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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2099

03/10/2021

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

1.1 A bill for an act

1.2 relating to health; modifying qualification requirements for nursing assistants and

1.3 resident attendants; authorizing basic care aides to perform certain functions in

1.4 nursing homes and boarding care homes; requiring the commissioner of health to

1.5 seek federal waivers; amending Minnesota Statutes 2020, section 144A.62,

1.6 subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144A.

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

1.8 Section 1. Minnesota Statutes 2020, section 144A.62, subdivision 3, is amended to read:

1.9 Subd. 3. **Requirements.** (a) A nursing home may not use on a full-time or other paid

1.10 basis any individual as a resident attendant in the nursing home unless the individual:

1.11 (1) has completed a training and competency evaluation program that provides at least

1.12 one hour of training encompassing the tasks the individual provides;

1.13 (2) is competent to provide feeding and hydration services; and

1.14 (3) is under the supervision of the director of nursing.

1.15 (b) A nursing home may not use a current employee as a resident attendant unless the

1.16 employee satisfies the requirements of paragraph (a) and volunteers to be used in that

1.17 capacity.

1.18 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner

1.19 of health shall notify the revisor of statutes when federal approval is obtained.

1.20 Sec. 2. [144A.63] BASIC CARE AIDE.

1.21 Subdivision 1. Definition. For purposes of this section, "basic care aide" means an

1.22 individual employed by a nursing home or boarding care home who is authorized to assist

2.1 residents with personal care, provide support services in infection prevention and control
 2.2 and emergency preparedness, and perform other support tasks for residents.

2.3 Subd. 2. **Basic care aides authorized.** (a) Upon federal approval, a nursing home or
 2.4 boarding care home may employ a basic care aide to:

2.5 (1) assist residents with personal care, including oral care, bathroom assistance, dressing,
 2.6 and grooming;

2.7 (2) provide mobility and positioning assistance;

2.8 (3) provide nutrition and hydration;

2.9 (4) take temperatures; and

2.10 (5) provide infection prevention and control and emergency preparedness support services.

2.11 (b) A basic care aide must be supervised by the facility's director of nursing.

2.12 Subd. 3. **Training; competency evaluation.** In order to be employed as a basic care
 2.13 aide under this section, an individual must complete a nine-hour training course encompassing
 2.14 the tasks the individual will perform. The training course may be facility-based and may
 2.15 be an in-person course or an online course. Following completion of the training course,
 2.16 the facility employing the individual may conduct a competency evaluation of the tasks the
 2.17 individual will perform.

2.18 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
 2.19 of health shall notify the revisor of statutes when federal approval is obtained.

2.20 Sec. 3. **COMPLIANCE WITH NURSING ASSISTANT TRAINING, COMPETENCY**
 2.21 **EVALUATION, AND REGISTRY REQUIREMENTS; EXTENSION.**

2.22 Subdivision 1. **Definitions.** (a) The terms defined in this subdivision apply to this section.

2.23 (b) "Nursing assistant" has the meaning given in Minnesota Statutes, section 144A.61,
 2.24 subdivision 2.

2.25 (c) "Waiver of nursing assistant training and competency requirements" means the federal
 2.26 1135 waiver issued by the Centers for Medicare and Medicaid Services waiving the
 2.27 requirements of Code of Federal Regulations, title 42, sections 483(d)(1)(ii) and (d)(2)-(7),
 2.28 during the COVID-19 pandemic.

2.29 Subd. 2. **Extension.** Notwithstanding Minnesota Statutes, section 144A.61, an individual
 2.30 who is employed as a nursing assistant while the waiver of nursing assistant training and
 2.31 competency requirements is in effect, and who does not meet one or more of the requirements

3.1 in Minnesota Statutes, section 144A.61, to work as a nursing assistant, may continue to
3.2 work as a nursing assistant for up to months following the expiration of this waiver
3.3 while the individual:

3.4 (1) completes an approved nursing assistant training program and competency evaluation,
3.5 or completes a nursing assistant competency evaluation; and

3.6 (2) registers with the nursing assistant registry.

3.7 **EFFECTIVE DATE.** This section is effective upon federal approval. The commissioner
3.8 of health shall notify the revisor of statutes when federal approval is obtained.

3.9 Sec. 4. **FEDERAL WAIVERS OR APPROVALS.**

3.10 The commissioner of health shall seek all federal waivers or approvals necessary to
3.11 implement sections 1 to 3.

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