread, the department shall conduct
 23.13 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up
 23.14 survey, the surveyor will focus on whether the previous violations have been corrected and
 23.15 may also address any new violations that are observed while evaluating the corrections that
 23.16 have been made. If a new violation is identified on a follow-up survey, ~~no fine will be~~
 23.17 ~~imposed unless it is not corrected on the next follow-up survey~~ the surveyor shall issue a
 23.18 correction order for the new violation and may impose an immediate fine for the new
 23.19 violation.

23.20 Sec. 27. Minnesota Statutes 2017 Supplement, section 144A.474, subdivision 11, is
 23.21 amended to read:

23.22 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed
 23.23 based on the level and scope of the violations described in paragraph (c) as follows:

23.24 (1) Level 0, fines ranging from \$0 to \$500, using as a guide relevant or comparable
 23.25 penalty schedules in Minnesota Rules, chapter 4658;

23.26 (2) Level 1, no fines or enforcement;

23.27 ~~(2)~~ (3) Level 2, fines ranging from \$0 to \$500 \$....., in addition to any of the enforcement
 23.28 mechanisms authorized in section 144A.475 for widespread violations;

23.29 ~~(3)~~ (4) Level 3, fines ranging from \$500 to \$1,000 \$....., in addition to any of the
 23.30 enforcement mechanisms authorized in section 144A.475; and

23.31 ~~(4)~~ (5) Level 4, fines ranging from \$1,000 to \$5,000 \$....., in addition to any of the
 23.32 enforcement mechanisms authorized in section 144A.475.

24.1 (b) Correction orders for violations are categorized by both level and scope and fines
24.2 shall be assessed as follows:

24.3 (1) level of violation:

24.4 (i) Level 0 is a violation of sections 144.6501, 144.651 to 144.6512, 144A.44, 144A.441,
24.5 or 626.557;

24.6 (ii) Level 1 is a violation that has no potential to cause more than a minimal impact on
24.7 the client and does not affect health or safety;

24.8 ~~(ii)~~ (iii) Level 2 is a violation that did not harm a client's health or safety but had the
24.9 potential to have harmed a client's health or safety, but was not likely to cause serious injury,
24.10 impairment, or death;

24.11 ~~(iii)~~ (iv) Level 3 is a violation that harmed a client's health or safety, not including serious
24.12 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
24.13 impairment, or death; and

24.14 ~~(iv)~~ (v) Level 4 is a violation that results in serious injury, impairment, or death.

24.15 (2) scope of violation:

24.16 (i) isolated, when one or a limited number of clients are affected or one or a limited
24.17 number of staff are involved or the situation has occurred only occasionally;

24.18 (ii) pattern, when more than a limited number of clients are affected, more than a limited
24.19 number of staff are involved, or the situation has occurred repeatedly but is not found to be
24.20 pervasive; and

24.21 (iii) widespread, when problems are pervasive or represent a systemic failure that has
24.22 affected or has the potential to affect a large portion or all of the clients.

24.23 (c) If the commissioner finds that the applicant or a home care provider required to be
24.24 licensed under sections 144A.43 to 144A.482 has not corrected violations by the date
24.25 specified in the correction order or conditional license resulting from a survey or complaint
24.26 investigation, the commissioner may impose a an additional fine for noncompliance with
24.27 a correction order. A notice of noncompliance with a correction order must be mailed to
24.28 the applicant's or provider's last known address. ~~The noncompliance notice of noncompliance~~
24.29 with a correction order must list the violations not corrected and any fines imposed.

24.30 (d) The license holder must pay the fines assessed on or before the payment date specified
24.31 on a correction order or on a notice of noncompliance with a correction order. If the license
24.32 holder fails to ~~fully comply with the order~~ pay a fine by the specified date, the commissioner

25.1 may issue a ~~second~~ late payment fine or suspend the license until the license holder ~~complies~~
 25.2 ~~by paying the fine~~ pays all outstanding fines. A timely appeal shall stay payment of the late
 25.3 payment fine until the commissioner issues a final order.

25.4 (e) A license holder shall promptly notify the commissioner in writing when a violation
 25.5 specified in ~~the order~~ a notice of noncompliance with a correction order is corrected. If upon
 25.6 reinspection the commissioner determines that a violation has not been corrected as indicated
 25.7 by the ~~order~~ notice of noncompliance with a correction order, the commissioner may issue
 25.8 ~~a second~~ an additional fine for noncompliance with a notice of noncompliance with a
 25.9 correction order. The commissioner shall notify the license holder by mail to the last known
 25.10 address in the licensing record that ~~a second~~ an additional fine has been assessed. The license
 25.11 holder may appeal the ~~second~~ additional fine as provided under this subdivision.

25.12 (f) A home care provider that has been assessed a fine under this subdivision or
 25.13 subdivision 8 has a right to a reconsideration or a hearing under this section and chapter 14.

25.14 (g) When a fine has been assessed, the license holder may not avoid payment by closing,
 25.15 selling, or otherwise transferring the licensed program to a third party. In such an event, the
 25.16 license holder shall be liable for payment of the fine.

25.17 (h) In addition to any fine imposed under this section, the commissioner may assess
 25.18 costs related to an investigation that results in a final order assessing a fine or other
 25.19 enforcement action authorized by this chapter.

25.20 (i) Fines collected under this subdivision shall be deposited in the state government
 25.21 special revenue fund and credited to an account separate from the revenue collected under
 25.22 section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines
 25.23 collected must be used by the commissioner for special projects to improve home care in
 25.24 Minnesota as recommended by the advisory council established in section 144A.4799.

25.25 Sec. 28. Minnesota Statutes 2016, section 144A.4791, subdivision 10, is amended to read:

25.26 Subd. 10. **Termination of service plan.** (a) Except as provided in section 144A.442, if
 25.27 a home care provider terminates a service plan with a client, and the client continues to need
 25.28 home care services, the home care provider shall provide the client and the client's
 25.29 representative, if any, with a written notice of termination which includes the following
 25.30 information:

25.31 (1) the effective date of termination;

25.32 (2) the reason for termination;

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

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

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

26.9 (6) if applicable, a statement that the notice of termination of home care services does
26.10 not constitute notice of termination of the housing with services contract with a housing
26.11 with services establishment.

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

26.15 Sec. 29. Minnesota Statutes 2016, section 144A.53, subdivision 1, is amended to read:

26.16 Subdivision 1. **Powers.** The director may:

26.17 (a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in
26.18 subdivision 2, the methods by which complaints against health facilities, health care
26.19 providers, home care providers, or residential care homes, or administrative agencies are
26.20 to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not
26.21 be charged for filing a complaint.

26.22 (b) Recommend legislation and changes in rules to the state commissioner of health,
26.23 governor, administrative agencies or the federal government.

26.24 (c) Investigate, upon a complaint or upon initiative of the director, any action or failure
26.25 to act by a health care provider, home care provider, residential care home, or a health
26.26 facility.

26.27 (d) Request and receive access to relevant information, records, incident reports, or
26.28 documents in the possession of an administrative agency, a health care provider, a home
26.29 care provider, a residential care home, or a health facility, and issue investigative subpoenas
26.30 to individuals and facilities for oral information and written information, including privileged
26.31 information which the director deems necessary for the discharge of responsibilities. For
26.32 purposes of investigation and securing information to determine violations, the director

27.1 need not present a release, waiver, or consent of an individual. The identities of patients or
 27.2 residents must be kept private as defined by section 13.02, subdivision 12.

27.3 (e) Enter and inspect, at any time, a health facility or residential care home and be
 27.4 permitted to interview staff; provided that the director shall not unduly interfere with or
 27.5 disturb the provision of care and services within the facility or home or the activities of a
 27.6 patient or resident unless the patient or resident consents.

27.7 (f) Issue correction orders and assess civil fines pursuant to ~~section~~ sections 144.653,
 27.8 144A.10, 144A.45, and 144A.474; Minnesota Rules, chapters 4655, 4658, 4664, and 4665;
 27.9 or any other law which that provides for the issuance of correction orders or fines to health
 27.10 facilities or home care provider, or under section 144A.45. A facility's or home's refusal to
 27.11 cooperate in providing lawfully requested information may also be grounds for a correction
 27.12 order or fine.

27.13 (g) Recommend the certification or decertification of health facilities pursuant to Title
 27.14 XVIII or XIX of the United States Social Security Act.

27.15 (h) Assist patients or residents of health facilities or residential care homes in the
 27.16 enforcement of their rights under Minnesota law.

27.17 (i) Work with administrative agencies, health facilities, home care providers, residential
 27.18 care homes, and health care providers and organizations representing consumers on programs
 27.19 designed to provide information about health facilities to the public and to health facility
 27.20 residents.

27.21 Sec. 30. Minnesota Statutes 2016, section 144A.53, subdivision 4, is amended to read:

27.22 Subd. 4. **Referral of complaints.** (a) If a complaint received by the director relates to
 27.23 a matter more properly within the jurisdiction of law enforcement; an occupational licensing
 27.24 board₂ or other governmental agency, the director shall forward the complaint ~~to that agency~~
 27.25 appropriately and shall inform the complaining party of the forwarding. ~~The~~

27.26 (b) An agency shall promptly act in respect to the complaint, and shall inform the
 27.27 complaining party and the director of its disposition. If a governmental agency receives a
 27.28 complaint which is more properly within the jurisdiction of the director, it shall promptly
 27.29 forward the complaint to the director, and shall inform the complaining party of the
 27.30 forwarding.

27.31 (c) If the director has reason to believe that an official or employee, or client or resident
 27.32 of an administrative agency, a home care provider, residential care home, or health facility
 27.33 has acted in a manner warranting criminal or disciplinary proceedings, the director shall

28.1 refer the matter to the state commissioner of health, the commissioner of human services,
28.2 an appropriate prosecuting authority, or other appropriate agency.

28.3 Sec. 31. Minnesota Statutes 2016, section 144D.01, subdivision 1, is amended to read:

28.4 Subdivision 1. **Scope.** As used in sections 144D.01 to ~~144D.06~~ 144D.11, the following
28.5 terms have the meanings given them.

28.6 Sec. 32. Minnesota Statutes 2016, section 144D.02, is amended to read:

28.7 **144D.02 REGISTRATION REQUIRED.**

28.8 No entity may establish, operate, conduct, or maintain a housing with services
28.9 establishment in this state without registering and operating as required in sections 144D.01
28.10 to ~~144D.06~~ 144D.11.

28.11 Sec. 33. Minnesota Statutes 2017 Supplement, section 144D.04, subdivision 2, is amended
28.12 to read:

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

28.16 (1) the name, street address, and mailing address of the establishment;

28.17 (2) the name and mailing address of the owner or owners of the establishment and, if
28.18 the owner or owners is not a natural person, identification of the type of business entity of
28.19 the owner or owners;

28.20 (3) the name and mailing address of the managing agent, through management agreement
28.21 or lease agreement, of the establishment, if different from the owner or owners;

28.22 (4) the name and physical mailing address, which may not be a public or private post
28.23 office box, of at least one natural person who is authorized to accept service of process on
28.24 behalf of the owner or owners and managing agent;

28.25 (5) a statement describing the registration and licensure status of the establishment and
28.26 any provider providing health-related or supportive services under an arrangement with the
28.27 establishment;

28.28 (6) the term of the contract;

29.1 (7) a description of the services to be provided to the resident in the base rate to be paid
29.2 by the resident, including a delineation of the portion of the base rate that constitutes rent
29.3 and a delineation of charges for each service included in the base rate;

29.4 (8) a description of any additional services, including home care services, available for
29.5 an additional fee from the establishment directly or through arrangements with the
29.6 establishment, and a schedule of fees charged for these services;

29.7 (9) a conspicuous notice informing the tenant of the policy concerning the conditions
29.8 under which and the process through which the contract may be modified, amended, or
29.9 terminated, including whether a move to a different room or sharing a room would be
29.10 required in the event that the tenant can no longer pay the current rent;

29.11 (10) a description of the establishment's complaint resolution process available to residents
29.12 including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;

29.13 (11) the resident's designated representative, if any;

29.14 (12) the establishment's referral procedures if the contract is terminated;

29.15 (13) requirements of residency used by the establishment to determine who may reside
29.16 or continue to reside in the housing with services establishment;

29.17 (14) billing and payment procedures and requirements;

29.18 (15) a statement regarding the ability of a resident to receive services from service
29.19 providers with whom the establishment does not have an arrangement;

29.20 (16) a statement regarding the availability of public funds for payment for residence or
29.21 services in the establishment and the fact that at least ten percent of the rooms or beds in
29.22 the housing with services establishment are to be used by residents whose payments are
29.23 made under the medical assistance elderly waiver program; and

29.24 (17) a statement regarding the availability of and contact information for long-term care
29.25 consultation services under section 256B.0911 in the county in which the establishment is
29.26 located;

29.27 (18) a statement that a resident has the right to request a reasonable accommodation;
29.28 and

29.29 (19) a statement describing the conditions under which a contract may be amended.

30.1 Sec. 34. Minnesota Statutes 2016, section 144D.04, is amended by adding a subdivision
30.2 to read:

30.3 Subd. 2b. **Changes to contract.** The housing with services establishment must provide
30.4 prompt written notice to the resident or resident's legal representative of a new owner,
30.5 manager, and if different from the owner, license holder of the housing with services
30.6 establishment, and the name and physical mailing address, which may not be a public or
30.7 private post office box of any new or additional natural person not identified in the admission
30.8 contract who is authorized to accept service of process.

30.9 Sec. 35. **[144D.061] ELDERLY WAIVER BEDS REQUIRED.**

30.10 All registered housing with services establishments must designate at least ten percent
30.11 of rooms or beds for residents receiving medical assistance elderly waiver services.

30.12 Sec. 36. **[144D.085] RELOCATION WITHIN FACILITY.**

30.13 Subdivision 1. **Notification prior to relocation.** A housing with services establishment
30.14 must:

30.15 (1) notify a resident and the resident's representative at least five days prior to a proposed
30.16 nonemergency relocation within the facility; and

30.17 (2) obtain consent from the resident or the resident's representative to the relocation.

30.18 Subd. 2. **Restriction on relocation.** A person who has been a private pay resident for
30.19 at least one year, resides in a private room, and whose payments subsequently will be made
30.20 under the medical assistance elderly waiver program may not be relocated to a shared room
30.21 without the consent of the resident or the resident's representative.

30.22 Sec. 37. Minnesota Statutes 2016, section 144D.09, is amended to read:

30.23 **144D.09 TERMINATION OF LEASE.**

30.24 Subdivision 1. **Legislative intent.** ~~The housing with services establishment shall include~~
30.25 ~~with notice of termination of lease information about how to contact the ombudsman for~~
30.26 ~~long-term care, including the address and telephone number along with a statement of how~~
30.27 ~~to request problem-solving assistance.~~ It is the intent of the legislature to ensure to the
30.28 greatest extent possible stability of housing for persons residing in housing with services
30.29 establishments.

30.30 Subd. 2. **Permissible reasons to terminate lease.** (a) Notwithstanding chapter 504B, a
30.31 housing with services establishment may terminate a resident's lease only if:

31.1 (1) the resident breaches the lease, which includes failure to pay rent as required, and
 31.2 has not cured the breach within 30 days of receipt of the notice required under subdivision
 31.3 3. A breach of a services contract does not constitute a breach of a lease;

31.4 (2) the resident holds over beyond the date to vacate mutually agreed upon in writing
 31.5 by the resident and the housing with services establishment; or

31.6 (3) the resident holds over beyond the date provided by the resident in a notice of
 31.7 voluntary termination of the lease provided to the housing with services establishment.

31.8 (b) Notwithstanding paragraph (a), a housing with services establishment may
 31.9 immediately commence an eviction if the breach involves any of the acts listed in section
 31.10 504B.171, subdivision 1.

31.11 Subd. 3. **Notice of lease termination.** A housing with services establishment must
 31.12 provide at least 30 days' notice prior to terminating a residential lease, unless the resident
 31.13 commits a breach of the lease involving any of the acts listed in section 504B.171, subdivision
 31.14 1.

31.15 Subd. 4. **Contents of notice.** The notice of lease termination required under subdivision
 31.16 3 must include:

31.17 (1) the reason for the termination;

31.18 (2) the date termination shall occur;

31.19 (3) a statement that a lease cannot be terminated without providing the resident an
 31.20 opportunity to cure the breach of lease, including failure to pay rent, prior to expiration of
 31.21 30 days after receipt of the notice;

31.22 (4) information on how to contact the Office of Ombudsman for Long-Term Care and
 31.23 a protection and advocacy agency, including the address and telephone number of both
 31.24 offices, along with a statement of how to request problem-solving assistance;

31.25 (5) a statement that the resident has the right to a meeting at the resident's request with
 31.26 the owner or manager of the housing with services establishment to discuss and attempt to
 31.27 resolve the alleged breach to avoid termination; and

31.28 (6) a statement that the resident has the right to appeal the termination of the lease to
 31.29 the Office of Administrative Hearings and provide the contact information for the Office
 31.30 of Administrative Hearings.

31.31 Subd. 5. **Right to appeal termination of lease.** (a) At any time prior to the expiration
 31.32 of the notice period provided under subdivision 3, a resident may appeal the termination by

32.1 making a written request for a hearing to the Office of Administrative Hearings. The Office
32.2 of Administrative Hearings must conduct the hearing no later than 14 days after the office
32.3 receives the appeal request from the resident. The hearing must be held in the establishment
32.4 in which the resident resides, unless it is impractical or the parties agree to a different place.

32.5 (b) A resident who makes a timely appeal of a notice of lease termination may not be
32.6 evicted by the housing with services establishment unless the Office of Administrative
32.7 Hearings has made a final determination on the appeal in favor of the housing with services
32.8 establishment.

32.9 (c) The commissioner of health may order the housing with services establishment to
32.10 rescind the lease termination or readmit the resident if the lease termination was in violation
32.11 of state or federal law.

32.12 (d) The housing with services establishment must readmit the resident if the resident is
32.13 hospitalized for medical necessity before resolution of the appeal.

32.14 (e) Residents are not required to request a meeting under subdivision 4, clause (6), prior
32.15 to submitting an appeal hearing request.

32.16 (f) Nothing in this section limits the right of a resident or the resident's representative
32.17 to request or receive assistance from the Office of Ombudsman for Long-Term Care and
32.18 the protection and advocacy agency concerning the proposed lease termination.

32.19 Subd. 6. **Discharge plan and transfer of information to new residence.** (a) For the
32.20 purposes of this subdivision and subdivision 7, "discharge" means the involuntary relocation
32.21 of a resident due to a termination of a lease.

32.22 (b) A housing with services establishment discharging a resident must prepare an adequate
32.23 discharge plan that proposes a safe discharge location, is based on the resident's discharge
32.24 goals, includes the resident and the resident's case manager and representative, if any, in
32.25 discharge planning, and contains a plan for appropriate and sufficient postdischarge care.
32.26 A housing with services establishment may not discharge a resident if the resident will
32.27 become homeless upon discharge, as that term is defined in section 116L.361, subdivision
32.28 5.

32.29 (c) A housing with services establishment that proposes to discharge a resident must
32.30 assist the resident with applying for and locating a new housing with services establishment
32.31 or skilled nursing facility in which to live, including coordinating with the case manager,
32.32 if any.

33.1 (d) Prior to discharge, a housing with services establishment must provide to the receiving
 33.2 facility or establishment all information known to the housing with services establishment
 33.3 related to the resident that is necessary to ensure continuity of care and services, including,
 33.4 at a minimum:

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

33.6 (2) the name, telephone number, and address of the resident's representative, if any;

33.7 (3) the resident's current documented diagnoses;

33.8 (4) the resident's known allergies, if any;

33.9 (5) the name and telephone number of the resident's physician and current physician
 33.10 orders;

33.11 (6) medication administration records;

33.12 (7) the most recent resident assessment; and

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

33.15 Subd. 7. **Final accounting; return of money and property.** Within 30 days of the date
 33.16 of discharge, the housing with services establishment shall:

33.17 (1) provide to the resident or the resident's representative a final statement of account;

33.18 (2) provide any refunds due; and

33.19 (3) return any money, property, or valuables held in trust or custody by the establishment.

33.20 **Sec. 38. [144D.095] TERMINATION OF SERVICES.**

33.21 A termination of services initiated by an arranged home care provider is governed by
 33.22 section 144A.442.

33.23 **Sec. 39. Minnesota Statutes 2016, section 144G.01, subdivision 1, is amended to read:**

33.24 **Subdivision 1. Scope; other definitions.** For purposes of sections 144G.01 to ~~144G.05~~
 33.25 144G.08, the following definitions apply. In addition, the definitions provided in section
 33.26 144D.01 also apply to sections 144G.01 to ~~144G.05~~ 144G.08.

33.27 **Sec. 40. [144G.07] TERMINATION OF LEASE.**

33.28 A lease termination initiated by a registered housing with services establishment using
 33.29 "assisted living" is governed by section 144D.09.

34.1 Sec. 41. [144G.08] TERMINATION OF SERVICES.

34.2 A termination of services initiated by an arranged home care provider as defined in
34.3 section 144D.01, subdivision 2a, is governed by section 144A.442.

34.4 Sec. 42. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3, is amended
34.5 to read:

34.6 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

34.7 (1) any person applying for, receiving or having received public assistance, medical
34.8 care, or a program of social services granted by the state agency or a county agency or the
34.9 federal Food Stamp Act whose application for assistance is denied, not acted upon with
34.10 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
34.11 to have been incorrectly paid;

34.12 (2) any patient or relative aggrieved by an order of the commissioner under section
34.13 252.27;

34.14 (3) a party aggrieved by a ruling of a prepaid health plan;

34.15 (4) except as provided under chapter 245C;

34.16 (i) any individual or facility determined by a lead investigative agency to have maltreated
34.17 a vulnerable adult under section 626.557 after they have exercised their right to administrative
34.18 reconsideration under section 626.557; and

34.19 (ii) any vulnerable adult who is the subject of a maltreatment investigation under section
34.20 626.557 or unless restricted by the vulnerable adult or by a court, an interested person as
34.21 defined in section 524.5-102, subdivision 7, after the right to administrative reconsideration
34.22 under section 626.557, subdivision 9d, has been exercised;

34.23 (5) any person whose claim for foster care payment according to a placement of the
34.24 child resulting from a child protection assessment under section 626.556 is denied or not
34.25 acted upon with reasonable promptness, regardless of funding source;

34.26 (6) any person to whom a right of appeal according to this section is given by other
34.27 provision of law;

34.28 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
34.29 under section 256B.15;

34.30 (8) an applicant aggrieved by an adverse decision to an application or redetermination
34.31 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

35.1 (9) except as provided under chapter 245A, an individual or facility determined to have
35.2 maltreated a minor under section 626.556, after the individual or facility has exercised the
35.3 right to administrative reconsideration under section 626.556;

35.4 (10) except as provided under chapter 245C, an individual disqualified under sections
35.5 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
35.6 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
35.7 individual has committed an act or acts that meet the definition of any of the crimes listed
35.8 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
35.9 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
35.10 determination under clause (4) or (9) and a disqualification under this clause in which the
35.11 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
35.12 a single fair hearing. In such cases, the scope of review by the human services judge shall
35.13 include both the maltreatment determination and the disqualification. The failure to exercise
35.14 the right to an administrative reconsideration shall not be a bar to a hearing under this section
35.15 if federal law provides an individual the right to a hearing to dispute a finding of
35.16 maltreatment;

35.17 (11) any person with an outstanding debt resulting from receipt of public assistance,
35.18 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
35.19 Department of Human Services or a county agency. The scope of the appeal is the validity
35.20 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
35.21 the debt;

35.22 (12) a person issued a notice of service termination under section 245D.10, subdivision
35.23 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
35.24 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

35.25 (13) an individual disability waiver recipient based on a denial of a request for a rate
35.26 exception under section 256B.4914; or

35.27 (14) a person issued a notice of service termination under section 245A.11, subdivision
35.28 11, that is not otherwise subject to appeal under subdivision 4a.

35.29 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
35.30 is the only administrative appeal to the final agency determination specifically, including
35.31 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
35.32 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
35.33 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
35.34 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case

36.1 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
36.2 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
36.3 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
36.4 available when there is no district court action pending. If such action is filed in district
36.5 court while an administrative review is pending that arises out of some or all of the events
36.6 or circumstances on which the appeal is based, the administrative review must be suspended
36.7 until the judicial actions are completed. If the district court proceedings are completed,
36.8 dismissed, or overturned, the matter may be considered in an administrative hearing.

36.9 (c) For purposes of this section, bargaining unit grievance procedures are not an
36.10 administrative appeal.

36.11 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
36.12 clause (5), shall be limited to the issue of whether the county is legally responsible for a
36.13 child's placement under court order or voluntary placement agreement and, if so, the correct
36.14 amount of foster care payment to be made on the child's behalf and shall not include review
36.15 of the propriety of the county's child protection determination or child placement decision.

36.16 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
36.17 whether the proposed termination of services is authorized under section 245D.10,
36.18 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
36.19 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
36.20 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
36.21 termination of services, the scope of the hearing shall also include whether the case
36.22 management provider has finalized arrangements for a residential facility, a program, or
36.23 services that will meet the assessed needs of the recipient by the effective date of the service
36.24 termination.

36.25 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
36.26 under contract with a county agency to provide social services is not a party and may not
36.27 request a hearing under this section, except if assisting a recipient as provided in subdivision
36.28 4.

36.29 (g) An applicant or recipient is not entitled to receive social services beyond the services
36.30 prescribed under chapter 256M or other social services the person is eligible for under state
36.31 law.

36.32 (h) The commissioner may summarily affirm the county or state agency's proposed
36.33 action without a hearing when the sole issue is an automatic change due to a change in state
36.34 or federal law.

37.1 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
37.2 appeal, an individual or organization specified in this section may contest the specified
37.3 action, decision, or final disposition before the state agency by submitting a written request
37.4 for a hearing to the state agency within 30 days after receiving written notice of the action,
37.5 decision, or final disposition, or within 90 days of such written notice if the applicant,
37.6 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
37.7 13, why the request was not submitted within the 30-day time limit. The individual filing
37.8 the appeal has the burden of proving good cause by a preponderance of the evidence.

37.9 Sec. 43. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 4, is amended
37.10 to read:

37.11 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,
37.12 or 4a shall be conducted according to the provisions of the federal Social Security Act and
37.13 the regulations implemented in accordance with that act to enable this state to qualify for
37.14 federal grants-in-aid, and according to the rules and written policies of the commissioner
37.15 of human services. County agencies shall install equipment necessary to conduct telephone
37.16 hearings. A state human services judge may schedule a telephone conference hearing when
37.17 the distance or time required to travel to the county agency offices will cause a delay in the
37.18 issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings
37.19 may be conducted by telephone conferences unless the applicant, recipient, former recipient,
37.20 person, or facility contesting maltreatment objects. A human services judge may grant a
37.21 request for a hearing in person by holding the hearing by interactive video technology or
37.22 in person. The human services judge must hear the case in person if the person asserts that
37.23 either the person or a witness has a physical or mental disability that would impair the
37.24 person's or witness's ability to fully participate in a hearing held by interactive video
37.25 technology. The hearing shall not be held earlier than five days after filing of the required
37.26 notice with the county or state agency. The state human services judge shall notify all
37.27 interested persons of the time, date, and location of the hearing at least five days before the
37.28 date of the hearing. Interested persons may be represented by legal counsel or other
37.29 representative of their choice, including a provider of therapy services, at the hearing and
37.30 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
37.31 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
37.32 have the opportunity to examine the contents of the case file and all documents and records
37.33 to be used by the county or state agency at the hearing at a reasonable time before the date
37.34 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
37.35 (4), (9), and (10), either party may subpoena the private data relating to the investigation

38.1 prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible
38.2 under section 13.04, provided the identity of the reporter may not be disclosed.

38.3 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
38.4 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
38.5 for any other purpose outside the hearing provided for in this section without prior order of
38.6 the district court. Disclosure without court order is punishable by a sentence of not more
38.7 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
38.8 the use of private data do not prohibit access to the data under section 13.03, subdivision
38.9 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
38.10 request, the county agency shall provide reimbursement for transportation, child care,
38.11 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
38.12 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
38.13 evidence, except that privileged by law, commonly accepted by reasonable people in the
38.14 conduct of their affairs as having probative value with respect to the issues shall be submitted
38.15 at the hearing and such hearing shall not be "a contested case" within the meaning of section
38.16 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and
38.17 may not submit evidence after the hearing except by agreement of the parties at the hearing,
38.18 provided the petitioner has the opportunity to respond.

38.19 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
38.20 determinations of maltreatment or disqualification made by more than one county agency,
38.21 by a county agency and a state agency, or by more than one state agency, the hearings may
38.22 be consolidated into a single fair hearing upon the consent of all parties and the state human
38.23 services judge.

38.24 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
38.25 vulnerable adult, the human services judge shall notify the vulnerable adult who is the
38.26 subject of the maltreatment determination and an interested person, as defined in section
38.27 524.5-102, subdivision 7, if known, a guardian of the vulnerable adult appointed under
38.28 section 524.5-310, or a health care agent designated by the vulnerable adult in a health care
38.29 directive that is currently effective under section 145C.06 and whose authority to make
38.30 health care decisions is not suspended under section 524.5-310, of the hearing and whose
38.31 authority has not been restricted by the vulnerable adult or by a court, and shall notify the
38.32 facility or individual who is the alleged perpetrator of maltreatment. The notice must be
38.33 sent by certified mail and inform the vulnerable adult or the alleged perpetrator of the right
38.34 to file a signed written statement in the proceedings. A guardian or health care agent who
38.35 prepares or files a written statement for the vulnerable adult must indicate in the statement

39.1 that the person is the vulnerable adult's guardian or health care agent and sign the statement
 39.2 in that capacity. The vulnerable adult, the guardian, or the health care agent may file a
 39.3 written statement with the human services judge hearing the case no later than five business
 39.4 days before commencement of the hearing. The human services judge shall include the
 39.5 written statement in the hearing record and consider the statement in deciding the appeal.
 39.6 This subdivision does not limit, prevent, or excuse the vulnerable adult or alleged perpetrator
 39.7 from being called as a witness testifying at the hearing or grant the vulnerable adult, the
 39.8 guardian, or health care agent a right to participate in the proceedings or appeal the human
 39.9 services judge's decision in the case. The lead investigative agency must consider including
 39.10 the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead
 39.11 investigative agency determines that participation in the hearing would endanger the
 39.12 well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the
 39.13 lead investigative agency shall inform the human services judge of the basis for this
 39.14 determination, which must be included in the final order. If the human services judge is not
 39.15 reasonably able to determine the address of the vulnerable adult, the guardian, the alleged
 39.16 perpetrator, or the health care agent, the human services judge is not required to send a
 39.17 hearing notice under this subdivision.

39.18 Sec. 44. Minnesota Statutes 2016, section 325F.71, is amended to read:

39.19 **325F.71 SENIOR CITIZENS, VULNERABLE ADULTS, AND ~~DISABLED~~**
 39.20 **PERSONS WITH DISABILITIES; ADDITIONAL CIVIL PENALTY FOR**
 39.21 **DECEPTIVE ACTS.**

39.22 Subdivision 1. **Definitions.** For the purposes of this section, the following words have
 39.23 the meanings given them:

39.24 (a) "Senior citizen" means a person who is 62 years of age or older.

39.25 (b) "~~Disabled~~ Person with a disability" means a person who has an impairment of physical
 39.26 or mental function or emotional status that substantially limits one or more major life
 39.27 activities.

39.28 (c) "Major life activities" means functions such as caring for one's self, performing
 39.29 manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

39.30 (d) "Vulnerable adult" has the meaning given in section 626.5572, subdivision 21.

39.31 Subd. 2. **Supplemental civil penalty.** (a) In addition to any liability for a civil penalty
 39.32 pursuant to sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67,
 39.33 regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person

40.1 who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated
 40.2 against one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a disability,
 40.3 is liable for an additional civil penalty not to exceed \$10,000 for each violation, if one or
 40.4 more of the factors in paragraph (b) are present.

40.5 (b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the
 40.6 amount of the penalty, the court shall consider, in addition to other appropriate factors, the
 40.7 extent to which one or more of the following factors are present:

40.8 (1) whether the defendant knew or should have known that the defendant's conduct was
 40.9 directed to one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
 40.10 disability;

40.11 (2) whether the defendant's conduct caused one or more senior citizens, vulnerable adults,
 40.12 or ~~disabled~~ persons with a disability to suffer: loss or encumbrance of a primary residence,
 40.13 principal employment, or source of income; substantial loss of property set aside for
 40.14 retirement or for personal or family care and maintenance; substantial loss of payments
 40.15 received under a pension or retirement plan or a government benefits program; or assets
 40.16 essential to the health or welfare of the senior citizen, vulnerable adult, or ~~disabled~~ person
 40.17 with a disability;

40.18 (3) whether one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
 40.19 disability are more vulnerable to the defendant's conduct than other members of the public
 40.20 because of age, poor health or infirmity, impaired understanding, restricted mobility, or
 40.21 disability, and actually suffered physical, emotional, or economic damage resulting from
 40.22 the defendant's conduct; ~~or~~

40.23 (4) whether the defendant's conduct caused senior citizens, vulnerable adults, or ~~disabled~~
 40.24 persons with a disability to make an uncompensated asset transfer that resulted in the person
 40.25 being found ineligible for medical assistance; or

40.26 (5) whether the defendant provided or arranged for health care or services that are inferior
 40.27 to, substantially different than, or substantially more expensive than offered, promised,
 40.28 marketed, or advertised.

40.29 Subd. 3. **Restitution to be given priority.** Restitution ordered pursuant to the statutes
 40.30 listed in subdivision 2 shall be given priority over imposition of civil penalties designated
 40.31 by the court under this section.

40.32 Subd. 4. **Private remedies.** A person injured by a violation of this section may bring a
 40.33 civil action and recover damages, together with costs and disbursements, including costs

41.1 of investigation and reasonable attorney's fees, and receive other equitable relief as
41.2 determined by the court.

41.3 Sec. 45. Minnesota Statutes 2016, section 573.02, subdivision 2, is amended to read:

41.4 Subd. 2. **Injury action.** (a) When injury is caused to a person by the wrongful act or
41.5 omission of any person or corporation and the person thereafter dies from a cause unrelated
41.6 to those injuries, the trustee appointed in subdivision 3 may maintain an action for special
41.7 damages arising out of such injury if the decedent might have maintained an action therefor
41.8 had the decedent lived.

41.9 (b) When the injury is caused to a person who was a vulnerable adult, prior to the injury,
41.10 the next of kin may maintain an action on behalf of the decedent for damages for pain and
41.11 suffering, in addition to special damages as provided under paragraph (a). For purposes of
41.12 this paragraph, "vulnerable adult" has the meaning given in section 626.5572, subdivision
41.13 21.

41.14 Sec. 46. Minnesota Statutes 2016, section 609.2231, subdivision 8, is amended to read:

41.15 Subd. 8. **Vulnerable adults.** (a) As used in this subdivision, "vulnerable adult" has the
41.16 meaning given in section 609.232, subdivision 11.

41.17 (b) Whoever assaults ~~and inflicts demonstrable bodily harm on~~ a vulnerable adult,
41.18 knowing or having reason to know that the person is a vulnerable adult, is guilty of a gross
41.19 misdemeanor.

41.20 Sec. 47. Minnesota Statutes 2016, section 626.557, subdivision 3, is amended to read:

41.21 Subd. 3. **Timing of report.** (a) A mandated reporter who has reason to believe that a
41.22 vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable
41.23 adult has sustained a physical injury which is not reasonably explained shall ~~immediately~~
41.24 report the information to the common entry point as soon as possible but in no event longer
41.25 than 24 hours. If an individual is a vulnerable adult solely because the individual is admitted
41.26 to a facility, a mandated reporter is not required to report suspected maltreatment of the
41.27 individual that occurred prior to admission, unless:

41.28 (1) the individual was admitted to the facility from another facility and the reporter has
41.29 reason to believe the vulnerable adult was maltreated in the previous facility; or

41.30 (2) the reporter knows or has reason to believe that the individual is a vulnerable adult
41.31 as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

42.1 (b) A person not required to report under the provisions of this section may voluntarily
42.2 report as described above.

42.3 (c) Nothing in this section requires a report of known or suspected maltreatment, if the
42.4 reporter knows or has reason to know that a report has been made to the common entry
42.5 point.

42.6 (d) Nothing in this section shall preclude a reporter from also reporting to a law
42.7 enforcement agency.

42.8 (e) A mandated reporter who knows or has reason to believe that an error under section
42.9 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this
42.10 subdivision. If the reporter or a facility, at any time believes that an investigation by a lead
42.11 investigative agency will determine or should determine that the reported error was not
42.12 neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c),
42.13 clause (5), the reporter or facility may provide to the common entry point or directly to the
42.14 lead investigative agency information explaining how the event meets the criteria under
42.15 section 626.5572, subdivision 17, paragraph (c), clause (5). The lead investigative agency
42.16 shall consider this information when making an initial disposition of the report under
42.17 subdivision 9c.

42.18 Sec. 48. Minnesota Statutes 2016, section 626.557, subdivision 4, is amended to read:

42.19 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall
42.20 immediately make an oral report to the common entry point. The common entry point may
42.21 accept electronic reports submitted through a Web-based reporting system established by
42.22 the commissioner. Use of a telecommunications device for the deaf or other similar device
42.23 shall be considered an oral report. The common entry point may not require written reports.
42.24 To the extent possible, the report must be of sufficient content to identify the vulnerable
42.25 adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of
42.26 previous maltreatment, the name and address of the reporter, the time, date, and location of
42.27 the incident, and any other information that the reporter believes might be helpful in
42.28 investigating the suspected maltreatment. The common entry point must provide a method
42.29 for the reporter to electronically submit evidence to support the maltreatment report, including
42.30 but not limited to uploading photographs, videos, or documents. A mandated reporter may
42.31 disclose not public data, as defined in section 13.02, and medical records under sections
42.32 144.291 to 144.298, to the extent necessary to comply with this subdivision.

42.33 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified
42.34 under Title 19 of the Social Security Act, a nursing home that is licensed under section

43.1 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital
 43.2 that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code
 43.3 of Federal Regulations, title 42, section 482.66, may submit a report electronically to the
 43.4 common entry point instead of submitting an oral report. ~~The report may be a duplicate of~~
 43.5 ~~the initial report the facility submits electronically to the commissioner of health to comply~~
 43.6 ~~with the reporting requirements under Code of Federal Regulations, title 42, section 483.13.~~
 43.7 The commissioner of health may modify these reporting requirements to include items
 43.8 required under paragraph (a) that are not currently included in the electronic reporting form.

43.9 (c) All reports must be directed to the common entry point, including reports from
 43.10 federally licensed facilities, vulnerable adults, and interested persons.

43.11 Sec. 49. Minnesota Statutes 2016, section 626.557, subdivision 9, is amended to read:

43.12 Subd. 9. **Common entry point designation.** (a) Each county board shall designate a
 43.13 common entry point for reports of suspected maltreatment, for use until the commissioner
 43.14 of human services establishes a common entry point. Two or more county boards may
 43.15 jointly designate a single common entry point. The commissioner of human services shall
 43.16 establish a common entry point effective July 1, 2015. The common entry point is the unit
 43.17 responsible for receiving the report of suspected maltreatment under this section.

43.18 (b) The common entry point must be available 24 hours per day to take calls from
 43.19 reporters of suspected maltreatment. The common entry point staff must receive training
 43.20 on how to screen and dispatch reports efficiently and in accordance with this section. The
 43.21 common entry point shall use a standard intake form that includes:

43.22 (1) the time and date of the report;

43.23 (2) the name, address, and telephone number of the person reporting;

43.24 (3) the time, date, and location of the incident;

43.25 (4) the names of the persons involved, including but not limited to, perpetrators, alleged
 43.26 victims, and witnesses;

43.27 (5) whether there was a risk of imminent danger to the alleged victim;

43.28 (6) a description of the suspected maltreatment;

43.29 (7) the disability, if any, of the alleged victim;

43.30 (8) the relationship of the alleged perpetrator to the alleged victim;

43.31 (9) whether a facility was involved and, if so, which agency licenses the facility;

44.1 (10) any action taken by the common entry point;

44.2 (11) whether law enforcement has been notified;

44.3 (12) whether the reporter wishes to receive notification of the initial and final reports;

44.4 and

44.5 (13) if the report is from a facility with an internal reporting procedure, the name, mailing
44.6 address, and telephone number of the person who initiated the report internally.

44.7 (c) The common entry point is not required to complete each item on the form prior to
44.8 dispatching the report to the appropriate lead investigative agency.

44.9 (d) The common entry point shall immediately report to a law enforcement agency any
44.10 incident in which there is reason to believe a crime has been committed.

44.11 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,
44.12 those agencies shall take the report on the appropriate common entry point intake forms
44.13 and immediately forward a copy to the common entry point.

44.14 (f) The common entry point staff must ~~receive training on how to screen and dispatch~~
44.15 ~~reports efficiently and in accordance with this section.~~ cross-reference multiple complaints
44.16 to the lead investigative agency concerning:

44.17 (1) the same alleged perpetrator, facility, or licensee;

44.18 (2) the same vulnerable adult; or

44.19 (3) the same incident.

44.20 (g) The commissioner of human services shall maintain a centralized database for the
44.21 collection of common entry point data, lead investigative agency data including maltreatment
44.22 report disposition, and appeals data. The common entry point shall have access to the
44.23 centralized database and must log the reports into the database and immediately identify
44.24 and locate prior reports of abuse, neglect, or exploitation.

44.25 (h) When appropriate, the common entry point staff must refer calls that do not allege
44.26 the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might
44.27 resolve the reporter's concerns.

44.28 (i) A common entry point must be operated in a manner that enables the commissioner
44.29 of human services to:

44.30 (1) track critical steps in the reporting, evaluation, referral, response, disposition, and
44.31 investigative process to ensure compliance with all requirements for all reports;

45.1 (2) maintain data to facilitate the production of aggregate statistical reports for monitoring
45.2 patterns of abuse, neglect, or exploitation;

45.3 (3) serve as a resource for the evaluation, management, and planning of preventative
45.4 and remedial services for vulnerable adults who have been subject to abuse, neglect, or
45.5 exploitation;

45.6 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness
45.7 of the common entry point; and

45.8 (5) track and manage consumer complaints related to the common entry point, including
45.9 tracking and cross-referencing multiple complaints concerning:

45.10 (i) the same alleged perpetrator, facility, or licensee;

45.11 (ii) the same vulnerable adult; and

45.12 (iii) the same incident.

45.13 (j) The commissioners of human services and health shall collaborate on the creation of
45.14 a system for referring reports to the lead investigative agencies. This system shall enable
45.15 the commissioner of human services to track critical steps in the reporting, evaluation,
45.16 referral, response, disposition, investigation, notification, determination, and appeal processes.

45.17 Sec. 50. Minnesota Statutes 2016, section 626.557, subdivision 9a, is amended to read:

45.18 Subd. 9a. **Evaluation and referral of reports made to common entry point.** (a) The
45.19 common entry point must screen the reports of alleged or suspected maltreatment for
45.20 immediate risk and make all necessary referrals as follows:

45.21 (1) if the common entry point determines that there is an immediate need for emergency
45.22 adult protective services, the common entry point agency shall immediately notify the
45.23 appropriate county agency;

45.24 (2) if the common entry point determines immediate need exists for response by law
45.25 enforcement, including the urgent need to secure a crime scene, interview witnesses, remove
45.26 the alleged perpetrator, or safeguard the vulnerable adult's property, or if the report contains
45.27 suspected criminal activity against a vulnerable adult, the common entry point shall
45.28 immediately notify the appropriate law enforcement agency;

45.29 (3) the common entry point shall refer all reports of alleged or suspected maltreatment
45.30 to the appropriate lead investigative agency as soon as possible, but in any event no longer
45.31 than two working days;

46.1 (4) if the report contains information about a suspicious death, the common entry point
46.2 shall immediately notify the appropriate law enforcement agencies, the local medical
46.3 examiner, and the ombudsman for mental health and developmental disabilities established
46.4 under section 245.92. Law enforcement agencies shall coordinate with the local medical
46.5 examiner and the ombudsman as provided by law; and

46.6 (5) for reports involving multiple locations or changing circumstances, the common
46.7 entry point shall determine the county agency responsible for emergency adult protective
46.8 services and the county responsible as the lead investigative agency, using referral guidelines
46.9 established by the commissioner.

46.10 (b) If the lead investigative agency receiving a report believes the report was referred
46.11 by the common entry point in error, the lead investigative agency shall immediately notify
46.12 the common entry point of the error, including the basis for the lead investigative agency's
46.13 belief that the referral was made in error. The common entry point shall review the
46.14 information submitted by the lead investigative agency and immediately refer the report to
46.15 the appropriate lead investigative agency.

46.16 Sec. 51. Minnesota Statutes 2016, section 626.557, subdivision 9b, is amended to read:

46.17 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct
46.18 investigations of any incident in which there is reason to believe a crime has been committed.
46.19 Law enforcement shall initiate a response immediately. If the common entry point notified
46.20 a county agency for emergency adult protective services, law enforcement shall cooperate
46.21 with that county agency when both agencies are involved and shall exchange data to the
46.22 extent authorized in subdivision 12b, paragraph ~~(g)~~ (k). County adult protection shall initiate
46.23 a response immediately. Each lead investigative agency shall complete the investigative
46.24 process for reports within its jurisdiction. A lead investigative agency, county, adult protective
46.25 agency, licensed facility, or law enforcement agency shall cooperate with other agencies in
46.26 the provision of protective services, coordinating its investigations, and assisting another
46.27 agency within the limits of its resources and expertise and shall exchange data to the extent
46.28 authorized in subdivision 12b, paragraph ~~(g)~~ (k). The lead investigative agency shall obtain
46.29 the results of any investigation conducted by law enforcement officials, and law enforcement
46.30 shall obtain the results of any investigation conducted by the lead investigative agency to
46.31 determine if criminal action is warranted. The lead investigative agency has the right to
46.32 enter facilities and inspect and copy records as part of investigations. The lead investigative
46.33 agency has access to not public data, as defined in section 13.02, and medical records under
46.34 sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to

47.1 conduct its investigation. Each lead investigative agency shall develop guidelines for
47.2 prioritizing reports for investigation. Nothing in this subdivision alters the duty of the lead
47.3 investigative agency to serve as the agency responsible for investigating reports made under
47.4 section 626.557.

47.5 Sec. 52. Minnesota Statutes 2016, section 626.557, subdivision 9c, is amended to read:

47.6 Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a)
47.7 ~~Upon request of the reporter,~~ The lead investigative agency shall notify the reporter that it
47.8 has received the report, and provide information on the initial disposition of the report within
47.9 five business days of receipt of the report, provided that the notification will not endanger
47.10 the vulnerable adult or hamper the investigation.

47.11 (b) The lead investigative agency must provide the following information to the vulnerable
47.12 adult or the vulnerable adult's interested person, if known, within five days of receipt of the
47.13 report:

47.14 (1) the nature of the maltreatment allegations, including the report of maltreatment as
47.15 allowed under law;

47.16 (2) the name of the facility or other location at which alleged maltreatment occurred;

47.17 (3) the name of the alleged perpetrator if the lead investigative agency believes disclosure
47.18 of the name is necessary to protect the vulnerable adult;

47.19 (4) protective measures that may be recommended or taken as a result of the maltreatment
47.20 report;

47.21 (5) contact information for the investigator or other information as requested and allowed
47.22 under law; and

47.23 (6) confirmation of whether the facility is investigating the matter and, if so:

47.24 (i) an explanation of the process and estimated timeline for the investigation; and

47.25 (ii) a statement that the lead investigative agency will provide an update on the
47.26 investigation approximately every three weeks upon request by the vulnerable adult or the
47.27 vulnerable adult's interested person and a report when the investigation is concluded.

47.28 (c) The lead investigative agency may assign multiple reports of maltreatment for the
47.29 same or separate incidences related to the same vulnerable adult to the same investigator,
47.30 as deemed appropriate. Reports related to the same vulnerable adult must, at a minimum,
47.31 be cross-referenced.

48.1 ~~(b)~~ (d) Upon conclusion of every investigation it conducts, the lead investigative agency
48.2 shall make a final disposition as defined in section 626.5572, subdivision 8.

48.3 ~~(e)~~ (e) When determining whether the facility or individual is the responsible party for
48.4 substantiated maltreatment or whether both the facility and the individual are responsible
48.5 for substantiated maltreatment, the lead investigative agency shall consider at least the
48.6 following mitigating factors:

48.7 (1) whether the actions of the facility or the individual caregivers were in accordance
48.8 with, and followed the terms of, an erroneous physician order, prescription, resident care
48.9 plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible
48.10 for the issuance of the erroneous order, prescription, plan, or directive or knows or should
48.11 have known of the errors and took no reasonable measures to correct the defect before
48.12 administering care;

48.13 (2) the comparative responsibility between the facility, other caregivers, and requirements
48.14 placed upon the employee, including but not limited to, the facility's compliance with related
48.15 regulatory standards and factors such as the adequacy of facility policies and procedures,
48.16 the adequacy of facility training, the adequacy of an individual's participation in the training,
48.17 the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a
48.18 consideration of the scope of the individual employee's authority; and

48.19 (3) whether the facility or individual followed professional standards in exercising
48.20 professional judgment.

48.21 ~~(d)~~ (f) When substantiated maltreatment is determined to have been committed by an
48.22 individual who is also the facility license holder, both the individual and the facility must
48.23 be determined responsible for the maltreatment, and both the background study
48.24 disqualification standards under section 245C.15, subdivision 4, and the licensing actions
48.25 under section 245A.06 or 245A.07 apply.

48.26 ~~(e)~~ (g) The lead investigative agency shall complete its final disposition within 60
48.27 calendar days. If the lead investigative agency is unable to complete its final disposition
48.28 within 60 calendar days, the lead investigative agency shall notify the following persons
48.29 provided that the notification will not endanger the vulnerable adult or hamper the
48.30 investigation: (1) the vulnerable adult or the vulnerable adult's ~~guardian or health care agent~~
48.31 interested person, when known, if the lead investigative agency knows them to be aware of
48.32 the investigation; and (2) the facility, where applicable. The notice shall contain the reason
48.33 for the delay and the projected completion date. If the lead investigative agency is unable
48.34 to complete its final disposition by a subsequent projected completion date, the lead

49.1 investigative agency shall again notify the vulnerable adult or the vulnerable adult's ~~guardian~~
 49.2 ~~or health care agent~~ interested person, when known if the lead investigative agency knows
 49.3 them to be aware of the investigation, and the facility, where applicable, of the reason for
 49.4 the delay and the revised projected completion date provided that the notification will not
 49.5 endanger the vulnerable adult or hamper the investigation. The lead investigative agency
 49.6 must notify the health care agent of the vulnerable adult only if the health care agent's
 49.7 authority to make health care decisions for the vulnerable adult is currently effective ~~under~~
 49.8 ~~section 145C.06~~ and not suspended under section 524.5-310 ~~and the investigation relates~~
 49.9 ~~to a duty assigned to the health care agent by the principal~~. A lead investigative agency's
 49.10 inability to complete the final disposition within 60 calendar days or by any projected
 49.11 completion date does not invalidate the final disposition.

49.12 ~~(f)~~ (h) Within ten calendar days of completing the final disposition, the lead investigative
 49.13 agency shall provide a copy of the public investigation memorandum under subdivision
 49.14 12b, paragraph ~~(b)~~, ~~clause (1)~~ (d), when required to be completed under this section, to the
 49.15 following persons:

49.16 (1) the vulnerable adult, or ~~the vulnerable adult's guardian or health care agent~~ an
 49.17 interested person, if known, unless the lead investigative agency knows that the notification
 49.18 would endanger the well-being of the vulnerable adult;

49.19 (2) the reporter, ~~if~~ unless the reporter requested ~~notification~~ otherwise when making the
 49.20 report, provided this notification would not endanger the well-being of the vulnerable adult;

49.21 (3) the alleged perpetrator, if known;

49.22 (4) the facility; ~~and~~

49.23 (5) the ombudsman for long-term care, or the ombudsman for mental health and
 49.24 developmental disabilities, as appropriate;

49.25 (6) law enforcement; and

49.26 (7) the county attorney, as appropriate.

49.27 ~~(g)~~ (i) If, as a result of a reconsideration, review, or hearing, the lead investigative agency
 49.28 changes the final disposition, or if a final disposition is changed on appeal, the lead
 49.29 investigative agency shall notify the parties specified in paragraph ~~(f)~~ (h).

49.30 ~~(h)~~ (j) The lead investigative agency shall notify the vulnerable adult who is the subject
 49.31 of the report or ~~the vulnerable adult's guardian or health care agent~~ an interested person, if
 49.32 known, and any person or facility determined to have maltreated a vulnerable adult, of their
 49.33 appeal or review rights under this section or section ~~256.021~~ 256.045.

50.1 ~~(j)~~ (k) The lead investigative agency shall routinely provide investigation memoranda
50.2 for substantiated reports to the appropriate licensing boards. These reports must include the
50.3 names of substantiated perpetrators. The lead investigative agency may not provide
50.4 investigative memoranda for inconclusive or false reports to the appropriate licensing boards
50.5 unless the lead investigative agency's investigation gives reason to believe that there may
50.6 have been a violation of the applicable professional practice laws. If the investigation
50.7 memorandum is provided to a licensing board, the subject of the investigation memorandum
50.8 shall be notified and receive a summary of the investigative findings.

50.9 ~~(j)~~ (l) In order to avoid duplication, licensing boards shall consider the findings of the
50.10 lead investigative agency in their investigations if they choose to investigate. This does not
50.11 preclude licensing boards from considering other information.

50.12 ~~(k)~~ (m) The lead investigative agency must provide to the commissioner of human
50.13 services its final dispositions, including the names of all substantiated perpetrators. The
50.14 commissioner of human services shall establish records to retain the names of substantiated
50.15 perpetrators.

50.16 Sec. 53. Minnesota Statutes 2016, section 626.557, subdivision 9d, is amended to read:

50.17 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under
50.18 paragraph ~~(e)~~ (d), any individual or facility which a lead investigative agency determines
50.19 has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on
50.20 behalf of the vulnerable adult, regardless of the lead investigative agency's determination,
50.21 who contests the lead investigative agency's final disposition of an allegation of maltreatment,
50.22 may request the lead investigative agency to reconsider its final disposition. The request
50.23 for reconsideration must be submitted in writing to the lead investigative agency within 15
50.24 calendar days after receipt of notice of final disposition or, if the request is made by an
50.25 interested person who is not entitled to notice, within 15 days after receipt of the notice by
50.26 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the
50.27 request for reconsideration must be postmarked and sent to the lead investigative agency
50.28 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the
50.29 request for reconsideration is made by personal service, it must be received by the lead
50.30 investigative agency within 15 calendar days of the individual's or facility's receipt of the
50.31 final disposition. An individual who was determined to have maltreated a vulnerable adult
50.32 under this section and who was disqualified on the basis of serious or recurring maltreatment
50.33 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment
50.34 determination and the disqualification. The request for reconsideration of the maltreatment

51.1 determination and the disqualification must be submitted in writing within 30 calendar days
51.2 of the individual's receipt of the notice of disqualification under sections 245C.16 and
51.3 245C.17. If mailed, the request for reconsideration of the maltreatment determination and
51.4 the disqualification must be postmarked and sent to the lead investigative agency within 30
51.5 calendar days of the individual's receipt of the notice of disqualification. If the request for
51.6 reconsideration is made by personal service, it must be received by the lead investigative
51.7 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

51.8 (b) Except as provided under paragraphs (d) and (e) ~~and (f)~~, if the lead investigative
51.9 agency denies the request or fails to act upon the request within 15 working days after
51.10 receiving the request for reconsideration, the person, including the vulnerable adult or an
51.11 interested person acting on behalf of the vulnerable adult, or facility entitled to a fair hearing
51.12 under section 256.045, may submit to the commissioner of human services a written request
51.13 for a hearing under that statute. ~~The vulnerable adult, or an interested person acting on~~
51.14 ~~behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment~~
51.15 ~~Review Panel under section 256.021 if the lead investigative agency denies the request or~~
51.16 ~~fails to act upon the request, or if the vulnerable adult or interested person contests a~~
51.17 ~~reconsidered disposition.~~ The lead investigative agency shall notify persons who request
51.18 reconsideration of their rights under this paragraph. The request must be submitted in writing
51.19 to the review panel and a copy sent to the lead investigative agency within 30 calendar days
51.20 of receipt of notice of a denial of a request for reconsideration or of a reconsidered
51.21 disposition. The request must specifically identify the aspects of the lead investigative
51.22 agency determination with which the person is dissatisfied.

51.23 (c) If, as a result of a reconsideration or review, the lead investigative agency changes
51.24 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph ~~(f)~~ (h).

51.25 ~~(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable~~
51.26 ~~adult" means a person designated in writing by the vulnerable adult to act on behalf of the~~
51.27 ~~vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy~~
51.28 ~~or health care agent appointed under chapter 145B or 145C, or an individual who is related~~
51.29 ~~to the vulnerable adult, as defined in section 245A.02, subdivision 13.~~

51.30 ~~(e)~~ (d) If an individual was disqualified under sections 245C.14 and 245C.15, on the
51.31 basis of a determination of maltreatment, which was serious or recurring, and the individual
51.32 has requested reconsideration of the maltreatment determination under paragraph (a) and
51.33 reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration
51.34 of the maltreatment determination and requested reconsideration of the disqualification
51.35 shall be consolidated into a single reconsideration. If reconsideration of the maltreatment

52.1 determination is denied and the individual remains disqualified following a reconsideration
 52.2 decision, the individual may request a fair hearing under section 256.045. If an individual
 52.3 requests a fair hearing on the maltreatment determination and the disqualification, the scope
 52.4 of the fair hearing shall include both the maltreatment determination and the disqualification.

52.5 ~~(f)~~(e) If a maltreatment determination or a disqualification based on serious or recurring
 52.6 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
 52.7 sanction under section 245A.07, the license holder has the right to a contested case hearing
 52.8 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
 52.9 under section 245A.08, the scope of the contested case hearing must include the maltreatment
 52.10 determination, disqualification, and licensing sanction or denial of a license. In such cases,
 52.11 a fair hearing must not be conducted under section 256.045. Except for family child care
 52.12 and child foster care, reconsideration of a maltreatment determination under this subdivision,
 52.13 and reconsideration of a disqualification under section 245C.22, must not be conducted
 52.14 when:

52.15 (1) a denial of a license under section 245A.05, or a licensing sanction under section
 52.16 245A.07, is based on a determination that the license holder is responsible for maltreatment
 52.17 or the disqualification of a license holder based on serious or recurring maltreatment;

52.18 (2) the denial of a license or licensing sanction is issued at the same time as the
 52.19 maltreatment determination or disqualification; and

52.20 (3) the license holder appeals the maltreatment determination or disqualification, and
 52.21 denial of a license or licensing sanction.

52.22 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
 52.23 determination or disqualification, but does not appeal the denial of a license or a licensing
 52.24 sanction, reconsideration of the maltreatment determination shall be conducted under sections
 52.25 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
 52.26 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
 52.27 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
 52.28 626.557, subdivision 9d.

52.29 If the disqualified subject is an individual other than the license holder and upon whom
 52.30 a background study must be conducted under chapter 245C, the hearings of all parties may
 52.31 be consolidated into a single contested case hearing upon consent of all parties and the
 52.32 administrative law judge.

52.33 ~~(g)~~(f) Until August 1, 2002, an individual or facility that was determined by the
 52.34 commissioner of human services or the commissioner of health to be responsible for neglect

53.1 under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001,
 53.2 that believes that the finding of neglect does not meet an amended definition of neglect may
 53.3 request a reconsideration of the determination of neglect. The commissioner of human
 53.4 services or the commissioner of health shall mail a notice to the last known address of
 53.5 individuals who are eligible to seek this reconsideration. The request for reconsideration
 53.6 must state how the established findings no longer meet the elements of the definition of
 53.7 neglect. The commissioner shall review the request for reconsideration and make a
 53.8 determination within 15 calendar days. The commissioner's decision on this reconsideration
 53.9 is the final agency action.

53.10 ~~(f)~~ (g) For purposes of compliance with the data destruction schedule under subdivision
 53.11 12b, paragraph ~~(e)~~ (h), when a finding of substantiated maltreatment has been changed as
 53.12 a result of a reconsideration under this paragraph, the date of the original finding of a
 53.13 substantiated maltreatment must be used to calculate the destruction date.

53.14 ~~(2)~~ (h) For purposes of any background studies under chapter 245C, when a determination
 53.15 of substantiated maltreatment has been changed as a result of a reconsideration under this
 53.16 paragraph, any prior disqualification of the individual under chapter 245C that was based
 53.17 on this determination of maltreatment shall be rescinded, and for future background studies
 53.18 under chapter 245C the commissioner must not use the previous determination of
 53.19 substantiated maltreatment as a basis for disqualification or as a basis for referring the
 53.20 individual's maltreatment history to a health-related licensing board under section 245C.31.

53.21 Sec. 54. Minnesota Statutes 2016, section 626.557, subdivision 10b, is amended to read:

53.22 Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop
 53.23 guidelines for prioritizing reports for investigation. When investigating a report, the lead
 53.24 investigative agency shall conduct the following activities, as appropriate:

53.25 (1) interview of the alleged victim;

53.26 (2) interview of the reporter and others who may have relevant information;

53.27 (3) interview of the alleged perpetrator;

53.28 (4) examination of the environment surrounding the alleged incident;

53.29 (5) review of pertinent documentation of the alleged incident; and

53.30 (6) consultation with professionals.

53.31 (b) The lead investigator must contact the alleged victim or, if known, an interested
 53.32 person, within five days after initiation of an investigation to provide the investigator's name

54.1 and contact information, and communicate with the alleged victim or interested person
 54.2 approximately every three weeks during the course of the investigation.

54.3 Sec. 55. Minnesota Statutes 2016, section 626.557, subdivision 12b, is amended to read:

54.4 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a
 54.5 lead investigative agency, the county social service agency shall maintain appropriate
 54.6 records. Data collected by the county social service agency under this section are welfare
 54.7 data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data
 54.8 under this paragraph that are inactive investigative data on an individual who is a vendor
 54.9 of services are private data on individuals, as defined in section 13.02. The identity of the
 54.10 reporter may only be disclosed as provided in paragraph ~~(e)~~ (g).

54.11 (b) Data maintained by the common entry point are ~~confidential~~ private data on
 54.12 individuals or ~~protected~~ nonpublic data as defined in section 13.02. Notwithstanding section
 54.13 138.163, the common entry point shall maintain data for three calendar years after date of
 54.14 receipt and then destroy the data unless otherwise directed by federal requirements.

54.15 ~~(b)~~ (c) The commissioners of health and human services shall prepare an investigation
 54.16 memorandum for each report alleging maltreatment investigated under this section. County
 54.17 social service agencies must maintain private data on individuals but are not required to
 54.18 prepare an investigation memorandum. During an investigation by the commissioner of
 54.19 health or the commissioner of human services, data collected under this section are
 54.20 confidential data on individuals or protected nonpublic data as defined in section 13.02,
 54.21 provided that data may be shared with the vulnerable adult or the vulnerable adult's interested
 54.22 person if both commissioners determine that sharing of the data is needed to protect the
 54.23 vulnerable adult. Upon completion of the investigation, the data are classified as provided
 54.24 in ~~clauses (1) to (3) and paragraph (e)~~ paragraphs (d) to (g).

54.25 ~~(1)~~ (d) The investigation memorandum must contain the following data, which are public:

54.26 ~~(i)~~ (1) the name of the facility investigated;

54.27 ~~(ii)~~ (2) a statement of the nature of the alleged maltreatment;

54.28 ~~(iii)~~ (3) pertinent information obtained from medical or other records reviewed;

54.29 ~~(iv)~~ (4) the identity of the investigator;

54.30 ~~(v)~~ (5) a summary of the investigation's findings;

54.31 ~~(vi)~~ (6) statement of whether the report was found to be substantiated, inconclusive,
 54.32 false, or that no determination will be made;

- 55.1 ~~(vii)~~ (7) a statement of any action taken by the facility;
- 55.2 ~~(viii)~~ (8) a statement of any action taken by the lead investigative agency; and
- 55.3 ~~(ix)~~ (9) when a lead investigative agency's determination has substantiated maltreatment,
- 55.4 a statement of whether an individual, individuals, or a facility were responsible for the
- 55.5 substantiated maltreatment, if known.

55.6 The investigation memorandum must be written in a manner which protects the identity

55.7 of the reporter and of the vulnerable adult and may not contain the names or, to the extent

55.8 possible, data on individuals or private data or individuals listed in ~~clause (2)~~ paragraph (e).

55.9 ~~(2)~~ (e) Data on individuals collected and maintained in the investigation memorandum

55.10 are private data on individuals, including:

- 55.11 ~~(i)~~ (1) the name of the vulnerable adult;
- 55.12 ~~(ii)~~ (2) the identity of the individual alleged to be the perpetrator;
- 55.13 ~~(iii)~~ (3) the identity of the individual substantiated as the perpetrator; and
- 55.14 ~~(iv)~~ (4) the identity of all individuals interviewed as part of the investigation.

55.15 ~~(3)~~ (f) Other data on individuals maintained as part of an investigation under this section

55.16 are private data on individuals upon completion of the investigation.

55.17 ~~(e)~~ (g) After the assessment or investigation is completed, the name of the reporter must

55.18 be confidential-, except:

55.19 (1) the subject of the report may compel disclosure of the name of the reporter only with

55.20 the consent of the reporter ~~or~~;

55.21 (2) upon a written finding by a court that the report was false and there is evidence that

55.22 the report was made in bad faith; or

55.23 (3) the mandated reporter may self-disclose to support a claim of retaliation that is

55.24 prohibited under law, including under sections 144.651, subdivision 34, and 626.557,

55.25 subdivisions 4a and 17.

55.26 This subdivision does not alter disclosure responsibilities or obligations under the Rules

55.27 of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal

55.28 prosecution, the district court shall do an in-camera review prior to determining whether to

55.29 order disclosure of the identity of the reporter.

56.1 ~~(d)~~ (h) Notwithstanding section 138.163, data maintained under this section by the
56.2 commissioners of health and human services must be maintained under the following
56.3 schedule and then destroyed unless otherwise directed by federal requirements:

56.4 (1) data from reports determined to be false, maintained for three years after the finding
56.5 was made;

56.6 (2) data from reports determined to be inconclusive, maintained for four years after the
56.7 finding was made;

56.8 (3) data from reports determined to be substantiated, maintained for seven years after
56.9 the finding was made; and

56.10 (4) data from reports which were not investigated by a lead investigative agency and for
56.11 which there is no final disposition, maintained for three years from the date of the report.

56.12 ~~(e)~~ (i) The commissioners of health and human services shall annually publish on their
56.13 Web sites the number and type of reports of alleged maltreatment involving licensed facilities
56.14 reported under this section, the number of those requiring investigation under this section,
56.15 and the resolution of those investigations. On a biennial basis, the commissioners of health
56.16 and human services shall jointly report the following information to the legislature and the
56.17 governor:

56.18 (1) the number and type of reports of alleged maltreatment involving licensed facilities
56.19 reported under this section, the number of those requiring investigations under this section,
56.20 the resolution of those investigations, and which of the two lead agencies was responsible;

56.21 (2) trends about types of substantiated maltreatment found in the reporting period;

56.22 (3) if there are upward trends for types of maltreatment substantiated, recommendations
56.23 for addressing and responding to them;

56.24 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

56.25 (5) whether and where backlogs of cases result in a failure to conform with statutory
56.26 time frames and recommendations for reducing backlogs if applicable;

56.27 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

56.28 (7) any other information that is relevant to the report trends and findings.

56.29 ~~(f)~~ (j) Each lead investigative agency must have a record retention policy.

56.30 ~~(g)~~ (k) Lead investigative agencies, prosecuting authorities, and law enforcement agencies
56.31 may exchange not public data, as defined in section 13.02, if the agency or authority

57.1 requesting the data determines that the data are pertinent and necessary to the requesting
 57.2 agency in initiating, furthering, or completing an investigation under this section. Data
 57.3 collected under this section must be made available to prosecuting authorities and law
 57.4 enforcement officials, local county agencies, and licensing agencies investigating the alleged
 57.5 maltreatment under this section. ~~The lead investigative agency shall exchange not public~~
 57.6 ~~data with the vulnerable adult maltreatment review panel established in section 256.021 if~~
 57.7 ~~the data are pertinent and necessary for a review requested under that section.~~
 57.8 Notwithstanding section 138.17, upon completion of the review, not public data received
 57.9 by the review panel must be destroyed.

57.10 ~~(h)~~ (l) Each lead investigative agency shall keep records of the length of time it takes to
 57.11 complete its investigations.

57.12 ~~(i)~~ (m) Notwithstanding paragraph (a) or (b), a lead investigative agency may share
 57.13 common entry point or investigative data and may notify other affected parties, including
 57.14 the vulnerable adult and their authorized representative, if the lead investigative agency has
 57.15 reason to believe maltreatment has occurred and determines the information will safeguard
 57.16 the well-being of the affected parties or dispel widespread rumor or unrest in the affected
 57.17 facility.

57.18 ~~(j)~~ (n) Under any notification provision of this section, where federal law specifically
 57.19 prohibits the disclosure of patient identifying information, a lead investigative agency may
 57.20 not provide any notice unless the vulnerable adult has consented to disclosure in a manner
 57.21 which conforms to federal requirements.

57.22 Sec. 56. Minnesota Statutes 2016, section 626.557, subdivision 14, is amended to read:

57.23 Subd. 14. **Abuse prevention plans.** (a) Each facility, except home health agencies and
 57.24 personal care attendant services providers and including a housing with services establishment
 57.25 under chapter 144D and an entity operating under assisted living title protection under
 57.26 section 144G.02, shall establish and enforce an ongoing written abuse prevention plan. The
 57.27 plan shall contain an assessment of the physical plant, its environment, and its population
 57.28 identifying factors which may encourage or permit abuse, and a statement of specific
 57.29 measures to be taken to minimize the risk of abuse. The plan shall comply with any rules
 57.30 governing the plan promulgated by the licensing agency.

57.31 (b) Each facility, including a home health care agency and personal care attendant
 57.32 services providers, shall develop an individual abuse prevention plan for each vulnerable
 57.33 adult residing there or receiving services from them. The plan shall contain an individualized
 57.34 assessment of: (1) the person's susceptibility to abuse by other individuals, including other

58.1 vulnerable adults; (2) the person's risk of abusing other vulnerable adults; and (3) statements
58.2 of the specific measures to be taken to minimize the risk of abuse to that person and other
58.3 vulnerable adults. For the purposes of this paragraph, the term "abuse" includes self-abuse.

58.4 (c) If the facility, except home health agencies and personal care attendant services
58.5 providers, knows that the vulnerable adult has committed a violent crime or an act of physical
58.6 aggression toward others, the individual abuse prevention plan must detail the measures to
58.7 be taken to minimize the risk that the vulnerable adult might reasonably be expected to pose
58.8 to visitors to the facility and persons outside the facility, if unsupervised. Under this section,
58.9 a facility knows of a vulnerable adult's history of criminal misconduct or physical aggression
58.10 if it receives such information from a law enforcement authority or through a medical record
58.11 prepared by another facility, another health care provider, or the facility's ongoing
58.12 assessments of the vulnerable adult.

58.13 (d) The commissioner of health must issue a correction order and fine upon a finding
58.14 that the facility has failed to comply with this subdivision.

58.15 Sec. 57. Minnesota Statutes 2016, section 626.557, subdivision 17, is amended to read:

58.16 Subd. 17. **Retaliation prohibited.** (a) A facility or person shall not retaliate against any
58.17 person, including an interested person or an agent of the vulnerable adult, who reports in
58.18 good faith, or who the facility or person believes reported, suspected maltreatment pursuant
58.19 to this section, or against a vulnerable adult with respect to whom a report is made, because
58.20 of the report or presumed report, whether mandatory or voluntary.

58.21 (b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility
58.22 or person which retaliates against any person because of a report of suspected maltreatment
58.23 is liable to that person for actual damages, punitive damages up to \$10,000, and attorney
58.24 fees. A claim of retaliation may be brought upon showing that the claimant has a good faith
58.25 reason to believe retaliation as described under this subdivision occurred. The claim may
58.26 be brought regardless of whether or not there is confirmation that the name of the mandated
58.27 reporter was known.

58.28 (c) There shall be a rebuttable presumption that any adverse action, as defined below,
58.29 within 90 days of a report, is retaliatory. For purposes of this ~~clause~~ paragraph, the term
58.30 "adverse action" refers to action taken by a facility or person involved in a report against
58.31 the person making the report or the person with respect to whom the report was made because
58.32 of the report, and includes, but is not limited to:

58.33 (1) discharge or transfer from the facility;

- 59.1 (2) discharge from or termination of employment;
- 59.2 (3) demotion or reduction in remuneration for services;
- 59.3 (4) restriction or prohibition of access of the vulnerable adult to the facility or its residents;
- 59.4 ~~or~~
- 59.5 (5) any restriction of rights set forth in section 144.651;
- 59.6 (6) any restriction of access to or use of amenities or services;
- 59.7 (7) termination of services or lease agreement;
- 59.8 (8) sudden increase in costs for services not already contemplated at the time of the
- 59.9 maltreatment report;
- 59.10 (9) removal, tampering with, or deprivation of technology, communication, or electronic
- 59.11 monitoring devices; and
- 59.12 (10) filing a maltreatment report in bad faith against the reporter; or
- 59.13 (11) oral or written communication of false information about the reporter.

59.14 Sec. 58. Minnesota Statutes 2016, section 626.5572, is amended by adding a subdivision

59.15 to read:

59.16 Subd. 12a. **Interested person.** "Interested person" has the meaning given in section

59.17 524.5-102, subdivision 7. An interested person does not include a person whose authority

59.18 has been restricted by the vulnerable adult or by a court or a person who is the alleged

59.19 perpetrator of the maltreatment.

59.20 Sec. 59. **ASSISTED LIVING LICENSURE.**

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

59.22 (1) "commissioner" means the commissioner of health; and

59.23 (2) "multiunit residential dwelling" means a residential dwelling containing two or more

59.24 units intended for use as a residence.

59.25 Subd. 2. **Requirement of license.** (a) After January 1, 2020, no provider of assisted

59.26 living may operate without first having obtained a license.

59.27 (b) By February 1, 2019, the commissioner shall propose for codification assisted living

59.28 licensing standards, which may include licensing tiers that correspond to designated levels

59.29 of care and services to replace housing with services registration under Minnesota Statutes,

60.1 chapter 144D, and assisted living title protection under Minnesota Statutes, chapter 144G.
60.2 The commissioner shall recommend draft legislation to implement all proposed changes to
60.3 Minnesota Statutes. The draft legislation shall:

60.4 (1) replace in Minnesota Statutes the term "housing with services" with "assisted living"
60.5 and replace the term "assisted living client" with "assisted living resident";

60.6 (2) consolidate and recodify Minnesota Statutes, chapters 144D and 144G, and all other
60.7 associated and relevant statutes and rules; and

60.8 (3) add "assisted living" to the definition of facilities in Minnesota Statutes, sections
60.9 144.651, subdivision 2, and 626.5572, subdivision 6, and all other applicable statutes or
60.10 rules.

60.11 The commissioner shall solicit public comment on the proposed licensing standards and
60.12 provide a comment period of no less than 30 days.

60.13 Subd. 3. **Collaboration and consultation.** In developing the licensing structure, the
60.14 commissioner must:

60.15 (1) collaborate with the commissioner of human services and the ombudsman for
60.16 long-term care;

60.17 (2) consult with an equal number of service providers, consumer advocates, and assisted
60.18 living and housing with services residents and their families or agents; and

60.19 (3) review and evaluate other state's licensing systems related to assisted living.

60.20 Subd. 4. **Single license for housing and services.** (a) The commissioner must create a
60.21 single assisted living license for both housing and services offered in a multiunit residential
60.22 dwelling that is not otherwise licensed by the Department of Human Services or the
60.23 Department of Health that offers:

60.24 (1) services comparable to those of a comprehensive home care services provider under
60.25 Minnesota Statutes, section 144A.471, subdivision 7;

60.26 (2) health-related services under Minnesota Statutes, section 144D.01, subdivision 6;
60.27 or

60.28 (3) supportive services under Minnesota Statutes, section 144D.01, including daily life
60.29 checks, transportation, social work services, and dietary services.

60.30 (b) A multiunit residential dwelling must obtain an assisted living license if at least 30
60.31 percent of the residents receive home care, health-related services, or supportive care services.

61.1 Subd. 5. **Single contract.** (a) The commissioner must establish a single contract for the
61.2 provision of housing and care services in an assisted living facility. The provisions of
61.3 Minnesota Statutes, chapter 504B, apply.

61.4 (b) Nothing in this subdivision precludes a resident from separately contracting with a
61.5 provider other than the assisted living facility.

61.6 (c) Nothing in this subdivision precludes the assisted living facility from separating
61.7 housing costs from care costs when billing.

61.8 Subd. 6. **Forms and procedures.** The commissioner must establish forms and procedures
61.9 for the processing of assisted living license applications. An application for an assisted
61.10 living license must, at a minimum, include the following information:

61.11 (1) the names and addresses of all controlling persons and managerial employees of the
61.12 facility to be licensed, and any affiliated corporate entities;

61.13 (2) the address and legal property description of the facility;

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

61.16 (4) whether the applicant's license or authority to provide assisted living in any other
61.17 state has ever been revoked or suspended; and

61.18 (5) any other relevant information the commissioner determines necessary, including
61.19 the number of beds and other data necessary to determine number and type of residents
61.20 being served.

61.21 Subd. 7. **Appeals and reconsiderations.** The commissioner must establish criteria and
61.22 a process for reconsideration and appeal under which a license may be denied, suspended,
61.23 nonrenewed, or revoked.

61.24 Subd. 8. **Fines and penalties.** The commissioner must establish a schedule of license
61.25 fees and penalties for compliance failures.

61.26 Subd. 9. **Standards.** The commissioner must establish licensing standards that must
61.27 include, at a minimum:

61.28 (1) building design;

61.29 (2) physical environment;

61.30 (3) dietary services, including both the type, appropriateness, and quality of food;

61.31 (4) support services, including social work and transportation;

- 62.1 (5) staffing guidelines, including establishing 24 hours a day, seven days a week awake
62.2 staff, taking into account:
- 62.3 (i) the acuity level of the residents;
62.4 (ii) the number of residents;
62.5 (iii) evening and weekend needs; and
62.6 (iv) existing requirements under Minnesota Statutes, section 144A.4795, and Code of
62.7 Federal Regulations, title 42, section 483.30;
- 62.8 (6) training for:
- 62.9 (i) owners, financial officers, administrators, and management on Minnesota Statutes,
62.10 section 626.557, and on best practices and standards for long-term care; and
- 62.11 (ii) all staff, management, and controlling persons in the best practices for courteous
62.12 treatment of residents, resolution of conflict, and collaboration with all staff positions,
62.13 assisted living residents, and families;
- 62.14 (7) admission criteria, including but not limited to:
- 62.15 (i) admission contract language or definitions; and
62.16 (ii) an assessment to be conducted prior to admission to best meet the needs of residents;
- 62.17 (8) retention criteria, including criteria based on the provisions of Minnesota Statutes,
62.18 section 144A.4791, subdivision 4, as to when a resident's needs are beyond the scope of
62.19 care and practice in an assisted living facility;
- 62.20 (9) care and services, including but not limited to centralized, core criteria for dementia
62.21 care and coordination of care among medical providers for residents, based on the needs of
62.22 the resident, including carrying out any medical orders;
- 62.23 (10) discharge criteria, including discharge planning to a safe location and appeal rights,
62.24 incorporating Minnesota Statutes, sections 144D.09, 144D.095, 144G.07, and 144G.08;
- 62.25 (11) resident rights in the assisted living setting, including those currently found in
62.26 Minnesota Statutes, sections 144.651, 144A.44, 144A.441, or other statement of rights
62.27 under law;
- 62.28 (12) establishment of resident or family councils, or both, based on Minnesota Statutes,
62.29 section 144A.33; and
- 62.30 (13) safety criteria, including abuse prevention plans under Minnesota Statutes, section
62.31 626.557, subdivision 14.

63.1 Subd. 10. **Licensing tiers.** The commissioner may establish separate licensing levels
63.2 and, if levels are established, the criteria for the licenses. Examples of levels include:

63.3 (1) Tier 1, basic level service offering any supportive service, including daily life checks,
63.4 transportation, dietary services, or social work services, or any health-related service or
63.5 supportive service in an independent unit within a continuing care campus model;

63.6 (2) Tier 2, medium level service offering, in addition to Tier 1 offerings, any
63.7 health-related service, including dementia care, assistance with two or fewer activities of
63.8 daily living that do not include a two-person transfer, and the ability to engage in
63.9 self-preservation; and

63.10 (3) Tier 3, high level service offering, in addition to Tier 1 and Tier 2 offerings, assistance
63.11 with three or more activities of daily living, two-person transfers, diagnoses requiring
63.12 specialty care, or the need for assistance with self-preservation.

63.13 Subd. 11. **Other considerations and actions.** The commissioner, in establishing a
63.14 licensing structure, must:

63.15 (1) consider federal home and community-based service requirements necessary to
63.16 preserve access to assisted living care and services for individuals who rely on the medical
63.17 assistance elderly waiver program, including the customized living rates and other waived
63.18 programs;

63.19 (2) determine if any changes are required to the medical assistance elderly waiver benefit
63.20 program or group residential housing program to ensure, to the extent possible, the programs
63.21 cover the housing costs and meet the service needs of an assisted living resident, including
63.22 the customized living rates; and

63.23 (3) seek federal approval as necessary for the assisted living license developed by the
63.24 commissioner.

63.25 Subd. 12. **Exceptions.** The commissioner shall exclude providers and facilities currently
63.26 licensed by the Department of Human Services from the requirements of the new assisted
63.27 living license. Nothing may be construed to affect the governance under Minnesota Statutes,
63.28 sections 144A.43 to 144A.483, of home care providers who do not dedicate their services
63.29 to a particular multiunit residential dwelling.

63.30 Subd. 13. **Licensing of executive directors and administrators.** After January 1, 2020,
63.31 no person may serve as an executive director or administrator of an assisted living facility
63.32 without first obtaining a license from the commissioner. The commissioner shall establish

64.1 licensing criteria and a fee schedule in consultation with the Board of Examiners for Nursing
64.2 Home Administrators under Minnesota Statutes, section 144A.19.

64.3 Subd. 14. **Enforcement authority.** The commissioner has the authority to enforce any
64.4 statute or rule governing licensing of assisted living facilities.

64.5 Sec. 60. **DEMENTIA CARE CERTIFICATION.**

64.6 (a) For the purposes of this section, "commissioner" means the commissioner of health.

64.7 (b) By February 1, 2019, the commissioner shall establish core criteria in all care and
64.8 service settings for the provision of dementia care as well as criteria to operate a dementia
64.9 care unit, to recommend legislation to implement dementia care after first providing a 30-day
64.10 public comment period. In establishing the core criteria for dementia care in these settings,
64.11 the commissioner must:

64.12 (1) collaborate with the commissioner of human services and the ombudsman for
64.13 long-term care;

64.14 (2) consult with an equal number of service providers, consumer advocates, and residents
64.15 diagnosed with dementia and their families or agents;

64.16 (3) review and evaluate other state's dementia care systems; and

64.17 (4) meet standards based on best practice recommendations for dementia care developed
64.18 by the Alzheimer's Association and other state and national organizations providing services,
64.19 information, and advocacy regarding persons with dementia and their families.

64.20 (c) After January 1, 2020, all providers must meet core criteria for dementia care as
64.21 developed by the commissioner. After January 1, 2020, no provider may advertise, offer,
64.22 or use the term "memory care unit" or "dementia care unit" without having first obtained a
64.23 dementia care unit certification. If 30 percent or more of the residents in any particular unit
64.24 in the residential setting are diagnosed with dementia, the provider must obtain the dementia
64.25 care unit certification in order to serve the residents.

64.26 (d) In developing core criteria for dementia care across all settings, the commissioner
64.27 must, at a minimum:

64.28 (1) evaluate existing requirements under Minnesota Statutes, sections 144.6503,
64.29 144A.4795, 144A.4796, and 144D.065, and chapter 144G;

64.30 (2) propose a single statute that identifies minimum safety and quality of service standards
64.31 for dementia special care, including dementia training, assessment, care planning, therapeutic
64.32 activities, and a residential setting's physical design and environment by combining concepts

65.1 and provisions found in Minnesota Statutes, sections 144.6503, 144A.4791, 144A.4796,
65.2 144D.065, and 325F.72; and

65.3 (3) develop comprehensive dementia care training curriculum, including evaluation of
65.4 competency of the individual worker, continuing education, portability for workers across
65.5 employers, and minimum standards for trainers. The curriculum must incorporate principles
65.6 of person-centered dementia care, including thorough knowledge of the person and the
65.7 person's abilities and needs, advancement of optimal functioning and a high quality of life,
65.8 and use of problem-solving approaches to care. Training requirements and curriculum must
65.9 reflect cultural competency, both for the provider and the recipient of the care.

65.10 (e) The commissioner must establish additional requirements beyond core criteria for
65.11 facilities and providers operating a dementia care unit in the residential setting, including
65.12 but not limited to the following:

65.13 (1) criteria for certification for the provision of dementia care and training for all care
65.14 providers employed by any facility, provider, or program who are involved in the delivery
65.15 of care to, or have regular contact with, persons with Alzheimer's disease or related
65.16 dementias; and

65.17 (2) training on behavioral approaches.

65.18 (f) The commissioner may adopt rules to implement this section.

65.19 (g) The commissioner has the authority to monitor and enforce compliance with any
65.20 certification statutes enacted or rules adopted.

65.21 **Sec. 61. REPEALER.**

65.22 Minnesota Statutes 2016, sections 144G.03, subdivision 6; and 256.021, are repealed.

144G.03 ASSISTED LIVING REQUIREMENTS.

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.

256.021 VULNERABLE ADULT MALTREATMENT REVIEW PANEL.

Subdivision 1. **Creation.** (a) The commissioner of human services shall establish a review panel for purposes of reviewing lead investigative agency determinations regarding maltreatment of a vulnerable adult in response to requests received under section 626.557, subdivision 9d, paragraph (b). The panel shall hold quarterly meetings for purposes of conducting reviews under this section.

- (b) The review panel consists of:
- (1) the commissioners of health and human services or their designees;
 - (2) the ombudsman for long-term care and ombudsman for mental health and developmental disabilities, or their designees;
 - (3) a member of the board on aging, appointed by the board; and
 - (4) a representative from the county human services administrators appointed by the commissioner of human services or the administrator's designee.

Subd. 2. **Review procedure.** (a) If a vulnerable adult or an interested person acting on behalf of the vulnerable adult requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the investigation memorandum and may review any other data on the investigation maintained by the lead investigative agency that are pertinent and necessary to its review of the final disposition. If more than one person requests a review under this section with respect to the same final disposition, the review panel shall combine the requests into one review. The panel shall submit its written request for the case file and other documentation relevant to the review to the supervisor of the investigator conducting the investigation under review.

(b) Within 30 days of the review under this section, the panel shall notify the director or manager of the lead investigative agency and the vulnerable adult or interested person who requested the review as to whether the panel concurs with the final disposition or whether the lead investigative agency must reconsider the final disposition. If the panel determines that the lead investigative agency must reconsider the final disposition, the panel must make specific recommendations to the director or manager of the lead investigative agency. The recommendation must include an explanation of the factors that form the basis of the recommendation to reconsider the final disposition

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and must specifically identify the disputed facts, the disputed application of maltreatment definitions, the disputed application of responsibility for maltreatment, and the disputed weighing of evidence, whichever apply. Within 30 days the lead investigative agency shall conduct a review and report back to the panel with its determination and the specific rationale for its final disposition. At a minimum, the specific rationale must include a detailed response to each of the factors identified by the panel that formed the basis for the recommendations of the panel.

(c) Upon receiving the report of reconsideration from the lead investigative agency, the panel shall communicate the decision in writing to the vulnerable adult or interested person acting on behalf of the vulnerable adult who requested the review. The panel shall include the specific rationale provided by the lead investigative agency as part of the communication.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.557 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the lead investigative agency to reconsider its final disposition, and the number of cases where the final disposition is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created or received as part of a review under this section are private data on individuals as defined in section 13.02.