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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2722

03/27/2019 Authored by Kiel and Theis
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; establishing assisted living establishment licensure; providing
1.3 penalties; modifying the Board of Examiners for Nursing Home Administrators;
1.4 amending Minnesota Statutes 2018, sections 144.057, subdivision 1; 144A.01,
1.5 subdivision 3, by adding a subdivision; 144A.18; 144A.19, subdivision 1; 144A.20,
1.6 subdivision 1, by adding a subdivision; 144A.21; 144A.23; 144A.24; 144A.251;
1.7 144A.2511; 144A.252; 144A.26; 144A.27; 152.34; proposing coding for new law
1.8 as Minnesota Statutes, chapter 144I.

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

1.10 Section 1. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

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

1.13 (1) individuals providing services which have direct contact, as defined under section
1.14 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
1.15 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
1.16 home care agencies licensed under chapter 144A; residential care homes licensed under
1.17 chapter 144B, and board and lodging establishments that are registered to provide supportive
1.18 or health supervision services under section 157.17;

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

2.1 (3) beginning July 1, 1999, all other employees in nursing homes licensed under chapter
 2.2 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification
 2.3 of an individual in this section shall disqualify the individual from positions allowing direct
 2.4 contact or access to patients or residents receiving services. "Access" means physical access
 2.5 to a client or the client's personal property without continuous, direct supervision as defined
 2.6 in section 245C.02, subdivision 8, when the employee's employment responsibilities do not
 2.7 include providing direct contact services;

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

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

2.12 (6) owners, managerial and operational officials, and employees of an assisted living
 2.13 establishment licensed or seeking licensure under chapter 144I, and contractors and regularly
 2.14 scheduled volunteers who have individual direct contact with residents of an assisted living
 2.15 establishment licensed under chapter 144I.

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

2.20 Sec. 2. Minnesota Statutes 2018, section 144A.01, is amended by adding a subdivision to
 2.21 read:

2.22 Subd. 1a. **Assisted living establishment director.** "Assisted living establishment director"
 2.23 means a person who administers, manages, supervises, or is in general administrative charge
 2.24 of an assisted living establishment, whether or not the individual has an ownership interest
 2.25 in the establishment, and whether or not the person's functions and duties are shared with
 2.26 one or more individuals, and who is licensed pursuant to section 144A.20.

2.27 Sec. 3. Minnesota Statutes 2018, section 144A.01, subdivision 3, is amended to read:

2.28 Subd. 3. **Board of Examiners.** "Board of Examiners" means the Board of Examiners
 2.29 for Nursing Home Administrators and Assisted Living Establishment Directors established
 2.30 by section 144A.19.

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

3.2 **144A.18 ADMINISTRATOR'S LICENSES; PENALTY.**

3.3 No person shall act as a nursing home administrator or an assisted living establishment
 3.4 director, or purport to be a nursing home administrator or an assisted living establishment
 3.5 director, unless that person is licensed by the Board of Examiners ~~for Nursing Home~~
 3.6 ~~Administrators~~. A violation of this section is a misdemeanor.

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

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

3.9 Subdivision 1. **Creation; membership.** There is hereby created the Board of Examiners
 3.10 for Nursing Home Administrators and Assisted Living Establishment Directors, which shall
 3.11 consist of the following members:

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

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

3.14 and

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

3.16 (i) two members actively engaged in the management, operation, or ownership of
 3.17 proprietary nursing homes;

3.18 (ii) two members actively engaged in the management or operation of nonprofit nursing
 3.19 homes;

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

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

3.22 (v) three public members as defined in section 214.02₂;

3.23 (vi) two members actively engaged in the management, operation, or ownership of
 3.24 for-profit assisted living establishments; and

3.25 (vii) two members actively engaged in the management or operation of a nonprofit
 3.26 assisted living establishment.

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

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

4.2 Subdivision 1. **Criteria Nursing home administrator qualifications.** The Board of
4.3 Examiners may issue licenses to qualified persons as nursing home administrators, and shall
4.4 establish qualification criteria for nursing home administrators. No license shall be issued
4.5 to a person as a nursing home administrator unless that person:

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

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

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

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

4.14 Sec. 7. Minnesota Statutes 2018, section 144A.20, is amended by adding a subdivision to
4.15 read:

4.16 **Subd. 3. Assisted living establishment director qualifications.** (a) The Board of
4.17 Examiners may issue licenses to qualified persons as assisted living establishment directors
4.18 and shall approve training and exams. No license shall be issued to a person as an assisted
4.19 living establishment director unless that person:

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

4.21 (2) is eligible to be licensed under this subdivision within six months of hire or is
4.22 scheduled to complete the training noted in clause (3) within a year of hire; and

4.23 (3) has satisfactorily met standards set by the Board of Examiners. The standards shall
4.24 be designed to assure that assisted living establishment directors will be individuals who,
4.25 by training or experience, are qualified to serve as assisted living establishment directors
4.26 and the individual:

4.27 (i) has completed an approved training course and passed an examination approved by
4.28 the board that is designed to test for competence in the standards referred to in clause (3)
4.29 and that includes the laws and rules related to assisted living in Minnesota;

4.30 (ii) is currently a licensed nursing home administrator or has been validated as a qualified
4.31 health services executive by the National Association of Long-Term Care Administrator
4.32 Boards, and has core knowledge of assisted living laws;

5.1 (iii) has a higher education degree in nursing, social services, mental health, or other
 5.2 professional degrees with training specific to management and regulatory compliance;

5.3 (iv) has a combination of at least three years of supervisory, management, or operational
 5.4 experience and higher education training applicable to this setting;

5.5 (v) has completed at least 1,000 hours of an executive in training program provided by
 5.6 an assisted living establishment director in good standing; or

5.7 (vi) has managed an assisted living establishment for at least three years.

5.8 (b) The assisted living establishment director must receive 30 hours of training relevant
 5.9 to the operation of an assisted living establishment and the needs of its residents every two
 5.10 years of licensure. An assisted living establishment director must keep records of the training
 5.11 and provide them to the Minnesota Department of Health surveyors upon request. Training
 5.12 records must be retained for at least three years. Continuing education earned to maintain
 5.13 an additional professional license, such as a nursing home administrator license, nursing
 5.14 license, social worker license, mental health professional license, and real estate license,
 5.15 can be used to complete this requirement.

5.16 Sec. 8. Minnesota Statutes 2018, section 144A.21, is amended to read:

5.17 **144A.21 ADMINISTRATOR LICENSES.**

5.18 Subdivision 1. **Transferability.** Neither a nursing home administrator's license shall
 5.19 not be nor an assisted living establishment director's license is transferable.

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

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

5.25 Sec. 9. Minnesota Statutes 2018, section 144A.23, is amended to read:

5.26 **144A.23 JURISDICTION OF BOARD.**

5.27 Except as provided in section 144A.04, subdivision 5, the Board of Examiners shall
 5.28 have exclusive authority to determine the qualifications, skill and fitness required of any
 5.29 person to serve as an administrator of a nursing home or a director of an assisted living
 5.30 establishment. The holder of a license shall be deemed fully qualified to serve as the
 5.31 administrator of a nursing home or the director of an assisted living establishment.

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

6.2 Sec. 10. Minnesota Statutes 2018, section 144A.24, is amended to read:

6.3 **144A.24 DUTIES OF THE BOARD.**

6.4 The Board of Examiners shall:

6.5 (1) develop and enforce standards for ~~nursing home administrator~~ the licensing, which
6.6 of nursing home administrators and assisted living establishment directors. The standards
6.7 shall be designed to assure that nursing home administrators and assisted living establishment
6.8 directors will be individuals of good character who, by training or experience, are suitably
6.9 qualified to serve as nursing home administrators or assisted living establishment directors;

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

6.12 (3) issue licenses ~~and, acting nursing home administrator permits, and acting assisted~~
6.13 living establishment director permits to those individuals who are found to meet the board's
6.14 standards;

6.15 (4) establish and implement procedures designed to assure that individuals licensed as
6.16 nursing home administrators or assisted living establishment directors will comply with the
6.17 board's standards;

6.18 (5) receive and investigate complaints and take appropriate action consistent with chapter
6.19 214, to revoke or suspend the license ~~or permit~~ of a nursing home administrator or an assisted
6.20 living establishment director or the permit of an acting nursing home administrator or an
6.21 acting assisted living establishment director who fails to comply with sections 144A.18 to
6.22 144A.27 or the board's standards;

6.23 (6) conduct a continuing study and investigation of nursing homes and assisted living
6.24 establishments, and the administrators of nursing homes and directors of assisted living
6.25 establishments within the state, with a view to the improvement of the standards imposed
6.26 for the licensing of administrators and improvement of the procedures and methods used
6.27 for enforcement of the board's standards; and

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

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

7.2 Sec. 11. Minnesota Statutes 2018, section 144A.251, is amended to read:

7.3 **144A.251 MANDATORY PROCEEDINGS.**

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

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

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

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

7.17 Sec. 12. Minnesota Statutes 2018, section 144A.2511, is amended to read:

7.18 **144A.2511 COSTS; PENALTIES.**

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

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

8.1 Sec. 13. Minnesota Statutes 2018, section 144A.252, is amended to read:

8.2 **144A.252 IMMUNITY.**

8.3 Members of the Board of Examiners ~~for Nursing Home Administrators~~ and persons
8.4 employed by the board or engaged in the investigation of violations and in the preparation
8.5 and management of charges of violations of sections 144A.18 to 144A.27, or of rules adopted
8.6 pursuant to sections 144A.18 to 144A.27 on behalf of the board, are immune from civil
8.7 liability and criminal prosecution for any actions, transactions, or publication in execution
8.8 of, or relating to, their duties under sections 144A.18 to 144A.27 provided they are acting
8.9 in good faith.

8.10 Sec. 14. Minnesota Statutes 2018, section 144A.26, is amended to read:

8.11 **144A.26 RECIPROCITY WITH OTHER STATES.**

8.12 (a) The Board of Examiners may issue a nursing home administrator's license, without
8.13 examination, to any person who holds a current license as a nursing home administrator
8.14 from another jurisdiction if the board finds that the standards for licensure in the other
8.15 jurisdiction are at least the substantial equivalent of those prevailing in this state and that
8.16 the applicant is otherwise qualified.

8.17 (b) The Board of Examiners may issue an assisted living establishment director's license,
8.18 without examination, to any person who holds a current license as an assisted living
8.19 establishment director from another jurisdiction if the board finds that the standards for
8.20 licensure in the other jurisdiction are at least the substantial equivalent of those prevailing
8.21 in this state and that the applicant is otherwise qualified.

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

8.23 Sec. 15. Minnesota Statutes 2018, section 144A.27, is amended to read:

8.24 **144A.27 ACTING ADMINISTRATORS.**

8.25 (a) If a licensed nursing home administrator is removed from the position by death or
8.26 other unexpected cause, the controlling persons of the nursing home suffering the removal
8.27 may designate an acting nursing home administrator who shall secure an acting nursing
8.28 home administrator's permit within 30 days of appointment as the acting administrator.

8.29 (b) If a licensed assisted living establishment director is removed from the position by
8.30 death or other unexpected cause, the controlling persons of the assisted living establishment
8.31 suffering the removal may designate an acting assisted living establishment director who

9.1 shall secure an acting assisted living establishment director's permit within 30 days of
 9.2 appointment as the acting administrator.

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

9.4 Sec. 16. **[144I.01] DEFINITIONS.**

9.5 Subdivision 1. **Scope.** For purposes of this chapter, the following definitions apply.

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

9.7 Subd. 3. **Arranged home care provider.** "Arranged home care provider" means a home
 9.8 care provider licensed under chapter 144A that provides services to some or all of the
 9.9 residents of an assisted living establishment that is not the establishment itself but another
 9.10 entity with which the establishment has an arrangement.

9.11 Subd. 4. **Assisted living establishment.** (a) "Assisted living establishment" means an
 9.12 establishment that (1) provides sleeping accommodations to one or more adult residents, at
 9.13 least 80 percent of whom are 55 years of age or older; and (2) offers or provides, for a fee,
 9.14 one or more regularly scheduled home care services as defined in section 144A.43,
 9.15 subdivision 3, provided by the establishment itself or by an arranged home care provider.

9.16 (b) An assisted living establishment does not include:

9.17 (1) a housing with services establishment registered under chapter 144D;

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

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

9.21 (4) a board and lodging establishment licensed under chapter 157 or 245D and Minnesota
 9.22 Rules, parts 9520.0500 to 9520.0670;

9.23 (5) a board and lodging establishment that serves as a shelter for battered women or
 9.24 other similar purpose;

9.25 (6) adult foster care licensed by the Department of Human Services;

9.26 (7) a private home in which the residents are related by kinship, law, or affinity with the
 9.27 providers of services;

9.28 (8) a residential setting for persons with developmental disabilities in which the services
 9.29 are licensed under chapter 245D;

10.1 (9) a home-sharing arrangement such as when an elderly or disabled person or
 10.2 single-parent family makes lodging in a private residence available to another person in
 10.3 exchange for services or rent, or both;

10.4 (10) a duly organized condominium, cooperative, common interest community, or
 10.5 owners' association of the foregoing where at least 80 percent of the units that comprise the
 10.6 condominium, cooperative, or common interest community are occupied by individuals
 10.7 who are the owners, members, or shareholders of the units;

10.8 (11) services for persons with developmental disabilities that are provided under a license
 10.9 under chapter 245D;

10.10 (12) a temporary family health care dwelling as defined in sections 394.307 and 462.3593;

10.11 (13) a setting offering services conducted by and for the adherents of any recognized
 10.12 church or religious denomination for its members through spiritual means or by prayer for
 10.13 healing;

10.14 (14) rental housing developed under section 8 of the United States Housing Act of 1937,
 10.15 United States Code, title 42, section 1437, et seq., or section 202 of the National Housing
 10.16 Act of 1959, United States Code, title 12, section 1701q;

10.17 (15) rental housing designated for occupancy only by elderly or elderly and disabled
 10.18 residents under section 7 of the United States Housing Act of 1937, United States Code,
 10.19 title 42, section 1437e, or rental housing for qualifying families under Code of Federal
 10.20 Regulations, title 24, section 983.56, Public Law 112-55, as amended; and

10.21 (16) rental housing funded under the Congregate Housing Services Act of 1978 or section
 10.22 802 of the Cranston-Gonzalez National Affordable Housing Act, United States Code, title
 10.23 42, section 8011.

10.24 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of health.

10.25 Subd. 6. **Designated representative.** "Designated representative" means:

10.26 (1) a court-appointed guardian;

10.27 (2) a conservator;

10.28 (3) an attorney-in-fact;

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

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

11.1 Subd. 7. **Direct-care staff.** "Direct-care staff" means staff and employees who provide
11.2 home care services listed in section 144A.471, subdivisions 6 and 7.

11.3 Subd. 8. **Establishment.** "Establishment" means an assisted living establishment.

11.4 Subd. 9. **Health-related services.** "Health-related services" include professional nursing
11.5 services, home health aide tasks, or the central storage of medication for residents.

11.6 Subd. 10. **Level 3 violation and Level 4 violation.** "Level 3 violation" and "Level 4
11.7 violation" have the meanings given in section 144A.474, subdivision 11, paragraph (b).

11.8 Subd. 11. **Licensed health professional.** "Licensed health professional" means a person,
11.9 other than a registered nurse or licensed practical nurse, who provides home care services
11.10 within the scope of practice of the person's health occupation license, registration, or
11.11 certification as regulated and who is licensed by the appropriate Minnesota state board or
11.12 agency.

11.13 Subd. 12. **Resident.** "Resident" means an individual who resides in an assisted living
11.14 establishment.

11.15 Subd. 13. **Substantial compliance.** "Substantial compliance" means the commission
11.16 has found no Level 4 violations, no pattern of Level 3 violations, and no widespread Level
11.17 3 violations.

11.18 Sec. 17. **[144I.02] ASSISTED LIVING ESTABLISHMENT LICENSES.**

11.19 Subdivision 1. **License required.** No entity may open, operate, maintain, or advertise
11.20 itself as an assisted living establishment in Minnesota unless the establishment is licensed
11.21 under this chapter.

11.22 Subd. 2. **Protected title; restriction on use.** No person or entity may use the phrase
11.23 "assisted living," whether alone or in combination with other words and whether orally or
11.24 in writing, to advertise, market, or otherwise describe, offer, or promote itself, or any housing,
11.25 service, service package, or program that it provides within this state, unless the person or
11.26 entity is an assisted living establishment that meets the requirements of this chapter. A
11.27 person or entity entitled to use the phrase "assisted living" shall use the phrase only in the
11.28 context of an assisted living establishment that meets the requirements of this chapter. A
11.29 housing with services establishment may not use the term "assisted living" in the name of
11.30 the establishment registered with the commissioner under chapter 144D, or in the name the
11.31 housing with services establishment uses to identify itself to residents or the public.

12.1 Subd. 3. **Licensure levels.** (a) An assisted living establishment with a basic assisted
 12.2 living establishment license may provide only basic home care services as defined in section
 12.3 144A.471, subdivision 6.

12.4 (b) An assisted living establishment with a comprehensive assisted living establishment
 12.5 license may provide only the following services:

12.6 (1) any of the services listed in paragraph (a); and

12.7 (2) comprehensive home care services as defined in section 144A.471, subdivision 7.

12.8 (c) Only an assisted living establishment licensed as a comprehensive PLUS assisted
 12.9 living establishment may provide services in a secure or separate dementia care area.

12.10 **Sec. 18. [144I.021] REIMBURSEMENT UNDER MEDICAL ASSISTANCE.**

12.11 Notwithstanding the provisions of this chapter, the requirements for the elderly waiver
 12.12 customized living payment rates under section 256B.0915, subdivision 3e, shall continue
 12.13 to be effective, and providers who do not meet the requirements of this chapter may continue
 12.14 to receive payment under section 256B.0915, subdivision 3e, as long as they continue to
 12.15 meet the definitions and standards for customized living and 24-hour customized living set
 12.16 forth in the federally approved elderly waiver program. Providers of customized living for
 12.17 the community access for disability inclusion and brain injury waivers shall continue to
 12.18 receive payment as long as they continue to meet the definitions and standards for customized
 12.19 living and 24-hour customized living set forth in the federally approved community access
 12.20 for disability inclusion and brain injury waiver plans.

12.21 **Sec. 19. [144I.03] LICENSE APPLICATION.**

12.22 Subdivision 1. **Licensure application; general.** The commissioner shall establish forms
 12.23 and procedures for the processing of assisted living establishment applications for licensure.
 12.24 An application for an assisted living establishment license shall include the following:

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

12.26 (2) the names, e-mail addresses, telephone numbers, and mailing addresses of the owner
 12.27 or owners and managerial officials of the assisted living establishment and, if the owner or
 12.28 owners are not natural persons, identification of the type of business entity of the owner or
 12.29 owners, and the names, e-mail addresses, telephone numbers, and mailing addresses of the
 12.30 officers and members of the governing body, or comparable persons for partnerships, limited
 12.31 liability corporations, or other types of business organizations of the owner or owners;

13.1 (3) the name and mailing address of the managing agent of the establishment, whether
13.2 through management agreement or lease agreement, if different from the owner or owners,
13.3 and the name of the on-site manager, if any;

13.4 (4) the name, e-mail address, telephone number, and mailing address of the licensed
13.5 assisted living establishment administrator;

13.6 (5) verification that the establishment has entered or will enter into an assisted living
13.7 contract with each resident or resident's representative as required in section 144I.20;

13.8 (6) verification that the establishment is complying with the requirements of section
13.9 325F.72, if applicable;

13.10 (7) the name and address of at least one natural person who shall be responsible for
13.11 dealing with the commissioner on all matters provided for in this chapter, on whom personal
13.12 service of all notices and orders shall be made, and who shall be authorized to accept service
13.13 on behalf of the owner or owners and the managing agent, if any;

13.14 (8) the signature of the authorized representative of the owner or owners or, if the owner
13.15 or owners are not natural persons, signatures of at least two authorized representatives of
13.16 each owner, one of whom shall be an officer of the owner;

13.17 (9) information on whether services are included in the base rate to be paid by the
13.18 resident;

13.19 (10) documentation of compliance with the background study requirements of section
13.20 144I.04 for all persons listed in section 144.057, subdivision 1;

13.21 (11) evidence of workers' compensation coverage as required by sections 176.181 and
13.22 176.182;

13.23 (12) documentation of liability coverage if applicable;

13.24 (13) identification of the license level the provider is seeking; and

13.25 (14) any other information that the commissioner determines is necessary to evaluate
13.26 the application for licensure.

13.27 Subd. 2. **Licensure application; home care services.** (a) Except as provided in paragraph
13.28 (b), an application for an assisted living establishment license must also include the following
13.29 relating to the delivery of home care services:

13.30 (1) documentation that identifies the managerial official who is in charge of day-to-day
13.31 home care operations and attestation that the person has reviewed and understands the home
13.32 care provider regulations; and

14.1 (2) verification that the applicant has the following policies and procedures in place so
14.2 that if a license is issued, the applicant will implement the policies and procedures and keep
14.3 them current:

14.4 (i) requirements in section 626.557, reporting of maltreatment of vulnerable adults;

14.5 (ii) conducting and handling background studies on employees and volunteers and
14.6 contractors who have individual direct contact with residents;

14.7 (iii) orientation, training, and competency evaluations of direct-care staff and a process
14.8 for evaluating staff performance;

14.9 (iv) handling complaints from residents, family members, or resident representatives
14.10 regarding staff or services provided by staff;

14.11 (v) conducting initial evaluations of residents' home care needs and the establishment's
14.12 ability to provide those services;

14.13 (vi) conducting initial and ongoing resident evaluations and assessments and how changes
14.14 in a resident's condition are identified, managed, and communicated to staff and other health
14.15 care providers as appropriate;

14.16 (vii) orientation to and implementation of the bill of rights in section 144I.51;

14.17 (viii) infection control practices;

14.18 (ix) reminders for medications, treatments, or exercises, if provided; and

14.19 (x) conducting appropriate screenings, or documentation of prior screenings, to show
14.20 that staff are free of tuberculosis, consistent with current United States Centers for Disease
14.21 Control and Prevention standards.

14.22 (b) If the assisted living establishment will deliver home care services to its residents
14.23 through an arranged home care provider, the application must identify the arranged home
14.24 care provider, describe the arrangement, and identify how the assisted living establishment
14.25 will maintain accountability for services provided by the arranged home care provider,
14.26 including responsibility for termination of services provisions under this chapter.

14.27 Subd. 3. **Licensure application fee.** The application must be submitted with the initial
14.28 license application fee.

14.29 Subd. 4. **Personal service.** Personal service on the person identified under subdivision
14.30 1, clause (7), by the owner or owners in the application for licensure shall be considered
14.31 service on the owner or owners, and it shall not be a defense to any action that personal
14.32 service was not made on each individual or entity. The designation of one or more individuals

15.1 under subdivision 1, clause (7), shall not affect the legal responsibility of the owner or
15.2 owners under this chapter.

15.3 Sec. 20. **[144I.04] BACKGROUND STUDIES.**

15.4 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before
15.5 the commissioner issues a temporary license or renews a license, an owner or managerial
15.6 official is required to complete a background study under section 144.057. No person may
15.7 be involved in the management, operation, or control of an assisted living establishment if
15.8 the person has been disqualified under chapter 245C. If an individual is disqualified under
15.9 section 144.057 or chapter 245C, the individual may request reconsideration of the
15.10 disqualification. If the individual requests reconsideration and the commissioner sets aside
15.11 or rescinds the disqualification, the individual is eligible to be involved in the management,
15.12 operation, or control of the assisted living establishment. If an individual has a
15.13 disqualification under section 245C.15, subdivision 1, and the disqualification is affirmed,
15.14 the individual's disqualification is barred from a set-aside, and the individual must not be
15.15 involved in the management, operation, or control of the assisted living establishment.

15.16 (b) For purposes of this subdivision, owners of an assisted living establishment subject
15.17 to the background check requirement are those individuals whose ownership interest provides
15.18 sufficient authority or control to affect or change decisions related to the operation of the
15.19 assisted living establishment. An owner includes a sole proprietor, a general partner, or any
15.20 other individual whose individual ownership interest can affect the management and direction
15.21 of the policies of the assisted living establishment.

15.22 (c) For purposes of this subdivision, managerial officials subject to the background check
15.23 requirement are individuals who provide direct contact as defined in section 245C.02,
15.24 subdivision 11, or individuals who have the responsibility for the ongoing management or
15.25 direction of the policies, services, or employees of the assisted living establishment.

15.26 (d) Data collected under this subdivision shall be classified as private data on individuals
15.27 under section 13.02, subdivision 12.

15.28 (e) The commissioner shall not issue any license if:

15.29 (1) the applicant, owner, or managerial official has been unsuccessful in having a
15.30 background study disqualification set aside under section 144.057 and chapter 245C;

15.31 (2) the owner or managerial official, as an owner or managerial official of another assisted
15.32 living establishment, was substantially responsible for the other assisted living establishment's
15.33 failure to substantially comply with this chapter; or

16.1 (3) an owner that has ceased doing business, either individually or as an owner of an
16.2 assisted living establishment, was issued a correction order for failing to assist residents in
16.3 violation of this chapter.

16.4 Subd. 2. **Employees, contractors, and volunteers.** (a) Employees, contractors, and
16.5 regularly scheduled volunteers of an assisted living establishment are subject to the
16.6 background study required by section 144.057 and may be disqualified under chapter 245C.
16.7 Nothing in this subdivision shall be construed to prohibit an assisted living establishment
16.8 from requiring self-disclosure of criminal conviction information.

16.9 (b) An assisted living establishment that terminates an employee in good faith reliance
16.10 on a disqualification obtained under chapter 245C regarding a confirmed conviction is not
16.11 subject to civil liability or liability for unemployment benefits.

16.12 **Sec. 21. [144L.05] FEE PAID BY LICENSED ASSISTED LIVING**
16.13 **ESTABLISHMENTS.**

16.14 Fees collected from assisted living establishments under this chapter shall be deposited
16.15 in the special revenue fund and are annually appropriated to the commissioner to fund
16.16 activities associated with assisted living establishment licensure, including surveys and
16.17 inspection of assisted living establishments.

16.18 **EFFECTIVE DATE.** This section is effective July 1, 2019.

16.19 **Sec. 22. [144L.06] TEMPORARY LICENSURE.**

16.20 Subdivision 1. **Temporary license.** For new license applicants, the commissioner shall
16.21 issue a temporary assisted living establishment license. A temporary license is effective for
16.22 up to one year from the date of issuance, except that a temporary license may be extended
16.23 according to subdivision 3.

16.24 Subd. 2. **Initial survey of temporary licensees.** (a) During the temporary license period,
16.25 the commissioner shall survey the temporary licensee within 90 calendar days after the
16.26 commissioner is notified or has evidence that the temporary licensee is operating as an
16.27 assisted living establishment and serving residents.

16.28 (b) Within five days of beginning operation and serving residents, the temporary licensee
16.29 must notify the commissioner that it is operating and serving residents. The notification to
16.30 the commissioner may be mailed or e-mailed to the commissioner at the address provided
16.31 by the commissioner. If the temporary licensee does not operate as an assisted living
16.32 establishment during the temporary license period, then the temporary license expires at

17.1 the end of the period and the applicant must reapply for a temporary assisted living
17.2 establishment license.

17.3 (c) If the temporary licensee notifies the commissioner that the licensee is operating and
17.4 servicing residents within 45 days prior to expiration of the temporary license, the
17.5 commissioner may extend the temporary license for up to 60 days in order to allow the
17.6 commissioner to complete the on-site survey required under this section and follow-up
17.7 survey visits.

17.8 Subd. 3. **Denied or extended licenses following an initial survey.** (a) If the temporary
17.9 licensee is not in substantial compliance with the survey, the commissioner shall either:

17.10 (1) deny an assisted living establishment license and revoke the temporary license; or

17.11 (2) extend the temporary license for a period not to exceed 90 days and apply conditions
17.12 to the extension of a temporary license. If the temporary licensee is not in substantial
17.13 compliance with the survey within the time period of the extension, or if the temporary
17.14 licensee does not satisfy the license conditions, the commissioner shall deny the license.

17.15 (b) If the temporary licensee whose assisted living establishment license has been denied
17.16 or whose temporary license has been extended with conditions disagrees with the conclusions
17.17 of the commissioner, then the temporary licensee may request a reconsideration by the
17.18 commissioner or commissioner's designee. The reconsideration request process must be
17.19 conducted internally by the commissioner or commissioner's designee, and chapter 14 does
17.20 not apply.

17.21 (c) The temporary licensee requesting reconsideration must make the request in writing
17.22 and must list and describe the reasons why the temporary licensee disagrees with the decision
17.23 to deny the assisted living establishment license or the decision to extend the temporary
17.24 license with conditions.

17.25 (d) The reconsideration request and supporting documentation must be received by the
17.26 commissioner within 15 calendar days after the date the temporary licensee receives the
17.27 notice that the temporary licensee's assisted living establishment license has been denied
17.28 or its temporary license extended with conditions.

17.29 (e) A temporary licensee who is denied an assisted living establishment license is
17.30 permitted to continue operating as an assisted living establishment:

17.31 (1) while a reconsideration request is in process;

17.32 (2) while an extension of a temporary license is being negotiated;

18.1 (3) while the placement of conditions on a temporary license is being negotiated; or

18.2 (4) until a transfer of residents to a new assisted living establishment is completed.

18.3 (f) If a temporary license is revoked or the temporary licensee's assisted living
 18.4 establishment license is denied, the temporary licensee must develop and implement a plan
 18.5 for the temporary licensee to transfer affected residents to other establishments, which will
 18.6 be monitored by the commissioner.

18.7 **Sec. 23. [144I.07] LICENSURE.**

18.8 (a) If a temporary licensee is in substantial compliance with a survey conducted according
 18.9 to section 144I.06, subdivision 2, the commissioner shall issue an assisted living
 18.10 establishment license.

18.11 (b) Unless the license expires or is suspended or revoked in accordance with section
 18.12 144I.11, an assisted living establishment license shall remain effective for a period of one
 18.13 year from the date of its issuance.

18.14 **Sec. 24. [144I.071] DUAL LICENSURE.**

18.15 (a) An assisted living establishment may also be licensed as a home care provider under
 18.16 chapter 144A.

18.17 (b) An assisted living establishment that is also licensed as a home care provider under
 18.18 chapter 144A may provide individual community living supports if the dually licensed
 18.19 assisted living establishment meets the individual community living supports provider
 18.20 requirements under section 256B.0915, subdivision 3j.

18.21 **Sec. 25. [144I.072] HOME AND COMMUNITY-BASED SERVICES DESIGNATION.**

18.22 Assisted living establishments may apply for a home and community-based services
 18.23 designation in the same manner and under the same conditions as home care providers under
 18.24 section 144A.484.

18.25 **Sec. 26. [144I.073] LANDLORD AND TENANT.**

18.26 An assisted living establishment must comply with chapter 504B.

18.27 **Sec. 27. [144I.074] DISCLOSURE OF SPECIAL CARE STATUS REQUIRED.**

18.28 Assisted living establishments that secure, segregate, or provide a special program or
 18.29 special area for residents with a diagnosis of probable Alzheimer's disease or a related

19.1 disorder or that advertise, market, or otherwise promote the establishment as providing
 19.2 specialized care for Alzheimer's disease or a related disorder must comply with section
 19.3 325F.72.

19.4 Sec. 28. **[144I.075] USE OF MEDICAL CANNABIS.**

19.5 Assisted living establishments may exercise the authority and are subject to the protections
 19.6 in section 152.34.

19.7 Sec. 29. **[144I.076] OTHER LAWS.**

19.8 An assisted living establishment must obtain and maintain all licenses, permits,
 19.9 registrations, or other governmental approvals required of it. An assisted living establishment
 19.10 is not required to obtain a lodging license under chapter 157 and related rules.

19.11 Sec. 30. **[144I.08] LICENSE RENEWAL.**

19.12 The commissioner shall establish forms and procedures for the processing of license
 19.13 renewals. The commissioner shall approve a license renewal application if the establishment
 19.14 continues to satisfy the requirements, standards, and conditions prescribed by this chapter.

19.15 Sec. 31. **[144I.09] CHANGES IN OWNERSHIP.**

19.16 An assisted living establishment license issued by the commissioner may not be
 19.17 transferred to another party. Before acquiring ownership of or a controlling interest in an
 19.18 assisted living establishment, a prospective owner must apply for a new license.

19.19 Sec. 32. **[144I.10] REGULATORY FUNCTIONS; AUTHORITY OF**
 19.20 **COMMISSIONER.**

19.21 Subdivision 1. **Regulatory functions.** The commissioner shall:

19.22 (1) license, survey, and monitor without advance notice, assisted living establishments
 19.23 in accordance with this chapter;

19.24 (2) survey all temporarily licensed assisted living establishments within the timelines
 19.25 established in section 144I.06;

19.26 (3) survey all licensed assisted living establishments on a frequency of at least once
 19.27 every three years. Survey frequency may be based on the establishment's compliance history,
 19.28 the number of residents served, or other factors as determined by the commissioner to be

20.1 necessary to ensure the health, safety, and welfare of residents and compliance with the
 20.2 law;

20.3 (4) issue correction orders and assess civil penalties in accordance with section 144.653,
 20.4 subdivisions 5 to 8, for violations of this chapter;

20.5 (5) take action as authorized in section 144I.11; and

20.6 (6) take other action reasonably required to accomplish the purposes of this chapter.

20.7 Subd. 2. **Authority of commissioner.** In addition to the authority granted under
 20.8 subdivision 1 and section 144I.11, the commissioner, upon receipt of information that may
 20.9 indicate the failure of an assisted living establishment, the arranged home care provider, a
 20.10 resident, or an assisted living resident's designated representative to comply with a legal
 20.11 requirement to which one or more of the entities may be subject, shall make appropriate
 20.12 referrals to other governmental agencies and entities having jurisdiction over the subject
 20.13 matter. The commissioner may also make referrals to any public or private agency the
 20.14 commissioner considers available for appropriate assistance to those involved.

20.15 **Sec. 33. [144I.11] ENFORCEMENT.**

20.16 Subdivision 1. **Duty.** The commissioner of health is the exclusive state agency charged
 20.17 with the responsibility and duty of inspecting all buildings required to be licensed under
 20.18 this chapter, and issuing correction orders and imposing fines as provided in this chapter,
 20.19 or any other applicable law.

20.20 Subd. 2. **Conditions for enforcement.** (a) The commissioner may refuse to grant a
 20.21 temporary license, renew a license, suspend or revoke a license, or impose a conditional
 20.22 license if the assisted living establishment or owner or managerial official of the assisted
 20.23 living establishment:

20.24 (1) is not in substantial compliance with, or during the term of the license, is found to
 20.25 be not in substantial compliance with any of the requirements in this chapter;

20.26 (2) permits, aids, or abets the commission of any illegal act in the operation of an assisted
 20.27 living establishment;

20.28 (3) performs any act detrimental to the health, safety, and welfare of a resident;

20.29 (4) obtains the license by fraud or misrepresentation;

20.30 (5) knowingly made or makes a false statement of a material fact in the application for
 20.31 a license or in any other record or report required by this chapter;

21.1 (6) denies representatives of the commissioner access to any part of the assisted living
 21.2 establishment's books, records, files, or employees;

21.3 (7) interferes with or impedes a representative of the commissioner in contacting the
 21.4 assisted living establishment's residents or designated representative;

21.5 (8) interferes with or impedes a representative of the commissioner in the enforcement
 21.6 of this chapter or has failed to fully cooperate with an inspection, survey, or investigation
 21.7 by the Department of Health;

21.8 (9) destroys or makes unavailable any records or other evidence relating to the assisted
 21.9 living establishment's compliance with this chapter;

21.10 (10) refuses to initiate a background study under section 144.057 or 245A.04;

21.11 (11) fails to timely pay any fines assessed by the department;

21.12 (12) violates any local, city, or township ordinance relating to assisted living
 21.13 establishments;

21.14 (13) has repeated incidents of personnel performing services beyond their competency
 21.15 level; or

21.16 (14) has operated beyond the scope of the assisted living establishment's license level.

21.17 (b) A violation by an arranged home care provider is a violation by the assisted living
 21.18 establishment.

21.19 Subd. 3. **Terms to suspension or conditional license.** A suspension or conditional
 21.20 license designation may include terms that must be completed or met before a suspension
 21.21 or conditional license designation is lifted. A conditional license designation may include
 21.22 restrictions or conditions that are imposed on the establishment. Terms for a suspension or
 21.23 conditional license may include one or more of the following and the scope of each shall
 21.24 be determined by the commissioner:

21.25 (1) requiring a consultant to review, evaluate, and make recommended changes to the
 21.26 assisted living establishment's practices and submit reports to the commissioner at the cost
 21.27 of the assisted living establishment;

21.28 (2) requiring supervision of the assisted living establishment or staff practices, at the
 21.29 cost of the assisted living establishment, by an unrelated person who has sufficient knowledge
 21.30 and qualifications to oversee the practices and who will submit reports to the commissioner;

21.31 (3) requiring the assisted living establishment or employees to obtain training at the cost
 21.32 of the assisted living establishment;

22.1 (4) requiring the assisted living establishment to submit reports to the commissioner;

22.2 (5) prohibiting the assisted living establishment from taking any new residents for a
22.3 period of time; or

22.4 (6) any other action reasonably required to accomplish the purposes of this subdivision
22.5 and section 144I.10, subdivision 1.

22.6 Subd. 4. **Notice.** (a) Prior to any suspension, revocation, or refusal to renew a license,
22.7 the assisted living establishment shall be entitled to notice and a hearing as provided by
22.8 sections 14.57 to 14.69. In addition to any other remedy provided by law, the commissioner
22.9 may, without a prior contested case hearing, temporarily suspend a license or prohibit
22.10 delivery of services by an establishment for not more than 90 days, or issue a conditional
22.11 license if the commissioner determines that there are Level 3 violations that do not pose an
22.12 imminent risk of harm to the health or safety of persons in the establishment's care, provided:

22.13 (1) advance notice is given to the assisted living establishment;

22.14 (2) after notice, the assisted living establishment fails to correct the problem;

22.15 (3) the commissioner has reason to believe that other administrative remedies are not
22.16 likely to be effective; and

22.17 (4) there is an opportunity for a contested case hearing within 30 days unless there is an
22.18 extension granted by an administrative law judge pursuant to subdivision 5.

22.19 (b) If the commissioner determines there are: (1) Level 4 violations; or (2) violations
22.20 that pose an imminent risk of harm to the health or safety of persons in the assisted living
22.21 establishment's care, the commissioner may immediately temporarily suspend a license,
22.22 prohibit delivery of services by an establishment, or issue a conditional license without
22.23 meeting the requirements of paragraph (a), clauses (1) to (4).

22.24 Subd. 5. **Hearing.** Within 15 business days of receipt of the establishment's timely appeal
22.25 of a sanction under this section, other than for a temporary suspension, the commissioner
22.26 shall request assignment of an administrative law judge. The commissioner's request must
22.27 include a proposed date, time, and place of hearing. A hearing must be conducted by an
22.28 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
22.29 90 calendar days of the request for assignment, unless an extension is requested by either
22.30 party and granted by the administrative law judge for good cause or for purposes of discussing
22.31 settlement. In no case shall one or more extensions be granted for a total of more than 90
22.32 calendar days unless there is a criminal action pending against the licensee. If, while an
22.33 establishment continues to operate pending an appeal of an order for revocation, suspension,

23.1 or refusal to renew a license, the commissioner identifies one or more new violations of
23.2 law that meet the requirements of Level 3 or 4 violations, the commissioner shall act
23.3 immediately to temporarily suspend the license under subdivision 7.

23.4 Subd. 6. **Expedited hearing.** (a) Within five business days of receipt of the
23.5 establishment's timely appeal of a temporary suspension or issuance of a conditional license,
23.6 the commissioner shall request assignment of an administrative law judge. The request must
23.7 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
23.8 administrative law judge within 30 calendar days of the request for assignment, unless an
23.9 extension is requested by either party and granted by the administrative law judge for good
23.10 cause. The commissioner shall issue a notice of hearing by certified mail or personal service
23.11 at least ten business days before the hearing. Certified mail to the last known address is
23.12 sufficient. The scope of the hearing shall be limited solely to the issue of whether the
23.13 temporary suspension or issuance of a conditional license should remain in effect and
23.14 whether there is sufficient evidence to conclude that the establishment's actions or failure
23.15 to comply with applicable laws are Level 3 or 4 violations, or that there were violations that
23.16 posed an imminent risk of harm to the health and safety of residents at the establishment.

23.17 (b) The administrative law judge shall issue findings of fact, conclusions, and a
23.18 recommendation within ten business days from the date of hearing. The parties shall have
23.19 ten calendar days to submit exceptions to the administrative law judge's report. The record
23.20 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
23.21 final order shall be issued within ten business days from the close of the record. When an
23.22 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
23.23 the commissioner shall issue a final order affirming the temporary immediate suspension
23.24 or conditional license within ten calendar days of the commissioner's receipt of the
23.25 withdrawal or dismissal. The establishment is prohibited from operation during the temporary
23.26 suspension period.

23.27 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
23.28 final licensing sanction is issued under subdivisions 1 and 2 and the establishment appeals
23.29 that sanction, the establishment is prohibited from operation pending a final commissioner's
23.30 order after the contested case hearing conducted under chapter 14.

23.31 (d) An establishment whose license is temporarily suspended must comply with the
23.32 requirements for notification and transfer of clients in subdivision 9. These requirements
23.33 remain if an appeal is requested.

24.1 Subd. 7. **Immediate temporary suspension.** (a) In addition to any other remedies
 24.2 provided by law, the commissioner may, without a prior contested case hearing, immediately
 24.3 temporarily suspend a license or prohibit delivery of services by an assisted living
 24.4 establishment for not more than 90 days, or issue a conditional license, if the commissioner
 24.5 determines that there are: (1) Level 4 violations; or (2) violations that pose an imminent
 24.6 risk of harm to the health or safety of residents at the establishment.

24.7 (b) A notice stating the reasons for the immediate temporary suspension or conditional
 24.8 license and informing the assisted living establishment of the right to an expedited hearing
 24.9 under subdivision 6 must be delivered by personal service to the address shown on the
 24.10 application or the last known address of the establishment. The establishment may appeal
 24.11 an order immediately temporarily suspending a license or issuing a conditional license. The
 24.12 appeal must be made in writing by certified mail or personal service. If mailed, the appeal
 24.13 must be postmarked and sent to the commissioner within five calendar days after the
 24.14 establishment receives notice. If an appeal is made by personal service, it must be received
 24.15 by the commissioner within five calendar days after the establishment received the order.

24.16 (c) An assisted living establishment whose license is immediately temporarily suspended
 24.17 must comply with the requirements for notification and transfer of clients in subdivision 9.
 24.18 These requirements remain if an appeal is requested.

24.19 Subd. 8. **Time limits for appeals.** To appeal the assessment of civil penalties under
 24.20 section 144A.474, subdivision 11, and an action against a licensee under this section, an
 24.21 establishment must request a hearing no later than 15 days after the establishment receives
 24.22 notice of the action.

24.23 Subd. 9. **Plan required.** (a) The process of suspending or revoking a license must include
 24.24 a plan for transferring affected residents to other establishments by the assisted living
 24.25 establishment, which will be monitored by the commissioner. Within three business days
 24.26 of being notified of the final revocation or suspension action, the assisted living establishment
 24.27 shall provide the commissioner, the lead agencies as defined in section 256B.0911, and the
 24.28 ombudsman for long-term care with the following information:

24.29 (1) a list of all residents, including full names and all contact information on file;

24.30 (2) a list of each resident's designated representative or emergency contact person,
 24.31 including full names and all contact information on file;

24.32 (3) the payor sources for each resident, including payor source identification numbers;
 24.33 and

25.1 (4) for each resident, a copy of the resident's assisted living contract, and a list of the
25.2 types of services being provided.

25.3 (b) The revocation or suspension notification requirement is satisfied by mailing the
25.4 notice to the address in the license record. The assisted living establishment shall cooperate
25.5 with the commissioner and the lead agencies during the process of transferring care of
25.6 residents to qualified establishments. Within three business days of being notified of the
25.7 final revocation or suspension action, the assisted living establishment must notify and
25.8 disclose to each of the assisted living establishment's residents, and the residents'
25.9 representatives or emergency contact persons, that the commissioner is taking action against
25.10 the assisted living establishment's license by providing a copy of the revocation or suspension
25.11 notice issued by the commissioner.

25.12 Subd. 10. **Owners and managerial officials; refusal to grant license.** (a) The owners
25.13 and managerial officials of an assisted living establishment whose Minnesota license has
25.14 not been renewed or that has been revoked because of noncompliance with applicable laws
25.15 or rules shall not be eligible to apply for and shall not be granted an assisted living
25.16 establishment license or be given status as an enrolled personal care assistance provider
25.17 agency or personal care assistant by the Department of Human Services under section
25.18 256B.0659 for five years following the effective date of the nonrenewal or revocation. If
25.19 the owners and managerial officials already have enrollment status, their enrollment will
25.20 be terminated by the Department of Human Services.

25.21 (b) The commissioner shall not issue a license to an assisted living establishment for
25.22 five years following the effective date of license nonrenewal or revocation if the owner or
25.23 managerial official, including any individual who was an owner or managerial official of
25.24 another assisted living establishment, had a Minnesota license that was not renewed or was
25.25 revoked as described in paragraph (a).

25.26 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend
25.27 or revoke, the license of any assisted living establishment that includes any individual as
25.28 an owner or managerial official who was an owner or managerial official of an assisted
25.29 living establishment whose Minnesota license was not renewed or was revoked as described
25.30 in paragraph (a) for five years following the effective date of the nonrenewal or revocation.

25.31 (d) The commissioner shall notify the assisted living establishment 30 days in advance
25.32 of the date of nonrenewal, suspension, or revocation of the license. Within ten days after
25.33 the receipt of the notification, the assisted living establishment may request, in writing, that
25.34 the commissioner stay the nonrenewal, revocation, or suspension of the license. The assisted

26.1 living establishment shall specify: (1) the reasons for requesting the stay; (2) the steps that
 26.2 will be taken to attain or maintain compliance with the licensure laws and regulations; (3)
 26.3 any limits on the authority or responsibility of the owners or managerial officials whose
 26.4 actions resulted in the notice of nonrenewal, revocation, or suspension; and (4) any other
 26.5 information to establish that the continuing affiliation with these individuals will not
 26.6 jeopardize client health, safety, or well-being.

26.7 (e) The commissioner shall determine whether the stay will be granted within 30 days
 26.8 of receiving the establishment's request. The commissioner may propose additional
 26.9 restrictions or limitations on the establishment's license and require that the granting of the
 26.10 stay be contingent upon compliance with those provisions. The commissioner shall take
 26.11 into consideration the following factors when determining whether the stay should be
 26.12 granted:

26.13 (1) the threat that continued involvement of the owners and managerial officials with
 26.14 the assisted living establishment poses to resident health, safety, and well-being;

26.15 (2) the compliance history of the assisted living establishment; and

26.16 (3) the appropriateness of any limits suggested by the assisted living establishment.

26.17 (f) If the commissioner grants the stay, the order shall include any restrictions or limitation
 26.18 on the establishment's license. The failure of the establishment to comply with any restrictions
 26.19 or limitations shall result in the immediate removal of the stay and the commissioner shall
 26.20 take immediate action to suspend, revoke, or not renew the license.

26.21 Subd. 11. **Request for hearing.** A request for a hearing must be in writing and must:

26.22 (1) be mailed or delivered to the department or the commissioner's designee;

26.23 (2) contain a brief and plain statement describing every matter or issue contested; and

26.24 (3) contain a brief and plain statement of any new matter that the applicant or assisted
 26.25 living establishment believes constitutes a defense or mitigating factor.

26.26 Subd. 12. **Informal conference.** At any time, the applicant or establishment and the
 26.27 commissioner may hold an informal conference to exchange information, clarify issues, or
 26.28 resolve issues.

26.29 Subd. 13. **Injunctive relief.** In addition to any other remedy provided by law, the
 26.30 commissioner may bring an action in district court to enjoin a person who is involved in
 26.31 the management, operation, or control of an assisted living establishment or an employee
 26.32 of the assisted living establishment from illegally engaging in activities regulated by this

27.1 chapter. The commissioner may bring an action under this subdivision in the district court
 27.2 in Ramsey County or in the district in which an assisted living establishment is operating.
 27.3 The court may grant a temporary restraining order in the proceeding if continued activity
 27.4 by the person who is involved in the management, operation, or control of an assisted living
 27.5 establishment, or by an employee of the assisted living establishment, would create an
 27.6 imminent risk of harm to a resident.

27.7 Subd. 14. **Subpoena.** In matters pending before the commissioner under this chapter,
 27.8 the commissioner may issue subpoenas and compel the attendance of witnesses and the
 27.9 production of all necessary papers, books, records, documents, and other evidentiary material.
 27.10 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear
 27.11 or testify regarding any matter about which the person may be lawfully questioned or to
 27.12 produce any papers, books, records, documents, or evidentiary materials in the matter to be
 27.13 heard, the commissioner may apply to the district court in any district, and the court shall
 27.14 order the person to comply with the commissioner's order or subpoena. The commissioner
 27.15 may administer oaths to witnesses or take their affirmation. Depositions may be taken in
 27.16 or outside the state in the manner provided by law for the taking of depositions in civil
 27.17 actions. A subpoena or other process or paper may be served on a named person anywhere
 27.18 in the state by an officer authorized to serve subpoenas in civil actions, with the same fees
 27.19 and mileage and in the same manner as prescribed by law for a process issued out of a
 27.20 district court. A person subpoenaed under this subdivision shall receive the same fees,
 27.21 mileage, and other costs that are paid in proceedings in district court.

27.22 **Sec. 34. [144I.12] SURVEYS OF ASSISTED LIVING ESTABLISHMENTS.**

27.23 Assisted living establishments are subject to the same survey procedures as are home
 27.24 care providers under section 144A.474, subdivisions 1 to 8.

27.25 **Sec. 35. [144I.13] CORRECTION ORDERS AND FINES.**

27.26 The commissioner may take the same enforcement actions against and assess the same
 27.27 finer to assisted living establishments as against and to home care providers under section
 27.28 144A.474, subdivision 11.

27.29 **Sec. 36. [144I.14] RECONSIDERATION OF CORRECTION ORDERS OR FINES.**

27.30 Assisted living establishments have access to the same correction order reconsideration
 27.31 process as do home care providers under section 144A.474, subdivision 12.

28.1 **Sec. 37. [144I.15] SURVEY OF MEDICARE-CERTIFIED PROVIDERS.**

28.2 Subdivision 1. **Coordination of surveys.** The commissioner is subject to the same
 28.3 requirement to coordinate surveys under section 144I.12 with Medicare certification surveys
 28.4 for assisted living establishments as for home care providers under section 144A.477,
 28.5 subdivision 1.

28.6 Subd. 2. **Equivalent requirements.** For assisted living establishments that are also
 28.7 Medicare-certified as home health agencies, the same state licensure requirements that are
 28.8 considered equivalent to federal requirements for home care providers under section
 28.9 144A.477, subdivision 2, are also considered equivalent for assisted living establishments.

28.10 **Sec. 38. [144I.16] INNOVATION VARIANCES.**

28.11 Innovation variances available to home care providers under section 144A.478 are
 28.12 available in the same manner and under the same terms to assisted living establishments.

28.13 **Sec. 39. [144I.20] ASSISTED LIVING CONTRACT.**

28.14 Subdivision 1. **Contract required.** An assisted living establishment licensed under this
 28.15 chapter must execute a written assisted living contract, as defined in subdivisions 2 and 3,
 28.16 between the establishment and each resident or resident's designated representative, and
 28.17 must operate in accordance with the terms of the contract. The establishment shall provide
 28.18 the resident or the resident's designated representative a complete copy of the contract, all
 28.19 supporting documents and attachments, and any changes whenever changes are made.

28.20 Subd. 2. **Contents of contract.** An assisted living contract, which need not be entitled
 28.21 as such to comply with this section, shall include at least the following elements in itself or
 28.22 through supporting documents or attachments:

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

28.24 (2) the name and mailing address of the owner or owners of the establishment and, if
 28.25 the owner or owners are not natural persons, identification of the type of business entity of
 28.26 the owner or owners;

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

28.29 (4) the name and address of at least one natural person who is authorized to accept service
 28.30 of process on behalf of the owner or owners and managing agent;

- 29.1 (5) a statement describing the licensure status of the establishment and the home care
29.2 licensing status of any arranged home care provider;
- 29.3 (6) the term of the contract;
- 29.4 (7) a description of the services to be provided to the resident in the base rate to be paid
29.5 by the resident, including a delineation of the portion of the base rate that constitutes rent
29.6 and a delineation of charges for each service included in the base rate;
- 29.7 (8) a description of any additional services, including home care services, available for
29.8 an additional fee and a schedule of fees charged for these services;
- 29.9 (9) a conspicuous notice informing the resident of the policy concerning the conditions
29.10 under which and the process through which the contract may be modified, amended, or
29.11 terminated, including whether a move to a different room or sharing a room would be
29.12 required in the event that the resident can no longer pay the current rent;
- 29.13 (10) a description of the establishment's complaint resolution process available to residents
29.14 including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;
- 29.15 (11) the resident's designated representative, if any;
- 29.16 (12) the establishment's referral procedures if the contract is terminated;
- 29.17 (13) requirements of residency used by the establishment to determine who may reside
29.18 or continue to reside in the assisted living establishment;
- 29.19 (14) billing and payment procedures and requirements;
- 29.20 (15) a statement regarding the ability of a resident to receive services from service
29.21 providers other than the establishment;
- 29.22 (16) a statement regarding the availability of public funds for payment for residence or
29.23 services in the establishment;
- 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 description of special care status, if applicable, as defined in section 325F.72; and
- 29.28 (19) a description of how residents are informed of any changes in the arranged home
29.29 care provider, if applicable.

30.1 Subd. 3. **Additional contract requirements.** (a) For a resident receiving one or more
30.2 home care services from the assisted living establishment, the contract must also include a
30.3 statement:

30.4 (1) regarding the ability of a resident to furnish and decorate the resident's unit within
30.5 the terms of the contract;

30.6 (2) regarding the resident's right to access food at any time;

30.7 (3) regarding a resident's right to choose the resident's visitors and times of visits;

30.8 (4) regarding the resident's right to choose a roommate if sharing a unit; and

30.9 (5) notifying the resident of the resident's right to have and use a lockable door to the
30.10 resident's unit. The landlord shall provide the locks on the unit. Only a staff member with
30.11 a specific need to enter the unit shall have keys, and advance notice must be given to the
30.12 resident before entrance, when possible.

30.13 (b) A restriction of a resident's rights under this subdivision is allowed only if determined
30.14 necessary for health and safety reasons identified by the establishment's registered nurse in
30.15 an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8,
30.16 and documented in the written service plan under section 144A.4791, subdivision 9. Any
30.17 restrictions of those rights for people served under sections 256B.0915 and 256B.49 must
30.18 be documented in the resident's coordinated service and support plan (CSSP), as defined
30.19 under sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

30.20 Subd. 4. **Required attachments.** (a) An assisted living contract must have the following
30.21 attachments:

30.22 (1) the service agreement, which includes any services provided under the assisted living
30.23 license requirement; and

30.24 (2) the rates and charges for all services.

30.25 (b) Whenever an assisted living establishment makes changes to a required attachment,
30.26 the assisted living establishment must provide an updated copy to the resident or the resident's
30.27 designated representative and retain the prior versions of the required attachments in the
30.28 resident's permanent file, as required under subdivision 5.

30.29 Subd. 5. **Contracts in permanent files.** The establishment shall maintain assisted living
30.30 contracts and related documents executed by each resident or resident's designated
30.31 representative in files from the date of execution until three years after the contract is
30.32 terminated. The contracts and the written disclosures required under section 325F.72, if

31.1 applicable, shall be made available for on-site inspection by the commissioner upon request
 31.2 at any time.

31.3 **Sec. 40. [144I.21] ASSISTED LIVING CONTRACT TERMINATIONS.**

31.4 **Subdivision 1. Prerequisite to termination of housing or services.** Before terminating
 31.5 a resident's housing or services, an assisted living establishment must explain in detail the
 31.6 reasons for the termination and work with the resident and the resident's designated
 31.7 representative to avoid the termination by identifying and offering reasonable
 31.8 accommodations, interventions, or alternatives within the scope of services provided by the
 31.9 assisted living establishment.

31.10 **Subd. 2. Notice of contract termination required.** If the assisted living establishment
 31.11 and the resident or resident's designated representative cannot identify a mutually agreeable
 31.12 method of avoiding a termination of an assisted living contract, the assisted living
 31.13 establishment must issue to the resident or the resident's designated representative a notice
 31.14 of contract termination.

31.15 **Subd. 3. Required content of a notice of contract termination.** The notice required
 31.16 under subdivision 2 must contain, at a minimum:

31.17 (1) the effective date of termination of the assisted living contract;

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

31.20 (3) a detailed explanation of the conditions under which a new or amended assisted
 31.21 living contract may be executed between the assisted living establishment and the resident
 31.22 or the resident's designated representative;

31.23 (4) a list of known providers in the immediate geographic area;

31.24 (5) a statement that the resident has the right to appeal the termination of an assisted
 31.25 living contract that contained as a term of the contract the provision by the establishment
 31.26 of services, an explanation of how and to whom to appeal, and contact information for the
 31.27 Office of Administrative Hearings;

31.28 (6) a statement that the termination of an assisted living contract that does not contain
 31.29 as a term of the contract the provision by the establishment of services is governed
 31.30 exclusively by the terms of the lease contained in the assisted living contract and the resident
 31.31 has the rights and protections available under chapter 504B;

31.32 (7) information on how to contact the ombudsman for long-term care;

32.1 (8) an offer to meet with the individual within five days of receiving notice for assistance
 32.2 with transition planning;

32.3 (9) a statement that the assisted living establishment must participate in a coordinated
 32.4 transfer of care of the resident to another provider or caregiver, as required under section
 32.5 144I.51, subdivision 1, clause (18); and

32.6 (10) the name and contact information of a person employed by the assisted living
 32.7 establishment with whom the resident may discuss the notice of termination.

32.8 Subd. 4. **Notice period for nonemergency assisted living contract terminations.** A
 32.9 licensed assisted living establishment may terminate an assisted living contract 30 calendar
 32.10 days after issuing the notice of contract termination required under subdivision 2, unless
 32.11 the conditions of subdivision 5 are met.

32.12 Subd. 5. **Notice period for emergency assisted living contract terminations.** A licensed
 32.13 assisted living establishment may terminate an assisted living contract ten calendar days
 32.14 after issuing the notice of contract termination if:

32.15 (1) the resident engages in conduct that alters the terms of the assisted living contract
 32.16 or creates an abusive or unsafe work environment for the employees of the assisted living
 32.17 establishment, or creates an abusive or unsafe environment for other residents;

32.18 (2) a significant change in the resident's condition has resulted in service needs that are
 32.19 beyond the scope of services the assisted living establishment has indicated in its assisted
 32.20 living contract that it will provide or that cannot be safely met without additional services
 32.21 provided by the establishment for which the resident is either unwilling or unable to pay,
 32.22 or without additional services being provided directly to the resident by another licensed
 32.23 provider that are either unavailable or for which the resident is unable or unwilling to pay;
 32.24 or

32.25 (3) the establishment has not received payment for services.

32.26 **Sec. 41. [144I.22] APPEALS OF ASSISTED LIVING CONTRACT**
 32.27 **TERMINATIONS.**

32.28 Subdivision 1. **Right to appeal.** Residents of assisted living establishments have the
 32.29 right to appeal the termination of an assisted living contract that contained as a term of the
 32.30 contract the provision of services by the assisted living establishment.

33.1 Subd. 2. **Permissible grounds for appeal.** Permissible grounds for an appeal of an
 33.2 assisted living contract that contained as a term of the contract the provision of services by
 33.3 the assisted living establishment are limited to the following:

33.4 (1) the assisted living establishment was motivated to terminate the contract as retaliation
 33.5 against the resident for exercising the resident's rights;

33.6 (2) a factual dispute between the assisted living establishment and the resident concerning
 33.7 the underlying reason for an emergency termination of the assisted living contract; or

33.8 (3) termination would result in great harm or potential great harm to the resident as
 33.9 determined by a totality of the circumstances. A contract termination cannot be overturned
 33.10 under this clause if the establishment has alleged and demonstrated nonpayment. If an
 33.11 administrative law judge finds sufficient evidence to overturn a contract termination under
 33.12 this clause, the resident will be given an additional 30 days' notice, after which the case will
 33.13 be reviewed to determine whether there is a sufficient alternative.

33.14 Subd. 3. **Appeals process.** (a) Any appeal of a termination of an assisted living contract
 33.15 under this section must be filed with the Office of Administrative Hearings within five
 33.16 business days of receipt of a notice of contract termination.

33.17 (b) An appeal hearing must occur within ten business days of filing an appeal.

33.18 (c) An administrative law judge must issue a decision within ten business days of the
 33.19 appeal hearing.

33.20 Subd. 4. **Service provision while appeal pending.** Pending the outcome of an appeal
 33.21 of the termination of an assisted living contract, if additional services are needed to meet
 33.22 the health or safety needs of the resident, the resident or designated resident representative
 33.23 is responsible for arranging and covering the costs for those additional services.

33.24 Sec. 42. **[144I.23] RESERVATION OF RIGHTS.**

33.25 Subdivision 1. **Use of services.** Nothing in this chapter requires an assisted living resident
 33.26 to utilize any service offered or provided by an assisted living establishment.

33.27 Subd. 2. **Assisted living contracts.** Nothing in this chapter requires an assisted living
 33.28 establishment to execute or refrain from terminating an assisted living contract with a
 33.29 prospective or current resident who is unable or unwilling to meet the requirements of
 33.30 residency, with or without assistance.

33.31 Subd. 3. **Provision of services.** Nothing in this chapter requires the assisted living
 33.32 establishment to offer or continue to provide services under an assisted living contract to a

34.1 prospective or current resident of the establishment whose needs cannot be met by the
 34.2 establishment.

34.3 Subd. 4. **Altering operations; service packages.** Nothing in this chapter requires an
 34.4 assisted living establishment to fundamentally alter the nature of the operations of the
 34.5 establishment in order to accommodate the request or need for facilities or services by any
 34.6 resident, or to refrain from requiring, as a condition of residency, that a resident pay for a
 34.7 package of services even if the resident does not choose to utilize all or some of the services
 34.8 in the package.

34.9 **Sec. 43. [144I.24] UNIFORM CONSUMER INFORMATION GUIDE.**

34.10 (a) All assisted living establishments shall make available to all prospective and current
 34.11 residents a uniform consumer information guide. The information guide must contain
 34.12 information consistent with the uniform format and the required components adopted by
 34.13 the commissioner under paragraph (b).

34.14 (b) The commissioner shall adopt a uniform format for the guide to be used by individual
 34.15 assisted living establishments, and the required components of materials to be used by
 34.16 assisted living establishments to inform assisted living establishment residents of their legal
 34.17 rights, and shall make the uniform format and the required components available to assisted
 34.18 living establishments.

34.19 **Sec. 44. [144I.241] UNIFORM CHECKLIST DISCLOSURE OF SERVICES.**

34.20 (a) An assisted living establishment must provide to prospective residents, the prospective
 34.21 resident's designated representative, and any other person or persons the resident chooses:

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

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

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

34.28 **Sec. 45. [144I.25] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
 34.29 **PROHIBITED.**

34.30 (a) For the purposes of this section, "provider" includes an assisted living establishment
 34.31 and an arranged home care provider.

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

35.3 (1) make any false, fraudulent, deceptive, or misleading statements or representations,
 35.4 or material omissions, in marketing, advertising, or any other description or representation
 35.5 of care or services in writing;

35.6 (2) fail to inform a resident in writing of any limitations to services available prior to
 35.7 executing an assisted living contract; or

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

35.10 (i) complying with disclosure requirements under section 325F.72 and any training
 35.11 requirements required by law or rule; and

35.12 (ii) after July 1, 2020, meeting and complying with all the requirements under this chapter
 35.13 and any adopted rules.

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

35.15 Sec. 46. **[144I.26] ACCEPTANCE OF RESIDENTS.**

35.16 No assisted living establishment may accept a person as a resident unless the assisted
 35.17 living establishment has staff sufficient in qualifications, competency, and numbers to
 35.18 adequately provide the services agreed to in the assisted living contract and that are within
 35.19 the scope of the establishment's license.

35.20 Sec. 47. **[144I.30] BUSINESS OPERATIONS.**

35.21 Assisted living establishments are subject to the same business operation requirements
 35.22 as are home care providers under section 144A.479.

35.23 Sec. 48. **[144I.31] RESIDENT RECORD REQUIREMENTS.**

35.24 Assisted living establishments are subject to the same requirements related to resident
 35.25 records as are home care providers with respect to client records under section 144A.4794.

35.26 Sec. 49. **[144I.32] ASSESSMENT OF RESIDENTS.**

35.27 (a) For each prospective resident seeking comprehensive assisted living services, a
 35.28 comprehensive assisted living establishment must conduct an initial assessment to determine

36.1 the person's physical, cognitive, social, and service needs, and propose a plan for care and
 36.2 services based on the assessment, before the earlier of the date the prospective resident:

36.3 (1) enters into an assisted living contract under section 144I.20; or

36.4 (2) moves in.

36.5 (b) A comprehensive assisted living establishment must conduct ongoing physical,
 36.6 cognitive, social, and service assessments to identify changes in the resident's conditions
 36.7 and indicate necessary changes in the resident's service plan based on the assessment.

36.8 (c) The portion of the assessment that involves the prospective resident or resident's
 36.9 physical and cognitive condition must be conducted by a registered nurse, as required by
 36.10 applicable home care licensure requirements in chapter 144A and sections 148.171 to
 36.11 148.285.

36.12 (d) The prospective resident has the right to participate in the service planning process
 36.13 and may include the prospective resident's designated representative.

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

36.15 Sec. 50. **[144I.33] MEDICATION MANAGEMENT.**

36.16 Assisted living establishments providing medication management services are subject
 36.17 to the same requirements as home care providers under section 144A.4792.

36.18 Sec. 51. **[144I.34] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

36.19 Assisted living establishments providing treatment or therapy management services are
 36.20 subject to the same requirements as home care providers under section 144A.4793.

36.21 Sec. 52. **[144I.35] EMERGENCY PLANNING.**

36.22 Subdivision 1. **Disaster plan.** Each assisted living establishment must:

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

36.26 (2) post an emergency disaster plan prominently;

36.27 (3) provide building emergency exit diagrams to all residents upon signing an assisted
 36.28 living contract;

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

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

37.2 Subd. 2. **Emergency and disaster training.** Each assisted living establishment must
37.3 provide emergency and disaster training to all staff during the initial staff orientation and
37.4 annually thereafter and must make emergency and disaster training available to all tenants
37.5 annually. Staff who have not received emergency and disaster training are allowed to work
37.6 only when trained staff are also working on site.

37.7 Subd. 3. **Drills.** Each assisted living establishment must conduct and document a fire
37.8 drill or other emergency drill at least every six months. To the extent possible, drills must
37.9 be coordinated with local fire departments or other community emergency resources.

37.10 Sec. 53. **[144I.36] INFECTIOUS DISEASE PREVENTION AND CONTROL.**

37.11 Assisted living establishments are subject to the same infectious disease prevention and
37.12 control requirements as are home care providers under sections 144A.45, subdivision 6,
37.13 and 144A.4798.

37.14 Sec. 54. **[144I.40] STAFF QUALIFICATIONS.**

37.15 Direct-care staff of assisted living establishments must meet the same requirements as
37.16 staff of a home care provider under section 144A.4795, subdivisions 1 to 3 and 5 to 7.

37.17 Sec. 55. **[144I.41] STAFF ORIENTATION AND ANNUAL TRAINING.**

37.18 (a) All assisted living establishment staff providing and supervising direct home care
37.19 services must complete the orientation required in section 144A.4796, subdivisions 1 and
37.20 2. All assisted living establishment staff providing direct-care services must be oriented
37.21 specifically to each individual resident and the services to be provided. This orientation
37.22 may be provided in person, orally, in writing, or electronically. All assisted living
37.23 establishment staff that perform direct-care services must complete the required annual
37.24 training specified in section 144A.4796, subdivision 6.

37.25 (b) An assisted living establishment must retain documentation in the employee records
37.26 of the staff who have satisfied the orientation and training requirements of this subdivision.

37.27 Sec. 56. **[144I.42] STAFF SUPERVISION.**

37.28 Assisted living establishments are subject to the same direct-care staff supervision
37.29 requirements as are home care providers under section 144A.4797.

38.1 **Sec. 57. [144I.43] DELEGATION OF HOME CARE TASKS.**

38.2 Registered nurses and licensed health professionals providing services to residents of a
38.3 comprehensive or comprehensive PLUS assisted living establishment are required to comply
38.4 with the same delegation standards as are registered nurses and licensed health professionals
38.5 providing home care under section 144A.4795, subdivision 4.

38.6 **Sec. 58. [144I.44] DEMENTIA TRAINING AND STANDARDS.**

38.7 Subdivision 1. **Training in dementia care required; employees.** (a) If an assisted living
38.8 establishment licensed under this chapter has a special program or special care unit for
38.9 residents with Alzheimer's disease or other dementias or advertises, markets, or otherwise
38.10 promotes the establishment as providing services for persons with Alzheimer's disease or
38.11 other dementias, whether in a segregated or general unit, employees of the establishment
38.12 and of the establishment's arranged home care provider must meet the following training
38.13 requirements:

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

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

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

38.32 (4) new employees may satisfy the initial training requirements by producing written
38.33 proof of previously completed required training.

39.1 (b) Areas of required training include:

39.2 (1) an explanation of Alzheimer's disease and related disorders;

39.3 (2) assistance with activities of daily living;

39.4 (3) problem solving with challenging behaviors; and

39.5 (4) communication skills.

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

39.10 (d) An assisted living establishment not included in paragraph (a) must meet the following
39.11 training requirements:

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

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

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

39.31 (4) new employees may satisfy the initial training requirements by producing written
39.32 proof of previously completed required training.

40.1 Subd. 2. **Training in dementia care required; managers.** (a) For managers of
 40.2 establishments identified in section 325F.72, the continuing education requirements under
 40.3 section 144A.20, subdivision 3, paragraph (b), must include at least eight hours of
 40.4 documented training on the topics identified in subdivision 1, paragraph (b), within 160
 40.5 working hours of hire, and two hours of training on these topics for each 12 months of
 40.6 licensure thereafter.

40.7 (b) For managers of establishments not covered by section 325F.72, the continuing
 40.8 education requirements under section 144A.20, subdivision 3, paragraph (b), must include
 40.9 at least four hours of documented training on the topics identified in subdivision 1, paragraph
 40.10 (b), within 160 working hours of hire, and two hours of training on these topics for each 12
 40.11 months of employment thereafter.

40.12 **Sec. 59. [144I.50] USE OF RESTRAINTS IN ASSISTED LIVING**
 40.13 **ESTABLISHMENTS.**

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

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

40.17 **Sec. 60. [144I.51] ASSISTED LIVING BILL OF RIGHTS.**

40.18 Subdivision 1. **Statement of rights.** A resident of an assisted living establishment has
 40.19 the right:

40.20 (1) to receive written information about rights before executing an assisted living contract,
 40.21 including what to do if rights are violated;

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

40.25 (3) to be told before receiving services the type and disciplines of staff who will be
 40.26 providing the services, the frequency of visits proposed to be furnished, other choices that
 40.27 are available for addressing needs, and the potential consequences of refusing these services;

40.28 (4) to be told in advance of any recommended changes by the establishment to the
 40.29 assisted living contract and to take an active part in any decisions about changes to the
 40.30 assisted living contract;

40.31 (5) to refuse services or treatment;

41.1 (6) to know before executing an assisted living contract any limits to the services available
41.2 from the assisted living establishment;

41.3 (7) to be told before executing an assisted living contract what the assisted living
41.4 establishment charges for services; to what extent payment may be expected from health
41.5 insurance, public programs, or other sources, if known; and what charges the resident may
41.6 be responsible for paying;

41.7 (8) to know that there may be other services available in the community, including other
41.8 home care services and home care providers, and to know where to find information about
41.9 these services;

41.10 (9) to choose freely among available home care providers and to change providers after
41.11 services have begun, within the limits of health insurance, long-term care insurance, medical
41.12 assistance, or other health programs;

41.13 (10) to have personal, financial, and medical information kept private, and to be advised
41.14 of the assisted living establishment's policies and procedures regarding disclosure of such
41.15 information;

41.16 (11) to access the resident's own records and written information from those records in
41.17 accordance with sections 144.291 to 144.298;

41.18 (12) to be served by people who are properly trained and competent to perform their
41.19 duties;

41.20 (13) to be treated with courtesy and respect, and to have the resident's property treated
41.21 with respect;

41.22 (14) to be free from physical and verbal abuse, neglect, financial exploitation, and all
41.23 forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of
41.24 Minors Act;

41.25 (15) to receive reasonable, advance notice of changes in services or charges;

41.26 (16) to know the assisted living establishment's reason for termination of an assisted
41.27 living contract;

41.28 (17) to receive reasonable, advance notice of changes in services or charges, including
41.29 at least 30 days' advance notice of the termination of a service by an assisted living
41.30 establishment, except in cases where:

42.1 (i) the recipient of services engages in conduct that alters the terms of the assisted living
 42.2 contract or creates an abusive or unsafe work environment for the employees of the assisted
 42.3 living establishment, or creates an abusive or unsafe living environment for other residents;

42.4 (ii) an emergency for the informal caregiver or a significant change in the recipient's
 42.5 condition has resulted in service needs that exceed the current assisted living contract and
 42.6 that cannot be safely met by the establishment; or

42.7 (iii) the establishment has not received payment for services, for which at least ten days'
 42.8 advance notice of the termination of a service shall be provided;

42.9 (18) to a coordinated transfer when there will be a change in the provider of services;

42.10 (19) to complain about services that are provided, or fail to be provided, and the lack of
 42.11 courtesy or respect to the resident or the resident's property;

42.12 (20) to know how to contact an individual associated with the assisted living establishment
 42.13 who is responsible for handling problems and to have the assisted living establishment
 42.14 investigate and attempt to resolve the grievance or complaint;

42.15 (21) to know the name and address of the state or county agency to contact for additional
 42.16 information or assistance;

42.17 (22) to assert these rights personally, or have them asserted by the resident's designated
 42.18 representative or by anyone on behalf of the resident, without retaliation; and

42.19 (23) to recommend changes in policies and services to the assisted living establishment
 42.20 and others of the resident's choice, free from restraint, interference, coercion, discrimination,
 42.21 or reprisal, including threat of termination of services or threat of termination of an assisted
 42.22 living contract.

42.23 Subd. 2. **Interpretation and enforcement of rights.** These rights are established for
 42.24 the benefit of residents. All assisted living establishments must comply with this section.
 42.25 The commissioner shall enforce this section. An assisted living establishment may not
 42.26 request or require a resident to surrender any of these rights as a condition of residency or
 42.27 of receiving services. This statement of rights does not replace or diminish other rights and
 42.28 liberties that may exist relative to residents of assisted living establishments, residents
 42.29 receiving home care services, persons providing home care services, or providers licensed
 42.30 under sections 144A.43 to 144A.482.

42.31 Subd. 3. **Notification to resident.** (a) The assisted living establishment shall provide
 42.32 the resident or the resident's designated representative a written notice of the rights under
 42.33 this section upon the resident's execution of an assisted living contract. The assisted living

43.1 establishment shall make all reasonable efforts to provide notice of the rights to the resident
 43.2 or the resident's designated representative in a language the resident or representative can
 43.3 understand.

43.4 (b) In addition to the text of the assisted living bill of rights in this section, the notice
 43.5 shall also contain the following statement describing how to file a complaint with these
 43.6 offices:

43.7 "If you have a complaint about this assisted living establishment or any person providing
 43.8 your services, you may call, write, or visit the Office of Health Facility Complaints,
 43.9 Minnesota Department of Health. You may also contact the Office of Ombudsman for
 43.10 Long-Term Care or the Office of Ombudsman for Mental Health and Developmental
 43.11 Disabilities."

43.12 The statement must include the telephone number, website address, e-mail address, mailing
 43.13 address, and street address of the Office of Health Facility Complaints at the Minnesota
 43.14 Department of Health, the Office of Ombudsman for Long-Term Care, and the Office of
 43.15 Ombudsman for Mental Health and Developmental Disabilities. The statement must also
 43.16 include the name, address, e-mail address, telephone number, and name or title of the person
 43.17 at the assisted living establishment to whom problems or complaints may be directed. It
 43.18 must also include a statement that the assisted living establishment will not retaliate against
 43.19 a resident if a resident or resident's designated representative files a complaint.

43.20 (c) The assisted living establishment shall obtain written acknowledgment of the resident's
 43.21 receipt of the assisted living bill of rights or shall document why an acknowledgment cannot
 43.22 be obtained. The acknowledgment may be obtained from the resident or the resident's
 43.23 designated representative. Acknowledgment of receipt shall be retained in the resident's
 43.24 record.

43.25 (d) An assisted living establishment, including an assisted living establishment with an
 43.26 arranged home care provider, that complies with this section is not required to also provide
 43.27 the home care bill of rights and related notice required under sections 144A.44 and
 43.28 144A.4791.

43.29 **Sec. 61. [144L.52] RETALIATION PROHIBITED IN ASSISTED LIVING**
 43.30 **ESTABLISHMENTS.**

43.31 (a) No assisted living establishment or agent of the assisted living establishment may
 43.32 retaliate against a resident or employee by taking adverse action directly related to the

44.1 following actions performed in good faith by the resident, employee, or any person on behalf
 44.2 of the resident:

44.3 (1) filing a complaint or asserting any right;

44.4 (2) filing a maltreatment report under section 626.557;

44.5 (3) reporting a reasonable suspicion of a crime or systemic problems or concerns to the
 44.6 executive director of an assisted living establishment, the ombudsman for long-term care,
 44.7 or a regulatory or other government agency;

44.8 (4) participating in any investigation or administrative or judicial proceeding;

44.9 (5) contracting or indicating an intention to contract to receive services from a service
 44.10 provider of the resident's choice other than the assisted living establishment or arranged
 44.11 home care provider; or

44.12 (6) placing or indicating an intention to place a camera or electronic monitoring device
 44.13 in the resident's private space if authorized under state or federal law.

44.14 (b) For purposes of this section, to "retaliate" against a resident includes but is not limited
 44.15 to any of the following actions taken in bad faith and not related to other events in the
 44.16 assisted living establishment by an assisted living establishment or an agent of the assisted
 44.17 living establishment against a resident, or any person with a familial, personal, legal, or
 44.18 professional relationship with the resident:

44.19 (1) termination of an assisted living contract;

44.20 (2) any form of discrimination;

44.21 (3) restriction or prohibition of access:

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

44.23 (ii) of a family member or a person with a personal, legal, or professional relationship
 44.24 with the resident, to the resident, unless the restriction is the result of a court order;

44.25 (4) imposition of involuntary seclusion or the withholding of food, care, or services;

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

44.27 (6) restriction or reduction of access to or use of amenities, care, services, privileges, or
 44.28 living arrangements; or

44.29 (7) unauthorized removal of, tampering with, or deprivation of technology,
 44.30 communication, or electronic monitoring devices.

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

45.2 Sec. 62. **[144I.53] REQUEST FOR DISCONTINUATION OF LIFE-SUSTAINING**
45.3 **TREATMENT.**

45.4 (a) Assisted living establishments are subject to the same requirements and afforded the
45.5 same protections with respect to requests for the discontinuation of life-sustaining treatment
45.6 as are home care providers under section 144A.4791, subdivision 13, paragraphs (a) to (c).

45.7 (b) Residents of assisted living establishments have the same rights as clients of home
45.8 care providers under section 144A.4791, subdivision 13, paragraphs (d) and (e).

45.9 Sec. 63. Minnesota Statutes 2018, section 152.34, is amended to read:

45.10 **152.34 HEALTH CARE FACILITIES.**

45.11 (a) Health care facilities licensed under chapter 144A, boarding care homes licensed
45.12 under section 144.50, assisted living ~~facilities~~ establishments licensed under chapter 144I,
45.13 and facilities owned, controlled, managed, or under common control with hospitals licensed
45.14 under chapter 144, may adopt reasonable restrictions on the use of medical cannabis by a
45.15 patient enrolled in the registry program who resides at or is actively receiving treatment or
45.16 care at the facility. The restrictions may include a provision that the facility will not store
45.17 or maintain the patient's supply of medical cannabis, that the facility is not responsible for
45.18 providing the medical cannabis for patients, and that medical cannabis be used only in a
45.19 place specified by the facility.

45.20 (b) Any employee or agent of a facility listed in this section or a person licensed under
45.21 chapter 144E is not subject to violations under this chapter for possession of medical cannabis
45.22 while carrying out employment duties, including providing or supervising care to a registered
45.23 patient, or distribution of medical cannabis to a registered patient who resides at or is actively
45.24 receiving treatment or care at the facility with which the employee or agent is affiliated.
45.25 Nothing in this section shall require the facilities to adopt such restrictions and no facility
45.26 shall unreasonably limit a patient's access to or use of medical cannabis to the extent that
45.27 use is authorized by the patient under sections 152.22 to 152.37.

45.28 Sec. 64. **DIRECTION TO THE COMMISSIONER OF HEALTH.**

45.29 Subdivision 1. Fee schedule. The commissioner of health shall propose a schedule of
45.30 fees to be paid by assisted living establishments licensed under Minnesota Statutes, chapter
45.31 144I. The fee shall be set in an amount to generate revenue sufficient to cover the
45.32 enforcement obligations under Minnesota Statutes, chapter 144I. In developing the fee

46.1 schedule, the commissioner of health shall take into account potential access to federal
 46.2 funds, the amount paid by the assisted living establishment in home care provider licensing
 46.3 fees, and the use of a minimum and maximum fee amount per establishment. The
 46.4 commissioner of health shall submit the proposed fee schedule and legislative language to
 46.5 the chairs and ranking minority members of the legislative committees with jurisdiction
 46.6 over health care or aging and long-term care by February 1, 2020.

46.7 Subd. 2. **Uniform checklist disclosure form.** The commissioner of health must, in
 46.8 consultation with all interested stakeholders, design the uniform checklist disclosure form
 46.9 for use as provided under Minnesota Statutes, section 144I.241.

46.10 Subd. 3. **Recommend draft legislation.** The commissioner of health shall develop
 46.11 recommendations and prepare draft legislation addressing the following issues:

46.12 (1) survey requirements for and investigation of assisted living establishments, including
 46.13 types of surveys and the survey process;

46.14 (2) enforcement mechanisms in addition to those specified in Minnesota Statutes, sections
 46.15 144I.10 and 144I.11, including correction orders and fines. The commissioner's
 46.16 recommendations shall include proposed levels of violation reflecting varying scope and
 46.17 severity, and the range of fines that the commissioner may impose for violations at different
 46.18 levels;

46.19 (3) recommendations on a process to utilize funds collected from enforcement
 46.20 mechanisms for quality improvement initiatives in assisted living establishments;

46.21 (4) an assisted living establishment licensing fee schedule that ensures that no entity is
 46.22 assessed a licensing fee under Minnesota Statutes, chapters 144A and 144I, unless the
 46.23 additional fee under Minnesota Statutes, chapter 144A, is in addition to the fee under
 46.24 Minnesota Statutes, chapter 144I, for services provided by an assisted living establishment
 46.25 outside of the establishment, and that ensures licensing fees collected are equal to the
 46.26 expenses identified for survey and enforcement;

46.27 (5) in consultation with the Department of Human Services, changes required to ensure
 46.28 continued payment under the elderly waiver program for 24-hour customized living services;
 46.29 and

46.30 (6) changes to the uniform consumer information guide so that it better aligns with how
 46.31 assisted living establishments deliver services and with the information needs of consumers.

46.32 Subd. 4. **Report.** The commissioner of health shall develop recommendations in
 46.33 subdivision 3 in consultation with representatives of housing with services establishments

47.1 that are subject to Minnesota Statutes, chapter 144I, representatives of home care providers,
47.2 and elder justice advocates. In developing its recommendations under subdivision 3, the
47.3 commissioner shall consider and seek to align recommendations with existing provisions
47.4 under Minnesota Statutes, chapter 144A, that address those topics. The proposal and draft
47.5 legislation must be submitted to the chairs and ranking minority members of the legislative
47.6 committees with jurisdiction over health care or aging and long-term care by January 15,
47.7 2020.

47.8 **EFFECTIVE DATE.** This section is effective July 1, 2019.

47.9 Sec. 65. **TRANSITION.**

47.10 All housing with services establishments that: (1) are registered under Minnesota Statutes,
47.11 chapter 144D, and provide services under Minnesota Statutes, chapter 144G, and sections
47.12 144A.43 to 144A.482; and (2) meet the definition of assisted living establishment in
47.13 Minnesota Statutes, section 144I.01, must apply for licensure as an assisted living
47.14 establishment by January 1, 2020, or when the license under Minnesota Statutes, sections
47.15 144A.43 to 144A.482, of the housing with services establishment's arranged home care
47.16 provider as defined under Minnesota Statutes, section 144D.01, subdivision 2a, must be
47.17 renewed, whichever is later.