

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3437

(SENATE AUTHORS: HOUSLEY, Relph, Ruud, Benson and Abeler)		
DATE	D-PG	OFFICIAL STATUS
03/15/2018	6517	Introduction and first reading
		Referred to Aging and Long-Term Care Policy
03/21/2018	6810a	Comm report: To pass as amended and re-refer to Health and Human Services Finance and Policy
	6877	Authors added Relph; Ruud; Benson; Abeler
04/23/2018	7754a	Comm report: To pass as amended and re-refer to Rules and Administration
		Joint rule 2.03, referred to Rules and Administration
04/30/2018	8466	Comm report: Amend previous comm report Joint rule 2.03 suspended and re-refer to Finance
		See SF3656, Art. 39, 45, Sec. 3, Sub. 3; Art. 45, Sec. 3, Sub. 3
		See SF799, Sec. 2, Sub. 3(c)

1.1

A bill for an act

1.2

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

1.3

vulnerable adults; modifying the Minnesota Health Records Act, the health care

1.4

bill of rights, and the home care bill of rights; modifying regulation of nursing

1.5

homes, home care providers, housing with services establishments, and assisted

1.6

living services; modifying requirements for reporting maltreatment of vulnerable

1.7

adults; establishing advisory task forces and a working group; requiring reports;

1.8

providing for access to information and data sharing; imposing civil and criminal

1.9

penalties; authorizing contingent rulemaking; appropriating money; amending

1.10

Minnesota Statutes 2016, sections 144.6501, subdivision 3, by adding a subdivision;

1.11

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

1.12

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

1.13

1, 2; 144A.474, subdivisions 1, 2, 8, 9; 144A.479, subdivision 2; 144A.4791,

1.14

subdivision 10; 144A.53, subdivisions 1, 4; 144D.01, subdivision 1; 144D.02;

1.15

144D.04, by adding a subdivision; 144G.01, subdivision 1; 325F.71; 609.2231,

1.16

subdivision 8; 626.557, subdivisions 3, 4, 9, 9a, 9b, 9c, 9d, 9e, 10b, 12b, 14, 17;

1.17

626.5572, subdivision 6, by adding a subdivision; Minnesota Statutes 2017

1.18

Supplement, sections 144A.474, subdivision 11; 144D.04, subdivision 2; 144D.06;

1.19

256.045, subdivisions 3, 4; proposing coding for new law in Minnesota Statutes,

1.20

chapters 144; 144D; 144G; proposing coding for new law as Minnesota Statutes,

1.21

chapter 45A; repealing Minnesota Statutes 2016, sections 144D.09; 144G.02;

1.22

144G.03; 144G.04; 144G.05; 144G.06; 256.021.

1.23

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

1.24

ARTICLE 1

1.25

ELDERCARE AND VULNERABLE ADULT PROTECTIONS

1.26

Section 1. CITATION.

1.27

Sections 1 to 74 may be cited as the "Eldercare and Vulnerable Adult Protection Act of

1.28

2018."

Sec. 2. Minnesota Statutes 2016, section 144.6501, subdivision 3, is amended to read:

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

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

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

(d) The admission contract must contain the name, address, and contact information of the current owner, manager, and if different from the owner, license holder of the facility, and the name and physical mailing address of at least one natural person who is authorized to accept service of process.

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

~~(e)~~ (f) All admission contracts must state in bold capital letters the following notice to applicants for admission: "NOTICE TO APPLICANTS FOR ADMISSION. READ YOUR ADMISSION CONTRACT. ORAL STATEMENTS OR COMMENTS MADE BY THE FACILITY OR YOU OR YOUR REPRESENTATIVE ARE NOT PART OF YOUR ADMISSION CONTRACT UNLESS THEY ARE ALSO IN WRITING. DO NOT RELY ON ORAL STATEMENTS OR COMMENTS THAT ARE NOT INCLUDED IN THE WRITTEN ADMISSION CONTRACT."

Sec. 3. Minnesota Statutes 2016, section 144.6501, is amended by adding a subdivision to read:

Subd. 3a. **Changes to contracts of admission.** Within 30 days of a change in ownership, management, or license holder, the facility must provide prompt written notice to the resident or resident's legal representative of a new owner, manager, and if different from the owner, license holder of the facility, and the name and physical mailing address of any new or additional natural person not identified in the admission contract who is newly authorized to accept service of process.

3.1 Sec. 4. **[144.6502] ELECTRONIC MONITORING IN HEALTH CARE FACILITIES.**

3.2 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
3.3 subdivision have the meanings given.

3.4 (b) "Commissioner" means the commissioner of health.

3.5 (c) "Electronic monitoring device" means a camera, including one that captures, records,
3.6 or broadcasts audio, video, or both, or other technological device used to monitor or
3.7 communicate with a resident or others that is installed in a resident's room or private living
3.8 space.

3.9 (d) "Facility" means a facility that is licensed as a nursing home under chapter 144A or
3.10 as a boarding care home under sections 144.50 to 144.56, or registered as a housing with
3.11 services establishment under chapter 144D.

3.12 (e) "Legal representative" means a court-appointed guardian or other person with authority
3.13 to make decisions about health care services for the resident, including an individual who
3.14 is an interested person, as defined in section 626.5572, subdivision 12a.

3.15 (f) "Resident" means a person 18 years of age or older residing in a facility.

3.16 Subd. 2. **Electronic monitoring authorized.** (a) A facility must allow a resident or a
3.17 resident's legal representative to conduct electronic monitoring of the resident's room or
3.18 private living space as provided in this section.

3.19 (b) Nothing in this section allows the use of an electronic monitoring device to take still
3.20 photographs or for the nonconsensual interception of private communications.

3.21 (c) Nothing in this section precludes the use of electronic monitoring of health care
3.22 allowed under other law.

3.23 Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this
3.24 subdivision, a resident must consent in writing on a notification and consent form prescribed
3.25 by the commissioner to electronic monitoring in the resident's room or private living space.
3.26 If the resident has not affirmatively objected to electronic monitoring and the resident's
3.27 physician determines that the resident lacks the ability to understand and appreciate the
3.28 nature and consequences of electronic monitoring, the resident's legal representative may
3.29 consent on behalf of the resident. For purposes of this subdivision, a resident affirmatively
3.30 objects when the resident orally, visually, or through the use of auxiliary aids or services
3.31 declines electronic monitoring. The resident's response must be documented on the
3.32 notification and consent form.

4.1 (b) Prior to a resident's legal representative consenting on behalf of a resident, the resident
4.2 must be asked by the resident's legal representative if the resident wants electronic monitoring
4.3 to be conducted. The resident's legal representative must explain to the resident:

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

4.5 (2) the standard conditions that may be placed on the electronic monitoring device's use,
4.6 including those listed in subdivision 5;

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

4.8 (4) the resident's ability to decline all recording.

4.9 (c) A resident or roommate may consent to electronic monitoring with any conditions
4.10 of the resident's or roommate's choosing, including the list of standard conditions provided
4.11 in subdivision 5. A resident or roommate may request that the electronic monitoring device
4.12 be turned off or the visual or audio recording component of the electronic monitoring device
4.13 be blocked at any time.

4.14 (d) Prior to implementing electronic monitoring, a resident must obtain the written
4.15 consent of any other resident residing in the room or private living space on the notification
4.16 and consent form prescribed by the commissioner. Except as otherwise provided in this
4.17 subdivision, a roommate must consent in writing to electronic monitoring in the resident's
4.18 room or private living space. If the roommate has not affirmatively objected to the electronic
4.19 monitoring in accordance with this subdivision and the roommate's physician determines
4.20 that the roommate lacks the ability to understand and appreciate the nature and consequences
4.21 of electronic monitoring, the roommate's legal representative may consent on behalf of the
4.22 roommate.

4.23 (e) Any resident conducting electronic monitoring must obtain consent from any new
4.24 roommate before the resident may resume authorized electronic monitoring. If a new
4.25 roommate does not consent to electronic monitoring and the resident conducting the electronic
4.26 monitoring does not remove the electronic monitoring device, the facility must remove the
4.27 electronic monitoring device.

4.28 (f) Copies of all completed notification and consent forms must be submitted to the
4.29 facility, and the facility must keep the notification and consent forms on file in a location
4.30 separate from the resident's clinical record.

4.31 Subd. 4. **Withdrawal of consent; refusal of roommate to consent.** (a) Consent may
4.32 be withdrawn by the resident or roommate at any time and the withdrawal of consent must
4.33 be documented on the facility's copy of the initial notification and consent form submitted

5.1 to it according to subdivision 5. If a roommate withdraws consent and the resident conducting
5.2 the electronic monitoring does not remove or disable the electronic monitoring device, the
5.3 facility must remove the electronic monitoring device.

5.4 (b) If a resident of a facility who is residing in a shared room wants to conduct electronic
5.5 monitoring and another resident living in or moving into the same shared room refuses to
5.6 consent to the use of an electronic monitoring device, the facility shall make a reasonable
5.7 attempt to accommodate the resident who wants to conduct electronic monitoring. A facility
5.8 has met the requirement to make a reasonable attempt to accommodate a resident who wants
5.9 to conduct electronic monitoring when upon notification that a roommate has not consented
5.10 to the use of an electronic monitoring device in the resident's room, the facility offers to
5.11 move either resident to another shared room that is available at the time of the request. If a
5.12 resident chooses to reside in a private room in a facility in order to accommodate the use
5.13 of an electronic monitoring device, the resident must pay the private room rate. If a facility
5.14 is unable to accommodate a resident due to lack of space, the facility must reevaluate the
5.15 request every two weeks until the request is fulfilled. A facility is not required to provide
5.16 a private room or a single-bed room to a resident who is not a private-pay resident.

5.17 Subd. 5. **Notice; form requirements.** (a) Electronic monitoring may begin only after
5.18 the resident who intends to install an electronic monitoring device completes a notification
5.19 and consent form prescribed by the commissioner and submits the form to the facility and
5.20 the ombudsperson for long-term care.

5.21 (b) The notification and consent form must include, at a minimum, the following
5.22 information:

5.23 (1) the resident's signed consent to electronic monitoring or the signature of the resident's
5.24 legal representative, if applicable. If a person other than the resident signs the consent form,
5.25 the form must document the following:

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

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

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

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

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

- 6.1 (ii) who was present when the roommate was asked; and
- 6.2 (iii) an acknowledgment that the roommate did not affirmatively object;
- 6.3 (3) the type of electronic monitoring device to be used;
- 6.4 (4) any installation needs, such as mounting of a device to a wall or ceiling;
- 6.5 (5) the proposed date of installation for scheduling purposes;
- 6.6 (6) a list of standard conditions or restrictions that the resident or a roommate may elect
- 6.7 to place on the use of the electronic monitoring device, including, but not limited to:
- 6.8 (i) prohibiting audio recording;
- 6.9 (ii) prohibiting video recording;
- 6.10 (iii) prohibiting broadcasting of audio or video;
- 6.11 (iv) turning off the electronic monitoring device or blocking the visual recording
- 6.12 component of the electronic monitoring device for the duration of an exam or procedure by
- 6.13 a health care professional;
- 6.14 (v) turning off the electronic monitoring device or blocking the visual recording
- 6.15 component of the electronic monitoring device while dressing or bathing is performed; and
- 6.16 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
- 6.17 advisor, ombudsman, attorney, financial planner, intimate partner, or other visitor;
- 6.18 (7) any other condition or restriction elected by the resident or roommate on the use of
- 6.19 an electronic monitoring device;
- 6.20 (8) a signature box for documenting that the resident or roommate has withdrawn consent;
- 6.21 and
- 6.22 (9) a statement of the circumstances under which a recording may be disseminated under
- 6.23 subdivision 9.
- 6.24 (c) A copy of the completed notification and consent form must be provided to the
- 6.25 resident and the resident's roommate, if applicable. The facility must retain the form as
- 6.26 described in subdivision 3, paragraph (f).
- 6.27 (d) The commissioner shall prescribe the notification and consent form required in this
- 6.28 section no later than January 1, 2019, and shall make the form available on the department's
- 6.29 Web site.

7.1 (e) Beginning January 1, 2019, facilities must make the notification and consent form
7.2 available to the residents and inform residents of their option to conduct electronic monitoring
7.3 of their rooms or private living spaces.

7.4 (f) Any resident, legal representative of a resident, or other person conducting electronic
7.5 monitoring of a resident's room prior to enactment of this section must comply with the
7.6 requirements of this section by January 1, 2019.

7.7 Subd. 6. **Cost and installation.** (a) A resident choosing to conduct electronic monitoring
7.8 must do so at the resident's own expense, including paying purchase, installation,
7.9 maintenance, and removal costs.

7.10 (b) If a resident chooses to install an electronic monitoring device that uses Internet
7.11 technology for visual or audio monitoring, that resident may be responsible for contracting
7.12 with an Internet service provider.

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

7.16 (d) All electronic monitoring device installations and supporting services must be
7.17 UL-listed.

7.18 Subd. 7. **Notice to visitors.** (a) A facility shall post a sign at each facility entrance
7.19 accessible to visitors that states "Security cameras and audio devices may be present to
7.20 record persons and activities."

7.21 (b) The facility is responsible for installing and maintaining the signage required in this
7.22 subdivision.

7.23 Subd. 8. **Obstruction of electronic monitoring devices.** (a) A person must not knowingly
7.24 hamper, obstruct, tamper with, or destroy an electronic monitoring device installed in a
7.25 resident's room or private living space without the permission of the resident or the resident's
7.26 legal representative.

7.27 (b) It is not a violation of this subdivision if a person turns off the electronic monitoring
7.28 device or blocks the visual recording component of the electronic monitoring device at the
7.29 direction of the resident or the resident's legal representative, or if consent has been
7.30 withdrawn.

7.31 Subd. 9. **Dissemination of recordings.** (a) A facility may not access any video or audio
7.32 recording created through electronic monitoring without the written consent of the resident
7.33 or the resident's legal representative. If a resident consents to access to a recording by the

8.1 facility, the resident is deemed to have consented to access to an employee under paragraph
8.2 (c).

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

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

8.13 Subd. 10. **Liability.** (a) A facility is not civilly or criminally liable for the inadvertent
8.14 or intentional disclosure of a recording by a resident or a resident's legal representative for
8.15 any purpose not authorized by this section.

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

8.19 Subd. 11. **Resident protections.** (a) A facility must not:

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

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

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

8.26 (b) The commissioner of health must issue a correction order upon a finding that the
8.27 facility has failed to comply with this subdivision. The commissioner of health may impose
8.28 a fine between \$50 and \$500 upon a finding of noncompliance with a correction order issued
8.29 according to this paragraph.

8.30 **EFFECTIVE DATE.** This section is effective January 1, 2019.

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

9.2 Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of
 9.3 this section to promote the interests and well being of the patients and residents of health
 9.4 care facilities. It is the intent of this section that every patient's and resident's civil and
 9.5 religious liberties, including the right to independent personal decisions and knowledge of
 9.6 available choices, must not be infringed and that the facility must encourage and assist in
 9.7 the fullest possible exercise of these rights. The rights provided under this section are
 9.8 established for the benefit of patients and residents. No health care facility may require or
 9.9 request a patient or resident to waive any of these rights at any time or for any reason
 9.10 including as a condition of admission to the facility. Any guardian or conservator of a patient
 9.11 or resident or, in the absence of a guardian or conservator, an interested person, may seek
 9.12 enforcement of these rights on behalf of a patient or resident. An interested person may also
 9.13 seek enforcement of these rights on behalf of a patient or resident who has a guardian or
 9.14 conservator through administrative agencies or in district court having jurisdiction over
 9.15 guardianships and conservatorships. Pending the outcome of an enforcement proceeding
 9.16 the health care facility may, in good faith, comply with the instructions of a guardian or
 9.17 conservator. ~~It is the intent of this section that every patient's civil and religious liberties,~~
 9.18 ~~including the right to independent personal decisions and knowledge of available choices,~~
 9.19 ~~shall not be infringed and that the facility shall encourage and assist in the fullest possible~~
 9.20 ~~exercise of these rights.~~

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

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

9.24 (b) "Patient" means:

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

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

9.29 (3) for purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, and 18 to 20, "patient" also
 9.30 means and 34, a person who receives health care services at an outpatient surgical center
 9.31 or at a birth center licensed under section 144.615. "Patient" also means a minor who is
 9.32 admitted to a residential program as defined in section 253C.01; and

10.1 (4) for purposes of subdivisions 1, 3 to 16, 18, 20 and, 30, "patient" also means and 34,
10.2 any person who is receiving mental health treatment on an outpatient basis or in a community
10.3 support program or other community-based program.

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

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

10.6 (2) a nursing homes, and home;

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

10.9 (4) for purposes of all subdivisions except subdivisions 28 and 29 1 to 27, "resident"
10.10 also means a person who is admitted to and 30 to 34, a facility licensed as a board and
10.11 lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355 chapter 4625, or a
10.12 supervised living facility under Minnesota Rules, parts 4665.0100 to 4665.9900 chapter
10.13 4665, and which operates a rehabilitation program licensed under Minnesota Rules, parts
10.14 9530.6405 9530.6510 to 9530.6590.

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

10.16 (1) an acute care inpatient facility;

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

10.18 (3) for the purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, 18 to 20, and 34, an
10.19 outpatient surgical center or a birth center licensed under section 144.615;

10.20 (4) for the purposes of subdivisions 1, 3 to 16, 18, 20, 30, and 34, a setting in which
10.21 outpatient mental health services are provided, or a community support program or other
10.22 community-based program providing mental health treatment;

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

10.24 (6) a nursing home;

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

10.27 (8) for the purposes of subdivisions 1 to 27 and 30 to 34, a facility licensed as a board
10.28 and lodging facility under Minnesota Rules, chapter 4625, or a supervised living facility
10.29 under Minnesota Rules, chapter 4665, and which operates a rehabilitation program licensed
10.30 under Minnesota Rules, parts 9530.6510 to 9530.6590.

10.31 (e) "Interested person" has the meaning given under section 626.5572, subdivision 12a.

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

11.2 Subd. 4. **Information about rights.** (a) Patients and residents shall, at admission, be
11.3 told that there are legal rights for their protection during their stay at the facility or throughout
11.4 their course of treatment and maintenance in the community and that these are described
11.5 in an accompanying written statement in plain language and in terms patients and residents
11.6 can understand of the applicable rights and responsibilities set forth in this section. The
11.7 written statement must also include the name and address of the state or county agency to
11.8 contact for additional information or assistance. In the case of patients admitted to residential
11.9 programs as defined in section 253C.01, the written statement shall also describe the right
11.10 of a person 16 years old or older to request release as provided in section 253B.04,
11.11 subdivision 2, and shall list the names and telephone numbers of individuals and organizations
11.12 that provide advocacy and legal services for patients in residential programs.

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

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

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

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

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

11.29 Subd. 14. **Freedom from maltreatment.** (a) Patients and residents shall be free from
11.30 maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means
11.31 conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic
11.32 infliction of physical pain or injury, or any persistent course of conduct intended to produce
11.33 mental or emotional distress. Patients and residents have the right to notification from the

12.1 facility and lead investigative agency regarding a report of alleged maltreatment, disposition
12.2 of a report, and appeal rights, as provided under section 626.557, subdivision 9c.

12.3 (b) Every patient and resident shall also be free from nontherapeutic chemical and
12.4 physical restraints, except in fully documented emergencies, or as authorized in writing
12.5 after examination by a patient's or resident's physician for a specified and limited period of
12.6 time, and only when necessary to protect the resident from self-injury or injury to others.

12.7 Sec. 10. Minnesota Statutes 2016, section 144.651, subdivision 16, is amended to read:

12.8 Subd. 16. **Confidentiality of records.** Patients and residents shall be assured confidential
12.9 treatment of their personal, financial, and medical records, and may approve or refuse their
12.10 release to any individual outside the facility. Residents shall be notified when personal
12.11 records are requested by any individual outside the facility and may select someone to
12.12 accompany them when the records or information are the subject of a personal interview.
12.13 Patients and residents have a right to access their personal, financial, and medical records
12.14 and written information from those records. Copies of records and written information from
12.15 the records shall be made available in accordance with this subdivision and sections 144.291
12.16 to 144.298. This right does not apply to complaint investigations and inspections by the
12.17 Department of Health, where required by third-party payment contracts, or where otherwise
12.18 provided by law.

12.19 Sec. 11. Minnesota Statutes 2016, section 144.651, subdivision 17, is amended to read:

12.20 Subd. 17. **Disclosure of services available.** Patients and residents shall be informed,
12.21 prior to or at the time of admission and during their stay, of services which are included in
12.22 the facility's basic per diem or daily room rate and that other services are available at
12.23 additional charges. Patients and residents have the right to at least 30 days' advance notice
12.24 of changes in services or charges unrelated to changes in the patient's or resident's service
12.25 or care needs. A facility may not collect a nonrefundable deposit, unless it is applied to the
12.26 first month's charges. Facilities shall make every effort to assist patients and residents in
12.27 obtaining information regarding whether the Medicare or medical assistance program will
12.28 pay for any or all of the aforementioned services.

12.29 Sec. 12. Minnesota Statutes 2016, section 144.651, subdivision 20, is amended to read:

12.30 Subd. 20. **Grievances.** (a) Patients and residents shall be encouraged and assisted,
12.31 throughout their stay in a facility or their course of treatment, to understand and exercise
12.32 their rights as patients, residents, and citizens. Patients and residents may voice grievances,

assert the rights granted under this section personally, or have these rights asserted by an interested person, and recommend changes in policies and services to facility staff and others of their choice, free from restraint, interference, coercion, discrimination, retaliation, or reprisal, including threat of discharge. ~~Notice of the grievance procedure of the facility or program, as well as addresses and telephone numbers for the Office of Health Facility Complaints and the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12) shall be posted in a conspicuous place.~~

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

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

(d) Every acute care inpatient facility, every residential program as defined in section 253C.01, every nonacute care facility, and every facility employing more than two people that provides outpatient mental health services shall have a written internal grievance procedure that, at a minimum, sets forth the process to be followed; specifies time limits, including time limits for facility response; provides for the patient or resident to have the assistance of an advocate; requires a written response to written grievances; and provides for a timely decision by an impartial decision maker if the grievance is not otherwise resolved. Compliance by hospitals, residential programs as defined in section 253C.01 which are hospital-based primary treatment programs, and outpatient surgery centers with section 144.691 and compliance by health maintenance organizations with section 62D.11 is deemed to be compliance with the requirement for a written internal grievance procedure.

Sec. 13. Minnesota Statutes 2016, section 144.651, subdivision 21, is amended to read:

Subd. 21. **Communication privacy.** Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their own expense, unless provided by the facility, to writing instruments,

stationery, ~~and postage,~~ and Internet service. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. Upon admission to a facility where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian or conservator of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, paragraph (b), this right shall also be limited accordingly.

Sec. 14. Minnesota Statutes 2016, section 144.651, is amended by adding a subdivision to read:

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

- (1) files a complaint or grievance or asserts any rights on behalf of the patient or resident;
- (2) submits a maltreatment report, whether mandatory or voluntary, on behalf of the patient or resident under section 626.557, subdivision 3, 4, or 4a;
- (3) advocates on behalf of the patient or resident for necessary or improved care and services or enforcement of rights under this section or other law; or
- (4) contracts to receive services from a service provider of the resident's choice.

(b) There is a rebuttable presumption that adverse action is retaliatory if taken against a patient, resident, employee, or interested person within 90 days of a patient, resident, employee, or interested person filing a grievance submitting a maltreatment report, or otherwise advocating on behalf of a patient or resident.

(c) For purposes of this section, "adverse action" means any action taken by a facility or person against the patient, resident, employee, or interested person that includes but is not limited to:

- 15.1 (1) discharge or transfer from the facility;
- 15.2 (2) discharge from or termination of employment;
- 15.3 (3) demotion or reduction in remuneration for services;
- 15.4 (4) restriction or prohibition of access either to the facility or to the patient or resident;
- 15.5 (5) any restriction of any of the rights set forth in state or federal law;
- 15.6 (6) any restriction of access to or use of amenities or services;
- 15.7 (7) termination of a services or lease agreement, or both;
- 15.8 (8) a sudden increase in costs for services not already contemplated at the time of the
- 15.9 action taken;
- 15.10 (9) removal, tampering with, or deprivation of technology, communication, or electronic
- 15.11 monitoring devices of the patient or resident;
- 15.12 (10) reporting maltreatment in bad faith; or
- 15.13 (11) making any oral or written communication of false information about a person
- 15.14 advocating on behalf of the patient or resident.
- 15.15 (d) The commissioner of health must impose a fine in an amount equal to the amount
- 15.16 listed in Minnesota Rules, part 4658.0193, item F, upon a finding that the facility has violated
- 15.17 this subdivision.
- 15.18 Sec. 15. Minnesota Statutes 2016, section 144.651, is amended by adding a subdivision
- 15.19 to read:
- 15.20 Subd. 35. **Electronic monitoring.** A patient, resident, or interested person has the right
- 15.21 to install and use electronic monitoring, provided the requirements of section 144.6502 are
- 15.22 met.
- 15.23 Sec. 16. **[144.6511] DECEPTIVE MARKETING AND BUSINESS PRACTICES.**
- 15.24 (a) Deceptive marketing and business practices are prohibited.
- 15.25 (b) For the purposes of this section, it is a deceptive practice for a facility to:
- 15.26 (1) make any false, fraudulent, deceptive, or misleading statements in marketing,
- 15.27 advertising, or any other oral or written description or representation of care or services,
- 15.28 whether in oral, written, or electronic form;

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

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

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

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

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

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

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

Sec. 17. Minnesota Statutes 2016, section 144A.10, subdivision 1, is amended to read:

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

The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a licensed facility if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. A nursing home's refusal to cooperate in providing lawfully requested information is grounds for a correction order and a fine according to Minnesota Rules, part 4658.0190, item EE.

17.1 The identities of patients or residents must be kept private as defined by section 13.02,
17.2 subdivision 12.

17.3 Sec. 18. Minnesota Statutes 2016, section 144A.44, is amended to read:

17.4 **144A.44 HOME CARE BILL OF RIGHTS.**

17.5 Subdivision 1. **Statement of rights.** (a) For the purposes of this section, "provider"
17.6 includes home care providers licensed under this chapter, housing with service establishments
17.7 registered under chapter 144D, and individuals or organizations exempt from home care
17.8 licensure by section 144A.471, subdivision 8. For the purposes of this section, "services"
17.9 means home care services as defined in section 144A.43, subdivision 3; supportive services
17.10 as defined in section 144D.01, subdivision 5; and health-related services as defined in section
17.11 144D.01, subdivision 6. For the purposes of this section, "service plan" includes a housing
17.12 with services contract and a lease agreement with a housing with services establishment.

17.13 (b) All providers must comply with this section. No provider may require or request a
17.14 person to waive any of the rights listed in this section at any time or for any reason, including
17.15 as a condition of initiating services or entering into a contract or lease.

17.16 (c) A person who receives home care services has ~~these rights~~ the right to:

17.17 (1) ~~the right to~~ receive written information in plain language about rights before receiving
17.18 services, including what to do if rights are violated;

17.19 (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan with
17.20 reasonable regularity and continuity of staff, and subject to accepted health care, medical
17.21 or nursing standards, and to take an active part in developing, modifying, and evaluating
17.22 the plan and services;

17.23 (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who
17.24 will be providing the services, the frequency of visits proposed to be furnished, other choices
17.25 that are available for addressing home care ~~the person's~~ needs, and the potential consequences
17.26 of refusing these services;

17.27 (4) ~~the right to~~ be told in advance of any changes to the service plan recommended
17.28 changes by the provider in the service plan and to take an active part in any decisions about
17.29 changes to the service plan;

17.30 (5) ~~the right to~~ refuse services or treatment;

17.31 (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to
17.32 the services available from a home care provider;

(7) ~~the right to~~ be told before services are initiated what the provider charges for the services; to what extent payment may be expected from health insurance, public programs, or other sources, if known; and what charges the client may be responsible for paying;

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

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

(10) ~~the right to~~ have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information;

(11) ~~the right to~~ access the client's own records and written information from those records in accordance with sections 144.291 to 144.298;

(12) ~~the right to~~ be served by people who are properly trained and competent to perform their duties;

(13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property treated with respect;

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

(15) ~~the right to~~ reasonable, advance notice of changes in services or charges;

(16) ~~the right to~~ know the provider's reason for termination of services or of a service plan;

(17) ~~the right to~~ at least ~~ten~~ 30 days' advance notice of the termination of a service or service plan by a provider, except in cases where:

(i) the client engages in conduct that significantly alters the terms of the service plan with the ~~home-care~~ provider;

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

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

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

19.3 (19) ~~the right to~~ complain to staff and others of their choice about services that are
19.4 provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's
19.5 property, and the right to recommend changes in policies and services, free from retaliation,
19.6 including the threat of termination of services or a service plan;

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

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

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

19.14 (23) notification from the lead investigative agency regarding a report of alleged
19.15 maltreatment, disposition of a report, and appeal rights, as provided under section 626.557,
19.16 subdivision 9c;

19.17 (24) Internet service at the person's own expense, unless it is provided by the provider;
19.18 and

19.19 (25) place an electronic monitoring device in the person's own private space, provided
19.20 the requirements of section 144.6502 are met.

19.21 (d) Providers must:

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

19.23 (2) provide the names and telephone numbers of individuals and organizations that
19.24 provide advocacy and legal services for clients seeking to assert their rights under this
19.25 section;

19.26 (3) make every effort to assist clients in obtaining information regarding whether
19.27 Medicare, medical assistance, or housing supports will pay for services;

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

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

Subd. 2. **Interpretation and enforcement of rights.** ~~These rights are established for the benefit of clients who receive home care services. All home care providers, including those exempted under section 144A.471, must comply with this section. The commissioner shall enforce this section and the home care bill of rights requirement against home care providers exempt from licensure in the same manner as for licensees. A home care provider may not request or require a client to surrender any of these rights as a condition of receiving services. This statement of~~ The rights does provided under this section are established for the benefit of clients who receive services, do not replace or diminish other rights and liberties that may exist relative to clients receiving home care services, persons providing home care services, or providers licensed under sections 144A.43 to 144A.482 or registered under chapter 144D, and may not be waived. Any oral or written waiver of the rights provided under this section is void and unenforceable.

Subd. 3. **Public enforcement of rights.** (a) The commissioner shall enforce this section and the home care bill of rights requirements against home care providers exempt from licensure in the same manner as for licensees.

(b) If in the normal course of conducting any of the types of home care surveys described in section 144A.474, subdivision 2, the commissioner determines that a housing with services establishment registered under chapter 144D is responsible for a violation of any right granted under this section or section 144A.441, the commissioner shall enforce this section and section 144A.441 against the housing with services establishment in the same manner as if a home care provider were responsible for the violation. The commissioner shall issue fines and correction orders to the housing with services establishment and conduct follow-up surveys of the housing with services establishments, in the same manner described in section 144A.474, subdivisions 8, 9, and 11. The housing with services establishment has the same rights to reconsideration or a hearing under chapter 14 as are provided to home care providers under section 144.474, and the same appeal rights under the contested case procedures in section 144A.475, subdivisions 3a, 4, and 7.

Subd. 4. **Retaliation prohibited.** Providers are subject to the same prohibitions against retaliation and the same penalties as are health care facilities under section 144.651, subdivision 34.

Sec. 19. Minnesota Statutes 2016, section 144A.441, is amended to read:

144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

Assisted living clients, as defined in section 144G.01, subdivision 3, shall be provided with the home care bill of rights required by section 144A.44, except that the home care

21.1 bill of rights provided to these clients must include the following provision in place of the
 21.2 provision in section 144A.44, subdivision 1, paragraph (c), clause (17):

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

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

21.10 (ii) a doctor or treating physician, certified nurse practitioner, or physician's assistant
 21.11 documents that an emergency for the informal caregiver or a significant change in the
 21.12 recipient's condition has resulted in service needs that exceed the current service provider
 21.13 agreement and that cannot be safely met by the home care provider; or

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

21.16 Sec. 20. Minnesota Statutes 2016, section 144A.442, is amended to read:

21.17 **144A.442 ASSISTED LIVING CLIENTS; SERVICE ARRANGED HOME CARE**
 21.18 **PROVIDER RESPONSIBILITIES; TERMINATION OF SERVICES.**

21.19 Subdivision 1. **Definition.** For the purposes of this section, "coordinated transfer" means
 21.20 a plan to transfer a housing with services resident to another home care provider or providers
 21.21 that:

21.22 (1) proposes a safe and adequate delivery of services;

21.23 (2) is based on the resident's service goals;

21.24 (3) includes in service planning the resident, the resident's case manager, and, if any,
 21.25 the resident's representative; and

21.26 (4) contains a plan for appropriate and sufficient care from the new home care provider.

21.27 Subd. 2. **Permissible reasons to terminate services; notice required.** (a) An arranged
 21.28 home care provider may terminate services only if the resident engages in conduct that
 21.29 significantly alters the terms of the service plan with the home care provider and does not
 21.30 cure the alteration within 30 days of receiving written notice of the conduct.

22.1 (b) An arranged home care provider must provide at least 30 days' advanced written
 22.2 notice prior to terminating a service contract.

22.3 (c) Paragraphs (a) and (b) notwithstanding, the arranged home care provider may
 22.4 terminate services with no less than 10 days' written notice if the resident:

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

22.7 (2) a doctor or treating physician, certified nurse practitioner, or physician's assistant
 22.8 documents that an emergency or a significant change in the resident's condition has resulted
 22.9 in service needs that exceed the current service plan and that cannot be safely met by the
 22.10 home care provider; or

22.11 (3) fails to pay the provider for services that are agreed to in the service contract.

22.12 Subd. 3. Contents of service termination notice. If an arranged home care provider,
 22.13 as defined in section 144D.01, subdivision 2a, who is not also Medicare certified terminates
 22.14 a service agreement or service plan with ~~an assisted living client, as defined in section~~
 22.15 ~~144G.01, subdivision 3,~~ a resident in a housing with services establishment, the home care
 22.16 provider shall provide the ~~assisted living client~~ resident and the legal or designated
 22.17 representatives of the ~~client~~ resident, if any, with a advance written notice of termination
 22.18 ~~which, as provided under subdivision 2, that includes the following information:~~

22.19 (1) the effective date of termination;

22.20 (2) a detailed explanation of the reason for termination;

22.21 (3) without extending the termination notice period, an affirmative offer to meet with
 22.22 the assisted living client or client representatives ~~within no more than five business days of~~
 22.23 ~~the date of the termination notice to discuss the termination;~~

22.24 (4) contact information for a reasonable number of other home care providers in the
 22.25 geographic area of the assisted living client, as required by section 144A.4791, subdivision
 22.26 10;

22.27 (5) a statement that the provider will participate in a coordinated transfer of the care of
 22.28 ~~the client to another provider or caregiver, as required by section 144A.44, subdivision 1,~~
 22.29 ~~clause (18);~~

22.30 (6) the name and contact information of a representative of the home care provider with
 22.31 whom the client may discuss the notice of termination;

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

(8) a statement that the notice of termination of home care services by the home care provider does not constitute notice of termination of the housing with services contract with a housing with services establishment;

(9) a statement that the resident has the right to avoid termination of services by paying the past due service charges or by curing the alteration of the terms of the service plan prior to the effective date of service termination;

(10) the address and telephone number of the Office of Ombudsman for Long-Term Care, the Office of Administrative Hearings, and the protection and advocacy agency; and

(11) a statement that the resident has the right to appeal the service termination to the Office of Administrative Hearings.

Subd. 4. Right to appeal service termination. (a) At any time prior to the expiration of the notice period provided under subdivision 2, a resident may appeal the service termination by making a written request for a hearing to the Office of Administrative Hearings, which must conduct the hearing no later than 14 days after receiving the appeal request. The hearing must be held in the establishment in which the resident resides, unless impractical or the parties agree otherwise.

(b) The arranged home care provider may not discontinue services to a resident who makes a timely appeal of a notice of service termination until the Office of Administrative Hearings makes a final determination on the appeal in favor of the arranged home care provider.

(c) Residents are not required to request a meeting as provided under subdivision 3, clause (3), prior to submitting an appeal hearing request.

(d) The commissioner of health may order the arranged home care provider to rescind the service termination if:

(1) the service termination was in violation of state or federal law; or

(2) the resident cures the alleged service alteration or pays the service fees owed on or before the date of the administrative hearing.

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

Subd. 5. Assistance with coordinated transfer. An arranged home care provider must assist a resident with a coordinated transfer.

24.1 **EFFECTIVE DATE.** This section is effective for all contracts for services entered into
24.2 or renewed on or after August 1, 2018.

24.3 Sec. 21. Minnesota Statutes 2016, section 144A.45, subdivision 1, is amended to read:

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

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

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

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

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

24.13 (5) standards for medication management;

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

24.15 (7) standards for client evaluation or assessment;

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

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

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

24.21 (11) provisions to enforce these regulations and the home care bill of rights, including
24.22 provisions for issuing penalties and fines according to section 144A.474, subdivision 11,
24.23 for violations of sections 144A.43 to 144A.482, and of the home care bill of rights under
24.24 sections 144A.44 to 144A.441.

24.25 Sec. 22. Minnesota Statutes 2016, section 144A.45, subdivision 2, is amended to read:

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

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

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

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

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

(5) issue correction orders and assess civil penalties in accordance with ~~section~~ sections 144A.653, subdivisions 5 to 8, 144A.474, and 144A.475, for violations of sections 144A.43 to 144A.482, and sections 144A.44 to 144A.441;

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

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

Sec. 23. Minnesota Statutes 2016, section 144A.474, subdivision 1, is amended to read:

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

Sec. 24. Minnesota Statutes 2016, section 144A.474, subdivision 2, is amended to read:

Subd. 2. **Types of home care surveys.** (a) "Initial full survey" means the survey of a new temporary licensee conducted after the department is notified or has evidence that the temporary licensee is providing home care services to determine if the provider is in compliance with home care requirements. Initial full surveys must be completed within 14 months after the department's issuance of a temporary basic or comprehensive license.

(b) "Core survey" means periodic inspection of home care providers to determine ongoing compliance with the home care requirements, focusing on the essential health and safety requirements. Core surveys are not available to home care providers during the provider's first three years of operation. Core surveys are available to licensed home care providers who have been licensed for more than three years and surveyed at least once in the past ~~three~~ four years with the latest survey having no widespread violations beyond Level 1 nor a violation of Level 3 or greater, as provided in subdivision 11. Core surveys are not available to home care providers with a past violation of Level 3 or greater until the home care provider

26.1 has three consecutive annual full surveys having no violations above Level 1. Providers
26.2 must also not have had any substantiated licensing complaints, substantiated complaints
26.3 against the agency under the Vulnerable Adults Act or Maltreatment of Minors Act, or an
26.4 enforcement action as authorized in section 144A.475 in the past three years.

26.5 (1) The core survey for basic home care providers must review compliance in the
26.6 following areas:

- 26.7 (i) reporting of maltreatment;
- 26.8 (ii) orientation to and implementation of the home care bill of rights;
- 26.9 (iii) statement of home care services;
- 26.10 (iv) initial evaluation of clients and initiation of services;
- 26.11 (v) client review and monitoring;
- 26.12 (vi) service plan implementation and changes to the service plan;
- 26.13 (vii) client complaint and investigative process;
- 26.14 (viii) competency of unlicensed personnel; and
- 26.15 (ix) infection control.

26.16 (2) For comprehensive home care providers, the core survey must include everything
26.17 in the basic core survey plus these areas:

- 26.18 (i) delegation to unlicensed personnel;
- 26.19 (ii) assessment, monitoring, and reassessment of clients; and
- 26.20 (iii) medication, treatment, and therapy management.

26.21 (c) "Full survey" means the ~~periodic~~ annual inspection of home care providers to
26.22 determine ongoing compliance with the home care requirements that cover the core survey
26.23 areas and all the legal requirements for home care providers. A full survey is conducted for
26.24 all temporary licensees and for providers who do not meet the requirements needed for a
26.25 core survey, and when a surveyor identifies unacceptable client health or safety risks during
26.26 a core survey. A full survey must include all the tasks identified as part of the core survey
26.27 and any additional review deemed necessary by the department, including additional
26.28 observation, interviewing, or records review of additional clients and staff.

26.29 (d) "Follow-up surveys" means surveys conducted to determine if a home care provider
26.30 has corrected deficient issues and systems identified during a core survey, full survey, or

27.1 complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax, mail,
27.2 or on-site reviews.

27.3 ~~Follow-up surveys, other than complaint~~ (e) All surveys, shall be concluded with an exit
27.4 conference and written information provided on the process for requesting a reconsideration
27.5 of the survey results. This paragraph does not apply to on-site visits performed as part of a
27.6 maltreatment or licensing complaint investigation conducted under sections 144A.51 to
27.7 144A.54.

27.8 (e) (f) Upon receiving information alleging that a home care provider has violated or is
27.9 currently violating a requirement of sections 144A.43 to 144A.482, the commissioner shall
27.10 investigate the complaint according to sections 144A.51 to 144A.54.

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

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

27.19 (b) The commissioner shall mail copies of any correction order to the last known address
27.20 of the home care provider, or electronically scan the correction order and e-mail it to the
27.21 last known home care provider e-mail address, within 30 calendar days after the survey exit
27.22 date. A copy of each correction order, the amount of any immediate fine issued, the correction
27.23 plan, and copies of any documentation supplied to the commissioner shall be kept on file
27.24 by the home care provider, and public documents shall be made available for viewing by
27.25 any person upon request. Copies may be kept electronically.

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

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

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

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

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

28.15 (1) Level 1, no fines or enforcement;

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

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

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

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

28.24 (1) level of violation:

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

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

28.30 (iii) Level 3 is a violation that harmed a client's health or safety, not including serious
28.31 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
28.32 impairment, or death; and

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

29.2 (2) scope of violation:

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

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

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

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

29.17 (d) The license holder must pay the fines assessed on or before the payment date specified
29.18 on a correction order or on a notice of noncompliance with a correction order. If the license
29.19 holder fails to ~~fully comply with the order~~ pay a fine by the specified date, the commissioner
29.20 may issue a ~~second~~ late payment fine or suspend the license until the license holder ~~complies~~
29.21 ~~by paying the fine~~ pays all outstanding fines. A timely appeal shall stay payment of the late
29.22 payment fine until the commissioner issues a final order.

29.23 (e) A license holder shall promptly notify the commissioner in writing when a violation
29.24 specified in ~~the order~~ a notice of noncompliance with a correction order is corrected. If upon
29.25 reinspection the commissioner determines that a violation has not been corrected as indicated
29.26 by the ~~order~~ notice of noncompliance with a correction order, the commissioner may issue
29.27 ~~a second~~ an additional fine for noncompliance with a notice of noncompliance with a
29.28 correction order. The commissioner shall notify the license holder by mail to the last known
29.29 address in the licensing record that ~~a second~~ an additional fine has been assessed. The license
29.30 holder may appeal the ~~second~~ additional fine as provided under this subdivision.

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

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

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

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

Sec. 28. Minnesota Statutes 2016, section 144A.479, subdivision 2, is amended to read:

Subd. 2. **Advertising Deceptive marketing and business practices.** Home care providers ~~shall not use false, fraudulent, or misleading advertising in the marketing of services. For purposes of this section, advertising includes any verbal, written, or electronic means of communicating to potential clients about the availability, nature, or terms of home care services~~ are subject to the same prohibitions against deceptive practices as are health care facilities under section 144.6511.

Sec. 29. Minnesota Statutes 2016, section 144A.4791, subdivision 10, is amended to read:

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

(1) the effective date of termination;

(2) the reason for termination;

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

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

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

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

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

31.9 Sec. 30. Minnesota Statutes 2016, section 144A.53, subdivision 1, is amended to read:

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

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

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

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

31.21 (d) Request and receive access to relevant information, records, incident reports, or
31.22 documents in the possession of an administrative agency, a health care provider, a home
31.23 care provider, a residential care home, or a health facility, and issue investigative subpoenas
31.24 to individuals and facilities for oral information and written information, including privileged
31.25 information which the director deems necessary for the discharge of responsibilities. For
31.26 purposes of investigation and securing information to determine violations, the director
31.27 need not present a release, waiver, or consent of an individual. The identities of patients or
31.28 residents must be kept private as defined by section 13.02, subdivision 12.

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

(f) Issue correction orders and assess civil fines pursuant to ~~section~~ sections 144.653, 144A.10, 144A.44, 144A.45, and 144A.474; Minnesota Rules, chapters 4655, 4658, 4664, and 4665, or any other law ~~which~~ or rule that provides for the issuance of correction orders or fines to health facilities, residential care homes, or home care ~~provider, or under section~~ providers. A health facility's, residential care home's, or home's home care provider's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order or fine.

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

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

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

(j) Apply the powers granted in paragraphs (c) to (f) and (h) to housing with services establishments registered under chapter 144D, if, in the normal course of investigating a complaint against a home care provider, the director suspects that a housing with services establishment is responsible for a violation of the home care bill of rights under section 144A.44.

Sec. 31. Minnesota Statutes 2016, section 144A.53, subdivision 4, is amended to read:

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

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

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

33.1 director shall refer the matter to the state commissioner of health, the commissioner of
33.2 human services, an appropriate prosecuting authority, or other appropriate agency.

33.3 Sec. 32. Minnesota Statutes 2016, section 144D.01, subdivision 1, is amended to read:

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

33.6 Sec. 33. Minnesota Statutes 2016, section 144D.02, is amended to read:

33.7 **144D.02 REGISTRATION REQUIRED.**

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

33.11 Sec. 34. Minnesota Statutes 2017 Supplement, section 144D.04, subdivision 2, is amended
33.12 to read:

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

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

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

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

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

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

33.27 (6) the term of the contract;

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

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

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

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

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

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

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

(14) billing and payment procedures and requirements;

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

(16) a statement regarding the availability of public funds for payment for residence or services in the establishment; ~~and~~

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

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

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

Sec. 35. Minnesota Statutes 2016, section 144D.04, is amended by adding a subdivision to read:

Subd. 2b. **Changes to contract.** The housing with services establishment must provide prompt written notice to the resident or resident's legal representative of a new owner or manager of the housing with services establishment, and the name and physical mailing address of any new or additional natural person not identified in the admission contract who is authorized to accept service of process.

35.1 Sec. 36. **[144D.041] DECEPTIVE MARKETING AND BUSINESS PRACTICES.**

35.2 Housing with services establishments are subject to the same prohibitions against
35.3 deceptive practices as are health care facilities under section 144.6511.

35.4 Sec. 37. Minnesota Statutes 2017 Supplement, section 144D.06, is amended to read:

35.5 **144D.06 OTHER LAWS.**

35.6 (a) In addition to registration under this chapter, a housing with services establishment
35.7 must comply with section 144A.44, chapter 504B₂ and the provisions of section 325F.72,
35.8 and shall obtain and maintain all other licenses, permits, registrations, or other governmental
35.9 approvals required of it. The commissioner shall enforce compliance with section 144A.44
35.10 in the manner described in section 144A.44, subdivision 3.

35.11 (b) A housing with services establishment is not required to obtain a lodging license
35.12 under chapter 157 and related rules.

35.13 Sec. 38. **[144D.091] TERMINATION OF LEASE.**

35.14 Subdivision 1. Permissible reasons to terminate a residential lease; notice required.

35.15 (a) A housing with services establishment may terminate a resident's lease only if:

35.16 (1) the resident breaches the lease and has not cured the breach within 30 days of receipt
35.17 of the notice required under subdivision 2. A breach of a services contract does not constitute
35.18 a breach of a lease;

35.19 (2) the housing with services establishment has not received payment for rent; or

35.20 (3) the housing with services establishment intends to cease operation.

35.21 (b) Prior to terminating a residential lease, a housing with services establishment must
35.22 provide a resident with at least:

35.23 (1) ten days' advance written notice of termination in cases of nonpayment of rent;

35.24 (2) 30 days' advance written notice of termination in cases of alleged breach of lease;

35.25 and

35.26 (3) 60 days' advance written notice of closure of the housing with services establishment.

35.27 (c) Notwithstanding paragraphs (a) and (b), a housing with services establishment may
35.28 immediately commence an eviction if:

35.29 (1) the alleged breach involves any of the acts enumerated under section 504B.171,
35.30 subdivision 1;

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

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

36.5 (d) Nothing in chapter 504B affects the obligations of housing with services
36.6 establishments regarding termination of a lease established under this section. Nothing in
36.7 this section affects other rights and remedies available under chapter 504B.

36.8 (e) For the purposes of this section, "termination of lease" includes the nonrenewal of
36.9 any lease, including a tenancy-at-will.

36.10 Subd. 2. **Contents of notice.** (a) The notice required under subdivision 1 must include:

36.11 (1) a detailed explanation of the reason for the termination;

36.12 (2) the date termination will occur; and

36.13 (3) the address and telephone number of the Office of Ombudsman for Long-Term Care,
36.14 the Office of Administrative Hearings, and the protection and advocacy agency.

36.15 (b) The notice must also include the following statements:

36.16 (1) that the resident has the right to request a meeting with the owner or manager of the
36.17 housing with services establishment to discuss and attempt to resolve the alleged breach to
36.18 avoid termination;

36.19 (2) that the resident has the right to appeal the termination of the lease to the Office of
36.20 Administrative Hearings;

36.21 (3) that the resident has the right to avoid termination of the lease by paying the rent in
36.22 full within ten days of receiving written notice of nonpayment; and

36.23 (4) that the resident has the right to cure the breach within 30 days of receiving written
36.24 notice of the breach.

36.25 Subd. 3. **Right to appeal termination of lease.** (a) At any time prior to the expiration
36.26 of the notice period provided under subdivision 1, a resident may appeal the termination by
36.27 making a written request for a hearing to the Office of Administrative Hearings, which must
36.28 conduct the hearing no later than 14 days after receiving the appeal request. The hearing
36.29 must be held in the establishment in which the resident resides, unless impractical or the
36.30 parties agree otherwise.

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

(c) The commissioner of health may order the housing with services establishment to rescind the lease termination or readmit the resident if:

(1) the lease termination was in violation of state or federal law; or

(2) the resident cures the alleged breach of lease or pays the rent owed on or before the date of the administrative hearing.

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

(e) Residents are not required to request a meeting as provided under subdivision 2, paragraph (b), clause (1), prior to submitting an appeal hearing request.

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

Subd. 4. Discharge plan and transfer of information to new residence. (a) Sufficiently in advance of discharging a resident, a housing with services establishment must prepare an adequate discharge plan that:

(1) is based on the resident's discharge goals;

(2) includes in discharge planning the resident, the resident's case manager, and, if any, the resident's representative;

(3) contains a plan for appropriate and sufficient postdischarge care; and

(4) proposes a safe discharge location, which does not include a private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel.

(b) A housing with services establishment may not discharge a resident if the resident will, upon discharge, become homeless, as that term is defined in section 116L.361, subdivision 5.

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

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

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

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

(3) the resident's current documented diagnoses;

(4) the resident's known allergies;

(5) the name and telephone number of the resident's physician and the current physician orders, if known;

(6) any and all medication administration records;

(7) the most recent resident assessment; and

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

(e) For the purposes of this subdivision, "discharge" means the involuntary relocation of a resident due to a termination of a lease.

Subd. 5. **Final accounting; return of money and property.** Within 30 days of the date of discharge, the housing with services establishment shall:

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

(2) provide any refunds due; and

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

EFFECTIVE DATE. This section is effective for all housing with services leases entered into or renewed on or after August 1, 2018.

Sec. 39. **[144D.095] TERMINATION OF SERVICES.**

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

Sec. 40. Minnesota Statutes 2016, section 144G.01, subdivision 1, is amended to read:

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

39.1 This section expires February 1, 2020.

39.2 Sec. 41. [144G.07] TERMINATION OF LEASE.

39.3 A lease termination initiated by a registered housing with services establishment using
39.4 "assisted living" is governed by section 144A.441 and section 144D.091.

39.5 This section expires February 1, 2020.

39.6 Sec. 42. [144G.08] TERMINATION OF SERVICES.

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

39.9 This section expires February 1, 2020.

39.10 Sec. 43. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3, is amended
39.11 to read:

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

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

39.18 (2) any patient or relative aggrieved by an order of the commissioner under section
39.19 252.27;

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

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

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

39.25 (ii) any vulnerable adult who is the subject of a maltreatment investigation under section
39.26 626.557 or an interested person as defined in section 626.5572, subdivision 12a, after the
39.27 right to administrative reconsideration under section 626.557, subdivision 9d, has been
39.28 exercised. An interested person who requests a hearing must indicate in writing that the
39.29 vulnerable adult does not object to the request, if competent to do so, and that the person is

40.1 filing the request in the person's capacity as an interested person under section 626.5572,
40.2 subdivision 12a;

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

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

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

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

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

40.15 (10) except as provided under chapter 245C, an individual disqualified under sections
40.16 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
40.17 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
40.18 individual has committed an act or acts that meet the definition of any of the crimes listed
40.19 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
40.20 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
40.21 determination under clause (4) or (9) and a disqualification under this clause in which the
40.22 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
40.23 a single fair hearing. In such cases, the scope of review by the human services judge shall
40.24 include both the maltreatment determination and the disqualification. The failure to exercise
40.25 the right to an administrative reconsideration shall not be a bar to a hearing under this section
40.26 if federal law provides an individual the right to a hearing to dispute a finding of
40.27 maltreatment;

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

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

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

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

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

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

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

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case

management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

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

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

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

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

Sec. 44. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 4, is amended to read:

Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services judge may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. A human services judge may grant a request for a hearing in person by holding the hearing by interactive video technology or

43.1 in person. The human services judge must hear the case in person if the person asserts that
43.2 either the person or a witness has a physical or mental disability that would impair the
43.3 person's or witness's ability to fully participate in a hearing held by interactive video
43.4 technology. The hearing shall not be held earlier than five days after filing of the required
43.5 notice with the county or state agency. The state human services judge shall notify all
43.6 interested persons of the time, date, and location of the hearing at least five days before the
43.7 date of the hearing. Interested persons may be represented by legal counsel or other
43.8 representative of their choice, including a provider of therapy services, at the hearing and
43.9 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
43.10 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
43.11 have the opportunity to examine the contents of the case file and all documents and records
43.12 to be used by the county or state agency at the hearing at a reasonable time before the date
43.13 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
43.14 (4), (9), and (10), either party may subpoena the private data relating to the investigation
43.15 prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible
43.16 under section 13.04, provided the identity of the reporter may not be disclosed.

43.17 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
43.18 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
43.19 for any other purpose outside the hearing provided for in this section without prior order of
43.20 the district court. Disclosure without court order is punishable by a sentence of not more
43.21 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
43.22 the use of private data do not prohibit access to the data under section 13.03, subdivision
43.23 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
43.24 request, the county agency shall provide reimbursement for transportation, child care,
43.25 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
43.26 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
43.27 evidence, except that privileged by law, commonly accepted by reasonable people in the
43.28 conduct of their affairs as having probative value with respect to the issues shall be submitted
43.29 at the hearing and such hearing shall not be "a contested case" within the meaning of section
43.30 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and
43.31 may not submit evidence after the hearing except by agreement of the parties at the hearing,
43.32 provided the petitioner has the opportunity to respond.

43.33 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
43.34 determinations of maltreatment or disqualification made by more than one county agency,
43.35 by a county agency and a state agency, or by more than one state agency, the hearings may

be consolidated into a single fair hearing upon the consent of all parties and the state human services judge.

(d) For hearings under subdivision 3, paragraph (a), clause (4), item (i), or (10), involving a vulnerable adult, the human services judge shall notify the vulnerable adult who is the subject of the maltreatment determination and an interested person, as defined in section 626.5572, subdivision 12a, if known, a guardian of the vulnerable adult appointed under section 524.5-310, or a health care agent designated by the vulnerable adult in a health care directive that is currently effective under section 145C.06 and whose authority to make health care decisions is not suspended under section 524.5-310, of the hearing. If the human services judge is not reasonably able to determine the address of the vulnerable adult or an interested person, the human services judge is not required to send a hearing notice under this paragraph. The notice must be sent by certified mail and inform the vulnerable adult of the right to file a signed written statement in the proceedings. ~~A guardian or health care agent~~ An interested person who prepares or files a written statement for the vulnerable adult must indicate in the statement that the person is ~~the vulnerable adult's guardian or health care agent~~ an interested person and sign the statement in that capacity. The vulnerable adult, ~~the guardian, or the health care agent~~ or interested person may file a written statement with the human services judge hearing the case no later than five business days before commencement of the hearing. The human services judge shall include the written statement in the hearing record and consider the statement in deciding the appeal. This ~~subdivision~~ paragraph does not limit, prevent, or excuse the vulnerable adult from being called as a witness testifying at ~~the~~ a hearing under subdivision 3, paragraph (a), clause (4), item (i), or grant the vulnerable adult, the guardian, or health care agent or interested person a right to participate in the proceedings or appeal the human services judge's decision in the case.

(e) For hearings under subdivision 3, paragraph (a), clause (4), item (ii), the human services judge shall notify any individual or facility that was the subject of the maltreatment investigation. The notice must be sent by certified mail and inform the facility or individual of the right to participate in the proceedings and appeal the human services judge's decision in the case.

(f) The lead investigative agency must consider including the vulnerable adult victim of maltreatment as a witness in ~~the~~ a hearing under subdivision 3, paragraph (a), clause (4). If the lead investigative agency determines that participation in the hearing would endanger the well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the lead investigative agency shall inform the human services judge of the basis for this determination, which must be included in the final order. ~~If the human services judge is not~~

45.1 ~~reasonably able to determine the address of the vulnerable adult, the guardian, or the health~~
45.2 ~~care agent, the human services judge is not required to send a hearing notice under this~~
45.3 ~~subdivision.~~

45.4 Sec. 45. Minnesota Statutes 2016, section 325F.71, is amended to read:

45.5 **325F.71 SENIOR CITIZENS, VULNERABLE ADULTS, AND ~~DISABLED~~**
45.6 **PERSONS WITH DISABILITIES; ADDITIONAL CIVIL PENALTY FOR**
45.7 **DECEPTIVE ACTS.**

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

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

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

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

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

45.17 Subd. 2. **Supplemental civil penalty.** (a) In addition to any liability for a civil penalty
45.18 pursuant to sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67,
45.19 regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person
45.20 who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated
45.21 against one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a disability,
45.22 is liable for an additional civil penalty not to exceed \$10,000 for each violation, if one or
45.23 more of the factors in paragraph (b) are present.

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

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

45.30 (2) whether the defendant's conduct caused one or more senior citizens, vulnerable adults,
45.31 or ~~disabled~~ persons with a disability to suffer: loss or encumbrance of a primary residence,
45.32 principal employment, or source of income; substantial loss of property set aside for

retirement or for personal or family care and maintenance; substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen, vulnerable adult, or ~~disabled~~ person with a disability;

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

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

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

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

Subd. 4. **Private remedies.** A person injured by a violation of this section may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.

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

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

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

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

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

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

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

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

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

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

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

47.20 (e) A mandated reporter who knows or has reason to believe that an error under section
47.21 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this
47.22 subdivision. If the reporter or a facility, at any time believes that an investigation by a lead
47.23 investigative agency will determine or should determine that the reported error was not
47.24 neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c),
47.25 clause (5), the reporter or facility may provide to the common entry point or directly to the
47.26 lead investigative agency information explaining how the event meets the criteria under
47.27 section 626.5572, subdivision 17, paragraph (c), clause (5). The lead investigative agency
47.28 shall consider this information when making an initial disposition of the report under
47.29 subdivision 9c.

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

47.31 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall
47.32 immediately make an oral report to the common entry point. The common entry point may
47.33 accept electronic reports submitted through a Web-based reporting system established by

the commissioner. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. The common entry point must provide a method for the reporter to electronically submit evidence to support the maltreatment report, including but not limited to uploading photographs, videos, or documents. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

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

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

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

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

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

- 49.1 (1) the time and date of the report;
- 49.2 (2) the name, address, and telephone number of the person reporting;
- 49.3 (3) the time, date, and location of the incident;
- 49.4 (4) the names of the persons involved, including but not limited to, perpetrators, alleged
- 49.5 victims, and witnesses;
- 49.6 (5) whether there was a risk of imminent danger to the alleged victim;
- 49.7 (6) a description of the suspected maltreatment;
- 49.8 (7) the disability, if any, of the alleged victim;
- 49.9 (8) the relationship of the alleged perpetrator to the alleged victim;
- 49.10 (9) whether a facility was involved and, if so, which agency licenses the facility;
- 49.11 (10) any action taken by the common entry point;
- 49.12 (11) whether law enforcement has been notified;
- 49.13 (12) whether the reporter wishes to receive notification of the initial and final reports;
- 49.14 and
- 49.15 (13) if the report is from a facility with an internal reporting procedure, the name, mailing
- 49.16 address, and telephone number of the person who initiated the report internally.
- 49.17 (c) The common entry point is not required to complete each item on the form prior to
- 49.18 dispatching the report to the appropriate lead investigative agency.
- 49.19 (d) The common entry point shall immediately report to a law enforcement agency any
- 49.20 incident in which there is reason to believe a crime has been committed.
- 49.21 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,
- 49.22 those agencies shall take the report on the appropriate common entry point intake forms
- 49.23 and immediately forward a copy to the common entry point.
- 49.24 (f) The common entry point staff must ~~receive training on how to screen and dispatch~~
- 49.25 ~~reports efficiently and in accordance with this section~~ cross-reference multiple complaints
- 49.26 to the lead investigative agency concerning:
- 49.27 (1) the same alleged perpetrator, facility, or licensee;
- 49.28 (2) the same vulnerable adult; or
- 49.29 (3) the same incident.

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

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

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

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

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

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

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

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

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

(ii) the same vulnerable adult; and

(iii) the same incident.

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

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

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

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

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

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

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

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

51.25 (b) If the lead investigative agency receiving a report believes the report was referred
51.26 by the common entry point in error, the lead investigative agency shall immediately notify
51.27 the common entry point of the error, including the basis for the lead investigative agency's
51.28 belief that the referral was made in error. The common entry point shall review the
51.29 information submitted by the lead investigative agency and immediately refer the report to
51.30 the appropriate lead investigative agency.

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

51.32 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct
51.33 investigations of any incident in which there is reason to believe a crime has been committed.

Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for emergency adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph ~~(g)~~ (k). County adult protection shall initiate a response immediately. Each lead investigative agency shall complete the investigative process for reports within its jurisdiction. A lead investigative agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate with other agencies in the provision of protective services, coordinating its investigations, and assisting another agency within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph ~~(g)~~ (k). The lead investigative agency shall obtain the results of any investigation conducted by law enforcement officials, and law enforcement shall obtain the results of any investigation conducted by the lead investigative agency to determine if criminal action is warranted. The lead investigative agency has the right to enter facilities and inspect and copy records as part of investigations. The lead investigative agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead investigative agency shall develop guidelines for prioritizing reports for investigation. Nothing in this subdivision alters the duty of the lead investigative agency to serve as the agency responsible for investigating reports made under section 626.557.

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

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

(b) Except to the extent prohibited by federal law, the lead investigative agency must provide the following information to the vulnerable adult or the vulnerable adult's interested person, if known, within five days of receipt of the report:

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

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

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

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

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

53.5 (6) confirmation of whether the lead investigative agency is investigating the matter
53.6 and, if so:

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

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

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

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

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

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

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

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

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

~~(e)~~ (g) The lead investigative agency shall complete its final disposition within 60 calendar days. If the lead investigative agency is unable to complete its final disposition within 60 calendar days, the lead investigative agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or ~~the vulnerable adult's guardian or health care agent~~ an interested person, when known, if the lead investigative agency knows them to be aware of the investigation; and (2) the facility, where applicable. The notice shall contain the reason for the delay and the projected completion date. If the lead investigative agency is unable to complete its final disposition by a subsequent projected completion date, the lead investigative agency shall again notify the vulnerable adult or ~~the vulnerable adult's guardian or health care agent~~ an interested person, when known if the lead investigative agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. The lead investigative agency must notify the health care agent of the vulnerable adult only if the health care agent's authority to make health care decisions for the vulnerable adult is currently effective ~~under section 145C.06~~ and not suspended under section 524.5-310 ~~and the investigation relates to a duty assigned to the health care agent by the principal~~. A lead investigative agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

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

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

55.1 (2) the reporter, ~~if~~ unless the reporter requested ~~notification~~ otherwise when making the

55.2 report, provided this notification would not endanger the well-being of the vulnerable adult;

55.3 (3) the alleged perpetrator, if known;

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

55.5 (5) the ombudsman for long-term care, or the ombudsman for mental health and

55.6 developmental disabilities, as appropriate;

55.7 (6) law enforcement; and

55.8 (7) the county attorney, as appropriate.

55.9 ~~(g)~~ (i) If, as a result of a reconsideration, review, or hearing, the lead investigative agency

55.10 changes the final disposition, or if a final disposition is changed on appeal, the lead

55.11 investigative agency shall notify the parties specified in paragraph ~~(f)~~ (h).

55.12 ~~(h)~~ (j) The lead investigative agency shall notify the vulnerable adult who is the subject

55.13 of the report or ~~the vulnerable adult's guardian or health care agent~~ an interested person, if

55.14 known, and any person or facility determined to have maltreated a vulnerable adult, of their

55.15 appeal or review rights under this section or section ~~256.024~~ 256.045.

55.16 ~~(i)~~ (k) The lead investigative agency shall routinely provide investigation memoranda

55.17 for substantiated reports to the appropriate licensing boards. These reports must include the

55.18 names of substantiated perpetrators. The lead investigative agency may not provide

55.19 investigative memoranda for inconclusive or false reports to the appropriate licensing boards

55.20 unless the lead investigative agency's investigation gives reason to believe that there may

55.21 have been a violation of the applicable professional practice laws. If the investigation

55.22 memorandum is provided to a licensing board, the subject of the investigation memorandum

55.23 shall be notified and receive a summary of the investigative findings.

55.24 ~~(j)~~ (l) In order to avoid duplication, licensing boards shall consider the findings of the

55.25 lead investigative agency in their investigations if they choose to investigate. This does not

55.26 preclude licensing boards from considering other information.

55.27 ~~(k)~~ (m) The lead investigative agency must provide to the commissioner of human

55.28 services its final dispositions, including the names of all substantiated perpetrators. The

55.29 commissioner of human services shall establish records to retain the names of substantiated

55.30 perpetrators.

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

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph ~~(e)~~ (d), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (d) and (e) ~~and (f)~~, if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person, including the vulnerable adult or an interested person acting on behalf of the vulnerable adult, or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. ~~The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a~~

~~reconsidered disposition.~~ The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

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

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

~~(e)~~ (d) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

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

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

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

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

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

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

~~(g)~~ (f) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

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

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

59.8 Sec. 54. Minnesota Statutes 2016, section 626.557, subdivision 9e, is amended to read:

59.9 Subd. 9e. **Education requirements.** (a) The commissioners of health, human services,
59.10 and public safety shall cooperate in the development of a joint program for education of
59.11 lead investigative agency investigators in the appropriate techniques for investigation of
59.12 complaints of maltreatment. This program must be developed by July 1, 1996. The program
59.13 must include but need not be limited to the following areas: (1) information collection and
59.14 preservation; (2) analysis of facts; (3) levels of evidence; (4) conclusions based on evidence;
59.15 (5) interviewing skills, including specialized training to interview people with unique needs;
59.16 (6) report writing; (7) coordination and referral to other necessary agencies such as law
59.17 enforcement and judicial agencies; (8) human relations and cultural diversity; (9) the
59.18 dynamics of adult abuse and neglect within family systems and the appropriate methods
59.19 for interviewing relatives in the course of the assessment or investigation; (10) the protective
59.20 social services that are available to protect alleged victims from further abuse, neglect, or
59.21 financial exploitation; (11) the methods by which lead investigative agency investigators
59.22 and law enforcement workers cooperate in conducting assessments and investigations in
59.23 order to avoid duplication of efforts; and (12) data practices laws and procedures, including
59.24 provisions for sharing data.

59.25 (b) The commissioner of human services shall conduct an outreach campaign to promote
59.26 the common entry point for reporting vulnerable adult maltreatment. This campaign shall
59.27 use the Internet and other means of communication.

59.28 (c) The commissioners of health, human services, and public safety shall offer at least
59.29 annual education to others on the requirements of this section, on how this section is
59.30 implemented, and investigation techniques.

59.31 (d) The commissioner of human services, in coordination with the commissioner of
59.32 public safety shall provide training for the common entry point staff as required in this
59.33 subdivision and the program courses described in this subdivision, at least four times per
59.34 year. At a minimum, the training shall be held twice annually in the seven-county

metropolitan area and twice annually outside the seven-county metropolitan area. The commissioners shall give priority in the program areas cited in paragraph (a) to persons currently performing assessments and investigations pursuant to this section.

(e) The commissioner of public safety shall notify in writing law enforcement personnel of any new requirements under this section. The commissioner of public safety shall conduct regional training for law enforcement personnel regarding their responsibility under this section.

(f) Each lead investigative agency investigator must complete the education program specified by this subdivision within the first 12 months of work as a lead investigative agency investigator.

A lead investigative agency investigator employed when these requirements take effect must complete the program within the first year after training is available or as soon as training is available.

All lead investigative agency investigators having responsibility for investigation duties under this section must receive a minimum of eight hours of continuing education or in-service training each year specific to their duties under this section.

(g) The commissioners of health and human services shall develop and maintain written guidance for facilities that explains and illustrates the reporting requirements under this section; the guidance shall also explain and illustrate the reporting requirements under Code of Federal Regulations, title 42, section 483.12(c), for the benefit of facilities subject to those requirements.

Sec. 55. Minnesota Statutes 2016, section 626.557, subdivision 10b, is amended to read:

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

(1) interview of the alleged victim;

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

(3) interview of the alleged perpetrator;

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

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

(6) consultation with professionals.

61.1 (b) The lead investigator must contact the alleged victim or, if known, an interested
 61.2 person, within five days after initiation of an investigation to provide the investigator's name
 61.3 and contact information, and communicate with the alleged victim or interested person
 61.4 approximately every three weeks during the course of the investigation.

61.5 Sec. 56. Minnesota Statutes 2016, section 626.557, subdivision 12b, is amended to read:

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

61.13 (b) Data maintained by the common entry point are ~~confidential~~ private data on
 61.14 individuals or protected nonpublic data as defined in section 13.02, provided that the name
 61.15 of the reporter is confidential data on individuals. Notwithstanding section 138.163, the
 61.16 common entry point shall maintain data for three calendar years after date of receipt and
 61.17 then destroy the data unless otherwise directed by federal requirements.

61.18 ~~(b)~~ (c) The commissioners of health and human services shall prepare an investigation
 61.19 memorandum for each report alleging maltreatment investigated under this section. County
 61.20 social service agencies must maintain private data on individuals but are not required to
 61.21 prepare an investigation memorandum. During an investigation by the commissioner of
 61.22 health or the commissioner of human services, data collected under this section are
 61.23 confidential data on individuals or protected nonpublic data as defined in section 13.02,
 61.24 provided that data, other than data on the reporter, may be shared with the vulnerable adult
 61.25 or an interested person if the lead investigative agency determines that sharing of the data
 61.26 is needed to protect the vulnerable adult. Upon completion of the investigation, the data are
 61.27 classified as provided in ~~clauses (1) to (3) and paragraph (e)~~ paragraphs (d) to (g).

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

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

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

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

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

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

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

62.4 ~~(vii)~~ (7) a statement of any action taken by the facility;

62.5 ~~(viii)~~ (8) a statement of any action taken by the lead investigative agency; and

62.6 ~~(ix)~~ (9) when a lead investigative agency's determination has substantiated maltreatment,
62.7 a statement of whether an individual, individuals, or a facility were responsible for the
62.8 substantiated maltreatment, if known.

62.9 The investigation memorandum must be written in a manner which protects the identity
62.10 of the reporter and of the vulnerable adult and may not contain the names or, to the extent
62.11 possible, data on individuals or private data or individuals listed in ~~clause (2)~~ paragraph (e).

62.12 ~~(2)~~ (e) Data on individuals collected and maintained in the investigation memorandum
62.13 are private data on individuals, including:

62.14 ~~(i)~~ (1) the name of the vulnerable adult;

62.15 ~~(ii)~~ (2) the identity of the individual alleged to be the perpetrator;

62.16 ~~(iii)~~ (3) the identity of the individual substantiated as the perpetrator; and

62.17 ~~(iv)~~ (4) the identity of all individuals interviewed as part of the investigation.

62.18 ~~(3)~~ (f) Other data on individuals maintained as part of an investigation under this section
62.19 are private data on individuals upon completion of the investigation.

62.20 ~~(e)~~ (g) After the assessment or investigation is completed, the name of the reporter must
62.21 be confidential, except:

62.22 (1) the subject of the report may compel disclosure of the name of the reporter only with
62.23 the consent of the reporter ~~or~~;

62.24 (2) upon a written finding by a court that the report was false and there is evidence that
62.25 the report was made in bad faith; or

62.26 (3) the mandated reporter may disclose that the individual was the reporter to support a
62.27 claim of retaliation that is prohibited under section 144.651, subdivision 34, or 626.557,
62.28 subdivisions 4a and 17, or other law.

62.29 This subdivision does not alter disclosure responsibilities or obligations under the Rules
62.30 of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal

63.1 prosecution, the district court shall do an in-camera review prior to determining whether to
63.2 order disclosure of the identity of the reporter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64.1 ~~(g)~~ (k) Lead investigative agencies, prosecuting authorities, and law enforcement agencies
64.2 may exchange not public data, as defined in section 13.02, if the agency or authority
64.3 requesting the data determines that the data are pertinent and necessary to the requesting
64.4 agency in initiating, furthering, or completing an investigation under this section. Data
64.5 collected under this section must be made available to prosecuting authorities and law
64.6 enforcement officials, local county agencies, and licensing agencies investigating the alleged
64.7 maltreatment under this section. ~~The lead investigative agency shall exchange not public~~
64.8 ~~data with the vulnerable adult maltreatment review panel established in section 256.021 if~~
64.9 ~~the data are pertinent and necessary for a review requested under that section.~~
64.10 Notwithstanding section 138.17, upon completion of the review, not public data received
64.11 by the review panel must be destroyed.

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

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

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

64.24 Sec. 57. Minnesota Statutes 2016, section 626.557, subdivision 14, is amended to read:

64.25 Subd. 14. **Abuse prevention plans.** (a) Each facility, except home health agencies and
64.26 personal care attendant services providers assistance provider agencies, shall establish and
64.27 enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of
64.28 the physical plant, its environment, and its population identifying factors which may
64.29 encourage or permit abuse, and a statement of specific measures to be taken to minimize
64.30 the risk of abuse. The plan shall comply with any rules governing the plan promulgated by
64.31 the licensing agency.

64.32 (b) Each facility, including a home health care agency and personal care attendant
64.33 services providers, shall develop an individual abuse prevention plan for each vulnerable
64.34 adult residing there or receiving services from them. The plan shall contain an individualized

assessment of: (1) the person's susceptibility to abuse by other individuals, including other vulnerable adults; (2) the person's risk of abusing other vulnerable adults; and (3) statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For the purposes of this paragraph, the term "abuse" includes self-abuse.

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

(d) The commissioner of health must issue a correction order and may impose an immediate fine in an amount equal to the amount listed in Minnesota Rules, part 4658.0193, item E, upon a finding that the facility has failed to comply with this subdivision.

Sec. 58. Minnesota Statutes 2016, section 626.557, subdivision 17, is amended to read:

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

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

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

- 66.1 (1) discharge or transfer from the facility;
- 66.2 (2) discharge from or termination of employment;
- 66.3 (3) demotion or reduction in remuneration for services;
- 66.4 (4) restriction or prohibition of access of the vulnerable adult to the facility or its residents;
- 66.5 ~~or~~
- 66.6 (5) any restriction of rights set forth in section 144.651-, 144A.44, or 144A.441;
- 66.7 (6) any restriction of access to or use of amenities or services;
- 66.8 (7) termination of services or lease agreement;
- 66.9 (8) sudden increase in costs for services not already contemplated at the time of the
- 66.10 maltreatment report;
- 66.11 (9) deprivation of technology, communication, or electronic monitoring devices; and
- 66.12 (10) filing a maltreatment report in bad faith against the reporter; or
- 66.13 (11) oral or written communication of false information about the reporter.

66.14 Sec. 59. Minnesota Statutes 2016, section 626.5572, subdivision 6, is amended to read:

66.15 Subd. 6. **Facility.** (a) "Facility" means:

- 66.16 (1) a hospital or other entity required to be licensed under sections 144.50 to 144.58;
- 66.17 (2) a nursing home required to be licensed to serve adults under section 144A.02;
- 66.18 (3) a facility or service required to be licensed under chapter 245A;
- 66.19 (4) a home care provider licensed or required to be licensed under sections 144A.43 to
- 66.20 144A.482;
- 66.21 (5) a hospice provider licensed under sections 144A.75 to 144A.755;
- 66.22 (6) a housing with services establishment registered under chapter 144D, including an
- 66.23 entity operating under chapter 144G, assisted living title protection; or
- 66.24 (7) a person or organization that offers, provides, or arranges for personal care assistance
- 66.25 services under the medical assistance program as authorized under sections 256B.0625,
- 66.26 subdivision 19a, 256B.0651 to 256B.0654, 256B.0659, or 256B.85.

66.27 (b) For personal care assistance services identified in paragraph (a), clause (7), that are

66.28 provided in the vulnerable adult's own home or in another unlicensed location other than

66.29 an unlicensed setting listed in paragraph (a), the term "facility" refers to the provider, person,

67.1 or organization that offers, provides, or arranges for personal care assistance services, and
67.2 does not refer to the vulnerable adult's home or other location at which services are rendered.

67.3 Sec. 60. Minnesota Statutes 2016, section 626.5572, is amended by adding a subdivision
67.4 to read:

67.5 Subd. 12a. **Interested person.** "Interested person" means:

67.6 (1) a court-appointed guardian or conservator or other person designated in writing by
67.7 the vulnerable adult, including a nominated guardian or conservator, to act on behalf of the
67.8 vulnerable adult;

67.9 (2) a proxy or health care agent appointed under chapter 145B or 145C or similar law
67.10 of another state, provided that the authority of the proxy or health care agent is currently
67.11 effective under section 145C.06 or similar law; or

67.12 (3) a spouse, parent, adult child and siblings, or next of kin of the vulnerable adult.

67.13 Interested person does not include a person whose authority has been restricted by the
67.14 vulnerable adult or by a court or who is the alleged or substantiated perpetrator of
67.15 maltreatment of the vulnerable adult.

67.16 Sec. 61. **ASSISTED LIVING LICENSURE AND DEMENTIA CARE TASK FORCE.**

67.17 Subdivision 1. **Creation.** (a) The Assisted Living Licensure and Dementia Care Task
67.18 Force consists of 14 members, including the following:

67.19 (1) one senator appointed by the majority leader;

67.20 (2) one senator appointed by the minority leader;

67.21 (3) one member of the house of representatives appointed by the speaker of the house;

67.22 (4) one member of the house of representatives appointed by the minority leader;

67.23 (5) the ombudsman for long-term care or a designee;

67.24 (6) the ombudsman for mental health and developmental disabilities or a designee;

67.25 (7) one member appointed by ARRM;

67.26 (8) one member appointed by AARP Minnesota;

67.27 (9) one member appointed by the Alzheimer's Association Minnesota-North Dakota

67.28 Chapter;

67.29 (10) one member appointed by Elder Voice Family Advocates;

68.1 (11) one member appointed by Minnesota Elder Justice Center;

68.2 (12) one member appointed by Care Providers of Minnesota;

68.3 (13) one member appointed by LeadingAge Minnesota; and

68.4 (14) one member appointed by Minnesota HomeCare Association.

68.5 (b) The appointing authorities must appoint members by July 1, 2018.

68.6 (c) The ombudsman for long-term care or a designee shall act as chair of the task force
68.7 and convene the first meeting no later than August 1, 2018.

68.8 Subd. 2. **Legislative report on assisted living licensure and dementia care.** (a) The
68.9 task force shall review existing state and federal laws and existing oversight of assisted
68.10 living and providers serving people with dementia, and report to the legislature about the
68.11 regulatory gaps requiring improved state regulation and oversight to protect the health and
68.12 safety of vulnerable adults.

68.13 (b) By January 1, 2019, the task force shall present recommendations regarding:

68.14 (1) an assisted living license as defined in section 62, subdivision 1;

68.15 (2) regulation and fine structure for licensed assisted living;

68.16 (3) dementia care core criteria and dementia care unit certification;

68.17 (4) serving residents on medical assistance elderly waiver and other waiver programs;

68.18 (5) licensing of executive directors and administrators for assisted living;

68.19 (6) all items listed in expedited rulemaking under section 62, subdivision 2; and

68.20 (7) the exclusion of providers and facilities currently licensed by the Department of
68.21 Human Services from the requirements of the new assisted living license.

68.22 Subd. 3. **Administration.** (a) The task force must meet at least monthly.

68.23 (b) The commissioner of health shall provide meeting space and administrative support
68.24 for the task force.

68.25 (c) The commissioner of health and the commissioner of human services shall provide
68.26 technical assistance to the task force.

68.27 (d) Public members of the task force may be compensated as described in Minnesota
68.28 Statutes, section 15.059, subdivision 3.

68.29 (e) A quorum is not required in order for the task force to meet or take testimony, but a
68.30 quorum of 50 percent plus one member is required to make recommendations.

69.1 Subd. 4. **Expiration.** The task force expires on December 31, 2019.

69.2 Sec. 62. **ASSISTED LIVING LICENSURE AND DEMENTIA CARE**
69.3 **CERTIFICATION.**

69.4 Subdivision 1. **Definitions.** (a) "Assisted living license" means a single license covering
69.5 the provision of health and supportive services and housing provided in a multiunit residential
69.6 dwelling.

69.7 (b) "Assisted living" means any multiunit residential dwelling, as defined by Minnesota
69.8 Statutes, section 144D.01, subdivision 4, paragraph (a), clause (1), where health-related and
69.9 supportive services in combination with housing are provided to adults.

69.10 (c) "Dementia care units" means a setting that provides services to persons with dementia
69.11 in a secured unit or those settings that are required to disclose the special care status as
69.12 provided in Minnesota Statutes, section 325F.72.

69.13 (d) "Multiunit residential dwelling" means a residential dwelling containing two or more
69.14 units intended for use as a residence.

69.15 Subd. 2. **Rulemaking.** (a) If the assisted living licensure and dementia care certification
69.16 law is not enacted within 14 days following adjournment of the 2019 regular legislative
69.17 session, the commissioner of health shall adopt rules for assisted living licensure and
69.18 dementia care unit certification, which conform as much as possible with the
69.19 recommendations proposed by the Assisted Living Licensure and Dementia Care Task
69.20 Force.

69.21 (b) The rules may include, but are not limited to, the following:

69.22 (1) building design and physical plant;

69.23 (2) environmental health and safety;

69.24 (3) staffing and other standards of care, as appropriate, based on the acuity level of
69.25 residents and the needs of persons with dementia;

69.26 (4) nutrition and dietary services;

69.27 (5) support services, social work, transportation, and quality of life;

69.28 (6) staffing requirements and number of residents;

69.29 (7) training and background checks for personnel;

69.30 (8) a single contract for both housing and services that complies with Minnesota Statutes,
69.31 chapter 504B;

(9) discharge criteria, including discharge planning to a safe location and appeal rights reflecting the requirements of Minnesota Statutes, sections 144D.09, 144D.095, 144G.07, and 144G.08;

(10) required notices and disclosures;

(11) establishing resident and family councils;

(12) minimum requirements for all applications;

(13) requirements that support assisted living providers to comply with home and community-based settings requirements set forth in Code of Federal Regulations, title 42, section 441.301(c);

(14) core dementia care criteria across all settings;

(15) care and health services, including coordination of care;

(16) admission criteria and assessments; and

(17) safety criteria.

(c) The rules adopted by the commissioner under this subdivision shall be effective on February 1, 2020, unless the legislature by law provides otherwise.

(d) After February 1, 2020, no one shall offer, advertise, or use the term "memory care unit" or "dementia care units" in a multiunit residential dwelling, without first obtaining the dementia care unit certification required by the rules.

(e) After February 1, 2020, no one shall provide assisted living without first obtaining the license required by this section.

(f) After February 1, 2020, a home care provider licensed under Minnesota Statutes, chapter 144A, may not provide home care services in an assisted living setting that lacks the license required by this section.

(g) Nothing in this section is intended to modify the home care licensure required by Minnesota Statutes, chapter 144A, for providers serving consumers outside of assisted living settings.

(h) Nothing in this section is intended to modify the registration requirements for housing with services established under Minnesota Statutes, chapter 144D, for a housing with services establishment that is not assisted living.

Subd. 3. **Collaboration and consultation.** In developing the rules for the assisted living licensure and dementia care certification, the commissioner must:

71.1 (1) continue to engage and consult with the Assisted Living Licensure and Dementia
71.2 Care Task Force;

71.3 (2) review and evaluate other states' licensing systems related to assisted living;

71.4 (3) solicit public comment on the proposed rules through a comment period of no less
71.5 than 60 days; and

71.6 (4) consult with the commissioner of human services regarding:

71.7 (i) federal home and community-based service requirements necessary to preserve access
71.8 to assisted living care and services for individuals who receive medical assistance-funded
71.9 home and community-based services under Minnesota Statutes, sections 256B.0915 and
71.10 256B.49; and

71.11 (ii) consideration of changes by the commissioner of human services to the medical
71.12 assistance elderly, community access for disability and inclusion, and brain injury waiver
71.13 plans to ensure alignment with assisted living licensure standards.

71.14 Subd. 4. **Exceptions.** The commissioner's rules shall exclude providers and facilities
71.15 currently licensed by the Department of Human Services from the requirements of the new
71.16 assisted living license.

71.17 Subd. 5. **Fees; application; change of ownership; renewal.** (a) An initial applicant
71.18 seeking an assisted living license must submit an initial fee of \$6,275 to the commissioner,
71.19 along with a completed application.

71.20 (b) An assisted living provider who is filing a change of ownership must submit a fee
71.21 of \$7,750 to the commissioner, along with the documentation required for the change of
71.22 ownership.

71.23 (c) An assisted living provider who is seeking to renew the provider's license shall pay
71.24 a fee of \$7,750 to the commissioner.

71.25 **EFFECTIVE DATE.** This section is effective July 1, 2018. Rulemaking authority under
71.26 this section is not continuing authority to amend or repeal rules. Any additional action or
71.27 rules after adoption must be under specific authority to take the additional action.

71.28 Sec. 63. **ASSISTED LIVING REPORT CARD WORKING GROUP.**

71.29 Subdivision 1. **Creation.** (a) The Assisted Living Report Card Working Group consists
71.30 of the following 16 members:

- 72.1 (1) two residents of senior housing with services establishments appointed by the
 72.2 commissioner of health;
- 72.3 (2) four providers from the senior housing with services profession appointed by the
 72.4 commissioner of health;
- 72.5 (3) two family members of residents of senior housing with services establishments
 72.6 appointed by the commissioner of health;
- 72.7 (4) a representative from the University of Minnesota with expertise in data and analytics
 72.8 appointed by the commissioner of health;
- 72.9 (5) one member appointed by the Home Care and Assisted Living Advisory Council;
- 72.10 (6) one member appointed by Care Providers of Minnesota;
- 72.11 (7) one member appointed by LeadingAge Minnesota;
- 72.12 (8) the commissioner of human services or a designee;
- 72.13 (9) the commissioner of health or a designee;
- 72.14 (10) the ombudsman for long-term care or a designee; and
- 72.15 (11) one member of the Minnesota Board on Aging, selected by the board.
- 72.16 (b) The executive director of the Minnesota Board on Aging serves on the working group
 72.17 as a nonvoting member.
- 72.18 (c) The appointing authorities must complete their appointments no later than July 1,
 72.19 2018.
- 72.20 (d) The working group shall elect a chair from among its members at its first meeting.
- 72.21 Subd. 2. **Duties; recommendations and report.** (a) The working group shall consider
 72.22 and make recommendations on the development of an assisted living report card. The quality
 72.23 metrics considered shall include, but are not limited to:
- 72.24 (1) an annual customer satisfaction survey measure using the consolidated criteria for
 72.25 reporting qualitative research (COREQ) questions for assisted living residents and family
 72.26 members;
- 72.27 (2) a measure utilizing Level 3 or 4 citations from Department of Health home care
 72.28 survey findings and substantiated maltreatment findings against a home care agency or
 72.29 housing with services establishment;
- 72.30 (3) a home care and housing with services staff retention measure; and

73.1 (4) a measure that scores a home care provider's and housing with services establishment's
73.2 staff according to their level of training and education.

73.3 (b) By January 15, 2019, the working group must report on its findings and
73.4 recommendations to the chairs and ranking minority members of the legislative committees
73.5 with jurisdiction over health and human services policy and finance. The working group's
73.6 report shall include draft legislation to implement changes to statute it recommends.

73.7 Subd. 3. **Administrative provisions.** (a) The commissioner of health shall provide
73.8 meeting support and administrative support for the working group.

73.9 (b) The commissioners of health and human services shall provide technical assistance
73.10 to the assisted living report card working group.

73.11 (c) The meetings of the assisted living report card working group shall be open to the
73.12 public.

73.13 Subd. 4. **Expiration.** The working group expires May 20, 2019, or the day after
73.14 submitting the report required by this section, whichever is later.

73.15 Sec. 64. **CRIMES AGAINST VULNERABLE ADULTS ADVISORY TASK FORCE.**

73.16 Subdivision 1. **Task force established; membership.** (a) The Crimes Against Vulnerable
73.17 Adults Advisory Task Force consists of the following members:

73.18 (1) the commissioner of public safety or a designee;

73.19 (2) the commissioner of human services or a designee;

73.20 (3) the commissioner of health or a designee;

73.21 (4) the attorney general or a designee;

73.22 (5) a representative from the Minnesota Bar Association;

73.23 (6) a representative from the Minnesota judicial branch;

73.24 (7) one member appointed by the Minnesota County Attorneys Association;

73.25 (8) one member appointed by the Minnesota Association of City Attorneys;

73.26 (9) one member appointed by the Minnesota Elder Justice Center;

73.27 (10) one member appointed by the Minnesota Home Care Association;

73.28 (11) one member appointed by Care Providers of Minnesota;

73.29 (12) one member appointed by LeadingAge Minnesota;

74.1 (13) one member appointed by AARP Minnesota; and

74.2 (14) one representative from a union that represents persons working in long-term care
74.3 settings.

74.4 (b) The advisory task force may appoint additional members that it deems would be
74.5 helpful in carrying out its duties under subdivision 2.

74.6 (c) The appointing authorities must complete the appointments listed in paragraph (a)
74.7 by July 1, 2018.

74.8 (d) At its first meeting, the task force shall elect a chair from among the members listed
74.9 in paragraph (a).

74.10 Subd. 2. **Duties; recommendations and report.** (a) The advisory task force's duties
74.11 are to review and evaluate laws relating to crimes against vulnerable adults, and any other
74.12 information the task force deems relevant.

74.13 (b) By December 1, 2018, the advisory task force shall submit a report to the chairs and
74.14 ranking minority members of the legislative committees with primary jurisdiction over
74.15 health and human services and criminal policy. The report must contain the task force's
74.16 findings and recommendations, including discussion of the benefits and problems associated
74.17 with proposed changes. The report must include draft legislation to implement any
74.18 recommended changes to statute.

74.19 Subd. 3. **Administrative provisions.** (a) The commissioner of human services shall
74.20 provide meeting space and administrative support to the advisory task force.

74.21 (b) The commissioners of human services and health and the attorney general shall
74.22 provide technical assistance to the advisory task force.

74.23 (c) Advisory task force members shall serve without compensation and shall not be
74.24 reimbursed for expenses.

74.25 Subd. 4. **Expiration.** The advisory task force expires on May 20, 2019.

74.26 Sec. 65. **STUDY AND REPORT ON HOME CARE NURSING WORKFORCE**
74.27 **SHORTAGE.**

74.28 (a) The chair and ranking minority member of the senate Human Services Reform
74.29 Finance and Policy Committee and the chair and ranking minority member of the house of
74.30 representatives Health and Human Services Finance Committee shall convene a working
74.31 group to study and report on the shortage of registered nurses and licensed practical nurses
74.32 available to provide low-complexity regular home care services to clients in need of these

75.1 services, especially clients covered by medical assistance, and to provide recommendations
75.2 for ways to address the workforce shortage. The working group shall consist of 14 members
75.3 appointed as follows:

75.4 (1) the chair of the senate Human Services Reform Finance and Policy Committee or a
75.5 designee;

75.6 (2) the ranking minority member of the senate Human Services Reform Finance and
75.7 Policy Committee or a designee;

75.8 (3) the chair of the house of representatives Health and Human Services Finance
75.9 Committee or a designee;

75.10 (4) the ranking minority member of the house of representatives Health and Human
75.11 Services Finance Committee or a designee;

75.12 (5) the commissioner of human services or a designee;

75.13 (6) the commissioner of health or a designee;

75.14 (7) one representative appointed by the Professional Home Care Coalition;

75.15 (8) one representative appointed by the Minnesota Home Care Association;

75.16 (9) one representative appointed by the Minnesota Board of Nursing;

75.17 (10) one representative appointed by the Minnesota Nurses Association;

75.18 (11) one representative appointed by the Minnesota Licensed Practical Nurses
75.19 Association;

75.20 (12) one representative appointed by the Minnesota Society of Medical Assistants;

75.21 (13) one client who receives regular home care nursing services and is covered by medical
75.22 assistance appointed by the commissioner of human services after consulting with the
75.23 appointing authorities identified in clauses (7) to (12); and

75.24 (14) one assessor appointed by the commissioner of human services.

75.25 The assessor must be certified under Minnesota Statutes, section 256B.0911, and must be
75.26 a registered nurse.

75.27 (b) The appointing authorities must appoint members by August 15, 2018.

75.28 (c) The convening authorities shall convene the first meeting of the working group no
75.29 later than September 1, 2018, and caucus staff shall provide support and meeting space for
75.30 the working group. The Department of Health and the Department of Human Services shall

provide technical assistance to the working group by providing existing data and analysis documenting the current and projected workforce shortages in the area of regular home care nursing. The Home Care and Assisted Living Program Advisory Council established under Minnesota Statutes, section 144A.4799, shall provide advice and recommendations to the working group. Working group members shall serve without compensation and shall not be reimbursed for expenses.

(d) The working group shall:

(1) quantify the number of low-complexity regular home care nursing hours that are authorized but not provided to clients covered by medical assistance, due to the shortage of registered nurses and licensed practical nurses available to provide these home care services;

(2) quantify the current and projected workforce shortages of registered nurses and licensed practical nurses available to provide low-complexity regular home care nursing services to clients, especially clients covered by medical assistance;

(3) develop recommendations for actions to take in the next two years to address the regular home care nursing workforce shortage, including identifying other health care professionals who may be able to provide low-complexity regular home care nursing services with additional training; what additional training may be necessary for these health care professionals; and how to address scope of practice and licensing issues;

(4) compile reimbursement rates for regular home care nursing from other states and determine Minnesota's national ranking with respect to reimbursement for regular home care nursing;

(5) determine whether reimbursement rates for regular home care nursing fully reimburse providers for the cost of providing the service and whether the discrepancy, if any, between rates and costs contributes to lack of access to regular home care nursing; and

(6) by January 15, 2019, report on the findings and recommendations of the working group to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

The working group's report shall include draft legislation.

(e) The working group shall elect a chair from among its members at its first meeting.

(f) The meetings of the working group shall be open to the public.

77.1 (g) This section expires January 16, 2019, or the day after submitting the report required
77.2 by this section, whichever is earlier.

77.3 Sec. 66. **DIRECTION TO COMMISSIONER.**

77.4 By March 1, 2019, the commissioner of health must issue a report to the chairs and
77.5 ranking minority members of the legislative committees with jurisdiction over health, human
77.6 services, or aging on the progress toward implementing each recommendation of the Office
77.7 of the Legislative Auditor with which the commissioner agreed in the commissioner's letter
77.8 to the legislative auditor dated March 1, 2018. The commissioner shall include in the report
77.9 existing data collected in the course of the commissioner's continuing oversight of the Office
77.10 of Health Facility Complaints sufficient to demonstrate the implementation of the
77.11 recommendations with which the commissioner agreed.

77.12 Sec. 67. **DIRECTION TO COMMISSIONER.**

77.13 On a quarterly basis until January 2021, and annually thereafter, the commissioner of
77.14 health must submit a report on the Office of Health Facility Complaints' response to
77.15 allegations of maltreatment of vulnerable adults. The report must include:

77.16 (1) a description and assessment of the office's efforts to improve its internal processes
77.17 and compliance with federal and state requirements concerning allegations of maltreatment
77.18 of vulnerable adults, including any relevant timelines;

77.19 (2) the number of reports received by the type of reporter, the number of reports
77.20 investigated, the percentage and number of reported cases awaiting triage, the number and
77.21 percentage of open investigations, and the number and percentage of investigations that
77.22 have failed to meet state or federal timelines by cause of delay;

77.23 (3) a trend analysis of internal audits conducted by the office; and

77.24 (4) trends and patterns in maltreatment of vulnerable adults, licensing violations by
77.25 facilities or providers serving vulnerable adults, and other metrics as determined by the
77.26 commissioner.

77.27 Sec. 68. **DIRECTION TO COMMISSIONER.**

77.28 The commissioner of health must post every substantiated report of maltreatment of a
77.29 vulnerable adult at the Web site of the Office of Health Facility Complaints.

78.1 Sec. 69. **APPROPRIATION.**

78.2 \$..... in fiscal year 2019 is appropriated from the general fund to the commissioner of
78.3 health for contingent development and implementation of the assisted living licensure and
78.4 dementia care certification rules described in section 62. The base includes \$..... in fiscal
78.5 year 2020 and \$0 in fiscal year 2021 for this purpose.

78.6 Sec. 70. **BASE ADJUSTMENT.**

78.7 The state government special revenue fund base for the commissioner of health includes
78.8 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 for contingent administration of the
78.9 assisted living licensure and dementia care certification rules described in section 62.

78.10 Sec. 71. **APPROPRIATION.**

78.11 \$75,000 in fiscal year 2019 is appropriated from the general fund to the commissioner
78.12 of health for the Assisted Living Report Card Working Group described in section 63.

78.13 Sec. 72. **APPROPRIATION.**

78.14 \$75,000 in fiscal year 2019 is appropriated from the general fund to the commissioner
78.15 of human services for the Crimes Against Vulnerable Adults Advisory Task Force described
78.16 in section 64.

78.17 Sec. 73. **APPROPRIATION.**

78.18 \$..... in fiscal year 2019 is appropriated from the general fund to the commissioner of
78.19 health for needed technological upgrades at the Office of Health Facility Complaints, to be
78.20 available until June 30, 2022. This is a onetime appropriation. The commissioner may not
78.21 transfer this appropriation or use the appropriated funds for any other purpose.

78.22 Sec. 74. **APPROPRIATION.**

78.23 \$..... in fiscal year 2019 is appropriated from the general fund to the commissioner of
78.24 health for the Assisted Living Licensure and Dementia Care Task Force described in section
78.25 61. The general fund base includes \$..... in fiscal year 2020 and \$0 in fiscal year 2021 for
78.26 this purpose.

78.27 Sec. 75. **REPEALER.**

78.28 (a) Minnesota Statutes 2016, sections 144D.09; and 256.021, are repealed.

79.1 (b) Minnesota Statutes 2016, sections 144G.02; 144G.03; 144G.04; 144G.05; and
79.2 144G.06, are repealed effective February 1, 2020.

79.3 **ARTICLE 2**

79.4 **FINANCIAL EXPLOITATION PROTECTIONS**

79.5 Section 1. **[45A.01] DEFINITIONS.**

79.6 Subdivision 1. **Scope and application.** For purposes of this chapter, the terms in this
79.7 section have the meanings given them.

79.8 Subd. 2. **Broker-dealer.** "Broker-dealer" has the meaning given in section 80A.41.

79.9 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

79.10 Subd. 4. **Common entry point.** "Common entry point" has the meaning given in section
79.11 626.5572, subdivision 5.

79.12 Subd. 5. **Eligible adult.** "Eligible adult" means:

79.13 (1) a person 65 years of age or older; or

79.14 (2) a person subject to section 626.5572, subdivision 21.

79.15 Subd. 6. **Financial exploitation.** "Financial exploitation" means:

79.16 (1) the wrongful or unauthorized taking, withholding, appropriation, expenditure, or use
79.17 of money, assets, or property of an eligible adult; or

79.18 (2) an act or omission taken by a person, including through the use of a power of attorney,
79.19 guardianship, trustee, or conservatorship of an eligible adult, to:

79.20 (i) obtain control, through deception, intimidation, or undue influence, over the eligible
79.21 adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit,
79.22 or possession of the eligible adult's money, assets, or property; or

79.23 (ii) convert money, assets, or property of the eligible adult to deprive the eligible adult
79.24 of the ownership, use, benefit, or possession of the eligible adult's money, assets, or property.

79.25 Subd. 7. **Investment adviser.** "Investment adviser" has the meaning given in section
79.26 80A.41.

79.27 Subd. 8. **Lead investigative agency.** "Lead investigative agency" has the meaning given
79.28 in section 626.5572, subdivision 13.

80.1 Sec. 2. **[45A.02] GOVERNMENTAL DISCLOSURES.**

80.2 If a broker-dealer or investment adviser reasonably believes that financial exploitation
80.3 of an eligible adult may have occurred, may have been attempted, or is being attempted,
80.4 the broker-dealer or investment adviser may promptly notify the commissioner and the
80.5 common entry point.

80.6 Sec. 3. **[45A.03] IMMUNITY FOR GOVERNMENTAL DISCLOSURES.**

80.7 A broker-dealer or investment adviser who, in good faith, makes a disclosure of
80.8 information pursuant to section 45A.02, cooperates with a civil or criminal investigation of
80.9 financial exploitation of an eligible adult, or testifies about alleged financial exploitation
80.10 of an eligible adult in a judicial or administrative proceeding is immune from administrative
80.11 or civil liability that might otherwise arise from the disclosure or testimony or for failure
80.12 to notify the customer of the disclosure or testimony.

80.13 Sec. 4. **[45A.04] THIRD-PARTY DISCLOSURES.**

80.14 If a broker-dealer or investment adviser reasonably believes that financial exploitation
80.15 of an eligible adult may have occurred, may have been attempted, or is being attempted, a
80.16 broker-dealer or investment adviser may notify a third party reasonably associated with the
80.17 eligible adult or any other person permitted under state or federal law or rule, rules of a
80.18 self-regulating organization, or customer agreement. Disclosure may not be made to a third
80.19 party that is suspected of financial exploitation or other abuse of the eligible adult.

80.20 Sec. 5. **[45A.05] IMMUNITY FOR THIRD-PARTY DISCLOSURES.**

80.21 A broker-dealer or investment adviser who, in good faith, complies with section 45A.04
80.22 is immune from administrative or civil liability that might otherwise arise from the disclosure.

80.23 Sec. 6. **[45A.06] DELAYING DISBURSEMENTS.**

80.24 (a) A broker-dealer or investment adviser shall delay a disbursement from or place a
80.25 hold on a transaction involving an account of an eligible adult or an account on which an
80.26 eligible adult is a beneficiary if the commissioner of commerce, law enforcement agency,
80.27 or the prosecuting attorney's office provides information to the broker-dealer or investment
80.28 adviser demonstrating that it is reasonable to believe that financial exploitation of an eligible
80.29 adult may have occurred, may have been attempted, or is being attempted. A broker-dealer
80.30 or investment adviser may delay a disbursement from or place a hold on a transaction

81.1 involving an account of an eligible adult or an account on which an eligible adult is a
81.2 beneficiary if:

81.3 (1) the broker-dealer or investment adviser reasonably believes, after initiating an internal
81.4 review of the requested disbursement or transaction and the suspected financial exploitation,
81.5 that the requested disbursement or transaction may result in financial exploitation of an
81.6 eligible adult; and

81.7 (2) the broker-dealer or investment adviser:

81.8 (i) immediately, but in no event more than two business days after the delayed
81.9 disbursement or transaction, provides written notification of the delay or hold and the reason
81.10 for the delay or hold to all parties authorized to transact business on the account, unless the
81.11 party is reasonably believed to have engaged in suspected or attempted financial exploitation
81.12 of the eligible adult;

81.13 (ii) immediately, but in no event more than two business days after the delayed
81.14 disbursement or transaction, notifies the commissioner and the common entry point; and

81.15 (iii) provides documentation and updates of any internal review conducted by the
81.16 broker-dealer or investment adviser upon request of the commissioner, lead investigative
81.17 agency, law enforcement agency, or the prosecuting attorney's office.

81.18 (b) A delay of a disbursement or hold on a transaction as authorized by this section
81.19 expires upon the sooner of:

81.20 (1) a determination by the broker-dealer or investment adviser that the disbursement or
81.21 transaction will not result in financial exploitation of the eligible adult if the broker-dealer
81.22 or investment adviser initiated the delay of disbursement or hold on the transaction;

81.23 (2) a determination by the commissioner, law enforcement agency, lead investigative
81.24 agency, or prosecuting attorney's office that the disbursement or transaction will not result
81.25 in financial exploitation of the eligible adult; or

81.26 (3) 15 business days after the date on which the broker-dealer or investment adviser first
81.27 delayed disbursement of the funds or held the transaction, unless the commissioner, law
81.28 enforcement agency, lead investigative agency, or prosecuting attorney's office requests
81.29 that the broker-dealer or investment adviser extend the delay or hold, in which case the
81.30 delay or hold expires no more than 25 business days after the date on which the broker-dealer
81.31 or investment adviser first delayed disbursement or placed the hold on the transaction unless
81.32 sooner terminated or extended by the commissioner, law enforcement agency, lead

82.1 investigative agency, or prosecuting attorney's office or an order of a court of competent
82.2 jurisdiction.

82.3 (c) A court of competent jurisdiction may enter an order extending the delay of the
82.4 disbursement of funds or hold on the transaction or may order other protective relief based
82.5 on the petition of the commissioner of commerce, lead investigative agency, broker-dealer
82.6 or investment adviser, or other interested party that initiated the delay or hold under this
82.7 section.

82.8 (d) Provided that a broker-dealer or investment adviser's internal review of the suspected
82.9 or attempted financial exploitation of the eligible adult supports the broker-dealer or
82.10 investment adviser's reasonable belief that financial exploitation of the eligible adult has
82.11 occurred, has been attempted, or is being attempted, the temporary delay or hold may be
82.12 extended by the broker-dealer or investment adviser for no longer than ten business days
82.13 following the date authorized by paragraph (b), clause (2), unless otherwise terminated or
82.14 extended by the commissioner, law enforcement agency, lead investigative agency, or
82.15 prosecuting attorney's office or an order of a court of competent jurisdiction.

82.16 **Sec. 7. [45A.07] IMMUNITY FOR DELAYING DISBURSEMENTS.**

82.17 A broker-dealer or investment adviser that, in good faith, complies with section 45A.06
82.18 or the commissioner of commerce, law enforcement agency, or the prosecuting attorney's
82.19 office is immune from administrative or civil liability that might otherwise arise from the
82.20 delay in a disbursement or placing a hold on a transaction in accordance with this chapter.

82.21 **Sec. 8. [45A.08] RECORDS.**

82.22 A broker-dealer or investment adviser shall provide access to or copies of records that
82.23 are relevant to the suspected or attempted financial exploitation of an eligible adult to the
82.24 lead investigative agency, and to the law enforcement agency, either as part of a referral to
82.25 the lead investigative agency or to the law enforcement agency, or upon request of the lead
82.26 investigative agency or the law enforcement agency pursuant to an investigation. The records
82.27 may include historical records as well as records relating to the most recent transaction or
82.28 transactions that may comprise financial exploitation of an eligible adult. Records made
82.29 available to agencies under this section are classified as private data on individuals or
82.30 nonpublic data as those terms are defined in section 13.02, unless the records are part of an
82.31 active civil investigation and classified as confidential or protected nonpublic under section
82.32 13.39. Nothing in this provision limits or otherwise impedes the authority of the

83.1

commissioner of commerce to access or examine the books and records of broker-dealers

83.2

or investment advisers as otherwise provided by law.

83.3

Sec. 9. **[45A.09] IMMUNITY FOR RECORDS DISCLOSURE.**

83.4

A broker-dealer or investment adviser who, in good faith, complies with section 45A.08,

83.5

is immune from administrative or civil liability that might otherwise arise from the disclosure.

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144D.09 TERMINATION OF LEASE.

The housing with services establishment shall include with notice of termination of lease information about how to contact the ombudsman for long-term care, including the address and telephone number along with a statement of how to request problem-solving assistance.

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

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

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

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

144G.03 ASSISTED LIVING REQUIREMENTS.

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

Subd. 2. **Minimum requirements for assisted living.** (a) Assisted living shall be provided or made available only to individuals residing in a registered housing with services establishment. Except as expressly stated in this chapter, a person or entity offering assisted living may define the available services and may offer assisted living to all or some of the residents of a housing with services establishment. The services that comprise assisted living may be provided or made available directly by a housing with services establishment or by persons or entities with which the housing with services establishment has made arrangements.

(b) A person or entity entitled to use the phrase "assisted living," according to section 144G.02, subdivision 1, shall do so only with respect to a housing with services establishment, or a service, service package, or program available within a housing with services establishment that, at a minimum:

(1) provides or makes available health-related services under a home care license. At a minimum, health-related services must include:

(i) assistance with self-administration of medication, medication management, or medication administration as defined in section 144A.43; and

(ii) assistance with at least three of the following seven activities of daily living: bathing, dressing, grooming, eating, transferring, continence care, and toileting.

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All health-related services shall be provided in a manner that complies with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(2) provides necessary assessments of the physical and cognitive needs of assisted living clients by a registered nurse, as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(3) has and maintains a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

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

(5) has and maintains a system to check on each assisted living client at least daily;

(6) provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements;

(7) has a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs, who shall be:

(i) awake;

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

(iii) capable of communicating with assisted living clients;

(iv) capable of recognizing the need for assistance;

(v) capable of providing either the assistance required or summoning the appropriate assistance; and

(vi) capable of following directions;

(8) offers to provide or make available at least the following supportive services to assisted living clients:

(i) two meals per day;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the client, reasonable assistance with arranging for transportation to medical and social services appointments, and the name of or other identifying information about the person or persons responsible for providing this assistance;

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

(vi) periodic opportunities for socialization; and

(9) makes available to all prospective and current assisted living clients information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This information must be made available beginning no later than six months after the commissioner makes the uniform format and required components available to providers according to section 144G.06.

Subd. 3. Exemption from awake-staff requirement. A housing with services establishment that offers or provides assisted living is exempt from the requirement in subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and responsible for responding to requests for assistance must be awake, if the establishment meets the following requirements:

(1) the establishment has a maximum capacity to serve 12 or fewer assisted living clients;

(2) the person or persons available and responsible for responding to requests for assistance are physically present within the housing with services establishment in which the assisted living clients reside;

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(3) the establishment has a system in place that is compatible with the health, safety, and welfare of the establishment's assisted living clients;

(4) the establishment's housing with services contract, as required by section 144D.04, includes a statement disclosing the establishment's qualification for, and intention to rely upon, this exemption;

(5) the establishment files with the commissioner, for purposes of public information but not review or approval by the commissioner, a statement describing how the establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement available to actual and prospective assisted living clients; and

(6) the establishment indicates on its housing with services registration, under section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the exemption under this subdivision.

Subd. 4. Nursing assessment. (a) A housing with services establishment offering or providing assisted living shall:

(1) offer to have the arranged home care provider conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a service plan prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier; and

(2) inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier.

(b) An arranged home care provider is not obligated to conduct a nursing assessment by a registered nurse when requested by a prospective resident if either the geographic distance between the prospective resident and the provider, or urgent or unexpected circumstances, do not permit the assessment to be conducted prior to the date on which the prospective resident executes a contract or moves in, whichever is earlier. When such circumstances occur, the arranged home care provider shall offer to conduct a telephone conference whenever reasonably possible.

(c) The arranged home care provider shall comply with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285, with respect to the provision of a nursing assessment prior to the delivery of nursing services and the execution of a home care service plan or service agreement.

Subd. 5. Assistance with arranged home care provider. The housing with services establishment shall provide each assisted living client with identifying information about a person or persons reasonably available to assist the client with concerns the client may have with respect to the services provided by the arranged home care provider. The establishment shall keep each assisted living client reasonably informed of any changes in the personnel referenced in this subdivision. Upon request of the assisted living client, such personnel or designee shall provide reasonable assistance to the assisted living client in addressing concerns regarding services provided by the arranged home care provider.

Subd. 6. Termination of housing with services contract. If a housing with services establishment terminates a housing with services contract with an assisted living client, the establishment shall provide the assisted living client, and the legal or designated representative of the assisted living client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the section of the contract that authorizes the termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living client and, if applicable, client representatives, within no more than five business days of the date of the termination notice to discuss the termination;

(4) an explanation that:

(i) the assisted living client must vacate the apartment, along with all personal possessions, on or before the effective date of termination;

(ii) failure to vacate the apartment by the date of termination may result in the filing of an eviction action in court by the establishment, and that the assisted living client may present a defense, if any, to the court at that time; and

(iii) the assisted living client may seek legal counsel in connection with the notice of termination;

(5) a statement that, with respect to the notice of termination, reasonable accommodation is available for the disability of the assisted living client, if any; and

(6) the name and contact information of the representative of the establishment with whom the assisted living client or client representatives may discuss the notice of termination.

144G.04 RESERVATION OF RIGHTS.

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

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

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

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

144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

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

144G.06 UNIFORM CONSUMER INFORMATION GUIDE.

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

256.021 VULNERABLE ADULT MALTREATMENT REVIEW PANEL.

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

(b) The review panel consists of:

(1) the commissioners of health and human services or their designees;

(2) the ombudsman for long-term care and ombudsman for mental health and developmental disabilities, or their designees;

(3) a member of the board on aging, appointed by the board; and

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(4) a representative from the county human services administrators appointed by the commissioner of human services or the administrator's designee.

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

(b) Within 30 days of the review under this section, the panel shall notify the director or manager of the lead investigative agency and the vulnerable adult or interested person who requested the review as to whether the panel concurs with the final disposition or whether the lead investigative agency must reconsider the final disposition. If the panel determines that the lead investigative agency must reconsider the final disposition, the panel must make specific recommendations to the director or manager of the lead investigative agency. The recommendation must include an explanation of the factors that form the basis of the recommendation to reconsider the final disposition and must specifically identify the disputed facts, the disputed application of maltreatment definitions, the disputed application of responsibility for maltreatment, and the disputed weighing of evidence, whichever apply. Within 30 days the lead investigative agency shall conduct a review and report back to the panel with its determination and the specific rationale for its final disposition. At a minimum, the specific rationale must include a detailed response to each of the factors identified by the panel that formed the basis for the recommendations of the panel.

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

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

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