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State of Minnesota
HOUSE OF REPRESENTATIVES
First Division Engrossment

NINETY-FIRST SESSION

H. F. No. 90

- 01/17/2019 Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 02/25/2019 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division
- 03/04/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
- 03/07/2019 Adoption of Report: Re-referred to the Committee on Commerce
- 03/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

Division Action

- 03/15/2019 *Referred by Chair to the Health and Human Services Finance Division*
- 03/25/2019 *Referred by Chair to the Long-Term Care Division*
Division action, to adopt as amended and return to Health and Human Services Finance Division

1.1 A bill for an act

1.2 relating to health; establishing consumer protections for residents of assisted living

1.3 establishments; establishing an assisted living establishment license; providing

1.4 penalties; granting rulemaking authority; requiring reports; amending Minnesota

1.5 Statutes 2018, sections 144.122; 144.651, subdivision 1, by adding a subdivision;

1.6 144A.4791, subdivision 10; 144D.01, subdivisions 2a, 4, 5, by adding subdivisions;

1.7 144D.015; 144D.02; 144D.04, subdivision 1; 144D.05; 144D.06; 144D.09;

1.8 144D.10; 144D.11; 325F.72, subdivisions 1, 4; proposing coding for new law in

1.9 Minnesota Statutes, chapter 144; proposing coding for new law as Minnesota

1.10 Statutes, chapters 144I; 144J; repealing Minnesota Statutes 2018, sections 144A.44;

1.11 144A.441; 144A.442; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04;

1.12 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;

1.13 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06.

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

1.15 style="text-align: center;">**ARTICLE 1**

1.16 style="text-align: center;">**ASSISTED LIVING AND HOME CARE RIGHTS AND CONSUMER**

1.17 style="text-align: center;">**PROTECTIONS**

1.18 Section 1. **[144J.01] DEFINITIONS.**

1.19 Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have

1.20 the meanings given them unless the context clearly indicates otherwise.

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

1.22 Subd. 3. **Affiliated home care provider.** "Affiliated home care provider" means a home

1.23 care provider licensed under chapter 144A that provides home care services to residents of

1.24 an assisted living establishment under a business relationship or other affiliation with the

1.25 establishment.

2.1 Subd. 4. **Agent.** "Agent" means an employee of, or person or entity contracting or
2.2 affiliated with, the assisted living establishment.

2.3 Subd. 5. **Assisted living contract.** "Assisted living contract" means the legal agreement
2.4 between an assisted living establishment and a resident for the provision of:

2.5 (1) housing;

2.6 (2) home care services, whether directly or through an affiliated home care provider;
2.7 and

2.8 (3) any other services.

2.9 Subd. 6. **Assisted living establishment.** (a) "Assisted living establishment" means an
2.10 entity that is governed under chapter 144G or, after July 1, 2020, is licensed by the
2.11 commissioner of health to provide housing and offer or provide home care services directly
2.12 or through an affiliated home care provider. For the purposes of this chapter, unless otherwise
2.13 provided, an assisted living establishment also includes a housing with services establishment
2.14 registered under chapter 144D.

2.15 (b) Assisted living establishment does not include:

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

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

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

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

2.21 (5) a supervised living facility, as defined in Minnesota Rules, part 4665.0100, subpart
2.22 10;

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

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

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

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

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

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

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

3.8 (13) services for persons with developmental disabilities that are provided under a license
3.9 under chapter 245D; or

3.10 (14) a temporary family health care dwelling as defined in section 394.307, subdivision
3.11 1.

3.12 Subd. 7. **Client.** "Client" means a person to whom an unaffiliated home care provider
3.13 provides home care services under a home care contract.

3.14 Subd. 8. **Commissioner.** "Commissioner" means the commissioner of health.

3.15 Subd. 9. **Designated representative.** "Designated representative" means:

3.16 (1) a court-appointed guardian;

3.17 (2) a conservator;

3.18 (3) an attorney-in-fact;

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

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

3.22 Subd. 10. **Home care provider.** "Home care provider" means an affiliated or unaffiliated
3.23 home care provider.

3.24 Subd. 11. **Home care service agreement or service agreement.** "Home care service
3.25 agreement" or "service agreement" means the written plan described in section 144A.43,
3.26 subdivision 27, between the home care client or the client's designated representative and
3.27 an unaffiliated home care provider describing the home care services that will be provided
3.28 to the client.

3.29 Subd. 12. **Home care services.** "Home care services" means:

3.30 (1) the basic home care services described in section 144A.471, subdivision 6, clauses
3.31 (1) to (5);

4.1 (2) the comprehensive home care services described in section 144A.471, subdivision
4.2 7;

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

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

4.6 (5) housekeeping services;

4.7 (6) providing assistance with meals or food preparation;

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

4.10 (8) social or recreational services.

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

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

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

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

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

4.22 Subdivision 1. **Contract required.** (a) No assisted living establishment may offer or
4.23 provide housing, home care services, or other services to a resident unless it has executed
4.24 a written contract with the resident.

4.25 (b) The contract must:

4.26 (1) be signed by both:

4.27 (i) the resident or the resident's designated representative; and

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

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

5.1 (i) housing; and
5.2 (ii) services, including all home care services, whether provided directly by the assisted
5.3 living establishment or by an affiliated home care provider.

5.4 (c) An assisted living establishment must:

5.5 (1) offer to prospective residents and provide to the Office of the Ombudsman for
5.6 Long-Term Care a complete unsigned copy of its assisted living contract; and

5.7 (2) give a complete copy of any signed contract and any addendums, and all supporting
5.8 documents and attachments, to the resident or the resident's designated representative
5.9 promptly after a contract and any addendum has been signed by the resident or the resident's
5.10 designated representative.

5.11 (d) A contract under this section is a consumer contract under sections 325G.29 to
5.12 325G.37.

5.13 (e) Before or at the time of execution of an assisted living contract, the assisted living
5.14 establishment must offer the resident the opportunity to identify a designated representative
5.15 in writing in the contract. The contract must contain a page or space for the name and contact
5.16 information of the designated representative and a box the resident must initial if the resident
5.17 declines to name a designated representative. Notwithstanding paragraph (f), the resident
5.18 has the right at any time to rescind the declination or add or change the name and contact
5.19 information of the designated representative.

5.20 (f) The resident must agree in writing to any additions or amendments to the contract.
5.21 Upon agreement between the resident or resident's designated representative and the assisted
5.22 living establishment, a new contract or an addendum to the existing contract must be executed
5.23 and signed.

5.24 **Subd. 2. Contents of contract; contact information.** (a) An assisted living contract
5.25 must include in a conspicuous place and manner on the contract, the legal name, the license
5.26 or registration number of the assisted living establishment, and the license number of any
5.27 affiliated home care provider.

5.28 (b) An assisted living contract must include the name, telephone number, and physical
5.29 mailing address, which may not be a public or private post office box, of:

5.30 (1) the assisted living establishment and any affiliated home care provider;

5.31 (2) the owner or owners of the assisted living establishment and of any affiliated home
5.32 care provider;

6.1 (3) the managing agent of the assisted living establishment; and

6.2 (4) at least one natural person who is authorized to accept service of process on behalf
6.3 of the assisted living establishment and each affiliated home care provider.

6.4 Subd. 3. **Duration of contract.** An assisted living contract must include:

6.5 (1) a description of all the terms and conditions of the contract, including a description
6.6 of and any limitations to the housing and home care services to be provided for the contracted
6.7 amount;

6.8 (2) a delineation of the cost and nature of any other services to be provided for an
6.9 additional fee;

6.10 (3) a delineation and description of any additional fees the resident may be required to
6.11 pay if the resident's condition changes during the term of the contract;

6.12 (4) a delineation of the grounds under which the resident may be discharged, evicted,
6.13 or transferred or have services terminated; and

6.14 (5) billing and payment procedures and requirements.

6.15 Subd. 4. **Complaint procedures.** An assisted living contract must include a description
6.16 of the assisted living establishment's complaint resolution process available to residents,
6.17 including the name and contact information of the person representing the assisted living
6.18 establishment who is designated to handle and resolve complaints.

6.19 Subd. 5. **Notice required.** An assisted living contract must include a clear and
6.20 conspicuous notice of:

6.21 (1) the right under section 144J.13 to challenge a discharge, eviction, or transfer or
6.22 service termination;

6.23 (2) the assisted living establishment's policy regarding transfer of residents within the
6.24 establishment, under what circumstances transfer may occur, and whether or not consent
6.25 of the resident being asked to transfer is required;

6.26 (3) the toll-free complaint line for the long-term care ombudsman and the Office of
6.27 Health Facility Complaints;

6.28 (4) the resident's right to obtain services from an unaffiliated home care provider;

6.29 (5) the availability of public funds for eligible residents to pay for housing or services,
6.30 or both; and

7.1 (6) the contact information to obtain long-term care consulting services under section
7.2 256B.0911.

7.3 Subd. 6. **Contracts in permanent files.** Assisted living contracts and related documents
7.4 executed by each resident or the resident's designated representative must be maintained
7.5 by the assisted living establishment in files from the date of execution of the assisted living
7.6 contract until three years after the contract is terminated or expires. Assisted living contracts
7.7 and any applicable written disclosures required under section 325F.72 shall be made available
7.8 for on-site inspection by the commissioner upon request at any time.

7.9 Subd. 7. **Waivers of liability prohibited.** An assisted living contract must not include
7.10 a waiver of assisted living establishment liability for the health and safety or personal
7.11 property of a resident. An assisted living contract must not include any provision that the
7.12 assisted living establishment knows or should know to be deceptive, unlawful, or
7.13 unenforceable under state or federal law, nor include any provision that requires or implies
7.14 a lesser standard of care or responsibility than is required by law.

7.15 **EFFECTIVE DATE.** This section is effective for all assisted living contracts entered
7.16 into on or after January 1, 2020. Prior to January 1, 2020, assisted living establishments are
7.17 governed by the contract requirements in Minnesota Statutes, sections 144D.04 and
7.18 144D.045.

7.19 Sec. 3. **[144J.03] HOUSING AND SERVICE-RELATED MATTERS.**

7.20 Subdivision 1. **Responsibility for housing and services.** The assisted living
7.21 establishment is directly responsible to the resident for all housing and service-related
7.22 matters provided directly or through an affiliated home care provider. Housing and
7.23 service-related matters include but are not limited to the handling of complaints, the provision
7.24 of notices, and the initiation of any adverse action against the resident involving housing
7.25 or services provided by the assisted living establishment or any agent, including an affiliated
7.26 home care provider.

7.27 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after July 1, 2020, an
7.28 assisted living establishment must provide to prospective residents, the prospective resident's
7.29 designated representative, and any other person or persons the resident chooses:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9.1 Sec. 5. [144J.05] NOTICES IN PLAIN LANGUAGE AND LANGUAGE
9.2 ACCOMMODATIONS.

9.3 Assisted living establishments and affiliated home care providers must provide all notices
9.4 in plain language that residents can understand and make reasonable accommodations for
9.5 residents who have communication disabilities and those whose primary language is a
9.6 language other than English.

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

9.8 Sec. 6. [144J.06] ASSISTED LIVING AND HOME CARE RIGHTS.

9.9 Subdivision 1. **Definitions.** (a) "Assisted living establishment" includes an affiliated
9.10 home care provider.

9.11 (b) "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the
9.12 intentional and nontherapeutic infliction of physical pain or injury, or any persistent course
9.13 of conduct intended to produce mental or emotional distress.

9.14 (c) "Resident" means a person residing in an assisted living establishment or any person
9.15 receiving home care services from an affiliated or unaffiliated home care provider.

9.16 Subd. 2. **Applicability.** All home care providers, including those exempted from home
9.17 care licensure under section 144A.471, subdivision 8, must comply with this section and
9.18 the commissioner shall enforce this section against home care providers exempt from
9.19 licensure in the same manner as for licensees.

9.20 Subd. 3. **Legislative intent.** It is the intent of the legislature to promote the interests and
9.21 well-being of residents. It is the intent of this section that every resident's civil and religious
9.22 liberties, including the right to independent personal decisions and knowledge of available
9.23 choices, shall not be infringed and that the assisted living establishment or home care
9.24 provider must encourage and assist in the fullest possible exercise of these rights. The rights
9.25 established under this section for the benefit of residents do not limit the rights residents
9.26 have under other applicable law.

9.27 Subd. 4. **Right to information about rights.** (a) Before receiving services, residents
9.28 have the right to receive from the assisted living establishment or unaffiliated home care
9.29 provider written information about rights under this section in plain language and in terms
9.30 residents can understand. The provider must make reasonable accommodations for residents
9.31 who have communication disabilities and those who speak a language other than English.
9.32 The information must include:

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

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

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

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

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

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

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

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

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

11.1 Subd. 9. **Right to participate in care and service planning; notice of change.** Residents
11.2 have the right to actively participate in the planning, modification, and evaluation of their
11.3 care and services. This right includes:

11.4 (1) the opportunity to discuss care, services, treatment, and alternatives with the
11.5 appropriate caregivers;

11.6 (2) the opportunity to request and participate in formal care conferences;

11.7 (3) the right to include a family member or the resident's designated representative, or
11.8 both; and

11.9 (4) the right to be told in advance of, and take an active part in decisions regarding, any
11.10 recommended changes in the plan for care and services.

11.11 Subd. 10. **Right to disclosure of contract services and rights to purchase outside**
11.12 **services.** (a) Residents have the right to be informed, prior to receiving care or services
11.13 from an affiliated or unaffiliated home care provider and during their stay in an assisted
11.14 living establishment of:

11.15 (1) care and services which are included under the terms of the assisted living contract
11.16 and the home care service agreement, if applicable;

11.17 (2) information about care and other public services or private services that may be
11.18 available in the community at additional charges; and

11.19 (3) any limits to the services available from the assisted living establishment or an
11.20 unaffiliated home care provider.

11.21 (b) If an assisted living contract or home care service agreement permits changes in
11.22 services, residents have the right to reasonable, advance notice of any change.

11.23 (c) Residents have the right to purchase or rent goods or services not included in the
11.24 assisted living contract rate or home care service agreement rate from a supplier of their
11.25 choice unless otherwise provided by law. The supplier must ensure that these purchases are
11.26 sufficient to meet the medical or treatment needs of the residents.

11.27 (d) Residents have the right to change home care providers after services have begun,
11.28 within the limits of health insurance, long-term care insurance, medical assistance, or other
11.29 health programs, and contractual agreements.

11.30 (e) Home care providers must make every effort to assist residents in obtaining
11.31 information regarding whether the Medicare, medical assistance, or other public program
11.32 will pay for any or all of the services.

12.1 Subd. 11. **Right to information about charges.** (a) Before services are initiated, residents
12.2 have the right to be notified:

12.3 (1) of home care provider charges for the services;

12.4 (2) as to what extent payment may be expected from health insurance, public programs,
12.5 or other sources, if known; and

12.6 (3) what charges the resident may be responsible for paying.

12.7 (b) If an assisted living contract or home care service agreement permits changes in
12.8 charges, residents have the right to reasonable, advance notice of any change.

12.9 Subd. 12. **Right to information about health care treatment.** Where applicable,
12.10 residents have the right to be given by their physicians complete and current information
12.11 concerning their diagnosis, cognitive functioning level, treatment, alternatives, risks, and
12.12 prognosis as required by the physician's legal duty to disclose. This information must be in
12.13 terms and language the residents can reasonably be expected to understand. This information
12.14 shall include the likely medical or major psychological results of the treatment and its
12.15 alternatives. Residents receiving home care services from the assisted living establishment
12.16 directly, or through an affiliated home care provider, may be accompanied by a family
12.17 member or other designated representative, or both.

12.18 Subd. 13. **Right to refuse services or care.** (a) Residents have the right to refuse services
12.19 or care.

12.20 (b) Home care providers and assisted living establishments must document in the
12.21 resident's record that the home care provider informed residents who refuse care, services,
12.22 treatment, medication, or dietary restrictions of the likely medical, health-related, or
12.23 psychological consequences of the refusal.

12.24 (c) In cases where a resident is incapable of understanding the circumstances but has
12.25 not been adjudicated incompetent, or when legal requirements limit the right to refuse
12.26 medical treatment, the conditions and circumstances must be fully documented by the
12.27 attending physician in the resident's record.

12.28 Subd. 14. **Right to personal, treatment, and communication privacy.** (a) In assisted
12.29 living establishments, residents have the right to:

12.30 (1) every consideration of their privacy, individuality, and cultural identity as related to
12.31 their social, religious, and psychological well-being. Staff must respect the privacy of a
12.32 resident's space by knocking on the door and seeking consent before entering, except in an
12.33 emergency or where clearly inadvisable;

13.1 (2) respectfulness and privacy as they relate to the resident's medical and personal care
13.2 program. Case discussion, consultation, examination, and treatment are confidential and
13.3 must be conducted discreetly. Privacy must be respected during toileting, bathing, and other
13.4 activities of personal hygiene, except as needed for resident safety or assistance;

13.5 (3) communicate privately with persons of their choice;

13.6 (4) enter and, if not residing in a secure assisted living establishment, leave the facility
13.7 as they choose;

13.8 (5) private communication with a representative of a protection and advocacy services
13.9 agency; and

13.10 (6) access Internet service at their expense, unless offered by the home care provider or
13.11 assisted living establishment.

13.12 (b) Personal mail must be sent by the assisted living establishment without interference
13.13 and received unopened unless medically or programmatically contraindicated and
13.14 documented by the physician or advanced practice registered nurse in the resident's record.
13.15 Residents must be provided access to a telephone to make and receive calls as well as speak
13.16 privately. Assisted living establishments that are unable to provide a private area must make
13.17 reasonable arrangements to accommodate the privacy of residents' calls.

13.18 Subd. 15. **Right to confidentiality of records.** Residents have the right to have personal,
13.19 financial, and medical information kept private, to approve or refuse release of information
13.20 to any outside party, and to be advised of the assisted living establishment and home care
13.21 providers' policies and procedures regarding disclosure of the information. Residents must
13.22 be notified when personal records are requested by any outside party.

13.23 Subd. 16. **Right to visitors and social participation.** (a) Residents have the right of
13.24 reasonable access at reasonable times, or any time when the resident's welfare is in immediate
13.25 jeopardy, to any available rights protection services and advocacy services.

13.26 (b) Residents have the right to meet with or receive visits at reasonable times by the
13.27 resident's guardian, conservator, health care agent, family, attorney, advocate, religious or
13.28 social work counselor, or any person of the resident's choosing, or at any time when the
13.29 resident's welfare is in immediate jeopardy.

13.30 (c) Residents have the right to participate in commercial, religious, social, community,
13.31 and political activities without interference and at their discretion if the activities do not
13.32 infringe on the right to privacy of other residents.

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

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

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

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

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

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

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

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

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

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

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

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

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

15.1 (c) "Facility" means a facility that is:

15.2 (1) licensed as a nursing home under chapter 144A;

15.3 (2) licensed as a boarding care home under sections 144.50 to 144.56; or

15.4 (3) an assisted living establishment, as defined in section 144J.01, subdivision 6.

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

15.6 (e) "Resident representative" means a court-appointed guardian, health care agent under
15.7 section 145C.01, subdivision 2, or a person chosen by the resident and identified in the
15.8 resident's records on file with the facility.

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

15.12 (b) Nothing in this section precludes the use of electronic monitoring of health care
15.13 allowed under other law.

15.14 Subd. 3. **Consent on behalf of a resident.** (a) If the resident has not affirmatively
15.15 objected to electronic monitoring and the resident's health care provider determines that the
15.16 resident lacks the ability to understand and appreciate the nature and consequences of
15.17 electronic monitoring, the resident representative may consent on behalf of the resident,
15.18 subject to paragraph (b). For purposes of this subdivision, a resident affirmatively objects
15.19 when the resident orally, visually, or through the use of auxiliary aids or services declines
15.20 electronic monitoring.

15.21 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
15.22 be asked by the resident representative if the resident wants electronic monitoring to be
15.23 conducted. The resident representative must explain to the resident:

15.24 (1) the reason for placing the electronic monitoring device;

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

15.26 (3) that the resident may place conditions on the electronic monitoring device's use, as
15.27 provided under subdivision 7, paragraph (a), clause (6);

15.28 (4) with whom the recording may be shared under this section; and

15.29 (5) the resident's ability to decline all recording.

15.30 The resident's response must be documented on the notification and consent form.

16.1 (c) A resident may set conditions for use of the electronic monitoring device, including
16.2 the list of standard conditions provided under subdivision 7, paragraph (a), clause (6).

16.3 (d) A resident may request that the electronic monitoring device be turned off or the
16.4 visual or audio recording component of the electronic monitoring device be blocked at any
16.5 time.

16.6 (e) A resident may withdraw the consent made on the resident's behalf at any time by
16.7 affirmatively objecting to the monitoring.

16.8 Subd. 4. Roommate consent. (a) Prior to implementing electronic monitoring, a resident
16.9 or a resident representative must obtain the written consent on the notification and consent
16.10 form of any other resident residing in the room or private living space.

16.11 (b) If the roommate has not affirmatively objected to the electronic monitoring in
16.12 accordance with this subdivision and the roommate's physician determines that the roommate
16.13 lacks the ability to understand and appreciate the nature and consequences of electronic
16.14 monitoring, the roommate's resident representative may consent on behalf of the roommate.
16.15 The roommate and the roommate's resident representative must be told:

16.16 (1) the reason for placing the electronic monitoring device;

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

16.18 (3) that they can place conditions on the electronic monitoring device's use, including
16.19 those listed under subdivision 7, paragraph (a), clause (6);

16.20 (4) with whom the recording may be shared under this section; and

16.21 (5) their ability to decline all recording.

16.22 (c) A roommate or roommate's resident representative may consent to electronic
16.23 monitoring with any conditions of the roommate's choosing, including the list of standard
16.24 conditions listed under subdivision 7, paragraph (a), clause (6). A roommate may request
16.25 that the visual or audio recording component of the electronic monitoring device be disabled
16.26 or blocked at any time.

16.27 (d) The roommate or roommate's resident representative may withdraw consent at any
16.28 time by submitting written notice to the facility.

16.29 (e) Any resident currently conducting electronic monitoring must obtain consent from
16.30 any new roommate before the resident continues authorized electronic monitoring. If a new
16.31 roommate does not consent to electronic monitoring and the resident conducting the electronic

17.1 monitoring does not remove the electronic monitoring device, the facility must remove the
17.2 electronic monitoring device.

17.3 Subd. 5. **Reasonable accommodation.** (a) If a resident of a facility who is residing in
17.4 a shared room wants to conduct electronic monitoring and another resident living in or
17.5 moving into the same shared room refuses to consent to the use of an electronic monitoring
17.6 device, the facility must make a reasonable attempt to accommodate the resident who wants
17.7 to conduct electronic monitoring. A facility has met the requirement to make a reasonable
17.8 attempt when upon notification that a roommate has not consented to the use of an electronic
17.9 monitoring device in the resident's room, the facility offers to move the resident to another
17.10 shared room that is available at the time of the request.

17.11 (b) If a resident chooses to reside in a private room in a facility in order to accommodate
17.12 the use of an electronic monitoring device, the resident must pay the private room rate. If
17.13 a facility is unable to accommodate a resident due to lack of space, the facility must
17.14 reevaluate the request every two weeks until the request is fulfilled. Notwithstanding any
17.15 other provision of this chapter, a facility is not required to provide a private room or a
17.16 single-bed room to a resident who is not a private-pay resident.

17.17 Subd. 6. **Notice of monitoring to the facility; exceptions to required notice.** (a)
17.18 Electronic monitoring may begin only after the resident or resident representative who
17.19 intends to place an electronic monitoring device completes and submits to the facility a
17.20 notification and consent form prescribed by the commissioner.

17.21 (b) Notwithstanding paragraph (a), the resident or resident representative who intends
17.22 to place an electronic monitoring device may do so without submitting a notification and
17.23 consent form to the facility:

17.24 (1) for up to 30 days if the resident or the resident representative reasonably fears
17.25 retaliation against the resident by the facility and timely submits a Minnesota Adult Abuse
17.26 Reporting Center report or police report, or both, upon evidence from the electronic
17.27 monitoring device that suspected maltreatment has occurred;

17.28 (2) for up to 30 days if there has not been a timely written response from the facility to
17.29 a written communication from the resident or resident representative expressing a concern
17.30 prompting the desire for placement of an electronic monitoring device; or

17.31 (3) for up to 30 days if the resident or resident representative has already submitted a
17.32 Minnesota Adult Abuse Reporting Center report or police report regarding the resident's
17.33 concerns prompting the desire for placement.

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

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

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

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

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

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

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

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

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

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

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

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

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

18.21 (i) prohibiting audio recording;

18.22 (ii) prohibiting video recording;

18.23 (iii) prohibiting broadcasting of audio or video;

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

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

18.29 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
18.30 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;

19.1 (7) any other condition or restriction elected by the resident or roommate on the use of
19.2 an electronic monitoring device;

19.3 (8) a signature box for documenting that the resident or roommate has withdrawn consent;
19.4 and

19.5 (9) a statement of the circumstances under which a recording may be disseminated under
19.6 subdivision 10.

19.7 (b) Subject to subdivision 6, paragraph (b), copies of the completed notification and
19.8 consent form must be provided to the resident and the resident's roommate, if applicable.

19.9 Copies of all completed notification and consent forms must be submitted to the facility,
19.10 and the facility must keep the notification and consent forms on file in a location separate
19.11 from the resident's clinical record.

19.12 (c) The commissioner must prepare a notification and consent form required in this
19.13 section no later than August 1, 2019, and must make the form available on the department's
19.14 website.

19.15 Subd. 8. **Costs and installation.** (a) A resident or resident representative choosing to
19.16 conduct electronic monitoring must do so at the resident's own expense, including paying
19.17 for the purchase, installation, maintenance, and removal costs.

19.18 (b) If a resident chooses to install an electronic monitoring device that uses Internet
19.19 technology for visual or audio monitoring and Internet service is not included in the rate or
19.20 available through facility, the resident may be responsible for contracting with an Internet
19.21 service provider.

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

19.25 (d) All electronic monitoring device installations and supporting services must be
19.26 Underwriters Laboratories-listed.

19.27 Subd. 9. **Notice to visitors.** A facility must post a sign at each entrance accessible to
19.28 visitors that states: "Electronic monitoring devices may be present to record persons and
19.29 activities" using bold typeface and using a font size that can be easily seen. The facility is
19.30 responsible for installing and maintaining the signage required in this subdivision.

19.31 Subd. 10. **Dissemination of data.** (a) No person may access any video or audio recording
19.32 created through electronic monitoring without the written consent of the resident or the
19.33 resident representative.

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

20.4 (c) Disseminating a recording or a copy of a recording that was made according to this
20.5 section but in violation of this subdivision may be grounds for civil or criminal liability.

20.6 (d) An employee of a facility who is the subject of proposed corrective or disciplinary
20.7 action based upon evidence obtained by electronic monitoring must be given access to that
20.8 evidence for purposes of defending against the proposed action. The recording or a copy
20.9 of the recording must be treated confidentially by the employee and must not be further
20.10 disseminated to any other person except as required under law. Any copy of the recording
20.11 must be returned to the facility or resident who provided the copy when it is no longer
20.12 needed for purposes of defending against a proposed action.

20.13 Subd. 11. **Facility liability.** (a) A facility is not civilly or criminally liable for the
20.14 inadvertent or unintentional disclosure of a recording by a resident or a resident representative
20.15 for any purpose not authorized by this section.

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

20.19 Subd. 12. **Obstruction of electronic monitoring.** (a) A person must not knowingly
20.20 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a
20.21 resident's room or private living space without the permission of the resident or the resident's
20.22 legal representative.

20.23 (b) It is not a violation of this subdivision if a person turns off the electronic monitoring
20.24 device or blocks the visual recording component of the electronic monitoring device at the
20.25 direction of the resident or the resident representative, or if consent for use of electronic
20.26 monitoring has been withdrawn.

20.27 Subd. 13. **Resident rights and protection.** A facility must not:

20.28 (1) refuse to admit a potential resident or remove a resident because the facility disagrees
20.29 with the potential resident's, the resident's, or the resident representative's decisions regarding
20.30 electronic monitoring;

20.31 (2) retaliate against any resident for consenting or refusing to consent to electronic
20.32 monitoring under this section; or

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

21.3 Subd. 14. **Penalties.** The commissioner may issue a correction order upon a finding that
21.4 the facility has failed to comply with this section. The commissioner may impose a fine of
21.5 up to \$500 upon a finding of noncompliance with a correction order issued under this
21.6 subdivision.

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

21.8 Sec. 8. **[144J.08] USE OF RESTRAINTS IN ASSISTED LIVING**
21.9 **ESTABLISHMENTS.**

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

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

21.13 Sec. 9. **[144J.09] RETALIATION PROHIBITED IN ASSISTED LIVING**
21.14 **ESTABLISHMENTS.**

21.15 (a) No assisted living establishment or agent of the assisted living establishment may
21.16 retaliate against a resident or employee if the resident, employee, or any person on behalf
21.17 of the resident:

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

21.19 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
21.20 right;

21.21 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
21.22 voluntary, under section 626.557;

21.23 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
21.24 problems or concerns to the administrator or manager of an assisted living establishment,
21.25 the long-term care ombudsman, a regulatory or other government agency, or a legal or
21.26 advocacy organization;

21.27 (5) advocates or seeks advocacy assistance for necessary or improved care or services
21.28 or enforcement of rights under this section or other law;

21.29 (6) takes or indicates an intention to take civil action;

- 22.1 (7) participates or indicates an intention to participate in any investigation or
22.2 administrative or judicial proceeding;
- 22.3 (8) contracts or indicates an intention to contract to receive services from a service
22.4 provider of the resident's choice other than the assisted living establishment; or
- 22.5 (9) places or indicates an intention to place a camera or electronic monitoring device in
22.6 the resident's private space as provided under section 144J.07.
- 22.7 (b) For purposes of this section, to "retaliate" against a resident includes but is not limited
22.8 to any of the following actions taken or threatened by an assisted living establishment or
22.9 an agent of the assisted living establishment against a resident, or any person with a familial,
22.10 personal, legal, or professional relationship with the resident:
- 22.11 (1) discharge, eviction, transfer, or termination of services;
- 22.12 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 22.13 (3) any form of discrimination;
- 22.14 (4) restriction or prohibition of access:
- 22.15 (i) of the resident to the facility or visitors; or
- 22.16 (ii) of a family member or a person with a personal, legal, or professional relationship
22.17 with the resident, to the resident;
- 22.18 (5) imposition of involuntary seclusion or the withholding of food, care, or services;
- 22.19 (6) restriction of any of the rights granted to residents under state or federal law;
- 22.20 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
22.21 living arrangements;
- 22.22 (8) arbitrary increase in charges or fees;
- 22.23 (9) removal, tampering with, or deprivation of technology, communication, or electronic
22.24 monitoring devices; or
- 22.25 (10) any oral or written communication of false information about a person advocating
22.26 on behalf of the resident.
- 22.27 (c) For purposes of this section, to "retaliate" against an employee includes but is not
22.28 limited to any of the following actions taken or threatened by the assisted living establishment
22.29 or an agent of the assisted living establishment against an employee:
- 22.30 (1) discharge or transfer;

23.1 (2) demotion or refusal to promote;

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

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

23.4 (5) any form of discrimination.

23.5 (d) There is a rebuttable presumption that any action, described in paragraph (b) or (c)
23.6 and taken within 90 days of an initial action described in paragraph (a), is retaliatory. This
23.7 presumption does not apply to a discharge, eviction, transfer, or termination of services that
23.8 occurs for a reason permitted under section 144J.13, subdivision 3 or 6, provided the assisted
23.9 living establishment complied with the applicable requirements in, and allowed the resident
23.10 or a designated representative to exercise any rights in, section 144J.13, subdivisions 2 to
23.11 8, for the discharge, eviction, transfer, or termination of services.

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

23.13 **Sec. 10. [144J.10] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
23.14 **PROHIBITED.**

23.15 (a) For the purposes of this section, "provider" includes an assisted living establishment
23.16 and an affiliated home care provider.

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

23.19 (1) make any false, fraudulent, deceptive, or misleading statements or representations,
23.20 or material omissions, in marketing, advertising, or any other description or representation
23.21 of care or services;

23.22 (2) fail to inform a resident in writing of any limitations to care services available prior
23.23 to executing an assisted living contract or home care service agreement; or

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

23.26 (i) complying with disclosure requirements under sections 325F.72 and any training
23.27 requirements required by law or rule; and

23.28 (ii) after July 1, 2020, meeting and complying with all the requirements under chapter
23.29 144I and any adopted rules.

24.1 (c) A violation of this section constitutes a violation of section 325F.69, subdivision 1.
24.2 The attorney general or a county attorney may enforce this section using the remedies in
24.3 section 325F.70.

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

24.5 Sec. 11. **[144J.11] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

24.6 Assisted living establishments and affiliated home care providers must, regardless of
24.7 the source of payment and for all persons seeking to reside or residing in the assisted living
24.8 establishment:

24.9 (1) provide equal access to quality care; and

24.10 (2) establish, maintain, and implement identical policies and practices regarding residency,
24.11 transfer, and provision and termination of services.

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

24.13 Sec. 12. **[144J.12] ASSESSMENT OF RESIDENTS.**

24.14 (a) For each prospective resident, an assisted living establishment must conduct an initial
24.15 assessment to determine the person's physical, cognitive, social, and service needs, and
24.16 propose a plan for care and services based on the assessment, before the earlier of the date
24.17 the prospective resident:

24.18 (1) enters into an assisted living contract under section 144J.02; or

24.19 (2) moves in.

24.20 (b) An assisted living establishment must conduct ongoing physical, cognitive, social,
24.21 and service assessments to identify changes in the resident's conditions and indicate necessary
24.22 changes in the resident's plan for care and services based on the assessment.

24.23 (c) The portion of the assessment that involves the prospective resident or resident's
24.24 physical and cognitive condition must be conducted by a registered nurse, as required by
24.25 applicable home care licensure requirements in chapter 144A and sections 148.171 to
24.26 148.285. The social and service components must be conducted by a qualified professional.

24.27 (d) The prospective resident has the right to participate in the care and service planning
24.28 process and may include the prospective resident's designated representative, one or more
24.29 family members, any health care and social service professionals of the resident's choosing,
24.30 and the prospective resident's home care provider.

25.1 (e) The commissioner must adopt rules establishing assessment standards.

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

25.3 Sec. 13. **[144J.13] ASSISTED LIVING ESTABLISHMENTS; INVOLUNTARY**
25.4 **DISCHARGES AND SERVICE TERMINATIONS.**

25.5 Subdivision 1. **Definition.** "Termination of housing or services" means an involuntary
25.6 discharge, eviction, transfer, or service termination.

25.7 Subd. 2. **Prerequisite to termination of housing or services.** Before terminating a
25.8 resident's housing or services, an assisted living establishment must explain in detail the
25.9 reasons for the termination and work with the resident, the resident's designated
25.10 representative, the resident's family, applicable agencies, and any relevant health-related or
25.11 social service professionals to identify and offer reasonable accommodations, interventions,
25.12 or alternatives to avoid the termination.

25.13 Subd. 3. **Permissible reasons to terminate housing or services.** (a) An assisted living
25.14 establishment is prohibited from terminating housing or services for grounds other than
25.15 those specified in paragraphs (b) and (c).

25.16 (b) A resident's housing or services may not be terminated except upon a written
25.17 determination, supported by documentation, by the assisted living establishment administrator
25.18 that termination is necessary because:

25.19 (1) it is mandated by law or court order;

25.20 (2) the resident has engaged in a documented pattern of conduct that:

25.21 (i) endangers the resident's own health, safety, or well-being;

25.22 (ii) endangers the health or safety of other residents or staff of the assisted living
25.23 establishment or affiliated home care provider; or

25.24 (iii) repeatedly and substantially interferes with the rights, health, safety, or well-being
25.25 of other residents; or

25.26 (3) the resident has committed any of the acts enumerated under section 504B.171,
25.27 subdivision 1.

25.28 (c) A resident's housing or services may be terminated if the needs of the resident exceed
25.29 the scope of the services for which the resident contracted for or, after July 1, 2020, exceed
25.30 the scope of the assisted living establishment's license, only:

26.1 (1) upon a certification by the assisted living establishment administrator, based on an
26.2 evaluation by a disinterested, licensed health care professional; and

26.3 (2) if the resident's needs cannot be safely met by reasonable accommodations,
26.4 interventions, or alternatives.

26.5 (d) An assisted living establishment may initiate discharge, eviction, transfer, or
26.6 termination of home care services procedures for nonpayment, provided the assisted living
26.7 establishment:

26.8 (1) makes reasonable efforts to accommodate temporary financial hardship and provide
26.9 information on government or private subsidies that may be available;

26.10 (2) timely responds to county social service agency questions regarding Medicaid or
26.11 other public benefit eligibility and payment process; and

26.12 (3) provides the notice required under subdivision 4 to the ombudsman for long-term
26.13 care.

26.14 A temporary interruption in benefits does not constitute nonpayment.

26.15 (e) When an affiliated home care provider voluntarily discontinues services to all
26.16 residents, the affiliated home care provider must notify the commissioner, lead agencies,
26.17 and ombudsman for long-term care about the residents and comply with the requirements
26.18 of subdivisions 4 and 5.

26.19 Subd. 4. **Advance notice required.** An assisted living establishment must provide at
26.20 least 30 days' advance notice to the resident and the ombudsman for long-term care of a
26.21 termination of housing or services, except as provided in subdivision 6.

26.22 Subd. 5. **Content of notice.** The notice required under subdivision 4 must contain, at a
26.23 minimum:

26.24 (1) the effective date of termination of housing or services;

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

26.27 (3) a list of known assisted living establishments and unaffiliated home care providers
26.28 in the immediate geographic area;

26.29 (4) a statement that the resident has the right to appeal the termination, an explanation
26.30 of how and to whom to appeal, and contact information for the Office of Administrative
26.31 Hearings;

- 27.1 (5) information on how to contact the ombudsman for long-term care;
- 27.2 (6) if the resident must relocate, a statement that the assisted living establishment must
27.3 actively participate in a coordinated transfer of care of the resident to another provider or
27.4 caregiver, as required under subdivision 8.
- 27.5 (7) the name and contact information of a person employed by the assisted living
27.6 establishment with whom the resident may discuss the notice of termination of housing or
27.7 services; and
- 27.8 (8) if the termination is for services, a statement, if applicable, that the notice of
27.9 termination of services does not constitute a termination of housing or an eviction from the
27.10 resident's home, and that the resident has the right to remain in the assisted living
27.11 establishment if the resident can secure necessary home care services from an unaffiliated
27.12 home care provider.
- 27.13 Subd. 6. **Exception for emergencies.** (a) An assisted living establishment may relocate
27.14 a resident from an assisted living establishment with less than 30 days' notice if:
- 27.15 (1) emergency relocation is ordered by the resident's physician; or
- 27.16 (2) the assisted living establishment administrator, based on documented evidence,
27.17 determines that the resident needs to be immediately relocated because the resident or
27.18 another resident or staff member of the assisted living establishment is at imminent risk of:
- 27.19 (i) death;
- 27.20 (ii) life-threatening harm;
- 27.21 (iii) substantial harm, as that term is defined in section 609.02, subdivision 7a; or
- 27.22 (iv) great bodily harm, as that term is defined in section 609.02, subdivision 8.
- 27.23 (b) An assisted living establishment relocating a resident under this subdivision must:
- 27.24 (1) ensure that the resident is moved to a safe and appropriate location;
- 27.25 (2) immediately notify the ombudsman for long-term care and the resident's designated
27.26 representative or, if no designated representative and if known, a family member or interested
27.27 person:
- 27.28 (i) that the resident has been relocated;
- 27.29 (ii) the reason for the relocation; and
- 27.30 (iii) the name, address, telephone number, and any other relevant contact information
27.31 of the location to which the resident has been transferred; and

28.1 (3) upon removal of the conditions precipitating the emergency transfer, work and
28.2 coordinate with the resident or the resident's designated representative and family, if
28.3 applicable, to enable the resident to return to the assisted living establishment or, if return
28.4 is not feasible or if any of the conditions under subdivision 3 exist, provide the resident with
28.5 all the rights available under this section.

28.6 Subd. 7. **Right to appeal termination of housing or services.** (a) A resident or resident's
28.7 designated representative has the right to appeal a termination of housing or services and
28.8 request a hearing from the Office of Administrative Hearings. An appeal must be filed, in
28.9 writing, to the Office of Administrative Hearings.

28.10 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon
28.11 as practicable after the office receives the request. The hearing must be held at the assisted
28.12 living establishment where the resident lives, unless it is impractical, or the parties agree
28.13 to a different place.

28.14 (c) The assisted living establishment bears the burden of proof to establish the termination
28.15 of housing or services is permissible.

28.16 (d) During the pendency of an appeal and until a final determination is made by the
28.17 Office of Administrative Hearings:

28.18 (1) housing or services may not be terminated; and

28.19 (2) the resident must be readmitted if the resident was hospitalized for medical necessity.

28.20 (e) The commissioner of health may order the assisted living establishment to rescind
28.21 the termination of housing and services if the termination was in violation of state or federal
28.22 law.

28.23 (f) Nothing in this section limits the right of a resident or the resident's designated
28.24 representative to request or receive assistance from the ombudsman for long-term care and
28.25 the protection and advocacy agency concerning the termination of housing or services.

28.26 Subd. 8. **Discharge planning.** (a) Unless the resident or the designated representative
28.27 indicates a desire to assume full control of arranging the resident's relocation, the assisted
28.28 living establishment from which a resident must relocate under this section:

28.29 (1) has an affirmative duty to ensure a coordinated and orderly transfer of the resident
28.30 to a safe location that is appropriate for the resident; and

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

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

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

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

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

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

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

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

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

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

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

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

29.27 (b) A forced arbitration requirement must not include a choice of law or choice of venue
29.28 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
29.29 federal or local law. Any civil actions by any litigant must be taken in Minnesota courts.

30.1 (c) A forced arbitration provision must not be unconscionable. All or the portion of a
30.2 forced arbitration provision found by a court to be unconscionable shall have no effect on
30.3 the remaining provisions, terms, or conditions of the contract.

30.4 **EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered
30.5 into on or after that date.

30.6 Sec. 15. **[144J.15] PRIVATE ENFORCEMENT OF RIGHTS.**

30.7 (a) For a violation of section 144J.06, subdivisions 9, 16, 19, or 20, or 144J.09, a resident
30.8 or resident's designated representative may bring a civil action against an assisted living
30.9 establishment and recover actual damages or \$3,000, whichever is greater, plus costs,
30.10 including costs of investigation, and reasonable attorney fees, and receive other equitable
30.11 relief as determined by the court in addition to seeking any other remedy otherwise available
30.12 under law.

30.13 (b) For a violation of section 144J.10, 144J.11, or 144J.14, a resident is entitled to a
30.14 permanent injunction, and any other legal or equitable relief as determined by the court,
30.15 including but not limited to reformation of the contract and restitution for harm suffered,
30.16 plus reasonable attorney fees and costs.

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

30.18 Sec. 16. **[144J.16] APPLICABILITY OF OTHER LAWS.**

30.19 (a) Assisted living establishments are subject to and must comply with chapter 504B.

30.20 (b) Housing with services establishments who operate under title protection under chapter
30.21 144G and, after July 1, 2020, all licensed assisted living establishments must comply with
30.22 section 325F.72.

30.23 (c) Assisted living establishments are not required to obtain a lodging license under
30.24 chapter 157 and related rules.

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

30.26 Sec. 17. Minnesota Statutes 2018, section 325F.72, subdivision 4, is amended to read:

30.27 Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31
30.28 for repeated and intentional violations of this section. ~~However, no private right of action~~
30.29 ~~may be maintained as provided under section 8.31, subdivision 3a.~~

31.1 Sec. 18. **REPEALER.**

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

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

31.6 **ARTICLE 2**

31.7 **NURSING HOMES**

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

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

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

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

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

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

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

- 32.1 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
32.2 voluntary, under section 626.557;
- 32.3 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
32.4 problems or concerns to the administrator or manager of a facility, the ombudsman for
32.5 long-term care, a regulatory or other government agency, or a legal or advocacy organization;
- 32.6 (5) advocates or seeks advocacy assistance for necessary or improved care or services
32.7 or enforcement of rights under this section or other law;
- 32.8 (6) takes or indicates an intention to take civil action; or
- 32.9 (7) participates or indicates an intention to participate in any investigation or
32.10 administrative or judicial proceeding.
- 32.11 (b) For purposes of this subdivision, "facility" includes an agent of the facility.
- 32.12 (c) For the purposes of this subdivision, to "retaliate" against a patient or resident includes
32.13 but is not limited to any of the following actions taken or threatened by the facility against
32.14 a patient or resident, or any person with a familial, personal, legal, or professional relationship
32.15 with the patient or resident:
- 32.16 (1) discharge, transfer, or termination of services;
- 32.17 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 32.18 (3) any form of discrimination;
- 32.19 (4) restricting or prohibiting access:
- 32.20 (i) of the patient or resident to the facility or visitors; or
- 32.21 (ii) of a family member or a person with a personal, legal, or professional relationship
32.22 with the patient or resident, to the patient or resident;
- 32.23 (5) imposition of involuntary seclusion or withholding food, care, or services;
- 32.24 (6) restriction of any of the rights granted to patients and residents under state or federal
32.25 law;
- 32.26 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
32.27 living arrangements;
- 32.28 (8) arbitrary increase in charges or fees; or
- 32.29 (9) removal, tampering with, or deprivation of technology, communication, or electronic
32.30 monitoring devices.

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

33.3 (1) discharge or transfer;

33.4 (2) demotion or refusal to promote;

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

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

33.7 (5) any form of discrimination.

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

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

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

33.13 In addition to the remedies otherwise provided by or available under law, a resident of
33.14 a nursing home, or a legal representative on behalf of a resident, in addition to seeking any
33.15 remedy otherwise available under law, may bring a civil action against a nursing home and
33.16 recover actual damages or \$3,000, whichever is greater, plus costs, including costs of
33.17 investigation, and reasonable attorney fees, and receive other equitable relief as determined
33.18 by the court for violation of section 144.651, subdivisions 14, 20, 26, 30, and 34.

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

33.20 **ARTICLE 3**

33.21 **HOUSING WITH SERVICES ESTABLISHMENTS**

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

33.23 Subd. 2a. ~~Arranged~~ **Affiliated home care provider.** ~~"Arranged~~ Affiliated home care
33.24 provider" means a home care provider licensed under chapter 144A or a home management
33.25 provider registered under section 144A.482 that provides supportive services to some or all
33.26 of the residents of a housing with services establishment and that is either the establishment
33.27 itself or another entity with which the establishment has an arrangement under a business
33.28 relationship or other affiliation with the establishment.

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

34.1 Sec. 2. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
34.2 read:

34.3 Subd. 2b. **Client.** "Client" means a person to whom an unaffiliated home care provider
34.4 provides supportive services.

34.5 Sec. 3. Minnesota Statutes 2018, section 144D.01, subdivision 4, is amended to read:

34.6 Subd. 4. **Housing with services establishment or establishment.** (a) "Housing with
34.7 services establishment" or "establishment" means:

34.8 ~~(1) an establishment providing sleeping accommodations to one or more adult residents;~~
34.9 ~~at least 80 percent of which are 55 years of age or older, and offering or providing, for a~~
34.10 ~~fee, one or more regularly scheduled health-related services or two or more regularly~~
34.11 ~~scheduled supportive services, whether offered or provided directly or by the establishment~~
34.12 ~~or by another entity arranged for by the establishment; or an affiliated home care provider.~~

34.13 ~~(2) an establishment that registers under section 144D.025.~~

34.14 (b) Housing with services establishment does not include:

34.15 (1) a nursing home licensed under chapter 144A;

34.16 (2) a hospital, ~~certified~~ as defined in section 144.50, subdivision 2;

34.17 (3) a boarding care home, ~~or~~ as defined in Minnesota Rules, part 4655.0010, subpart 3;

34.18 (4) a supervised living facility ~~licensed under sections 144.50 to 144.56, as defined in~~
34.19 Minnesota Rules, part 4665.0100, subpart 10;

34.20 ~~(3) (5) a board and lodging establishment licensed under chapter 157 and or 245G, or~~
34.21 governed under Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or
34.22 245G;

34.23 (6) an assisted living establishment, as defined in section 144I.01, subdivision 6, that is
34.24 not a housing with services establishment;

34.25 ~~(4) a board and lodging~~ (7) any establishment which that serves as a shelter for battered
34.26 women or other similar purpose;

34.27 ~~(5) a family~~ (8) adult foster care home licensed by the Department of Human Services;

34.28 ~~(6) (9) private homes in which the residents are related by kinship, law, or affinity with~~
34.29 the providers of services;

35.1 ~~(7)~~ (10) residential settings for persons with developmental disabilities in which the
35.2 services are licensed under chapter 245D;

35.3 ~~(8)~~ (11) a home-sharing arrangement ~~such as when an elderly or disabled,~~ including but
35.4 not limited to arrangements where an older person or person with a disability or single-parent
35.5 family makes lodging in a private residence available to another person in exchange for
35.6 services or rent, or both;

35.7 ~~(9)~~ (12) a ~~duly organized~~ condominium, cooperative, common interest community, or
35.8 owners' association ~~of the foregoing~~ organized under chapter 515B where at least 80 percent
35.9 of the units that comprise the condominium, cooperative, or common interest community
35.10 are occupied by individuals who are the owners, members, or shareholders of the units;

35.11 ~~(10)~~ (13) services for persons with developmental disabilities that are provided under a
35.12 license under chapter 245D; or

35.13 ~~(11)~~ (14) a temporary family health care dwelling as defined in sections 394.307 and
35.14 462.3593.

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

35.16 Sec. 4. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
35.17 read:

35.18 Subd. 4a. **Resident.** "Resident" means a person living in a housing with services
35.19 establishment.

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

35.21 Sec. 5. Minnesota Statutes 2018, section 144D.01, subdivision 5, is amended to read:

35.22 Subd. 5. **Supportive services.** "Supportive services" means ~~help with personal laundry,~~
35.23 ~~handling or assisting with personal funds of residents, or arranging for medical services,~~
35.24 ~~health-related services, social services,;~~

35.25 (1) assistance with laundry, shopping, and household chores;

35.26 (2) housekeeping services;

35.27 (3) provision or assistance with meals or food preparation;

35.28 (4) help with arranging for, or arranging transportation to, medical, social, recreational,
35.29 personal, or social services appointments; or

35.30 (5) provision of social or recreational services.

36.1 Arranging for services does not include making referrals, ~~assisting a resident in contacting~~
36.2 ~~a service provider of the resident's choice~~, or contacting a service provider in an emergency.

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

36.4 Sec. 6. Minnesota Statutes 2018, section 144D.01, is amended by adding a subdivision to
36.5 read:

36.6 **Subd. 8. Unaffiliated home care provider.** "Unaffiliated home care provider" means
36.7 a home care provider licensed under chapter 144A or a home management provider registered
36.8 under section 144A.482 that is regularly engaged for a fee in the delivery of one or more
36.9 home care services directly to a client in any setting, including supportive services to a
36.10 resident of a housing with services establishment, provided the home care provider has no
36.11 business relationship or affiliation with the housing with services establishment in which
36.12 the client contracting for or receiving supportive services resides.

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

36.14 Sec. 7. Minnesota Statutes 2018, section 144D.015, is amended to read:

36.15 **144D.015 DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE.**

36.16 For purposes of consistency with terminology commonly used in long-term care insurance
36.17 policies ~~and notwithstanding chapter 144G~~, a housing with services establishment that is
36.18 registered under section 144D.03 and that holds, or makes arrangements with an individual
36.19 or entity that holds any type of home care license and all other licenses, permits, registrations,
36.20 or other governmental approvals legally required for delivery of the services the establishment
36.21 offers or provides to its residents, constitutes an "assisted living establishment," an "assisted
36.22 living facility," or "assisted living residence."

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

36.24 Sec. 8. Minnesota Statutes 2018, section 144D.02, is amended to read:

36.25 **144D.02 REGISTRATION REQUIRED.**

36.26 No entity may establish, operate, conduct, or maintain a housing with services
36.27 establishment in this state without registering and operating as required in sections 144D.01
36.28 to ~~144D.06~~ 144D.11. After July 1, 2020, a housing with services establishment, either
36.29 directly or through an affiliated home care provider, may provide only supportive services.
36.30 No housing with services establishment may offer or provide services that require an assisted
36.31 living license under chapter 144I.

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

37.2 Sec. 9. Minnesota Statutes 2018, section 144D.04, subdivision 1, is amended to read:

37.3 Subdivision 1. **Contract required.** No housing with services establishment may operate
37.4 in this state unless a written housing with services contract, ~~as defined in subdivision 2,~~
37.5 satisfying the requirements of section 144J.02 is executed between the establishment and
37.6 each resident or resident's representative and unless the establishment operates in accordance
37.7 with the terms of the contract. ~~The resident or the resident's representative shall be given a~~
37.8 ~~complete copy of the contract and all supporting documents and attachments and any changes~~
37.9 ~~whenever changes are made.~~

37.10 **EFFECTIVE DATE.** This section is effective January 1, 2020.

37.11 Sec. 10. Minnesota Statutes 2018, section 144D.05, is amended to read:

37.12 **144D.05 AUTHORITY OF COMMISSIONER.**

37.13 ~~The commissioner shall, upon receipt of information which may indicate the failure of~~
37.14 ~~the housing with services establishment, a resident, a resident's representative, or a service~~
37.15 ~~provider to comply with a legal requirement to which one or more of them may be subject,~~
37.16 ~~make appropriate referrals to other governmental agencies and entities having jurisdiction~~
37.17 ~~over the subject matter. The commissioner may also make referrals to any public or private~~
37.18 ~~agency the commissioner considers available for appropriate assistance to those involved.~~

37.19 ~~The commissioner shall have standing to bring an action for injunctive relief in the~~
37.20 ~~district court in the district in which an establishment is located to compel the housing with~~
37.21 ~~services establishment to meet the requirements of this chapter or other requirements of the~~
37.22 ~~state or of any county or local governmental unit to which the establishment is otherwise~~
37.23 ~~subject. Proceedings for securing an injunction may be brought by the commissioner through~~
37.24 ~~the attorney general or through the appropriate county attorney. The sanctions in this section~~
37.25 ~~do not restrict the availability of other sanctions~~ all the authority and power vested under
37.26 chapters 144 and 144I.

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

37.28 Sec. 11. Minnesota Statutes 2018, section 144D.06, is amended to read:

37.29 **144D.06 OTHER LAWS.**

37.30 In addition to registration under this chapter, a housing with services establishment must
37.31 comply with chapter 504B ~~and the provisions of section 325F.72,~~ and shall obtain and

38.1 maintain all other licenses, permits, registrations, or other governmental approvals required
38.2 of it. A housing with services establishment is not required to obtain a lodging license under
38.3 chapter 157 and related rules.

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

38.5 Sec. 12. Minnesota Statutes 2018, section 144D.09, is amended to read:

38.6 **144D.09 TERMINATION OF LEASE HOUSING OR SUPPORTIVE SERVICES.**

38.7 Subdivision 1. Prerequisite to termination of housing or supportive services. The
38.8 ~~housing with services establishment shall include with notice of termination of lease~~
38.9 ~~information about how to contact the ombudsman for long-term care, including the address~~
38.10 ~~and telephone number along with a statement of how to request problem-solving assistance.~~
38.11 Before involuntarily terminating a resident's housing or supportive services, whether provided
38.12 directly or through an affiliated home care provider, a housing with services establishment
38.13 must explain in detail the reasons for the termination and work with the resident, the resident's
38.14 representative, the resident's family, applicable agencies, and any professionals to identify
38.15 and offer reasonable accommodations, interventions, or alternatives to avoid termination
38.16 of housing or supportive services.

38.17 Subd. 2. Advance notice required. A housing with services establishment must provide
38.18 at least 30 days' advance notice to the resident of a termination of housing or supportive
38.19 services, except as provided in subdivision 4.

38.20 Subd. 3. Content of notice. The notice required under subdivision 2 must contain, at a
38.21 minimum:

38.22 (1) the effective date of termination;

38.23 (2) the reason or reasons for termination;

38.24 (3) a list of known housing with services establishments and unaffiliated home care
38.25 providers in the immediate geographic area;

38.26 (4) the name and contact information of a person employed by the housing with services
38.27 establishment with whom the resident may discuss the notice of termination;

38.28 (5) information about how to contact the ombudsman for long-term care, including the
38.29 address and telephone number along with a statement of how to request problem-solving
38.30 assistance; and

38.31 (6) if the termination is for supportive services, a statement, if applicable, that the notice
38.32 of termination of supportive services does not constitute a termination of housing or an

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

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

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

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

39.11 (i) death;

39.12 (ii) life-threatening harm;

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

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

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

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

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

39.20 (i) that the resident has been relocated;

39.21 (ii) the reason for the relocation; and

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

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

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

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

39.27 (a) The person primarily responsible for oversight and management of a housing with
39.28 services establishment, as designated by the owner of the housing with services establishment,
39.29 must obtain at least 30 hours of continuing education every two years of employment as
39.30 the manager in topics relevant to the operations of the housing with services establishment

40.1 and the needs of its tenants. Continuing education earned to maintain a professional license,
40.2 such as nursing home administrator license, nursing license, social worker license, and real
40.3 estate license, can be used to complete this requirement.

40.4 ~~(b) For managers of establishments identified in section 325F.72, this continuing~~
40.5 ~~education must include at least eight hours of documented training on the topics identified~~
40.6 ~~in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of~~
40.7 ~~training on these topics for each 12 months of employment thereafter.~~

40.8 ~~(c) For managers of establishments not covered by section 325F.72, but who provide~~
40.9 ~~assisted living services under chapter 144G, this continuing education must include at least~~
40.10 ~~four hours of documented training on the topics identified in section 144D.065, paragraph~~
40.11 ~~(b), within 160 working hours of hire, and two hours of training on these topics for each 12~~
40.12 ~~months of employment thereafter.~~

40.13 ~~(d)~~ (b) A statement verifying compliance with the continuing education requirement
40.14 must be included in the housing with services establishment's annual registration to the
40.15 commissioner of health. The establishment must maintain records for at least three years
40.16 demonstrating that the person primarily responsible for oversight and management of the
40.17 establishment has attended educational programs as required by this section.

40.18 ~~(e)~~ (c) New managers ~~may~~ must satisfy ~~the initial and document satisfaction of~~ dementia
40.19 training requirements ~~by producing written proof of previously completed required training~~
40.20 ~~within the past 18 months~~ adopted by the commissioner in rule.

40.21 ~~(f) This section does not apply to an establishment registered under section 144D.025~~
40.22 ~~serving the homeless.~~

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

40.24 Sec. 14. Minnesota Statutes 2018, section 144D.11, is amended to read:

40.25 **144D.11 EMERGENCY PLANNING.**

40.26 (a) Each registered housing with services establishment must meet the following
40.27 requirements:

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

40.31 (2) post an emergency disaster plan prominently;

41.1 (3) provide building emergency exit diagrams to all ~~tenants~~ residents upon signing a
41.2 ~~lease~~ contract under section 144J.02;

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

41.4 (5) have a written policy and procedure regarding missing ~~tenants~~ residents.

41.5 (b) Each registered housing with services establishment must provide emergency and
41.6 disaster training to all staff during the initial staff orientation and annually thereafter and
41.7 must make emergency and disaster training available to all ~~tenants~~ residents annually. Staff
41.8 who have not received emergency and disaster training are allowed to work only when
41.9 trained staff are also working on site.

41.10 (c) Each registered housing with services location must conduct and document a fire
41.11 drill or other emergency drill at least every six months. To the extent possible, drills must
41.12 be coordinated with local fire departments or other community emergency resources.

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

41.14 ARTICLE 4

41.15 ASSISTED LIVING LICENSURE

41.16 Section 1. Minnesota Statutes 2018, section 144.122, is amended to read:

41.17 **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

41.18 (a) The state commissioner of health, by rule, may prescribe procedures and fees for
41.19 filing with the commissioner as prescribed by statute and for the issuance of original and
41.20 renewal permits, licenses, registrations, and certifications issued under authority of the
41.21 commissioner. The expiration dates of the various licenses, permits, registrations, and
41.22 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include
41.23 application and examination fees and a penalty fee for renewal applications submitted after
41.24 the expiration date of the previously issued permit, license, registration, and certification.
41.25 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,
41.26 registrations, and certifications when the application therefor is submitted during the last
41.27 three months of the permit, license, registration, or certification period. Fees proposed to
41.28 be prescribed in the rules shall be first approved by the Department of Management and
41.29 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be
41.30 in an amount so that the total fees collected by the commissioner will, where practical,
41.31 approximate the cost to the commissioner in administering the program. All fees collected
41.32 shall be deposited in the state treasury and credited to the state government special revenue
41.33 fund unless otherwise specifically appropriated by law for specific purposes.

42.1 (b) The commissioner may charge a fee for voluntary certification of medical laboratories
 42.2 and environmental laboratories, and for environmental and medical laboratory services
 42.3 provided by the department, without complying with paragraph (a) or chapter 14. Fees
 42.4 charged for environment and medical laboratory services provided by the department must
 42.5 be approximately equal to the costs of providing the services.

42.6 (c) The commissioner may develop a schedule of fees for diagnostic evaluations
 42.7 conducted at clinics held by the services for children with disabilities program. All receipts
 42.8 generated by the program are annually appropriated to the commissioner for use in the
 42.9 maternal and child health program.

42.10 (d) The commissioner shall set license fees for hospitals and nursing homes that are not
 42.11 boarding care homes at the following levels:

42.12	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
42.13	Healthcare Organizations (JCAHO) and	
42.14	American Osteopathic Association (AOA)	
42.15	hospitals	
42.16	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
42.17	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
42.18		\$183 plus \$100 per bed between July 1, 2018,
42.19		and June 30, 2020. \$183 plus \$105 per bed
42.20		beginning July 1, 2020.

42.21 The commissioner shall set license fees for outpatient surgical centers, boarding care
 42.22 homes, ~~and supervised living facilities,~~ assisted living facilities, basic care facilities, and
 42.23 assisted living facilities with dementia care at the following levels:

42.24	Outpatient surgical centers	\$3,712
42.25	Boarding care homes	\$183 plus \$91 per bed
42.26	Supervised living facilities	\$183 plus \$91 per bed.
42.27	<u>Assisted living facilities with dementia care</u>	<u>\$..... plus \$..... per bed.</u>
42.28	<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>
42.29	<u>Basic care facilities</u>	<u>\$..... plus \$..... per bed.</u>

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

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

43.1	Prospective payment surveys for hospitals		\$	900
43.2	Swing bed surveys for nursing homes		\$	1,200
43.3	Psychiatric hospitals		\$	1,400
43.4	Rural health facilities		\$	1,100
43.5	Portable x-ray providers		\$	500
43.6	Home health agencies		\$	1,800
43.7	Outpatient therapy agencies		\$	800
43.8	End stage renal dialysis providers		\$	2,100
43.9	Independent therapists		\$	800
43.10	Comprehensive rehabilitation outpatient facilities		\$	1,200
43.11	Hospice providers		\$	1,700
43.12	Ambulatory surgical providers		\$	1,800
43.13	Hospitals		\$	4,200
43.14	Other provider categories or additional	Actual surveyor costs: average		
43.15	resurveys required to complete initial			
43.16	certification			surveyor cost x number of hours for the survey process.

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

43.21 **EFFECTIVE DATE.** This section is effective

43.22 Sec. 2. **[144L.01] DEFINITIONS.**

43.23 **Subdivision 1. Applicability.** For the purposes of this chapter, the definitions in this
 43.24 section have the meanings given.

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

43.26 **Subd. 3. Agent.** "Agent" means the person upon whom all notices and orders shall be
 43.27 served and who is authorized to accept service of notices and orders on behalf of the facility.

43.28 **Subd. 4. Applicant.** "Applicant" means an individual, legal entity, controlling individual,
 43.29 or other organization that has applied for licensure under this chapter.

43.30 **Subd. 5. Assisted living administrator.** "Assisted living administrator" means a person
 43.31 who administers, manages, supervises, or is in general administrative charge of a basic care
 43.32 facility or assisted living facility, whether or not the individual has an ownership interest
 43.33 in the facility, and whether or not the person's functions or duties are shared with one or

44.1 more individuals and who is licensed by the Board of Executives for Long Term Services
44.2 and Supports pursuant to section 144I.31.

44.3 Subd. 6. **Assisted living facility.** "Assisted living facility" means a licensed facility that:
44.4 (1) provides sleeping accommodations to one or more adults; and (2) provides basic care
44.5 services and comprehensive assisted living services. For purposes of this chapter, assisted
44.6 living facility does not include:

44.7 (i) emergency shelter, transitional housing, or any other residential units serving
44.8 exclusively or primarily homeless individuals, as defined under section 116L.361;

44.9 (ii) a nursing home licensed under chapter 144A;

44.10 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections
44.11 144.50 to 144.56;

44.12 (iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
44.13 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments
44.14 that provide dementia care services;

44.15 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;

44.16 (vi) services and residential settings licensed under chapter 245A, including adult foster
44.17 care and services and settings governed under the standards in chapter 245D;

44.18 (vii) private homes where the residents own or rent the home and control all aspects of
44.19 the property and building;

44.20 (viii) a duly organized condominium, cooperative, and common interest community, or
44.21 owners' association of the condominium, cooperative, and common interest community
44.22 where at least 80 percent of the units that comprise the condominium, cooperative, or
44.23 common interest community are occupied by individuals who are the owners, members, or
44.24 shareholders of the units;

44.25 (ix) temporary family health care dwellings as defined in sections 394.307 and 462.3593;

44.26 (x) settings offering services conducted by and for the adherents of any recognized
44.27 church or religious denomination for its members through spiritual means or by prayer for
44.28 healing;

44.29 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
44.30 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
44.31 units financed by the Minnesota Housing Finance Agency that are intended to serve
44.32 individuals with disabilities or individuals who are homeless;

45.1 (xii) rental housing developed under United States Code, title 42, section 1437, or United
45.2 States Code, title 12, section 1701q;

45.3 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled
45.4 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
45.5 families under Code of Federal Regulations, title 24, section 983.56;

45.6 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United
45.7 States Code, title 42, section 8011; or

45.8 (xv) a basic care facility licensed under this chapter.

45.9 Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic
45.10 care services and one or more of the following:

45.11 (1) services of an advanced practice nurse, registered nurse, licensed practical nurse,
45.12 physical therapist, respiratory therapist, occupational therapist, speech-language pathologist,
45.13 dietitian or nutritionist, or social worker;

45.14 (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed
45.15 health professional within the person's scope of practice;

45.16 (3) medication management services;

45.17 (4) hands-on assistance with transfers and mobility;

45.18 (5) treatment and therapies;

45.19 (6) assisting residents with eating when the clients have complicated eating problems
45.20 as identified in the resident record or through an assessment such as difficulty swallowing,
45.21 recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous
45.22 instruments to be fed; or

45.23 (7) providing other complex or specialty health care services.

45.24 Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with
45.25 dementia care" means a licensed assisted living facility that also provides dementia care
45.26 services. An assisted living facility with dementia care may also have a secured dementia
45.27 care unit.

45.28 Subd. 9. **Assisted living facility and basic care facility contract.** "Assisted living
45.29 facility and basic care facility contract" means the legal agreement between an assisted
45.30 living facility or a basic care facility, whichever is applicable, and a resident for the provision
45.31 of housing and services.

- 46.1 Subd. 10. **Basic care facility.** "Basic care facility" means a licensed facility that: (1)
46.2 provides sleeping accommodations to one or more adults; and (2) may only provide basic
46.3 care services. For purposes of this chapter, basic care facility does not include:
- 46.4 (i) emergency shelter, transitional housing, or any other residential units serving
46.5 exclusively or primarily homeless individuals, as that term is defined in section 116L.361;
- 46.6 (ii) a nursing home licensed under chapter 144A;
- 46.7 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections
46.8 144.50 to 144.56;
- 46.9 (iv) a lodging establishment licensed under chapter 157, except lodging establishments
46.10 that provide dementia care services;
- 46.11 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;
- 46.12 (vi) services and residential settings licensed under chapter 245A, including adult foster
46.13 care and services and settings governed under standards in chapter 245D;
- 46.14 (vii) private homes where the residents own or rent the home and control all aspects of
46.15 the property and building;
- 46.16 (viii) a duly organized condominium, cooperative and common interest community or
46.17 owners' association of the condominium, cooperative, and common interest community
46.18 where at least 80 percent of the units that comprise the condominium, cooperative, or
46.19 common interest community are occupied by individuals who are the owners, members, or
46.20 shareholders of the units;
- 46.21 (ix) temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- 46.22 (x) settings offering services conducted by and for the adherents of any recognized
46.23 church or religious denomination for its members through spiritual means or by prayer for
46.24 healing;
- 46.25 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
46.26 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
46.27 units financed by the Minnesota Housing Finance Agency that are intended to serve
46.28 individuals with disabilities or individuals who are homeless;
- 46.29 (xii) rental housing developed under United States Code, title 42, section 1437, or United
46.30 States Code, title 12, section 1701q;

47.1 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled
47.2 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
47.3 families under Code of Federal Regulations, title 24, section 983.56;

47.4 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United
47.5 States Code, title 42, section 8011; or

47.6 (xv) an assisted living facility licensed under this chapter.

47.7 Subd. 11. **Basic care services.** "Basic care services" means assistive tasks provided by
47.8 licensed or unlicensed personnel that include:

47.9 (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and
47.10 bathing;

47.11 (2) providing standby assistance;

47.12 (3) providing verbal or visual reminders to the resident to take regularly scheduled
47.13 medication, which includes bringing the client previously set-up medication, medication in
47.14 original containers, or liquid or food to accompany the medication;

47.15 (4) providing verbal or visual reminders to the client to perform regularly scheduled
47.16 treatments and exercises;

47.17 (5) preparing modified diets ordered by a licensed health professional;

47.18 (6) having, maintaining, and documenting a system to visually check on each resident
47.19 a minimum of once daily or more than once daily depending on the person-centered care
47.20 plan; and

47.21 (7) supportive services in addition to the provision of at least one of the activities in
47.22 clauses (1) to (5).

47.23 Subd. 12. **Change of ownership.** "Change of ownership" means a change in the individual
47.24 or legal entity that is responsible for the operation of a facility.

47.25 Subd. 13. **Commissioner.** "Commissioner" means the commissioner of health.

47.26 Subd. 14. **Compliance officer.** "Compliance officer" means a designated individual
47.27 who is qualified by knowledge, training, and experience in health care or risk management
47.28 to promote, implement, and oversee the facility's compliance program. The compliance
47.29 officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance
47.30 processes; and address fraud, abuse, and waste under this chapter and state and federal law.

48.1 Subd. 15. **Controlled substance.** "Controlled substance" has the meaning given in
48.2 section 152.01, subdivision 4.

48.3 Subd. 16. **Controlling individual.** (a) "Controlling individual" means an owner of a
48.4 facility licensed under this chapter and the following individuals, if applicable:

48.5 (1) each officer of the organization, including the chief executive officer and chief
48.6 financial officer;

48.7 (2) the individual designated as the authorized agent under section 245A.04, subdivision
48.8 1, paragraph (b);

48.9 (3) the individual designated as the compliance officer under section 256B.04, subdivision
48.10 21, paragraph (b); and

48.11 (4) each managerial official whose responsibilities include the direction of the
48.12 management or policies of the facility.

48.13 (b) Controlling individual also means any owner who directly or indirectly owns five
48.14 percent or more interest in:

48.15 (1) the land on which the facility is located, including a real estate investment trust
48.16 (REIT);

48.17 (2) the structure in which a facility is located;

48.18 (3) any mortgage, contract for deed, or other obligation secured in whole or part by the
48.19 land or structure comprising the facility; or

48.20 (4) any lease or sublease of the land, structure, or facilities comprising the facility.

48.21 (c) Controlling individual does not include:

48.22 (1) a bank, savings bank, trust company, savings association, credit union, industrial
48.23 loan and thrift company, investment banking firm, or insurance company unless the entity
48.24 operates a program directly or through a subsidiary;

48.25 (2) government and government-sponsored entities such as the U.S. Department of
48.26 Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota
48.27 Housing Finance Agency which provide loans, financing, and insurance products for housing
48.28 sites;

48.29 (3) an individual who is a state or federal official, or a state or federal employee, or a
48.30 member or employee of the governing body of a political subdivision of the state or federal
48.31 government that operates one or more facilities, unless the individual is also an officer,

49.1 owner, or managerial official of the facility, receives remuneration from the facility, or
49.2 owns any of the beneficial interests not excluded in this subdivision;

49.3 (4) an individual who owns less than five percent of the outstanding common shares of
49.4 a corporation:

49.5 (i) whose securities are exempt under section 80A.45, clause (6); or

49.6 (ii) whose transactions are exempt under section 80A.46, clause (2);

49.7 (5) an individual who is a member of an organization exempt from taxation under section
49.8 290.05, unless the individual is also an officer, owner, or managerial official of the license
49.9 or owns any of the beneficial interests not excluded in this subdivision. This clause does
49.10 not exclude from the definition of controlling individual an organization that is exempt from
49.11 taxation; or

49.12 (6) an employee stock ownership plan trust, or a participant or board member of an
49.13 employee stock ownership plan, unless the participant or board member is a controlling
49.14 individual.

49.15 Subd. 17. **Dementia.** "Dementia" means the loss of intellectual function of sufficient
49.16 severity that interferes with an individual's daily functioning. Dementia affects an individual's
49.17 memory and ability to think, reason, speak, and move. Symptoms may also include changes
49.18 in personality, mood, and behavior. Irreversible dementias include but are not limited to:

49.19 (1) Alzheimer's disease;

49.20 (2) vascular dementia;

49.21 (3) Lewy body dementia;

49.22 (4) frontal-temporal lobe dementia;

49.23 (5) alcohol dementia;

49.24 (6) Huntington's disease; and

49.25 (7) Creutzfeldt-Jakob disease.

49.26 Subd. 18. **Dementia care services.** "Dementia care services" means a distinct form of
49.27 long-term care designed to meet the specific needs of an individual with dementia.

49.28 Subd. 19. **Dementia-trained staff.** "Dementia-trained staff" means any employee that
49.29 has completed the minimum training requirements and has demonstrated knowledge and
49.30 understanding in supporting individuals with dementia.

50.1 Subd. 20. **Designated representative.** "Designated representative" means one of the
50.2 following in the order of priority listed, to the extent the person may reasonably be identified
50.3 and located:

50.4 (1) a court-appointed guardian acting in accordance with the powers granted to the
50.5 guardian under chapter 524;

50.6 (2) a conservator acting in accordance with the powers granted to the conservator under
50.7 chapter 524;

50.8 (3) a health care agent acting in accordance with the powers granted to the health care
50.9 agent under chapter 145C;

50.10 (4) a power of attorney acting in accordance with the powers granted to the
50.11 attorney-in-fact under chapter 523; or

50.12 (5) the resident representative.

50.13 Subd. 21. **Dietary supplement.** "Dietary supplement" means a product taken by mouth
50.14 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may
50.15 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as
50.16 enzymes, organ tissue, glandulars, or metabolites.

50.17 Subd. 22. **Direct contact.** "Direct contact" means providing face-to-face care, training,
50.18 supervision, counseling, consultation, or medication assistance to residents of a facility.

50.19 Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual
50.20 or organization with the possession of at least five percent equity in capital, stock, or profits
50.21 of an organization, or who is a member of a limited liability company. An individual with
50.22 a five percent or more direct ownership is presumed to have an effect on the operation of
50.23 the facility with respect to factors affecting the care or training provided.

50.24 Subd. 24. **Facility.** "Facility" means a basic care facility, an assisted living facility, and
50.25 an assisted living facility with dementia care.

50.26 Subd. 25. **Hands-on assistance.** "Hands-on assistance" means physical help by another
50.27 person without which the resident is not able to perform the activity.

50.28 Subd. 26. **Indirect ownership interest.** "Indirect ownership interest" means an individual
50.29 or organization with a direct ownership interest in an entity that has a direct or indirect
50.30 ownership interest in a facility of at least five percent or more. An individual with a five
50.31 percent or more indirect ownership is presumed to have an effect on the operation of the
50.32 facility with respect to factors affecting the care or training provided.

51.1 Subd. 27. **Licensed health professional.** "Licensed health professional" means a person
51.2 licensed in Minnesota to practice the professions described in section 214.01, subdivision
51.3 2.

51.4 Subd. 28. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the
51.5 resident occupancy level requested by a licensee and approved by the commissioner.

51.6 Subd. 29. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner
51.7 issues a license for a facility and who is responsible for the management, control, and
51.8 operation of a facility. A facility must be managed, controlled, and operated in a manner
51.9 that enables it to use its resources effectively and efficiently to attain or maintain the highest
51.10 practicable physical, mental, and psychosocial well-being of each resident.

51.11 Subd. 30. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,
51.12 subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or
51.13 any persistent course of conduct intended to produce mental or emotional distress.

51.14 Subd. 31. **Management agreement.** "Management agreement" means a written, executed
51.15 agreement between a licensee and manager regarding the provision of certain services on
51.16 behalf of the licensee.

51.17 Subd. 32. **Managerial official.** "Managerial official" means an individual who has the
51.18 decision-making authority related to the operation of the facility and the responsibility for
51.19 the ongoing management or direction of the policies, services, or employees of the facility.

51.20 Subd. 33. **Medication.** "Medication" means a prescription or over-the-counter drug. For
51.21 purposes of this chapter only, medication includes dietary supplements.

51.22 Subd. 34. **Medication administration.** "Medication administration" means performing
51.23 a set of tasks that includes the following:

51.24 (1) checking the client's medication record;

51.25 (2) preparing the medication as necessary;

51.26 (3) administering the medication to the client;

51.27 (4) documenting the administration or reason for not administering the medication; and

51.28 (5) reporting to a registered nurse or appropriate licensed health professional any concerns
51.29 about the medication, the resident, or the resident's refusal to take the medication.

51.30 Subd. 35. **Medication management.** "Medication management" means the provision
51.31 of any of the following medication-related services to a resident:

- 52.1 (1) performing medication setup;
- 52.2 (2) administering medications;
- 52.3 (3) storing and securing medications;
- 52.4 (4) documenting medication activities;
- 52.5 (5) verifying and monitoring the effectiveness of systems to ensure safe handling and
- 52.6 administration;
- 52.7 (6) coordinating refills;
- 52.8 (7) handling and implementing changes to prescriptions;
- 52.9 (8) communicating with the pharmacy about the resident's medications; and
- 52.10 (9) coordinating and communicating with the prescriber.

52.11 Subd. 36. **Medication reconciliation.** "Medication reconciliation" means the process

52.12 of identifying the most accurate list of all medications the resident is taking, including the

52.13 name, dosage, frequency, and route by comparing the resident record to an external list of

52.14 medications obtained from the resident, hospital, prescriber or other provider.

52.15 Subd. 37. **Medication setup.** "Medication setup" means arranging medications by a

52.16 nurse, pharmacy, or authorized prescriber for later administration by the resident or by

52.17 facility staff.

52.18 Subd. 38. **New construction.** "New construction" means a new building, renovation,

52.19 modification, reconstruction, physical changes altering the use of occupancy, or an addition

52.20 to a building.

52.21 Subd. 39. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to

52.22 148.285.

52.23 Subd. 40. **Occupational therapist.** "Occupational therapist" means a person who is

52.24 licensed under sections 148.6401 to 148.6449.

52.25 Subd. 41. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

52.26 Subd. 42. **Owner.** "Owner" means an individual or organization that has a direct or

52.27 indirect ownership interest of five percent or more in a facility. For purposes of this chapter,

52.28 "owner of a nonprofit corporation" means the president and treasurer of the board of directors

52.29 or, for an entity owned by an employee stock ownership plan, means the president and

52.30 treasurer of the entity. A government entity that is issued a license under this chapter shall

52.31 be designated the owner. An individual with a five percent or more direct or indirect

53.1 ownership is presumed to have an effect on the operation of the facility with respect to
53.2 factors affecting the care or training provided.

53.3 Subd. 43. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not
53.4 required by federal law to bear the symbol "Rx only."

53.5 Subd. 44. **Person-centered planning and service delivery.** "Person-centered planning
53.6 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph
53.7 (b).

53.8 Subd. 45. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision
53.9 3.

53.10 Subd. 46. **Physical therapist.** "Physical therapist" means a person who is licensed under
53.11 sections 148.65 to 148.78.

53.12 Subd. 47. **Physician.** "Physician" means a person who is licensed under chapter 147.

53.13 Subd. 48. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;
53.14 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

53.15 Subd. 49. **Prescription.** "Prescription" has the meaning given in section 151.01,
53.16 subdivision 16a.

53.17 Subd. 50. **Provisional license.** "Provisional license" means the initial license the
53.18 department issues after approval of a complete written application and before the department
53.19 completes the provisional license survey and determines that the provisional licensee is in
53.20 substantial compliance.

53.21 Subd. 51. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be
53.22 completed at predetermined times or according to a predetermined routine.

53.23 Subd. 52. **Reminder.** "Reminder" means providing a verbal or visual reminder to a
53.24 resident.

53.25 Subd. 53. **Resident.** "Resident" means a person living in an assisted living facility or a
53.26 basic care facility.

53.27 Subd. 54. **Resident record.** "Resident record" means all records that document
53.28 information about the services provided to the resident.

53.29 Subd. 55. **Resident representative.** "Resident representative" means a person designated
53.30 in writing by the resident and identified in the resident's records on file with the facility.

54.1 Subd. 56. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed
54.2 under chapter 147C.

54.3 Subd. 57. **Revenues.** "Revenues" means all money received by a licensee derived from
54.4 the provision of home care services, including fees for services and appropriations of public
54.5 money for home care services.

54.6 Subd. 58. **Service agreement.** "Service agreement" means the written agreement between
54.7 the resident or the resident's representative and the provisional licensee or licensee about
54.8 the services that will be provided to the resident.

54.9 Subd. 59. **Social worker.** "Social worker" means a person who is licensed under chapter
54.10 148D or 148E.

54.11 Subd. 60. **Speech-language pathologist.** "Speech-language pathologist" has the meaning
54.12 given in section 148.512.

54.13 Subd. 61. **Standby assistance.** "Standby assistance" means the presence of another
54.14 person within arm's reach to minimize the risk of injury while performing daily activities
54.15 through physical intervention or cueing to assist a resident with an assistive task by providing
54.16 cues, oversight, and minimal physical assistance.

54.17 Subd. 62. **Substantial compliance.** "Substantial compliance" means complying with
54.18 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks
54.19 to residents.

54.20 Subd. 63. **Supportive services.** "Supportive services" means:

54.21 (1) assistance with laundry, shopping, and household chores;

54.22 (2) housekeeping services;

54.23 (3) provision or assistance with meals or food preparation;

54.24 (4) help with arranging for, or arranging transportation to medical, social, recreational,
54.25 personal, or social services appointments; or

54.26 (5) provision of social or recreational services.

54.27 Arranging for services does not include making referrals, or contacting a service provider
54.28 in an emergency.

54.29 Subd. 64. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure
54.30 for compliance with this chapter.

55.1 Subd. 65. **Surveyor.** "Surveyor" means a staff person of the department who is authorized
55.2 to conduct surveys of basic care facilities and assisted living facilities and applicants.

55.3 Subd. 66. **Termination of housing or services.** "Termination of housing or services"
55.4 means a discharge, eviction, transfer, or service termination initiated by the facility. A
55.5 facility-initiated termination is one which the resident objects to and did not originate through
55.6 a resident's verbal or written request. A resident-initiated termination is one where a resident
55.7 or, if appropriate, a designated representative provided a verbal or written notice of intent
55.8 to leave the facility. A resident-initiated termination does not include the general expression
55.9 of a desire to return home or the elopement of residents with cognitive impairment.

55.10 Subd. 67. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,
55.11 other than medications, ordered or prescribed by a licensed health professional and provided
55.12 to a resident to cure, rehabilitate, or ease symptoms.

55.13 Subd. 68. **Unit of government.** "Unit of government" means a city, county, town, school
55.14 district, other political subdivision of the state, or an agency of the state or federal
55.15 government, that includes any instrumentality of a unit of government.

55.16 Subd. 69. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise
55.17 licensed or certified by a governmental health board or agency who provide services to a
55.18 resident.

55.19 Subd. 70. **Verbal.** "Verbal" means oral and not in writing.

55.20 Sec. 3. **[144L.02] BASIC CARE FACILITY AND ASSISTED LIVING FACILITY**
55.21 **LICENSE.**

55.22 Subdivision 1. **License required.** Beginning August 1, 2021, an entity may not operate
55.23 a basic care facility or an assisted living facility in Minnesota unless it is licensed under
55.24 this chapter.

55.25 Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for
55.26 a basic care facility and an assisted living facility licensure.

55.27 (b) A basic care category is a basic care facility that provides basic care services. A basic
55.28 care category facility shall not provide comprehensive assisted living services.

55.29 (c) An assisted living category is an assisted living facility that provides basic care
55.30 services and comprehensive assisted living services.

55.31 (d) An assisted living facility with dementia care category is an assisted living facility
55.32 that provides basic care services, comprehensive assisted living services, and dementia care

56.1 services. An assisted living facility with dementia care may also provide dementia care
56.2 services in a secure dementia care unit.

56.3 Subd. 3. **Violations; penalty.** (a) Operating a facility without a license is a misdemeanor
56.4 punishable by a fine imposed by the commissioner.

56.5 (b) A controlling individual of the facility in violation of this section is guilty of a
56.6 misdemeanor. This paragraph shall not apply to any controlling individual who had no legal
56.7 authority to affect or change decisions related to the operation of the facility.

56.8 (c) The sanctions in this section do not restrict other available sanctions in law.

56.9 Sec. 4. **[144I.03] PROVISIONAL LICENSE.**

56.10 Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants,
56.11 the commissioner shall issue a provisional license to each of the licensure categories specified
56.12 in section 144I.02, subdivision 2, which is effective for up to one year from the license
56.13 effective date, except that a provisional license may be extended according to subdivision
56.14 2, paragraph (c).

56.15 (b) Basic care facilities and assisted living facilities are subject to evaluation and approval
56.16 by the commissioner of the facility's physical environment and its operational aspects before
56.17 a change in ownership or capacity, or an addition of services which necessitates a change
56.18 in the facility's physical environment.

56.19 Subd. 2. **Initial survey; licensure.** (a) During the provisional license period, the
56.20 commissioner shall survey the provisional licensee after the commissioner is notified or
56.21 has evidence that the provisional licensee has residents and is providing services.

56.22 (b) Within two days of beginning to provide services, the provisional licensee must
56.23 provide notice to the commissioner that it is serving residents by sending an e-mail to the
56.24 e-mail address provided by the commissioner. If the provisional licensee does not provide
56.25 services during the provisional license year period, then the provisional license expires at
56.26 the end of the period and the applicant must reapply for the provisional facility license.

56.27 (c) If the provisional licensee notifies the commissioner that the licensee has residents
56.28 within 45 days prior to the provisional license expiration, the commissioner may extend the
56.29 provisional license for up to 60 days in order to allow the commissioner to complete the
56.30 on-site survey required under this section and follow-up survey visits.

56.31 (d) If the provisional licensee is in substantial compliance with the survey, the
56.32 commissioner shall issue a facility license. If the provisional licensee is not in substantial

57.1 compliance with the initial survey, the commissioner shall either: (1) not issue the facility
57.2 license and terminate the provisional license; or (2) extend the provisional license for a
57.3 period not to exceed 90 days and apply conditions necessary to bring the facility into
57.4 substantial compliance. If the provisional licensee is not in substantial compliance with the
57.5 survey within the time period of the extension or if the provisional licensee does not satisfy
57.6 the license conditions, the commissioner may deny the license.

57.7 Subd. 3. **Reconsideration.** (a) If a provisional licensee whose facility license has been
57.8 denied or extended with conditions disagrees with the conclusions of the commissioner,
57.9 then the provisional licensee may request a reconsideration by the commissioner or
57.10 commissioner's designee. The reconsideration request process must be conducted internally
57.11 by the commissioner or designee and chapter 14 does not apply.

57.12 (b) The provisional licensee requesting the reconsideration must make the request in
57.13 writing and must list and describe the reasons why the provisional licensee disagrees with
57.14 the decision to deny the facility license or the decision to extend the provisional license
57.15 with conditions.

57.16 (c) The reconsideration request and supporting documentation must be received by the
57.17 commissioner within 15 calendar days after the date the provisional licensee receives the
57.18 denial or provisional license with conditions.

57.19 Subd. 4. **Continued operation.** A provisional licensee whose license is denied is
57.20 permitted to continue operating during the period of time when:

57.21 (1) a reconsideration is in process;

57.22 (2) an extension of the provisional license and terms associated with it is in active
57.23 negotiation between the commissioner and the licensee and the commissioner confirms the
57.24 negotiation is active; or

57.25 (3) a transfer of residents to a new facility is underway and not all of the residents have
57.26 relocated.

57.27 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license
57.28 is denied must comply with the requirements for notification and transfer of residents in
57.29 section 144I.26.

57.30 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section
57.31 144I.26, subdivision 5, paragraph (b), is \$1,000.

58.1 Sec. 5. [144I.04] APPLICATION FOR LICENSURE.

58.2 Subdivision 1. License applications. (a) Each application for a facility license, including
58.3 a provisional license, must include information sufficient to show that the applicant meets
58.4 the requirements of licensure, including:

58.5 (1) the business name and legal entity name of the operating entity; street address and
58.6 mailing address of the facility; and the names, e-mail addresses, telephone numbers, and
58.7 mailing addresses of all owners, controlling individuals, managerial officials, and the assisted
58.8 living administrator;

58.9 (2) the name and e-mail address of the managing agent, if applicable;

58.10 (3) the licensed bed capacity and the license category;

58.11 (4) the license fee in the amount specified in section 144.122;

58.12 (5) any judgments, private or public litigation, tax liens, written complaints, administrative
58.13 actions, or investigations by any government agency against the applicant, owner, controlling
58.14 individual, managerial official, or assisted living administrator that are unresolved or
58.15 otherwise filed or commenced within the preceding ten years;

58.16 (6) documentation of compliance with the background study requirements in section
58.17 144I.06 for the owner, controlling individuals, and managerial officials. Each application
58.18 for a new license must include documentation for the applicant and for each individual with
58.19 five percent or more direct or indirect ownership in the applicant;

58.20 (7) evidence of workers' compensation coverage as required by sections 176.181 and
58.21 176.182;

58.22 (8) disclosure that the provider has no liability coverage or, if the provider has coverage,
58.23 documentation of coverage;

58.24 (9) a copy of the executed lease agreement if applicable;

58.25 (10) a copy of the management agreement if applicable;

58.26 (11) a copy of the operations transfer agreement or similar agreement if applicable;

58.27 (12) a copy of the executed agreement if the facility has contracted services with another
58.28 organization or individual for services such as managerial, billing, consultative, or medical
58.29 personnel staffing;

58.30 (13) a copy of the organizational chart that identifies all organizations and individuals
58.31 with any ownership interests in the facility;

59.1 (14) whether any applicant, owner, controlling individual, managerial official, or assisted
59.2 living administrator of the facility has ever been convicted of a crime or found civilly liable
59.3 for an offense involving moral turpitude, including forgery, embezzlement, obtaining money
59.4 under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense
59.5 or violation; any violation of section 626.557 or any other similar law in any other state; or
59.6 any violation of a federal or state law or regulation in connection with activities involving
59.7 any consumer fraud, false advertising, deceptive trade practices, or similar consumer
59.8 protection law;

59.9 (15) whether the applicant or any owner, controlling individual, managerial official, or
59.10 assisted living administrator of the facility has a record of defaulting in the payment of
59.11 money collected for others, including the discharge of debts through bankruptcy proceedings;

59.12 (16) documentation that the applicant has designated one or more owners, controlling
59.13 individuals, or employees as an agent or agents, which shall not affect the legal responsibility
59.14 of any other owner or controlling individual under this chapter;

59.15 (17) the signature of the owner or owners, or an authorized agent of the owner or owners
59.16 of the facility applicant. An application submitted on behalf of a business entity must be
59.17 signed by at least two owners or controlling individuals;

59.18 (18) identification of all states where the applicant or individual having a five percent
59.19 or more ownership, currently or previously has been licensed as owner or operator of a
59.20 long-term care, community-based, or health care facility or agency where its license or
59.21 federal certification has been denied, suspended, restricted, conditioned, or revoked under
59.22 a private or state-controlled receivership, or where these same actions are pending under
59.23 the laws of any state or federal authority; and

59.24 (19) any other information required by the commissioner.

59.25 Subd. 2. **Agents.** (a) An application for a facility license or for renewal of a facility
59.26 license must specify one or more owners, controlling individuals, or employees as agents:

59.27 (1) who shall be responsible for dealing with the commissioner on all requirements of
59.28 this chapter; and

59.29 (2) on whom personal service of all notices and orders shall be made and who shall be
59.30 authorized to accept service on behalf of all of the controlling individuals of the facility in
59.31 proceedings under this chapter.

59.32 (b) Notwithstanding any law to the contrary, personal service on the designated person
59.33 or persons named in the application is deemed to be service on all of the controlling

60.1 individuals or managerial employees of the facility and it is not a defense to any action
60.2 arising under this chapter that personal service was not made on each controlling individual
60.3 or managerial official of the facility. The designation of one or more controlling individuals
60.4 or managerial officials under this subdivision shall not affect the legal responsibility of any
60.5 other controlling individual or managerial official under this chapter.

60.6 Subd. 3. Fees. (a) An initial applicant, renewal applicant, or applicant filing a change
60.7 of ownership for a basic care facility or assisted living facility licensure must submit the
60.8 application fee required in section 144I.122 to the commissioner along with a completed
60.9 application.

60.10 (b) The penalty for late submission of the renewal application after expiration of the
60.11 license is \$200. The penalty for operating a facility after expiration of the license and before
60.12 a renewal license is issued, is \$250 each day after expiration of the license until the renewal
60.13 license issuance date. The facility is still subject to the criminal gross misdemeanor penalties
60.14 for operating after license expiration.

60.15 (c) Fees collected under this section shall be deposited in the state treasury and credited
60.16 to the state government special revenue fund. All fees are nonrefundable.

60.17 (d) Fines collected under this subdivision shall be deposited in a dedicated special revenue
60.18 account. On an annual basis, the balance in the special revenue account shall be appropriated
60.19 to the commissioner to implement the recommendations of the advisory council established
60.20 in section 144A.4799.

60.21 **Sec. 6. [144I.05] TRANSFER OF LICENSE PROHIBITED.**

60.22 Subdivision 1. Transfers prohibited. Any facility license issued by the commissioner
60.23 may not be transferred to another party.

60.24 Subd. 2. New license required. (a) Before acquiring ownership of a facility, a prospective
60.25 applicant must apply for a new license. The licensee of a basic care facility or an assisted
60.26 living facility must change whenever the following events occur, including but not limited
60.27 to:

60.28 (1) the licensee's form of legal organization is changed;

60.29 (2) the licensee transfers ownership of the facility business enterprise to another party
60.30 regardless of whether ownership of some or all of the real property or personal property
60.31 assets of the assisted living facility is also transferred;

61.1 (3) the licensee dissolves, consolidates, or merges with another legal organization and
61.2 the licensee's legal organization does not survive;

61.3 (4) during any continuous 24-month period, 50 percent or more of the licensed entity is
61.4 transferred, whether by a single transaction or multiple transactions, to:

61.5 (i) a different person; or

61.6 (ii) a person who had less than a five percent ownership interest in the facility at the
61.7 time of the first transaction; or

61.8 (5) any other event or combination of events that results in a substitution, elimination,
61.9 or withdrawal of the licensee's control of the facility.

61.10 (b) As used in this section, "control" means the possession, directly or indirectly, of the
61.11 power to direct the management, operation, and policies of the licensee or facility, whether
61.12 through ownership, voting control, by agreement, by contract, or otherwise.

61.13 (c) The current facility licensee must provide written notice to the department and
61.14 residents, or designated representatives, at least 60 calendar days prior to the anticipated
61.15 date of the change of licensee.

61.16 Subd. 3. **Survey required.** For all new licensees after a change in ownership, the
61.17 commissioner shall complete a survey within six months after the new license is issued.

61.18 Sec. 7. **[144I.06] BACKGROUND STUDIES.**

61.19 Subdivision 1. **Background studies required.** (a) Before the commissioner issues a
61.20 provisional license, issues a license as a result of an approved change of ownership, or
61.21 renews a license, a controlling individual or managerial official is required to complete a
61.22 background study under section 144.057. No person may be involved in the management,
61.23 operation, or control of a facility if the person has been disqualified under chapter 245C.
61.24 For the purposes of this section, managerial officials subject to the background check
61.25 requirement are individuals who provide direct contact.

61.26 (b) The commissioner shall not issue a license if the controlling individual or managerial
61.27 official has been unsuccessful in having a background study disqualification set aside under
61.28 section 144.057 and chapter 245C.

61.29 (c) Employees, contractors, and volunteers of the facility are subject to the background
61.30 study required by section 144.057 and may be disqualified under chapter 245C. Nothing in
61.31 this section shall be construed to prohibit the facility from requiring self-disclosure of
61.32 criminal conviction information.

62.1 Subd. 2. **Reconsideration.** If an individual is disqualified under section 144.057 or
62.2 chapter 245C, the individual may request reconsideration of the disqualification. If the
62.3 individual requests reconsideration and the commissioner sets aside or rescinds the
62.4 disqualification, the individual is eligible to be involved in the management, operation, or
62.5 control of the facility. If an individual has a disqualification under section 245C.15,
62.6 subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred
62.7 from a set aside, and the individual must not be involved in the management, operation, or
62.8 control of the facility.

62.9 Subd. 3. **Data classification.** Data collected under this subdivision shall be classified
62.10 as private data on individuals under section 13.02, subdivision 12.

62.11 Subd. 4. **Termination in good faith.** Termination of an employee in good faith reliance
62.12 on information or records obtained under this section regarding a confirmed conviction does
62.13 not subject the assisted living facility to civil liability or liability for unemployment benefits.

62.14 **Sec. 8. [144I.07] LICENSE RENEWAL.**

62.15 Except as provided in section, a license that is not a provisional license may be
62.16 renewed for a period of up to one year if the licensee satisfies the following:

62.17 (1) submits an application for renewal in the format provided by the commissioner at
62.18 least 60 days before expiration of the license;

62.19 (2) submits the renewal fee under section 144I.04, subdivision 3;

62.20 (3) submits the late fee under section 144I.04, subdivision 3, if the renewal application
62.21 is received less than 30 days before the expiration date of the license;

62.22 (4) provides information sufficient to show that the applicant meets the requirements of
62.23 licensure, including items required under section 144I.04, subdivision 1; and

62.24 (5) provides any other information deemed necessary by the commissioner.

62.25 **Sec. 9. [144I.08] NOTIFICATION OF CHANGES INFORMATION.**

62.26 A provisional licensee or licensee shall notify the commissioner in writing prior to any
62.27 financial or contractual change and within 60 calendar days after any change in the
62.28 information required in section 144I.04, subdivision 1.

63.1 Sec. 10. [144L.09] CONSIDERATION OF APPLICATIONS.

63.2 (a) The commissioner shall consider an applicant's performance history in Minnesota
63.3 and in other states, including repeat violations or rule violations, before issuing a provisional
63.4 license, license, or renewal license.

63.5 (b) An applicant must not have a history within the last five years in Minnesota or in
63.6 any other state of a license or certification involuntarily suspended or voluntarily terminated
63.7 during any enforcement process in a facility that provides care to children, the elderly or ill
63.8 individuals, or individuals with disabilities.

63.9 (c) Failure to provide accurate information or demonstrate required performance history
63.10 may result in the denial of a license.

63.11 (d) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license
63.12 or impose conditions if:

63.13 (1) the applicant fails to provide complete and accurate information on the application
63.14 and the commissioner concludes that the missing or corrected information is needed to
63.15 determine if a license shall be granted;

63.16 (2) the applicant, knowingly or with reason to know, made a false statement of a material
63.17 fact in an application for the license or any data attached to the application or in any matter
63.18 under investigation by the department;

63.19 (3) the applicant refused to allow representatives or agents of the department to inspect
63.20 its books, records, and files, or any portion of the premises;

63.21 (4) willfully prevented, interfered with, or attempted to impede in any way: (i) the work
63.22 of any authorized representative of the department, the ombudsman for long-term care, or
63.23 the ombudsman for mental health and developmental disabilities; or (ii) the duties of the
63.24 commissioner, local law enforcement, city or county attorneys, adult protection, county
63.25 case managers, or other local government personnel;

63.26 (5) the applicant has a history of noncompliance with federal or state regulations that
63.27 were detrimental to the health, welfare, or safety of a resident or a client; and

63.28 (6) the applicant violates any requirement in this chapter.

63.29 (e) For all new licensees after a change in ownership, the commissioner shall complete
63.30 a survey within six months after the new license is issued.

64.1 Sec. 11. [144I.10] MINIMUM BASIC CARE FACILITY AND ASSISTED LIVING
64.2 FACILITY REQUIREMENTS.

64.3 Subdivision 1. Minimum requirements. All licensed facilities shall:

64.4 (1) distribute to residents, families, and resident representatives the basic care and assisted
64.5 living bill of rights in section 144J.06;

64.6 (2) provide health-related services in a manner that complies with the Nurse Practice
64.7 Act in sections 148.171 to 148.285;

64.8 (3) utilize person-centered planning and service delivery process as defined in section
64.9 245D.07;

64.10 (4) have and maintain a system for delegation of health care activities to unlicensed
64.11 personnel by a registered nurse, including supervision and evaluation of the delegated
64.12 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;

64.13 (5) provide a means for residents to request assistance for health and safety needs 24
64.14 hours per day, seven days per week;

64.15 (6) allow residents the ability to furnish and decorate the resident's unit within the terms
64.16 of the lease;

64.17 (7) permit residents access to food at any time;

64.18 (8) allow residents to choose the resident's visitors and times of visits;

64.19 (9) allow the resident the right to choose a roommate if sharing a unit;

64.20 (10) notify the resident of the resident's right to have and use a lockable door to the
64.21 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with
64.22 a specific need to enter the unit shall have keys, and advance notice must be given to the
64.23 resident before entrance, when possible;

64.24 (11) develop and implement a staffing plan for determining its staffing level that:

64.25 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness
64.26 of staffing levels in the facility;

64.27 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably
64.28 foreseeable unscheduled needs of each resident as required by the residents' assessments
64.29 and service agreements on a 24-hour per day basis; and

65.1 (iii) ensures that the facility can respond promptly and effectively to individual resident
65.2 emergencies and to emergency, life safety, and disaster situations affecting staff or residents
65.3 in the facility;

65.4 (12) ensures that a person or persons are available 24 hours per day, seven days per
65.5 week, who are responsible for responding to the requests of residents for assistance with
65.6 health or safety needs, who shall be:

65.7 (i) awake;

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

65.10 (iii) capable of communicating with residents;

65.11 (iv) capable of providing or summoning the appropriate assistance; and

65.12 (v) capable of following directions. For an assisted living facility providing dementia
65.13 care, the awake person must be physically present in the locked or secure unit; and

65.14 (13) offer to provide or make available at least the following services to residents:

65.15 (i) at least three daily nutritious meals with snacks available seven days per week,
65.16 according to the recommended dietary allowances in the United States Department of
65.17 Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The
65.18 following apply:

65.19 (A) modified special diets that are appropriate to residents' needs and choices;

65.20 (B) menus prepared at least one week in advance, and made available to all residents.
65.21 The facility must encourage residents' involvement in menu planning. Meal substitutions
65.22 must be of similar nutritional value if a resident refuses a food that is served. Residents
65.23 must be informed in advance of menu changes;

65.24 (C) food must be prepared and served according to the Minnesota Food Code, Minnesota
65.25 Rules, chapter 4626; and

65.26 (D) the facility cannot require a resident to include and pay for meals in their contract;

65.27 (ii) weekly housekeeping;

65.28 (iii) weekly laundry service;

65.29 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
65.30 for transportation to medical and social services appointments, shopping, and other recreation,

66.1 and provide the name of or other identifying information about the person or persons
66.2 responsible for providing this assistance;

66.3 (v) upon the request of the resident, provide reasonable assistance with accessing
66.4 community resources and social services available in the community, and provide the name
66.5 of or other identifying information about the person or persons responsible for providing
66.6 this assistance; and

66.7 (vi) have a daily program of social and recreational activities that are based upon
66.8 individual and group interests, physical, mental, and psychosocial needs, and that creates
66.9 opportunities for active participation in the community at large.

66.10 Subd. 2. Policies and procedures. (a) Each facility must have policies and procedures
66.11 in place to address the following and keep them current:

66.12 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;

66.13 (2) conducting and handling background studies on employees;

66.14 (3) orientation, training, and competency evaluations of staff, and a process for evaluating
66.15 staff performance;

66.16 (4) handling complaints from residents, family members, or designated representatives
66.17 regarding staff or services provided by staff;

66.18 (5) conducting initial evaluation of residents' needs and the providers' ability to provide
66.19 those services;

66.20 (6) conducting initial and ongoing resident evaluations and assessments and how changes
66.21 in a resident's condition are identified, managed, and communicated to staff and other health
66.22 care providers as appropriate;

66.23 (7) orientation to and implementation of the basic care and assisted living bill of rights;

66.24 (8) infection control practices;

66.25 (9) reminders for medications, treatments, or exercises, if provided; and

66.26 (10) conducting appropriate screenings, or documentation of prior screenings, to show
66.27 that staff are free of tuberculosis, consistent with current United States Centers for Disease
66.28 Control and Prevention standards.

66.29 (b) For assisted living facilities and assisted living facilities with dementia care, the
66.30 following are also required:

67.1 (1) conducting initial and ongoing assessments of the resident's needs by a registered
67.2 nurse or appropriate licensed health professional, including how changes in the resident's
67.3 conditions are identified, managed, and communicated to staff and other health care
67.4 providers, as appropriate;

67.5 (2) ensuring that nurses and licensed health professionals have current and valid licenses
67.6 to practice;

67.7 (3) medication and treatment management;

67.8 (4) delegation of tasks by registered nurses or licensed health professionals;

67.9 (5) supervision of registered nurses and licensed health professionals; and

67.10 (6) supervision of unlicensed personnel performing delegated tasks.

67.11 Subd. 3. **Infection control program.** The facility shall establish and maintain an infection
67.12 control program.

67.13 Subd. 4. **Clinical nurse supervision.** All assisted living facilities must have a clinical
67.14 nurse supervisor who is a registered nurse licensed in Minnesota.

67.15 Subd. 5. **Resident and family or resident representative councils.** (a) If a resident,
67.16 family, or designated representative chooses to establish a council, the licensee shall support
67.17 the council's establishment. The facility must provide assistance and space for meetings and
67.18 afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A
67.19 staff person must be designated the responsibility of providing this assistance and responding
67.20 to written requests that result from council meetings. Resident council minutes are public
67.21 data and shall be available to all residents in the facility. Family or resident representatives
67.22 may attend resident councils upon invitation by a resident on the council.

67.23 (b) All assisted living facilities shall engage their residents and families or designated
67.24 representatives in the operation of their community and document the methods and results
67.25 of this engagement.

67.26 Subd. 6. **Resident grievances.** All facilities must post in a conspicuous place information
67.27 about the facilities' grievance procedure, and the name, telephone number, and e-mail contact
67.28 information for the individuals who are responsible for handling resident grievances. The
67.29 notice must also have the contact information for the Minnesota Adult Abuse Reporting
67.30 Center, the common entry point, and the state and applicable regional Office of Ombudsman
67.31 for Long-Term Care.

68.1 Subd. 7. **Protecting resident rights.** A facility shall ensure that every resident has access
68.2 to consumer advocacy or legal services by:

68.3 (1) providing names and contact information, including telephone numbers and e-mail
68.4 addresses of at least three organizations that provide advocacy or legal services to residents;

68.5 (2) providing the name and contact information for the Minnesota Office of Ombudsman
68.6 for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental
68.7 Disabilities, including both the state and regional contact information;

68.8 (3) assisting residents in obtaining information on whether Medicare or medical assistance
68.9 under chapter 256B will pay for services;

68.10 (4) making reasonable accommodations for people who have communication disabilities
68.11 and those who speak a language other than English; and

68.12 (5) providing all information and notices in plain language and in terms the residents
68.13 can understand.

68.14 Subd. 8. **Protection-related rights.** (a) In addition to the rights required in the basic
68.15 care and assisted living bill of rights under section 144I.06, the following rights must be
68.16 provided to all residents. The facility must promote and protect these rights for each resident
68.17 by making residents aware of these rights and ensuring staff are trained to support these
68.18 rights:

68.19 (1) the right to furnish and decorate the resident's unit within the terms of the lease;

68.20 (2) the right to access food at any time;

68.21 (3) the right to choose visitors and the times of visits;

68.22 (4) the right to choose a roommate if sharing a unit;

68.23 (5) the right to personal privacy including the right to have and use a lockable door on
68.24 the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff
68.25 member with a specific need to enter the unit shall have keys, and advance notice must be
68.26 given to the resident before entrance, when possible;

68.27 (6) the right to engage in chosen activities;

68.28 (7) the right to engage in community life;

68.29 (8) the right to control personal resources; and

68.30 (9) the right to individual autonomy, initiative, and independence in making life choices
68.31 including a daily schedule and with whom to interact.

69.1 (b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for
69.2 an individual resident only if determined necessary for health and safety reasons identified
69.3 by the facility through an initial assessment or reassessment under section 144I.15,
69.4 subdivision 9, and documented in the written service agreement under section 144I.15,
69.5 subdivision 10. Any restrictions of those rights for people served under sections 256B.0915
69.6 and 256B.49 must be documented by the case manager in the resident's coordinated service
69.7 and support plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49,
69.8 subdivision 15.

69.9 Subd. 9. **Payment for services under disability waivers.** For new facilities, home and
69.10 community-based services under section 256B.49 are not available when the new facility
69.11 setting is adjoined to, or on the same property as, an institution as defined in Code of Federal
69.12 Regulations, title 42, section 441.301(c).

69.13 Subd. 10. **No discrimination based on source of payment.** All facilities must, regardless
69.14 of the source of payment and for all persons seeking to reside or residing in the facility:

69.15 (1) provide equal access to quality care; and

69.16 (2) establish, maintain, and implement identical policies and practices regarding residency,
69.17 transfer, and provision and termination of services.

69.18 **EFFECTIVE DATE.** This section is effective August 1, 2021.

69.19 Sec. 12. **[144I.11] FACILITY RESPONSIBILITIES; HOUSING AND**
69.20 **SERVICE-RELATED MATTERS.**

69.21 Subdivision 1. **Responsibility for housing and services.** The facility is directly
69.22 responsible to the resident for all housing and service-related matters provided, irrespective
69.23 of a management contract. Housing and service-related matters include but are not limited
69.24 to the handling of complaints, the provision of notices, and the initiation of any adverse
69.25 action against the resident involving housing or services provided by the facility.

69.26 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, a
69.27 facility must provide to prospective residents, the prospective resident's designated
69.28 representative, and any other person or persons the resident chooses:

69.29 (1) a written checklist listing all services permitted under the facility's license, identifying
69.30 all services the facility offers to provide under the assisted living facility and basic care
69.31 facility contract, and identifying all services allowed under the license that the facility does
69.32 not provide; and

70.1 (2) an oral explanation of the services offered under the contract.

70.2 (b) The requirements of paragraph (a) must be completed prior to the execution of the
70.3 resident contract.

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

70.6 Subd. 3. **Reservation of rights.** Nothing in this chapter:

70.7 (1) requires a resident to utilize any service provided by or through, or made available
70.8 in, a facility;

70.9 (2) prevents a facility from requiring, as a condition of the contract, that the resident pay
70.10 for a package of services even if the resident does not choose to use all or some of the
70.11 services in the package. For residents who are eligible for home and community-based
70.12 waiver services under sections 256B.0915 and 256B.49, payment for services will follow
70.13 the policies of those programs;

70.14 (3) requires a facility to fundamentally alter the nature of the operations of the facility
70.15 in order to accommodate a resident's request; or

70.16 (4) affects the duty of a facility to grant a resident's request for reasonable
70.17 accommodations.

70.18 **Sec. 13. [144L.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

70.19 (a) A facility must provide for the safe, orderly, and appropriate transfer of residents
70.20 within the facility.

70.21 (b) If a basic care and assisted living contract permits resident transfers within the facility,
70.22 the facility must provide at least 30 days' advance notice of the transfer to the resident and
70.23 the resident's designated representative.

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

71.1 (1) the transfers of residents within the facility are being proposed due to curtailment,
71.2 reduction, capital improvements, or change in operations;

71.3 (2) the transfers of residents within the facility are not temporary moves to accommodate
71.4 physical plan upgrades or renovation; and

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

71.6 **EFFECTIVE DATE.** This section is effective August 1, 2021.

71.7 Sec. 14. **[144L.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.**

71.8 Subdivision 1. **Display of license.** The original current license must be displayed at the
71.9 main entrance of the facility. The facility must provide a copy of the license to any person
71.10 who requests it.

71.11 Subd. 2. **Quality management.** The facility shall engage in quality management
71.12 appropriate to the size of the facility and relevant to the type of services provided. The
71.13 quality management activity means evaluating the quality of care by periodically reviewing
71.14 resident services, complaints made, and other issues that have occurred and determining
71.15 whether changes in services, staffing, or other procedures need to be made in order to ensure
71.16 safe and competent services to residents. Documentation about quality management activity
71.17 must be available for two years. Information about quality management must be available
71.18 to the commissioner at the time of the survey, investigation, or renewal.

71.19 Subd. 3. **Facility restrictions.** (a) This subdivision does not apply to licensees that are
71.20 Minnesota counties or other units of government.

71.21 (b) A facility or staff person cannot accept a power-of-attorney from residents for any
71.22 purpose, and may not accept appointments as guardians or conservators of residents.

71.23 (c) A facility cannot serve as a resident's representative.

71.24 Subd. 4. **Handling resident's finances and property.** (a) A facility may assist residents
71.25 with household budgeting, including paying bills and purchasing household goods, but may
71.26 not otherwise manage a resident's property. A facility must provide a resident with receipts
71.27 for all transactions and purchases paid with the resident's funds. When receipts are not
71.28 available, the transaction or purchase must be documented. A facility must maintain records
71.29 of all such transactions.

71.30 (b) A facility or staff person may not borrow a resident's funds or personal or real
71.31 property, nor in any way convert a resident's property to the facility's or staff person's
71.32 possession.

72.1 (c) Nothing in this section precludes a facility or staff from accepting gifts of minimal
72.2 value or precludes the acceptance of donations or bequests made to a facility that are exempt
72.3 from income tax under section 501(c) of the Internal Revenue Code of 1986.

72.4 Subd. 5. **Reporting maltreatment of vulnerable adults; abuse prevention plan.** (a)
72.5 All facilities must comply with the requirements for the reporting of maltreatment of
72.6 vulnerable adults in section 626.557. Each facility must establish and implement a written
72.7 procedure to ensure that all cases of suspected maltreatment are reported.

72.8 (b) Each facility must develop and implement an individual abuse prevention plan for
72.9 each vulnerable adult. The plan shall contain an individualized review or assessment of the
72.10 person's susceptibility to abuse by another individual, including other vulnerable adults; the
72.11 person's risk of abusing other vulnerable adults; and statements of the specific measures to
72.12 be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes
72.13 of the abuse prevention plan, abuse includes self-abuse.

72.14 Subd. 6. **Reporting suspected crime and maltreatment.** (a) A facility shall support
72.15 protection and safety through access to the state's systems for reporting suspected criminal
72.16 activity and suspected vulnerable adult maltreatment by:

72.17 (1) posting the 911 emergency number in common areas and near telephones provided
72.18 by the assisted living facility;

72.19 (2) posting information and the reporting number for the common entry point under
72.20 section 626.557 to report suspected maltreatment of a vulnerable adult; and

72.21 (3) providing reasonable accommodations with information and notices in plain language.

72.22 Subd. 7. **Employee records.** (a) The facility must maintain current records of each paid
72.23 employee, regularly scheduled volunteers providing services, and each individual contractor
72.24 providing services. The records must include the following information:

72.25 (1) evidence of current professional licensure, registration, or certification if licensure,
72.26 registration, or certification is required by this statute or other rules;

72.27 (2) records of orientation, required annual training and infection control training, and
72.28 competency evaluations;

72.29 (3) current job description, including qualifications, responsibilities, and identification
72.30 of staff persons providing supervision;

72.31 (4) documentation of annual performance reviews that identify areas of improvement
72.32 needed and training needs;

73.1 (5) for individuals providing facility services, verification that required health screenings
73.2 under section 144I.034, subdivision 7, have taken place and the dates of those screenings;
73.3 and

73.4 (6) documentation of the background study as required under section 144.057.

73.5 (b) Each employee record must be retained for at least three years after a paid employee,
73.6 volunteer, or contractor ceases to be employed by, provide services at, or be under contract
73.7 with the facility. If a facility ceases operation, employee records must be maintained for
73.8 three years after facility operations cease.

73.9 Subd. 8. **Compliance officer.** Every assisted living facility shall have a compliance
73.10 officer who is a licensed assisted living administrator. An individual licensed as a nursing
73.11 home administrator, an assisted living administrator, or a health services executive shall
73.12 automatically meet the qualifications of a compliance officer.

73.13 Sec. 15. **[144I.14] FACILITY RESPONSIBILITIES; STAFF.**

73.14 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing
73.15 services must be trained and competent in the provision of services consistent with current
73.16 practice standards appropriate to the resident's needs and be informed of the basic care and
73.17 assisted living bill of rights under section 144I.21.

73.18 Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals
73.19 and nurses providing services as employees of a licensed facility must possess a current
73.20 Minnesota license or registration to practice.

73.21 (b) Licensed health professionals and registered nurses must be competent in assessing
73.22 resident needs, planning appropriate services to meet resident needs, implementing services,
73.23 and supervising staff if assigned.

73.24 (c) Nothing in this section limits or expands the rights of nurses or licensed health
73.25 professionals to provide services within the scope of their licenses or registrations, as
73.26 provided by law.

73.27 Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

73.28 (1) successfully completed a training and competency evaluation appropriate to the
73.29 services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

73.30 (2) demonstrated competency by satisfactorily completing a written or oral test on the
73.31 tasks the unlicensed personnel will perform and on the topics listed in subdivision 6,

74.1 paragraph (b); and successfully demonstrated competency of topics in subdivision 6,
74.2 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

74.3 Unlicensed personnel providing basic care services shall not perform delegated nursing or
74.4 therapy tasks.

74.5 (b) Unlicensed personnel performing delegated nursing tasks in an assisted living facility
74.6 must:

74.7 (1) have successfully completed training and demonstrated competency by successfully
74.8 completing a written or oral test of the topics in subdivision 6, paragraphs (b) and (c), and
74.9 a practical skills test on tasks listed in subdivision 6, paragraphs (b), clauses (5) and (7),
74.10 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

74.11 (2) satisfy the current requirements of Medicare for training or competency of home
74.12 health aides or nursing assistants, as provided by Code of Federal Regulations, title 42,
74.13 section 483 or 484.36; or

74.14 (3) have, before April 19, 1993, completed a training course for nursing assistants that
74.15 was approved by the commissioner.

74.16 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned
74.17 by a licensed health professional must meet the requirements for delegated tasks in
74.18 subdivision 4 and any other training or competency requirements within the licensed health
74.19 professional's scope of practice relating to delegation or assignment of tasks to unlicensed
74.20 personnel.

74.21 Subd. 4. **Delegation of assisted living services.** A registered nurse or licensed health
74.22 professional may delegate tasks only to staff who are competent and possess the knowledge
74.23 and skills consistent with the complexity of the tasks and according to the appropriate
74.24 Minnesota practice act. The assisted living facility must establish and implement a system
74.25 to communicate up-to-date information to the registered nurse or licensed health professional
74.26 regarding the current available staff and their competency so the registered nurse or licensed
74.27 health professional has sufficient information to determine the appropriateness of delegating
74.28 tasks to meet individual resident needs and preferences.

74.29 Subd. 5. **Temporary staff.** When a facility contracts with a temporary staffing agency,
74.30 those individuals must meet the same requirements required by this section for personnel
74.31 employed by the facility and shall be treated as if they are staff of the facility.

- 75.1 Subd. 6. Requirements for instructors, training content, and competency evaluations
75.2 for unlicensed personnel. (a) Instructors and competency evaluators must meet the following
75.3 requirements:
- 75.4 (1) training and competency evaluations of unlicensed personnel providing basic care
75.5 services must be conducted by individuals with work experience and training in providing
75.6 basic care services; and
- 75.7 (2) training and competency evaluations of unlicensed personnel providing comprehensive
75.8 assisted living services must be conducted by a registered nurse, or another instructor may
75.9 provide training in conjunction with the registered nurse.
- 75.10 (b) Training and competency evaluations for all unlicensed personnel must include the
75.11 following:
- 75.12 (1) documentation requirements for all services provided;
- 75.13 (2) reports of changes in the resident's condition to the supervisor designated by the
75.14 facility;
- 75.15 (3) basic infection control, including blood-borne pathogens;
- 75.16 (4) maintenance of a clean and safe environment;
- 75.17 (5) appropriate and safe techniques in personal hygiene and grooming, including:
- 75.18 (i) hair care and bathing;
- 75.19 (ii) care of teeth, gums, and oral prosthetic devices;
- 75.20 (iii) care and use of hearing aids; and
- 75.21 (iv) dressing and assisting with toileting;
- 75.22 (6) training on the prevention of falls;
- 75.23 (7) standby assistance techniques and how to perform them;
- 75.24 (8) medication, exercise, and treatment reminders;
- 75.25 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 75.26 (10) preparation of modified diets as ordered by a licensed health professional;
- 75.27 (11) communication skills that include preserving the dignity of the resident and showing
75.28 respect for the resident and the resident's preferences, cultural background, and family;
- 75.29 (12) awareness of confidentiality and privacy;

76.1 (13) understanding appropriate boundaries between staff and residents and the resident's
76.2 family;

76.3 (14) procedures to use in handling various emergency situations; and

76.4 (15) awareness of commonly used health technology equipment and assistive devices.

76.5 (c) In addition to paragraph (b), training and competency evaluation for unlicensed
76.6 personnel providing comprehensive assisted living services must include:

76.7 (1) observing, reporting, and documenting resident status;

76.8 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
76.9 other observed changes that must be reported to appropriate personnel;

76.10 (3) reading and recording temperature, pulse, and respirations of the resident;

76.11 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;

76.12 (5) safe transfer techniques and ambulation;

76.13 (6) range of motioning and positioning; and

76.14 (7) administering medications or treatments as required.

76.15 (d) When the registered nurse or licensed health professional delegates tasks, that person
76.16 must ensure that prior to the delegation the unlicensed personnel is trained in the proper
76.17 methods to perform the tasks or procedures for each resident and are able to demonstrate
76.18 the ability to competently follow the procedures and perform the tasks. If an unlicensed
76.19 personnel has not regularly performed the delegated assisted living task for a period of 24
76.20 consecutive months, the unlicensed personnel must demonstrate competency in the task to
76.21 the registered nurse or appropriate licensed health professional. The registered nurse or
76.22 licensed health professional must document instructions for the delegated tasks in the
76.23 resident's record.

76.24 Subd. 7. **Tuberculosis prevention and control.** A facility must establish and maintain
76.25 a comprehensive tuberculosis infection control program according to the most current
76.26 tuberculosis infection control guidelines issued by the United States Centers for Disease
76.27 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the
76.28 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a
76.29 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,
76.30 students, and volunteers. The Department of Health shall provide technical assistance
76.31 regarding implementation of the guidelines.

77.1 Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility must
77.2 meet the following requirements:

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

77.6 (2) post an emergency disaster plan prominently;

77.7 (3) provide building emergency exit diagrams to all residents;

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

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

77.10 (b) Each facility must provide emergency and disaster training to all staff during the
77.11 initial staff orientation and annually thereafter and must make emergency and disaster
77.12 training annually available to all residents. Staff who have not received emergency and
77.13 disaster training are allowed to work only when trained staff are also working on site.

77.14 (c) Each facility must meet any additional requirements adopted in rule.

77.15 Sec. 16. **[144I.15] FACILITY RESPONSIBILITIES WITH RESPECT TO**
77.16 **RESIDENTS.**

77.17 Subdivision 1. **Basic care and assisted living bill of rights; notification to resident.** (a)
77.18 A facility shall provide the resident and the designated representative a written notice of
77.19 the rights under section 144J.06 before the initiation of services to that resident. The facility
77.20 shall make all reasonable efforts to provide notice of the rights to the resident and the
77.21 designated representative in a language the resident and designated representative can
77.22 understand.

77.23 (b) In addition to the text of the bill of rights in section 144J.06, the notice shall also
77.24 contain the following statement describing how to file a complaint.

77.25 "If you have a complaint about the facility or the person providing your services, you may
77.26 call the Minnesota Adult Abuse Reporting Center at 1-844-880-1574, or you may contact
77.27 the Office of Health Facility Complaints, Minnesota Department of Health. You may also
77.28 contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for
77.29 Mental Health and Developmental Disabilities."

77.30 (c) The statement must include the telephone number, website address, e-mail address,
77.31 mailing address, and street address of the Office of Health Facility Complaints at the
77.32 Minnesota Department of Health, the Office of Ombudsman for Long-Term Care, and the

78.1 Office of Ombudsman for Mental Health and Developmental Disabilities. The statement
78.2 must include the facility's name, address, e-mail, telephone number, and name or title of
78.3 the person at the facility to whom problems or complaints may be directed. It must also
78.4 include a statement that the facility will not retaliate because of a complaint.

78.5 (d) A facility must obtain written acknowledgment of the resident's receipt of the bill of
78.6 rights or shall document why an acknowledgment cannot be obtained. The acknowledgment
78.7 may be obtained from the resident and the designated representative. Acknowledgment of
78.8 receipt shall be retained in the resident's record.

78.9 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide
78.10 all notices in plain language that residents can understand and make reasonable
78.11 accommodations for residents who have communication disabilities and those whose primary
78.12 language is a language other than English.

78.13 Subd. 3. **Notice of services for dementia, Alzheimer's disease, or related disorders.** A
78.14 facility that provides services to residents with dementia shall provide in written or electronic
78.15 form, to residents and families or other persons who request it, a description of the training
78.16 program and related training it provides, including the categories of employees trained, the
78.17 frequency of training, and the basic topics covered.

78.18 Subd. 4. **Services oversight and information.** A facility shall provide each resident
78.19 with identifying and contact information about the persons who can assist with health care
78.20 or supportive services being provided. A facility shall keep each resident informed of changes
78.21 in the personnel referenced in this subdivision.

78.22 Subd. 5. **Notice to residents; change in ownership or management.** A facility must
78.23 provide prompt written notice to the resident or designated representative of any change of
78.24 legal name, telephone number, and physical mailing address, which may not be a public or
78.25 private post office box, of:

78.26 (1) the licensee of the facility;

78.27 (2) the manager of the facility, if applicable; and

78.28 (3) the agent authorized to accept legal process on behalf of the facility.

78.29 Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless
78.30 the facility has staff, sufficient in qualifications, competency, and numbers, to adequately
78.31 provide the services agreed to in the service agreement and that are within the facility's
78.32 scope of practice.

79.1 Subd. 7. Referrals. If a facility reasonably believes that a resident is in need of another
79.2 medical or health service, including a licensed health professional, or social service provider,
79.3 the facility shall:

79.4 (1) determine the resident's preferences with respect to obtaining the service; and

79.5 (2) inform the resident of the resources available, if known, to assist the resident in
79.6 obtaining services.

79.7 Subd. 8. Initiation of services. When a facility initiates services and the individualized
79.8 review or assessment required in subdivision 9 has not been completed, the facility must
79.9 complete a temporary plan and agreement with the resident for services.

79.10 Subd. 9. Initial reviews, assessments, and monitoring. (a) A basic care facility shall
79.11 complete an individualized initial review of the resident's needs and preferences. The initial
79.12 review must be completed within 30 days of the start of services. Resident monitoring and
79.13 review must be conducted as needed based on changes in the needs of the resident and
79.14 cannot exceed 90 days from the date of the last review.

79.15 (b) An assisted living facility shall conduct a nursing assessment by a registered nurse
79.16 of the physical and cognitive needs of the prospective resident and propose a temporary
79.17 service agreement prior to the date on which a prospective resident executes a contract with
79.18 a facility or the date on which a prospective resident moves in, whichever is earlier. If
79.19 necessitated by either the geographic distance between the prospective resident and the
79.20 facility, or urgent or unexpected circumstances, the assessment may be conducted using
79.21 telecommunication methods based on practice standards that meet the resident's needs and
79.22 reflect person-centered planning and care delivery. The nursing assessment must be
79.23 completed within five days of the start of services.

79.24 (c) Resident reassessment and monitoring must be conducted no more than 14 days after
79.25 initiation of services. Ongoing resident reassessment and monitoring must be conducted as
79.26 needed based on changes in the needs of the resident and cannot exceed 90 days from the
79.27 last date of the assessment.

79.28 (d) Residents who are not receiving any services shall not be required to undergo an
79.29 initial review or nursing assessment.

79.30 (e) A facility must inform the prospective resident of the availability of and contact
79.31 information for long-term care consultation services under section 256B.0911, prior to the
79.32 date on which a prospective resident executes a contract with a facility or the date on which
79.33 a prospective resident moves in, whichever is earlier.

- 80.1 Subd. 10. Service agreement, implementation, and revisions to service agreement. (a)
80.2 No later than 14 days after the date that services are first provided, a facility shall finalize
80.3 a current written service agreement.
- 80.4 (b) The service agreement and any revisions must include a signature or other
80.5 authentication by the facility and by the resident or the designated representative documenting
80.6 agreement on the services to be provided. The service agreement must be revised, if needed,
80.7 based on resident review or reassessment under subdivision 9. The facility must provide
80.8 information to the resident about changes to the facility's fee for services and how to contact
80.9 the Office of Ombudsman for Long-Term Care.
- 80.10 (c) The facility must implement and provide all services required by the current service
80.11 agreement.
- 80.12 (d) The service agreement and the revised service agreement must be entered into the
80.13 resident's record, including notice of a change in a resident's fees when applicable.
- 80.14 (e) Staff providing services must be informed of the current written service agreement.
- 80.15 (f) The service agreement must include:
- 80.16 (1) a description of the services to be provided, the fees for services, and the frequency
80.17 of each service, according to the resident's current review or assessment and resident
80.18 preferences;
- 80.19 (2) the identification of staff or categories of staff who will provide the services;
- 80.20 (3) the schedule and methods of monitoring reviews or assessments of the resident;
- 80.21 (4) the schedule and methods of monitoring staff providing services; and
- 80.22 (5) a contingency plan that includes:
- 80.23 (i) the action to be taken by the facility and by the resident and the designated
80.24 representative if the scheduled service cannot be provided;
- 80.25 (ii) information and a method for a resident and the designated representative to contact
80.26 the facility;
- 80.27 (iii) the names and contact information of persons the resident wishes to have notified
80.28 in an emergency or if there is a significant adverse change in the resident's condition,
80.29 including identification of and information as to who has authority to sign for the resident
80.30 in an emergency; and

81.1 (iv) the circumstances in which emergency medical services are not to be summoned
81.2 consistent with chapters 145B and 145C, and declarations made by the resident under those
81.3 chapters.

81.4 Subd. 11. **Use of restraints.** Residents of assisted living facilities must be free from any
81.5 physical or chemical restraints. Restraints are only permissible if determined necessary for
81.6 health and safety reasons identified by the facility through an initial assessment or
81.7 reassessment, under subdivision 9, and documented in the written service agreement under
81.8 subdivision 10.

81.9 Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,
81.10 family member, or other caregiver of the resident requests that an employee or other agent
81.11 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the
81.12 request:

81.13 (1) shall take no action to discontinue the treatment; and

81.14 (2) shall promptly inform the supervisor or other agent of the facility of the resident's
81.15 request.

81.16 (b) Upon being informed of a request for discontinuance of treatment, the facility shall
81.17 promptly:

81.18 (1) inform the resident that the request will be made known to the physician or advanced
81.19 practice registered nurse who ordered the resident's treatment;

81.20 (2) inform the physician or advanced practice registered nurse of the resident's request;
81.21 and

81.22 (3) work with the resident and the resident's physician or advanced practice registered
81.23 nurse to comply with chapter 145C.

81.24 (c) This section does not require the facility to discontinue treatment, except as may be
81.25 required by law or court order.

81.26 (d) This section does not diminish the rights of residents to control their treatments,
81.27 refuse services, or terminate their relationships with the facility.

81.28 (e) This section shall be construed in a manner consistent with chapter 145B or 145C,
81.29 whichever applies, and declarations made by residents under those chapters.

81.30 Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to
81.31 the protections in section 152.34.

82.1 Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter
82.2 504B.

82.3 Sec. 17. **[144L.16] PROVISION OF SERVICES.**

82.4 Subdivision 1. **Availability of contact person to staff.** (a) A basic care facility must
82.5 have a person available to staff for consultation relating to the provision of services or about
82.6 the resident.

82.7 (b) Assisted living facilities and assisted living facilities that provide dementia care must
82.8 have a registered nurse available for consultation to staff performing delegated nursing tasks
82.9 and must have an appropriate licensed health professional available if performing other
82.10 delegated services such as therapies.

82.11 (c) The appropriate contact person must be readily available either in person, by
82.12 telephone, or by other means to the staff at times when the staff is providing services.

82.13 Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care
82.14 services must be supervised periodically where the services are being provided to verify
82.15 that the work is being performed competently and to identify problems and solutions to
82.16 address issues relating to the staff's ability to provide the services. The supervision of the
82.17 unlicensed personnel must be done by staff of the facility having the authority, skills, and
82.18 ability to provide the supervision of unlicensed personnel and who can implement changes
82.19 as needed, and train staff.

82.20 (b) Supervision includes direct observation of unlicensed personnel while the unlicensed
82.21 personnel are providing the services and may also include indirect methods of gaining input
82.22 such as gathering feedback from the resident. Supervisory review of staff must be provided
82.23 at a frequency based on the staff person's competency and performance.

82.24 Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff
82.25 who perform delegated nursing or therapy tasks must be supervised by an appropriate
82.26 licensed health professional or a registered nurse per the assisted living facility's policy
82.27 where the services are being provided to verify that the work is being performed competently
82.28 and to identify problems and solutions related to the staff person's ability to perform the
82.29 tasks. Supervision of staff performing medication or treatment administration shall be
82.30 provided by a registered nurse or appropriate licensed health professional and must include
82.31 observation of the staff administering the medication or treatment and the interaction with
82.32 the resident.

83.1 (b) The direct supervision of staff performing delegated tasks must be provided within
83.2 30 days after the date on which the individual begins working for the facility and first
83.3 performs the delegated tasks for residents and thereafter as needed based on performance.
83.4 This requirement also applies to staff who have not performed delegated tasks for one year
83.5 or longer.

83.6 Subd. 4. **Documentation.** A facility must retain documentation of supervision activities
83.7 in the personnel records.

83.8 Sec. 18. **[144I.17] MEDICATION MANAGEMENT.**

83.9 Subdivision 1. **Medication management services.** (a) This section applies only to
83.10 assisted living facilities that provide medication management services. Medication
83.11 management services shall not be provided by a basic care facility.

83.12 (b) An assisted living facility that provides medication management services must
83.13 develop, implement, and maintain current written medication management policies and
83.14 procedures. The policies and procedures must be developed under the supervision and
83.15 direction of a registered nurse, licensed health professional, or pharmacist consistent with
83.16 current practice standards and guidelines.

83.17 (c) The written policies and procedures must address requesting and receiving
83.18 prescriptions for medications; preparing and giving medications; verifying that prescription
83.19 drugs are administered as prescribed; documenting medication management activities;
83.20 controlling and storing medications; monitoring and evaluating medication use; resolving
83.21 medication errors; communicating with the prescriber, pharmacist, and resident and
83.22 designated representative, if any; disposing of unused medications; and educating residents
83.23 and designated representatives about medications. When controlled substances are being
83.24 managed, the policies and procedures must also identify how the provider will ensure security
83.25 and accountability for the overall management, control, and disposition of those substances
83.26 in compliance with state and federal regulations and with subdivision 23.

83.27 Subd. 2. **Provision of medication management services.** (a) For each resident who
83.28 requests medication management services, the assisted living facility shall, prior to providing
83.29 medication management services, have a registered nurse, licensed health professional, or
83.30 authorized prescriber under section 151.37 conduct an assessment to determine what
83.31 medication management services will be provided and how the services will be provided.
83.32 This assessment must be conducted face-to-face with the resident. The assessment must
83.33 include an identification and review of all medications the resident is known to be taking.

84.1 The review and identification must include indications for medications, side effects,
84.2 contraindications, allergic or adverse reactions, and actions to address these issues.

84.3 (b) The assessment must identify interventions needed in management of medications
84.4 to prevent diversion of medication by the resident or others who may have access to the
84.5 medications and provide instructions to the resident and designated representative on
84.6 interventions to manage the resident's medications and prevent diversion of medications.
84.7 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or
84.8 improper disposition of medications.

84.9 Subd. 3. **Individualized medication monitoring and reassessment.** The assisted living
84.10 facility must monitor and reassess the resident's medication management services as needed
84.11 under subdivision 2 when the resident presents with symptoms or other issues that may be
84.12 medication-related and, at a minimum, annually.

84.13 Subd. 4. **Resident refusal.** The assisted living facility must document in the resident's
84.14 record any refusal for an assessment for medication management by the resident. The assisted
84.15 living facility must discuss with the resident the possible consequences of the resident's
84.16 refusal and document the discussion in the resident's record.

84.17 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving
84.18 medication management services, the assisted living facility must prepare and include in
84.19 the service agreement a written statement of the medication management services that will
84.20 be provided to the resident. The assisted living facility must develop and maintain a current
84.21 individualized medication management record for each resident based on the resident's
84.22 assessment that must contain the following:

84.23 (1) a statement describing the medication management services that will be provided;

84.24 (2) a description of storage of medications based on the resident's needs and preferences,
84.25 risk of diversion, and consistent with the manufacturer's directions;

84.26 (3) documentation of specific resident instructions relating to the administration of
84.27 medications;

84.28 (4) identification of persons responsible for monitoring medication supplies and ensuring
84.29 that medication refills are ordered on a timely basis;

84.30 (5) identification of medication management tasks that may be delegated to unlicensed
84.31 personnel;

84.32 (6) procedures for staff notifying a registered nurse or appropriate licensed health
84.33 professional when a problem arises with medication management services; and

85.1 (7) any resident-specific requirements relating to documenting medication administration,
85.2 verifications that all medications are administered as prescribed, and monitoring of
85.3 medication use to prevent possible complications or adverse reactions.

85.4 (b) The medication management record must be current and updated when there are any
85.5 changes.

85.6 (c) Medication reconciliation must be completed when a licensed nurse, licensed health
85.7 professional, or authorized prescriber is providing medication management.

85.8 Subd. 6. **Administration of medication.** Medications may be administered by a nurse,
85.9 physician, or other licensed health practitioner authorized to administer medications or by
85.10 unlicensed personnel who have been delegated medication administration tasks by a
85.11 registered nurse.

85.12 Subd. 7. **Delegation of medication administration.** When administration of medications
85.13 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered
85.14 nurse has:

85.15 (1) instructed the unlicensed personnel in the proper methods to administer the
85.16 medications, and the unlicensed personnel has demonstrated the ability to competently
85.17 follow the procedures;

85.18 (2) specified, in writing, specific instructions for each resident and documented those
85.19 instructions in the resident's records; and

85.20 (3) communicated with the unlicensed personnel about the individual needs of the
85.21 resident.

85.22 Subd. 8. **Documentation of administration of medications.** Each medication
85.23 administered by the assisted living facility staff must be documented in the resident's record.
85.24 The documentation must include the signature and title of the person who administered the
85.25 medication. The documentation must include the medication name, dosage, date and time
85.26 administered, and method and route of administration. The staff must document the reason
85.27 why medication administration was not completed as prescribed and document any follow-up
85.28 procedures that were provided to meet the resident's needs when medication was not
85.29 administered as prescribed and in compliance with the resident's medication management
85.30 plan.

85.31 Subd. 9. **Documentation of medication setup.** Documentation of dates of medication
85.32 setup, name of medication, quantity of dose, times to be administered, route of administration,
85.33 and name of person completing medication setup must be done at the time of setup.

- 86.1 Subd. 10. Medication management for residents who will be away from home. (a)
86.2 An assisted living facility that is providing medication management services to the resident
86.3 must develop and implement policies and procedures for giving accurate and current
86.4 medications to residents for planned or unplanned times away from home according to the
86.5 resident's individualized medication management plan. The policies and procedures must
86.6 state that:
- 86.7 (1) for planned time away, the medications must be obtained from the pharmacy or set
86.8 up by the licensed nurse according to appropriate state and federal laws and nursing standards
86.9 of practice;
- 86.10 (2) for unplanned time away, when the pharmacy is not able to provide the medications,
86.11 a licensed nurse or unlicensed personnel shall give the resident and designated representative
86.12 medications in amounts and dosages needed for the length of the anticipated absence, not
86.13 to exceed seven calendar days;
- 86.14 (3) the resident or designated representative must be provided written information on
86.15 medications, including any special instructions for administering or handling the medications,
86.16 including controlled substances;
- 86.17 (4) the medications must be placed in a medication container or containers appropriate
86.18 to the provider's medication system and must be labeled with the resident's name and the
86.19 dates and times that the medications are scheduled; and
- 86.20 (5) the resident and designated representative must be provided in writing the facility's
86.21 name and information on how to contact the facility.
- 86.22 (b) For unplanned time away when the licensed nurse is not available, the registered
86.23 nurse may delegate this task to unlicensed personnel if:
- 86.24 (1) the registered nurse has trained the unlicensed staff and determined the unlicensed
86.25 staff is competent to follow the procedures for giving medications to residents; and
- 86.26 (2) the registered nurse has developed written procedures for the unlicensed personnel,
86.27 including any special instructions or procedures regarding controlled substances that are
86.28 prescribed for the resident. The procedures must address:
- 86.29 (i) the type of container or containers to be used for the medications appropriate to the
86.30 provider's medication system;
- 86.31 (ii) how the container or containers must be labeled;

87.1 (iii) written information about the medications to be given to the resident or designated
87.2 representative;

87.3 (iv) how the unlicensed staff must document in the resident's record that medications
87.4 have been given to the resident and the designated representative, including documenting
87.5 the date the medications were given to the resident or the designated representative and who
87.6 received the medications, the person who gave the medications to the resident, the number
87.7 of medications that were given to the resident, and other required information;

87.8 (v) how the registered nurse shall be notified that medications have been given to the
87.9 resident or designated representative and whether the registered nurse needs to be contacted
87.10 before the medications are given to the resident or the designated representative;

87.11 (vi) a review by the registered nurse of the completion of this task to verify that this task
87.12 was completed accurately by the unlicensed personnel; and

87.13 (vii) how the unlicensed personnel must document in the resident's record any unused
87.14 medications that are returned to the facility, including the name of each medication and the
87.15 doses of each returned medication.

87.16 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must
87.17 determine whether the facility shall require a prescription for all medications the provider
87.18 manages. The assisted living facility must inform the resident or the designated representative
87.19 whether the facility requires a prescription for all over-the-counter and dietary supplements
87.20 before the facility agrees to manage those medications.

87.21 Subd. 12. **Medications; over-the-counter drugs; dietary supplements not**
87.22 **prescribed.** An assisted living facility providing medication management services for
87.23 over-the-counter drugs or dietary supplements must retain those items in the original labeled
87.24 container with directions for use prior to setting up for immediate or later administration.
87.25 The facility must verify that the medications are up to date and stored as appropriate.

87.26 Subd. 13. **Prescriptions.** There must be a current written or electronically recorded
87.27 prescription as defined in section 151.01, subdivision 16a, for all prescribed medications
87.28 that the assisted living facility is managing for the resident.

87.29 Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12
87.30 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions
87.31 for controlled substances must comply with chapter 152.

88.1 Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized
88.2 prescriber must be received by a nurse or pharmacist. The order must be handled according
88.3 to Minnesota Rules, part 6800.6200.

88.4 Subd. 16. **Written or electronic prescription.** When a written or electronic prescription
88.5 is received, it must be communicated to the registered nurse in charge and recorded or placed
88.6 in the resident's record.

88.7 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,
88.8 or electronically must be kept confidential according to sections 144.291 to 144.298 and
88.9 144A.44.

88.10 Subd. 18. **Medications provided by resident or family members.** When the assisted
88.11 living facility is aware of any medications or dietary supplements that are being used by
88.12 the resident and are not included in the assessment for medication management services,
88.13 the staff must advise the registered nurse and document that in the resident's record.

88.14 Subd. 19. **Storage of medications.** An assisted living facility must store all prescription
88.15 medications in securely locked and substantially constructed compartments according to
88.16 the manufacturer's directions and permit only authorized personnel to have access.

88.17 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate
88.18 or later administration, must be kept in the original container in which it was dispensed by
88.19 the pharmacy bearing the original prescription label with legible information including the
88.20 expiration or beyond-use date of a time-dated drug.

88.21 Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or
88.22 saved for use by anyone other than the resident.

88.23 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by
88.24 the assisted living facility must be given to the resident or the designated representative
88.25 when the resident's service agreement ends or medication management services are no
88.26 longer part of the service agreement. Medications for a resident who is deceased or that
88.27 have been discontinued or have expired may be given to the resident or the designated
88.28 representative for disposal.

88.29 (b) The assisted living facility shall dispose of any medications remaining with the
88.30 facility that are discontinued or expired or upon the termination of the service contract or
88.31 the resident's death according to state and federal regulations for disposition of medications
88.32 and controlled substances.

89.1 (c) Upon disposition, the facility must document in the resident's record the disposition
89.2 of the medication including the medication's name, strength, prescription number as
89.3 applicable, quantity, to whom the medications were given, date of disposition, and names
89.4 of staff and other individuals involved in the disposition.

89.5 Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication
89.6 management must develop and implement procedures for loss or spillage of all controlled
89.7 substances defined in Minnesota Rules, part 6800.4220. These procedures must require that
89.8 when a spillage of a controlled substance occurs, a notation must be made in the resident's
89.9 record explaining the spillage and the actions taken. The notation must be signed by the
89.10 person responsible for the spillage and include verification that any contaminated substance
89.11 was disposed of according to state or federal regulations.

89.12 (b) The procedures must require that the facility providing medication management
89.13 investigate any known loss or unaccounted for prescription drugs and take appropriate action
89.14 required under state or federal regulations and document the investigation in required records.

89.15 **Sec. 19. [144L.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

89.16 Subdivision 1. **Treatment and therapy management services.** This section applies
89.17 only to assisted living facilities that provide comprehensive assisted living services. Treatment
89.18 and therapy management services shall not be provided by a basic care facility.

89.19 Subd. 2. **Policies and procedures.** (a) An assisted living facility that provides treatment
89.20 and therapy management services must develop, implement, and maintain up-to-date written
89.21 treatment or therapy management policies and procedures. The policies and procedures
89.22 must be developed under the supervision and direction of a registered nurse or appropriate
89.23 licensed health professional consistent with current practice standards and guidelines.

89.24 (b) The written policies and procedures must address requesting and receiving orders
89.25 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting
89.26 treatment or therapy activities, educating and communicating with residents about treatments
89.27 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and
89.28 communicating with the prescriber.

89.29 Subd. 3. **Individualized treatment or therapy management plan.** For each resident
89.30 receiving management of ordered or prescribed treatments or therapy services, the assisted
89.31 living facility must prepare and include in the service agreement a written statement of the
89.32 treatment or therapy services that will be provided to the resident. The facility must also

90.1 develop and maintain a current individualized treatment and therapy management record

90.2 for each resident which must contain at least the following:

90.3 (1) a statement of the type of services that will be provided;

90.4 (2) documentation of specific resident instructions relating to the treatments or therapy
90.5 administration;

90.6 (3) identification of treatment or therapy tasks that will be delegated to unlicensed
90.7 personnel;

90.8 (4) procedures for notifying a registered nurse or appropriate licensed health professional
90.9 when a problem arises with treatments or therapy services; and

90.10 (5) any resident-specific requirements relating to documentation of treatment and therapy
90.11 received, verification that all treatment and therapy was administered as prescribed, and
90.12 monitoring of treatment or therapy to prevent possible complications or adverse reactions.

90.13 The treatment or therapy management record must be current and updated when there are
90.14 any changes.

90.15 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments
90.16 or therapies must be administered by a nurse, physician, or other licensed health professional
90.17 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
90.18 personnel by the licensed health professional according to the appropriate practice standards
90.19 for delegation or assignment. When administration of a treatment or therapy is delegated
90.20 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or
90.21 authorized licensed health professional has:

90.22 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
90.23 and the unlicensed personnel has demonstrated the ability to competently follow the
90.24 procedures;

90.25 (2) specified, in writing, specific instructions for each resident and documented those
90.26 instructions in the resident's record; and

90.27 (3) communicated with the unlicensed personnel about the individual needs of the
90.28 resident.

90.29 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment
90.30 or therapy administered by an assisted living facility must be in the resident's record. The
90.31 documentation must include the signature and title of the person who administered the
90.32 treatment or therapy and must include the date and time of administration. When treatment
90.33 or therapies are not administered as ordered or prescribed, the provider must document the

91.1 reason why it was not administered and any follow-up procedures that were provided to
91.2 meet the resident's needs.

91.3 Subd. 6. **Treatment and therapy orders.** There must be an up-to-date written or
91.4 electronically recorded order from an authorized prescriber for all treatments and therapies.
91.5 The order must contain the name of the resident, a description of the treatment or therapy
91.6 to be provided, and the frequency, duration, and other information needed to administer the
91.7 treatment or therapy. Treatment and therapy orders must be renewed at least every 12
91.8 months.

91.9 Subd. 7. **Right to outside service provider; other payors.** Under section 144J.06, a
91.10 resident is free to retain therapy and treatment services from an off-site service provider.
91.11 Assisted living facilities must make every effort to assist residents in obtaining information
91.12 regarding whether the Medicare program, the medical assistance program under chapter
91.13 256B, or another public program will pay for any or all of the services.

91.14 **Sec. 20. [144I.19] RESIDENT RECORD REQUIREMENTS.**

91.15 Subdivision 1. **Resident record.** (a) The facility must maintain records for each resident
91.16 for whom it is providing services. Entries in the resident records must be current, legible,
91.17 permanently recorded, dated, and authenticated with the name and title of the person making
91.18 the entry.

91.19 (b) Resident records, whether written or electronic, must be protected against loss,
91.20 tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable
91.21 relevant federal and state laws. The facility shall establish and implement written procedures
91.22 to control use, storage, and security of resident's records and establish criteria for release
91.23 of resident information.

91.24 (c) The facility may not disclose to any other person any personal, financial, or medical
91.25 information about the resident, except:

91.26 (1) as may be required by law;

91.27 (2) to employees or contractors of the facility, another facility, other health care
91.28 practitioner or provider, or inpatient facility needing information in order to provide services
91.29 to the resident, but only the information that is necessary for the provision of services;

91.30 (3) to persons authorized in writing by the resident or the resident's representative to
91.31 receive the information, including third-party payers; and

92.1 (4) to representatives of the commissioner authorized to survey or investigate facilities
92.2 under this chapter or federal laws.

92.3 Subd. 2. Access to records. The facility must ensure that the appropriate records are
92.4 readily available to employees and contractors authorized to access the records. Resident
92.5 records must be maintained in a manner that allows for timely access, printing, or
92.6 transmission of the records. The records must be made readily available to the commissioner
92.7 upon request.

92.8 Subd. 3. Contents of resident record. Contents of a resident record include the following
92.9 for each resident:

92.10 (1) identifying information, including the resident's name, date of birth, address, and
92.11 telephone number;

92.12 (2) the name, address, and telephone number of an emergency contact, family members,
92.13 designated representative, if any, or others as identified;

92.14 (3) names, addresses, and telephone numbers of the resident's health and medical service
92.15 providers, if known;

92.16 (4) health information, including medical history, allergies, and when the provider is
92.17 managing medications, treatments or therapies that require documentation, and other relevant
92.18 health records;

92.19 (5) the resident's advance directives, if any;

92.20 (6) copies of any health care directives, guardianships, powers of attorney, or
92.21 conservatorships;

92.22 (7) the facility's current and previous assessments and service agreements;

92.23 (8) all records of communications pertinent to the resident's services;

92.24 (9) documentation of significant changes in the resident's status and actions taken in
92.25 response to the needs of the resident, including reporting to the appropriate supervisor or
92.26 health care professional;

92.27 (10) documentation of incidents involving the resident and actions taken in response to
92.28 the needs of the resident, including reporting to the appropriate supervisor or health care
92.29 professional;

92.30 (11) documentation that services have been provided as identified in the service
92.31 agreement;

93.1 (12) documentation that the resident has received and reviewed the basic care and assisted
93.2 living bill of rights;

93.3 (13) documentation of complaints received and any resolution;

93.4 (14) a discharge summary, including service termination notice and related
93.5 documentation, when applicable; and

93.6 (15) other documentation required under this chapter and relevant to the resident's
93.7 services or status.

93.8 Subd. 4. **Transfer of resident records.** If a resident transfers to another facility or
93.9 another health care practitioner or provider, or is admitted to an inpatient facility, the facility,
93.10 upon request of the resident or the resident's representative, shall take steps to ensure a
93.11 coordinated transfer including sending a copy or summary of the resident's record to the
93.12 new facility or the resident, as appropriate.

93.13 Subd. 5. **Record retention.** Following the resident's discharge or termination of services,
93.14 a facility must retain a resident's record for at least five years or as otherwise required by
93.15 state or federal regulations. Arrangements must be made for secure storage and retrieval of
93.16 resident records if the facility ceases to operate.

93.17 **Sec. 21. [144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

93.18 Subdivision 1. **Orientation of staff and supervisors.** All staff providing and supervising
93.19 direct services must complete an orientation to facility licensing requirements and regulations
93.20 before providing services to residents. The orientation may be incorporated into the training
93.21 required under subdivision 6. The orientation need only be completed once for each staff
93.22 person and is not transferable to another facility.

93.23 Subd. 2. **Content.** (a) The orientation must contain the following topics:

93.24 (1) an overview of this chapter;

93.25 (2) an introduction and review of the facility's policies and procedures related to the
93.26 provision of assisted living services by the individual staff person;

93.27 (3) handling of emergencies and use of emergency services;

93.28 (4) compliance with and reporting of the maltreatment of vulnerable adults under section
93.29 626.557;

93.30 (5) basic care and assisted living bill of rights under section 144J.06;

94.1 (6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities
94.2 related to ensuring the exercise and protection of those rights;

94.3 (7) the principles of person-centered service planning and delivery and how they apply
94.4 to direct support services provided by the staff person;

94.5 (8) handling of residents' complaints, reporting of complaints, and where to report
94.6 complaints, including information on the Minnesota Adult Abuse Reporting Center and the
94.7 Office of Health Facility Complaints;

94.8 (9) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
94.9 Office of Ombudsman for Mental Health and Developmental Disabilities, Minnesota Adult
94.10 Abuse Reporting Center (MAARC), Managed Care Ombudsman at the Department of
94.11 Human Services, county-managed care advocates, or other relevant advocacy services; and

94.12 (10) a review of the types of assisted living services the employee will be providing and
94.13 the facility's category of licensure.

94.14 (b) In addition to the topics in paragraph (a), orientation may also contain training on
94.15 providing services to residents with hearing loss. Any training on hearing loss provided
94.16 under this subdivision must be high quality and research based, may include online training,
94.17 and must include training on one or more of the following topics:

94.18 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
94.19 and the challenges it poses to communication;

94.20 (2) health impacts related to untreated age-related hearing loss, such as increased
94.21 incidence of dementia, falls, hospitalizations, isolation, and depression; or

94.22 (3) information about strategies and technology that may enhance communication and
94.23 involvement, including communication strategies, assistive listening devices, hearing aids,
94.24 visual and tactile alerting devices, communication access in real time, and closed captions.

94.25 Subd. 3. **Verification and documentation of orientation.** Each facility shall retain
94.26 evidence in the employee record of each staff person having completed the orientation
94.27 required by this section.

94.28 Subd. 4. **Orientation to resident.** Staff providing services must be oriented specifically
94.29 to each individual resident and the services to be provided. This orientation may be provided
94.30 in person, orally, in writing, or electronically.

94.31 Subd. 5. **Training required relating to dementia.** All direct care staff and supervisors
94.32 providing direct services must receive training that includes a current explanation of

95.1 Alzheimer's disease and related disorders, effective approaches to use to problem solve
95.2 when working with a resident's challenging behaviors, and how to communicate with
95.3 residents who have dementia or related memory disorders.

95.4 Subd. 6. **Required annual training.** (a) All staff that perform direct services must
95.5 complete at least eight hours of annual training for each 12 months of employment. The
95.6 training may be obtained from the facility or another source and must include topics relevant
95.7 to the provision of assisted living services. The annual training must include:

95.8 (1) training on reporting of maltreatment of vulnerable adults under section 626.557;

95.9 (2) review of the basic care and assisted living bill of rights in section 144J.06;

95.10 (3) review of infection control techniques used in the home and implementation of
95.11 infection control standards including a review of hand washing techniques; the need for and
95.12 use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials
95.13 and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable
95.14 equipment; disinfecting environmental surfaces; and reporting communicable diseases;

95.15 (4) effective approaches to use to problem solve when working with a resident's
95.16 challenging behaviors, and how to communicate with residents who have Alzheimer's
95.17 disease or related disorders;

95.18 (5) review of the facility's policies and procedures relating to the provision of assisted
95.19 living services and how to implement those policies and procedures;

95.20 (6) review of protection-related rights as stated in section 144I.10, subdivision 8, and
95.21 staff responsibilities related to ensuring the exercise and protection of those rights; and

95.22 (7) the principles of person-centered service planning and delivery and how they apply
95.23 to direct support services provided by the staff person.

95.24 (b) In addition to the topics in paragraph (a), annual training may also contain training
95.25 on providing services to residents with hearing loss. Any training on hearing loss provided
95.26 under this subdivision must be high quality and research based, may include online training,
95.27 and must include training on one or more of the following topics:

95.28 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
95.29 and challenges it poses to communication;

95.30 (2) the health impacts related to untreated age-related hearing loss, such as increased
95.31 incidence of dementia, falls, hospitalizations, isolation, and depression; or

96.1 (3) information about strategies and technology that may enhance communication and
96.2 involvement, including communication strategies, assistive listening devices, hearing aids,
96.3 visual and tactile alerting devices, communication access in real time, and closed captions.

96.4 Subd. 7. **Documentation.** A facility must retain documentation in the employee records
96.5 of staff who have satisfied the orientation and training requirements of this section.

96.6 Subd. 8. **Implementation.** A facility must implement all orientation and training topics
96.7 covered in this section.

96.8 **Sec. 22. [144I.21] TRAINING IN DEMENTIA CARE REQUIRED.**

96.9 Subdivision 1. **Assisted living facility dementia training requirements.** (a) Assisted
96.10 living facilities and assisted living facilities with dementia care must meet the following
96.11 training requirements:

96.12 (1) supervisors of direct-care staff must have at least eight hours of initial training on
96.13 topics specified under paragraph (b) within 120 working hours of the employment start
96.14 date, and must have at least two hours of training on topics related to dementia care for each
96.15 12 months of employment thereafter;

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

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

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

96.32 (b) Areas of required training include:

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

97.2 (2) assistance with activities of daily living;

97.3 (3) problem solving with challenging behaviors; and

97.4 (4) communication skills.

97.5 (c) The facility shall provide to consumers in written or electronic form a description of
97.6 the training program, the categories of employees trained, the frequency of training, and
97.7 the basic topics covered.

97.8 Subd. 2. **Basic care facility dementia training requirements.** (a) Basic care facilities
97.9 must meet the following training requirements:

97.10 (1) supervisors of direct-care staff must have at least four hours of initial training on
97.11 topics specified under paragraph (b) within 120 working hours of the employment start
97.12 date, and must have at least two hours of training on topics related to dementia care for each
97.13 12 months of employment thereafter;

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

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

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

97.30 (b) Areas of required training include:

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

97.32 (2) assistance with activities of daily living;

98.1 (3) problem solving with challenging behaviors; and

98.2 (4) communication skills.

98.3 (c) The facility shall provide to consumers in written or electronic form a description of
98.4 the training program, the categories of employees trained, the frequency of training, and
98.5 the basic topics covered.

98.6 **Sec. 23. [144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

98.7 Subdivision 1. **Restrictions.** The controlling individual of a facility may not include
98.8 any person who was a controlling individual of any other nursing home, basic care facility,
98.9 assisted living facility, or assisted living facility with dementia care during any period of
98.10 time in the previous two-year period:

98.11 (1) during which time of control the nursing home, basic care facility, assisted living
98.12 facility, or assisted living facility with dementia care incurred the following number of
98.13 uncorrected or repeated violations:

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

98.16 (ii) four or more uncorrected violations or two or more repeated violations of any nature,
98.17 including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

98.18 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates
98.19 to the operation of the nursing home, basic care facility, assisted living facility, or assisted
98.20 living facility with dementia care, or directly affects resident safety or care.

98.21 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the
98.22 facility who had no legal authority to affect or change decisions related to the operation of
98.23 the nursing home, basic care facility, assisted living facility, or assisted living facility with
98.24 dementia care that incurred the uncorrected violations.

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

99.1 determination that a controlling individual of the facility is disqualified by subdivision 1,
99.2 clause (1), from operating a facility.

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

99.5 (1) the ability of the controlling individual to operate other facilities in accordance with
99.6 the licensure rules and laws;

99.7 (2) the conditions in the nursing home, basic care facility, assisted living facility, or
99.8 assisted living facility with dementia care that received the number and type of uncorrected
99.9 or repeated violations described in subdivision 1, clause (1); and

99.10 (3) the conditions and compliance history of each of the nursing homes, basic care
99.11 facilities, assisted living facilities, and assisted living facilities with dementia care owned
99.12 or operated by the controlling individuals.

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

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

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

99.26 (f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the
99.27 controlling individual shall be responsible for compliance with the conditions and restrictions.
99.28 Any time after the conditions and restrictions have been in place for 180 days, the controlling
99.29 individual may petition the commissioner for removal or modification of the conditions and
99.30 restrictions. The commissioner must respond to the petition within 30 days of receipt of the
99.31 written petition. If the commissioner denies the petition, the controlling individual may
99.32 request a hearing under the provisions of chapter 14. Any hearing shall be limited to a

100.1 determination of whether the conditions and restrictions shall be modified or removed. At
100.2 the hearing, the controlling individual bears the burden of proof.

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

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

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

100.11 Sec. 24. **[144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.**

100.12 Subdivision 1. **Notification.** (a) If the proposed or current licensee uses a manager, the
100.13 licensee must have a written management agreement that is consistent with this chapter.

100.14 (b) The proposed or current licensee must notify the commissioner of its use of a manager
100.15 upon:

100.16 (1) initial application for a license;

100.17 (2) retention of a manager following initial application;

100.18 (3) change of managers; and

100.19 (4) modification of an existing management agreement.

100.20 (c) The proposed or current licensee must provide to the commissioner a written
100.21 management agreement, including an organizational chart showing the relationship between
100.22 the proposed or current licensee, management company, and all related organizations.

100.23 (d) The written management agreement must be submitted:

100.24 (1) 60 days before:

100.25 (i) the initial licensure date;

100.26 (ii) the proposed change of ownership date; or

100.27 (iii) the effective date of the management agreement; or

100.28 (2) 30 days before the effective date of any amendment to an existing management
100.29 agreement.

101.1 (e) The proposed licensee or the current licensee must notify the residents and their
101.2 representatives 60 days before entering into a new management agreement.

101.3 (f) A proposed licensee must submit a management agreement.

101.4 **Subd. 2. Management agreement; licensee.** (a) The licensee is legally responsible for:

101.5 (1) the daily operations and provisions of services in the facility;

101.6 (2) ensuring the facility is operated in a manner consistent with all applicable laws and
101.7 rules;

101.8 (3) ensuring the manager acts in conformance with the management agreement; and

101.9 (4) ensuring the manager does not present as, or give the appearance that the manager
101.10 is the licensee.

101.11 (b) The licensee must not give the manager responsibilities that are so extensive that the
101.12 licensee is relieved of daily responsibility for the daily operations and provision of services
101.13 in the assisted living facility. If the licensee does so, the commissioner must determine that
101.14 a change of ownership has occurred.

101.15 (c) The licensee and manager must act in accordance with the terms of the management
101.16 agreement. If the commissioner determines they are not, then the department may impose
101.17 enforcement remedies.

101.18 (d) The licensee may enter into a management agreement only if the management
101.19 agreement creates a principal/agent relationship between the licensee and manager.

101.20 (e) The manager shall not subcontract the manager's responsibilities to a third party.

101.21 **Subd. 3. Terms of agreement.** A management agreement at a minimum must:

101.22 (1) describe the responsibilities of the licensee and manager, including items, services,
101.23 and activities to be provided;

101.24 (2) require the licensee's governing body, board of directors, or similar authority to
101.25 appoint the administrator;

101.26 (3) provide for the maintenance and retention of all records in accordance with this
101.27 chapter and other applicable laws;

101.28 (4) allow unlimited access by the commissioner to documentation and records according
101.29 to applicable laws or regulations;

101.30 (5) require the manager to immediately send copies of inspections and notices of
101.31 noncompliance to the licensee;

102.1 (6) state that the licensee is responsible for reviewing, acknowledging, and signing all
102.2 facility initial and renewal license applications;

102.3 (7) state that the manager and licensee shall review the management agreement annually
102.4 and notify the commissioner of any change according to applicable regulations;

102.5 (8) acknowledge that the licensee is the party responsible for complying with all laws
102.6 and rules applicable to the facility;

102.7 (9) require the licensee to maintain ultimate responsibility over personnel issues relating
102.8 to the operation of the facility and care of the residents including but not limited to staffing
102.9 plans, hiring, and performance management of employees, orientation, and training;

102.10 (10) state the manager will not present as, or give the appearance that the manager is
102.11 the licensee; and

102.12 (11) state that a duly authorized manager may execute resident leases or agreements on
102.13 behalf of the licensee, but all such resident leases or agreements must be between the licensee
102.14 and the resident.

102.15 Subd. 4. **Commissioner review.** The commissioner may review a management agreement
102.16 at any time. Following the review, the department may require:

102.17 (1) the proposed or current licensee or manager to provide additional information or
102.18 clarification;

102.19 (2) any changes necessary to:

102.20 (i) bring the management agreement into compliance with this chapter; and

102.21 (ii) ensure that the licensee has not been relieved of the legal responsibility for the daily
102.22 operations of the facility; and

102.23 (3) the licensee to participate in monthly meetings and quarterly on-site visits to the
102.24 facility.

102.25 Subd. 5. **Resident funds.** (a) If the management agreement delegates day-to-day
102.26 management of resident funds to the manager, the licensee:

102.27 (1) retains all fiduciary and custodial responsibility for funds that have been deposited
102.28 with the facility by the resident;

102.29 (2) is directly accountable to the resident for such funds; and

103.1 (3) must ensure any party responsible for holding or managing residents' personal funds
103.2 is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident
103.3 funds and provides proof of bond or insurance.

103.4 (b) If responsibilities for the day-to-day management of the resident funds are delegated
103.5 to the manager, the manager must:

103.6 (1) provide the licensee with a monthly accounting of the resident funds; and

103.7 (2) meet all legal requirements related to holding and accounting for resident funds.

103.8 **Sec. 25. [144I.24] MINIMUM SITE, PHYSICAL ENVIRONMENT AND FIRE**
103.9 **SAFETY REQUIREMENTS.**

103.10 Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required
103.11 for all basic care facilities, assisted living facilities, and assisted living facilities with dementia
103.12 care:

103.13 (1) public utilities must be available, and working or inspected and approved water and
103.14 septic systems are in place;

103.15 (2) the location is publicly accessible to fire department services and emergency medical
103.16 services;

103.17 (3) the location's topography provides sufficient natural drainage and is not subject to
103.18 flooding;

103.19 (4) all-weather roads and walks must be provided within the lot lines to the primary
103.20 entrance and the service entrance, including employees' and visitors' parking at the site; and

103.21 (5) the location must include space for outdoor activities for residents.

103.22 (b) An assisted living facility with a dementia care unit must also meet the following
103.23 requirements:

103.24 (1) a hazard vulnerability assessment or safety risk must be performed on and around
103.25 the property. The hazards indicated on the assessment must be assessed and mitigated to
103.26 protect the residents from harm; and

103.27 (2) the facility shall be protected throughout by an approved supervised automatic
103.28 sprinkler system by August 1, 2029.

103.29 **Subd. 2. Fire protection and physical environment. (a) Effective December 31, 2019,**
103.30 **each basic care facility, assisted living facility, and assisted living facility with dementia**
103.31 **care must have a comprehensive fire protection system that includes:**

104.1 (1) protection throughout by an approved supervised automatic sprinkler system according
104.2 to building code requirements established in Minnesota Rules, part 1305.0903, or smoke
104.3 detectors in each occupied room installed and maintained in accordance with the National
104.4 Fire Protection Association (NFPA) Standard 72;

104.5 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
104.6 10; and

104.7 (3) the physical environment, including walls, floors, ceiling, all furnishings, grounds,
104.8 systems, and equipment must be kept in a continuous state of good repair and operation
104.9 with regard to the health, safety, comfort, and well-being of the residents in accordance
104.10 with a maintenance and repair program.

104.11 (b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the
104.12 residential board and care requirements in the Life Safety Code.

104.13 Subd. 3. **Local laws apply.** Basic care facilities and assisted living facilities shall be in
104.14 compliance with all applicable state and local governing laws, regulations, standards,
104.15 ordinances, and codes for fire safety, building, and zoning requirements.

104.16 Subd. 4. **Basic care facilities and assisted living facilities; design.** (a) After July 31,
104.17 2021, all basic care facilities and assisted living facilities with six or more residents must
104.18 meet the provisions relevant to assisted living facilities of the most current edition of the
104.19 Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health,
104.20 Care and Support Facilities" and of adopted rules. This minimum design standard shall be
104.21 met for all new licenses, new construction, modifications, renovations, alterations, change
104.22 of use, or additions. In addition to the guidelines, assisted living facilities, and assisted living
104.23 facilities with dementia care shall provide the option of a bath in addition to a shower for
104.24 all residents.

104.25 (b) The commissioner shall establish an implementation timeline for mandatory usage
104.26 of the latest published guidelines. However, the commissioner shall not enforce the latest
104.27 published guidelines before six months after the date of publication.

104.28 Subd. 5. **Basic care facilities and assisted living facilities; life safety code.** (a) After
104.29 August 1, 2021, all basic care facilities and assisted living facilities with six or more residents
104.30 shall meet the applicable provisions of the most current edition of the NFPA Standard 101,
104.31 Life Safety Code, Residential Board and Care Occupancies chapter. This minimum design
104.32 standard shall be met for all new licenses, new construction, modifications, renovations,
104.33 alterations, change of use, or additions.

105.1 (b) The commissioner shall establish an implementation timeline for mandatory usage
105.2 of the latest published Life Safety Code. However, the commissioner shall not enforce the
105.3 latest published guidelines before six months after the date of publication.

105.4 Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a)
105.5 Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet
105.6 the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety
105.7 Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all
105.8 new licenses, new construction, modifications, renovations, alterations, change of use or
105.9 additions.

105.10 (b) The commissioner shall establish an implementation timeline for mandatory usage
105.11 of the newest-published Life Safety Code. However, the commissioner shall not enforce
105.12 the newly-published guidelines before 6 months after the date of publication.

105.13 Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning
105.14 on or after August 1, 2021, the following must be provided to the commissioner:

105.15 (1) architectural and engineering plans and specifications for new construction must be
105.16 prepared and signed by architects and engineers who are registered in Minnesota. Final
105.17 working drawings and specifications for proposed construction must be submitted to the
105.18 commissioner for review and approval;

105.19 (2) final architectural plans and specifications must include elevations and sections
105.20 through the building showing types of construction, and must indicate dimensions and
105.21 assignments of rooms and areas, room finishes, door types and hardware, elevations and
105.22 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts
105.23 of dietary and laundry areas. Plans must show the location of fixed equipment and sections
105.24 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions
105.25 must be indicated. The roof plan must show all mechanical installations. The site plan must
105.26 indicate the proposed and existing buildings, topography, roadways, walks and utility service
105.27 lines; and

105.28 (3) final mechanical and electrical plans and specifications must address the complete
105.29 layout and type of all installations, systems, and equipment to be provided. Heating plans
105.30 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,
105.31 boilers, breeching and accessories. Ventilation plans must include room air quantities, ducts,
105.32 fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing plans
105.33 must include the fixtures and equipment fixture schedule; water supply and circulating
105.34 piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation

106.1 of water and sewer services; and the building fire protection systems. Electrical plans must
106.2 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and
106.3 light panels, transformers, and service feeders. Plans must show location of nurse call signals,
106.4 cable lines, fire alarm stations, and fire detectors and emergency lighting.

106.5 (b) Unless construction is begun within one year after approval of the final working
106.6 drawing and specifications, the drawings must be resubmitted for review and approval.

106.7 (c) The commissioner must be notified within 30 days before completion of construction
106.8 so that the commissioner can make arrangements for a final inspection by the commissioner.

106.9 (d) At least one set of complete life safety plans, including changes resulting from
106.10 remodeling or alterations, must be kept on file in the facility.

106.11 Subd. 8. Variances or waivers. (a) A facility may request that the commissioner grant
106.12 a variance or waiver from the provisions of this section. A request for a waiver must be
106.13 submitted to the commissioner in writing. Each request must contain:

106.14 (1) the specific requirement for which the variance or waiver is requested;

106.15 (2) the reasons for the request;

106.16 (3) the alternative measures that will be taken if a variance or waiver is granted;

106.17 (4) the length of time for which the variance or waiver is requested; and

106.18 (5) other relevant information deemed necessary by the commissioner to properly evaluate
106.19 the request for the waiver.

106.20 (b) The decision to grant or deny a variance or waiver must be based on the
106.21 commissioner's evaluation of the following criteria:

106.22 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or
106.23 well-being of a patient;

106.24 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to
106.25 those prescribed in this section; and

106.26 (3) whether compliance with the requirements would impose an undue burden on the
106.27 applicant.

106.28 (c) The commissioner must notify the applicant in writing of the decision. If a variance
106.29 or waiver is granted, the notification must specify the period of time for which the variance
106.30 or waiver is effective and the alternative measures or conditions, if any, to be met by the
106.31 applicant.

107.1 (d) Alternative measures or conditions attached to a variance or waiver have the force
107.2 and effect of this chapter and are subject to the issuance of correction orders and fines in
107.3 accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a
107.4 violation of this section is that specified for the specific requirement for which the variance
107.5 or waiver was requested.

107.6 (e) A request for the renewal of a variance or waiver must be submitted in writing at
107.7 least 45 days before its expiration date. Renewal requests must contain the information
107.8 specified in paragraph (b). A variance or waiver must be renewed by the department if the
107.9 applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance
107.10 with the alternative measures or conditions imposed at the time the original variance or
107.11 waiver was granted.

107.12 (f) The department must deny, revoke, or refuse to renew a variance or waiver if it is
107.13 determined that the criteria in paragraph (a) are not met. The applicant must be notified in
107.14 writing of the reasons for the decision and informed of the right to appeal the decision.

107.15 (g) An applicant may contest the denial, revocation, or refusal to renew a variance or
107.16 waiver by requesting a contested case hearing under chapter 14. The applicant must submit,
107.17 within 15 days of the receipt of the department's decision, a written request for a hearing.
107.18 The request for hearing must set forth in detail the reasons why the applicant contends the
107.19 decision of the department should be reversed or modified. At the hearing, the applicant
107.20 has the burden of proving by a preponderance of the evidence that the applicant satisfied
107.21 the criteria specified in paragraph (b), except in a proceeding challenging the revocation of
107.22 a variance or waiver.

107.23 **Sec. 26. [144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.**

107.24 Subdivision 1. **Contract required.** (a) An assisted living facility, basic care facility, or
107.25 assisted living facility with dementia care may not offer or provide housing or services to
107.26 a resident unless it has executed a written contract with the resident.

107.27 (b) The contract must:

107.28 (1) be signed by both:

107.29 (i) the resident or the designated representative; and

107.30 (ii) the licensee or an agent of the facility; and

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

107.32 (i) housing; and

- 108.1 (ii) services, whether provided directly by the facility or by management agreement.
- 108.2 (c) A facility must:
- 108.3 (1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term
- 108.4 Care a complete unsigned copy of its contract; and
- 108.5 (2) give a complete copy of any signed contract and any addendums, and all supporting
- 108.6 documents and attachments, to the resident or the designated representative promptly after
- 108.7 a contract and any addendum has been signed by the resident or the designated representative.
- 108.8 (d) A contract under this section is a consumer contract under sections 325G.29 to
- 108.9 325G.37.
- 108.10 (e) Before or at the time of execution of the contract, the facility must offer the resident
- 108.11 the opportunity to identify a designated or resident representative or both in writing in the
- 108.12 contract. The contract must contain a page or space for the name and contact information
- 108.13 of the designated or resident representative or both and a box the resident must initial if the
- 108.14 resident declines to name a designated or resident representative. Notwithstanding paragraph
- 108.15 (f), the resident has the right at any time to rescind the declination or add or change the
- 108.16 name and contact information of the designated or resident representative.
- 108.17 (f) The resident must agree in writing to any additions or amendments to the contract.
- 108.18 Upon agreement between the resident or resident's designated representative and the facility,
- 108.19 a new contract or an addendum to the existing contract must be executed and signed.
- 108.20 Subd. 2. **Contents and contract; contact information.** (a) The contract must include
- 108.21 in a conspicuous place and manner on the contract the legal name and the license number
- 108.22 of the facility.
- 108.23 (b) The contract must include the name, telephone number, and physical mailing address,
- 108.24 which may not be a public or private post office box, of:
- 108.25 (1) the facility and contracted service provider when applicable;
- 108.26 (2) the licensee of the facility;
- 108.27 (3) the managing agent of the facility, if applicable; and
- 108.28 (4) at least one natural person who is authorized to accept service of process on behalf
- 108.29 of the facility.
- 108.30 (c) The contract must include:

109.1 (1) a description of all the terms and conditions of the contract, including a description
109.2 of and any limitations to the housing and/or services to be provided for the contracted
109.3 amount;

109.4 (2) a delineation of the cost and nature of any other services to be provided for an
109.5 additional fee;

109.6 (3) a delineation and description of any additional fees the resident may be required to
109.7 pay if the resident's condition changes during the term of the contract;

109.8 (4) a delineation of the grounds under which the resident may be discharged, evicted,
109.9 or transferred or have services terminated; and

109.10 (5) billing and payment procedures and requirements.

109.11 (d) The contract must include a description of the facility's complaint resolution process
109.12 available to residents, including the name and contact information of the person representing
109.13 the facility who is designated to handle and resolve complaints.

109.14 (e) The contract must include a clear and conspicuous notice of:

109.15 (1) the right under section 144I.26 to challenge a discharge, eviction, or transfer or
109.16 service termination;

109.17 (2) the facility's policy regarding transfer of residents within the facility, under what
109.18 circumstances a transfer may occur, and whether or not consent of the resident being asked
109.19 to transfer is required;

109.20 (3) the toll-free complaint line for the MAARC, the Office of Ombudsman for Long-Term
109.21 Care, the Ombudsman for Mental Health and Developmental Disabilities, and the Office
109.22 of Health Facility Complaints;

109.23 (4) the resident's right to obtain services from an unaffiliated service provider;

109.24 (5) a description of the assisted living facility's policies related to medical assistance
109.25 waivers under sections 256B.0915 and 256B.49, including:

109.26 (i) whether the provider is enrolled with the commissioner of human services to provide
109.27 customized living services under medical assistance waivers;

109.28 (ii) whether there is a limit on the number of people residing at the assisted living facility
109.29 who can receive customized living services at any point in time. If so, the limit must be
109.30 provided;

110.1 (iii) whether the assisted living facility requires a resident to pay privately for a period
110.2 of time prior to accepting payment under medical assistance waivers, and if so, the length
110.3 of time that private payment is required;

110.4 (iv) a statement that medical assistance waivers provide payment for services, but do
110.5 not cover the cost of rent;

110.6 (v) a statement that residents may be eligible for assistance with rent through the housing
110.7 support program; and

110.8 (vi) a description of the rent requirements for people who are eligible for medical
110.9 assistance waivers but who are not eligible for assistance through the housing support
110.10 program; and

110.11 (6) the contact information to obtain long-term care consulting services under section
110.12 256B.0911.

110.13 (f) The contract must include a description of the facility's complaint resolution process
110.14 available to residents, including the name and contact information of the person representing
110.15 the facility who is designated to handle and resolve complaints.

110.16 **Subd. 3. Additional contract requirements for assisted living facilities and assisted**
110.17 **living facilities with dementia care.** (a) Assisted living facility and assisted living facility
110.18 with dementia care contracts must include the requirements in paragraph (b). A restriction
110.19 of a resident's rights under this subdivision is allowed only if determined necessary for
110.20 health and safety reasons identified by the facility's registered nurse in an initial assessment
110.21 or reassessment, under section 144I.15, subdivision 9, and documented in the written service
110.22 agreement under section 144I.15, subdivision 10. Any restrictions of those rights for
110.23 individuals served under sections 256B.0915 and 256B.49 must be documented in the
110.24 resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915,
110.25 subdivision 6, and 256B.49, subdivision 15.

110.26 (b) The contract must include a statement:

110.27 (1) regarding the ability of a resident to furnish and decorate the resident's unit within
110.28 the terms of the lease;

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

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

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

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

111.5 Subd. 4. **Filing.** The contract and related documents executed by each resident or the
111.6 designated representative must be maintained by the facility in files from the date of execution
111.7 until three years after the contract is terminated or expires. The contracts and all associated
111.8 documents will be available for on-site inspection by the commissioner at any time. The
111.9 documents shall be available for viewing or copies shall be made available to the resident
111.10 and the designated representative at any time.

111.11 Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of
111.12 facility liability for the health and safety or personal property of a resident. The contract
111.13 must not include any provision that the facility knows or should know to be deceptive,
111.14 unlawful, or unenforceable under state or federal law, nor include any provision that requires
111.15 or implies a lesser standard of care or responsibility than is required by law.

111.16 Sec. 27. **[144L.26] INVOLUNTARY DISCHARGES AND SERVICE**
111.17 **TERMINATIONS.**

111.18 Subdivision 1. **Prerequisite to termination of housing or services.** Before terminating
111.19 a resident's housing or services, a facility must explain in detail the reasons for the termination
111.20 and work with the resident, designated representatives, resident representatives, the resident's
111.21 family, applicable agencies, and any relevant health-related or social service professionals
111.22 to identify and offer reasonable accommodations and modifications, interventions, or
111.23 alternatives to avoid the termination.

111.24 Subd. 2. **Permissible reasons to terminate housing or services.** (a) A facility is
111.25 prohibited from terminating housing or services for grounds other than those specified in
111.26 paragraphs (b) and (c).

111.27 (b) A resident's housing or services shall not be terminated unless a termination is
111.28 necessary and there is a written determination, supported by documentation, of the necessity
111.29 of the termination. A termination is considered necessary only if:

111.30 (1) it is mandated by law or court order;

111.31 (2) the resident has engaged in a documented pattern of conduct that:

111.32 (i) endangers the health or safety of other residents or staff of the facility; or

- 112.1 (ii) repeatedly and substantially interferes with the rights, health, safety, or well-being
112.2 of other residents;
- 112.3 (3) the facility intends to cease operation;
- 112.4 (4) the facility's license is being restricted by the commissioner of health in a manner
112.5 that requires the termination;
- 112.6 (5) the resident has committed any of the acts enumerated under section 504B.171,
112.7 subdivision 1; or
- 112.8 (6) the resident's needs exceed the scope of the services for which the resident contracted
112.9 and:
- 112.10 (i) the facility administrator has certified that the resident's needs exceed the scope of
112.11 services for which the resident contracted, based on an evaluation by a disinterested, licensed
112.12 health care professional; and
- 112.13 (ii) the resident's needs cannot be safely met by reasonable accommodations or
112.14 modifications, interventions, or alternatives.
- 112.15 (c) A facility may terminate housing or services for nonpayment, provided the facility:
- 112.16 (1) makes reasonable efforts to accommodate temporary financial hardship and provide
112.17 information on government or private subsidies that may be available; and
- 112.18 (2) provides the notice required under subdivision 3.
- 112.19 (d) A temporary interruption in benefits does not constitute nonpayment.
- 112.20 Subd. 3. **Advance notice required.** A facility must provide at least 30 calendar days'
112.21 advance notice to the resident, the ombudsman for long-term care, and the resident's
112.22 designated representatives and resident representatives or, if no designated representative
112.23 or resident representative is known, a family member, if known, of a termination of housing
112.24 or services, except as provided in subdivision 5 or 6, paragraph (f). If the facility's license
112.25 is restricted by the commissioner, then the facility must follow the directions by the
112.26 commissioner for resident relocations or ceasing services to residents and these notice
112.27 provisions do not apply.
- 112.28 Subd. 4. **Content of notice.** The notice required under subdivision 3 must contain, at a
112.29 minimum:
- 112.30 (1) the effective date of termination of housing or services;

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

113.3 (3) a list of known facilities in the immediate geographic area;

113.4 (4) a statement that the resident has the right to appeal the termination, an explanation
113.5 of how and to whom to appeal, and contact information for the Office of Administrative
113.6 Hearings;

113.7 (5) information on how to contact the ombudsman for long-term care and the ombudsman
113.8 for mental health and developmental disabilities;

113.9 (6) a description of the steps taken to avoid termination and the issues raised in accordance
113.10 with subdivision 1 and a statement that the resident has the right to request further meetings
113.11 to attempt to resolve the proposed termination;

113.12 (7) a description of the resident's right to avoid a termination, if possible, through
113.13 reasonable accommodations or modifications, interventions, or alternatives;

113.14 (8) a statement that the facility must actively participate in a coordinated transfer of the
113.15 resident to another location or service provider, as required under subdivision 7;

113.16 (9) the name and contact information of a person employed by the facility with whom
113.17 the resident may discuss the notice of termination of housing or services;

113.18 (10) if the termination is for services, a statement, if applicable, that the notice of
113.19 termination of services does not constitute a termination of housing or an eviction from the
113.20 resident's home, and that the resident has the right to remain in the facility; and

113.21 (11) the location to which the resident is being transferred and the contact information
113.22 for any new service provider to be used by the resident, or a statement that a location or
113.23 service provider will be identified prior to termination in accordance in subdivision 7.

113.24 If any information in the notice changes prior to the housing or service termination, the
113.25 facility must update the notice and provide it to the resident, resident's designated
113.26 representatives, and resident representatives or, if no designated representative or resident
113.27 representative is known, a family member as soon as practicable.

113.28 Subd. 5. **Exception for emergencies.** (a) A facility may relocate a resident from a facility
113.29 with notice of less than 30 calendar days and as soon as practicable if:

113.30 (1) emergency relocation is required for a resident's urgent medical needs and is ordered
113.31 by the resident's physician;

- 114.1 (2) the resident needs to be immediately relocated because the resident or another resident
114.2 or staff member of the facility is at imminent risk of:
- 114.3 (i) death;
- 114.4 (ii) life-threatening harm;
- 114.5 (iii) substantial harm, as defined in section 609.02, subdivision 7a; or
- 114.6 (iv) great bodily harm, as defined in section 609.02, subdivision 8, and that harm is
114.7 identified by the facility administrator based on documented evidence; or
- 114.8 (3) the breach involves any of the acts enumerated in section 504B.171, subdivision 1.
- 114.9 (b) A facility relocating a resident under this subdivision must:
- 114.10 (1) ensure that the resident is moved to a safe and appropriate location;
- 114.11 (2) immediately notify the resident's designated representatives and resident
114.12 representatives or, if no designated representative or resident representative is known, a
114.13 family member or interested person, if known:
- 114.14 (i) that the resident has been relocated;
- 114.15 (ii) the reason for the relocation; and
- 114.16 (iii) the name, address, telephone number, and any other relevant contact information
114.17 of the location to which the resident has been transferred and any new service provider;
- 114.18 (3) if the resident is not expected to or does not return to the facility within 24 hours of
114.19 the emergency relocation and a notice of termination of housing or services has not been
114.20 issued pursuant to subdivision 4, provide a written notice to the resident, ombudsman for
114.21 long-term care, resident representatives or designated representatives if known, or if no
114.22 designated representative or resident representative is known, then to a family member, if
114.23 known, stating at least:
- 114.24 (i) that the resident is currently expected to return to the facility or, if applicable, that
114.25 the resident is expected to return to the facility upon the removal of certain conditions
114.26 pursuant to paragraph (a) and a detailed description of those conditions;
- 114.27 (ii) if reasonably ascertainable, an estimated date of the resident's return to the facility;
- 114.28 (iii) a statement that, if the resident wishes to immediately return to the facility and is
114.29 denied readmission, the resident has the right to appeal any refusal to readmit and contact
114.30 information for the Office of Administrative Hearings;
- 114.31 (iv) information on how to contact the ombudsman for long-term care;

115.1 (v) the name, address, telephone number, and any other relevant contact information of
115.2 the location to which the resident has been transferred and any new service provider; and

115.3 (vi) upon removal of the conditions precipitating the emergency transfer, immediately
115.4 work and coordinate with the resident and the resident's designated representatives, resident
115.5 representatives, and family, if applicable, to enable the resident to return to the facility.

115.6 (c) If the facility determines that the resident cannot return to the facility or cannot
115.7 receive services from the facility upon return, then the resident, ombudsman for long-term
115.8 care, resident's designated representatives and resident representatives if known or, if no
115.9 designated representative or resident representative is known, then a family member, if
115.10 known, must be given as soon as practicable, but in any event no later than 24 hours after
115.11 the determination:

115.12 (1) a notice of the termination of housing or services pursuant to subdivision 4;

115.13 (2) a statement of the right to appeal pursuant to subdivision 6 and the right to appeal
115.14 the facility's refusal to readmit the resident; and

115.15 (3) a statement of the right to termination planning pursuant to subdivision 7 and that
115.16 the planning may not cease until a safe and appropriate location and, if applicable, service
115.17 provider has been identified.

115.18 **Subd. 6. Right to appeal termination of housing or services.** (a) A resident, designated
115.19 representative, resident representative, or family member has the right to appeal a termination
115.20 of housing or services under subdivision 2 or a facility's refusal to readmit the resident after
115.21 an emergency relocation under subdivision 5 and to request a hearing from the Office of
115.22 Administrative Hearings. An appeal must be filed in writing to the Office of Administrative
115.23 Hearings. An appeal of a refusal to readmit shall be construed as an appeal of any related
115.24 termination of housing or services.

115.25 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon
115.26 as practicable and in any event no later than 14 calendar days after the office receives the
115.27 request and within three business days in the event of an appeal of a refusal to readmit. The
115.28 hearing must be held at the facility where the resident lives, unless it is impractical or the
115.29 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing
115.30 may also be attended by telephone as allowed by the administrative law judge, after
115.31 considering how a telephonic hearing will affect the resident's ability to participate. The
115.32 hearing shall be limited to the amount of time necessary for the participants to expeditiously
115.33 present the facts about the proposed termination. The administrative law judge shall issue
115.34 a recommendation to the commissioner as soon as practicable and in any event no later than

- 116.1 ten calendar days after the hearing or within two days in the case of a refusal to readmit.
- 116.2 Attorney representation is not required at the hearing, nor does appearing without an attorney
- 116.3 constitute the unauthorized practice of law.
- 116.4 (c) The facility bears the burden of proof to establish that the termination of housing or
- 116.5 services or the refusal to readmit the resident is permissible.
- 116.6 (d) During the pendency of an appeal for a termination of housing or services and until
- 116.7 a final determination is made by the Office of Administrative Hearings:
- 116.8 (1) housing or services may not be terminated; and
- 116.9 (2) the resident may not be relocated except as provided for under subdivision 5. In the
- 116.10 event of relocation, the resident must be readmitted unless the conditions described in
- 116.11 subdivision 5, paragraph (a), exist.
- 116.12 (e) The commissioner of health may order the facility to rescind the termination of
- 116.13 housing or services if:
- 116.14 (1) the termination was in violation of state or federal law;
- 116.15 (2) the resident has cured or is able to cure the reason for the termination, or has identified
- 116.16 any reasonable accommodations or modifications, interventions, or alternatives to avoid
- 116.17 the termination; or
- 116.18 (3) termination planning is in violation of subdivision 7.
- 116.19 (f) If a termination of housing or services is denied only because of a failure to identify
- 116.20 a safe and appropriate location or service provider under subdivision 7, the facility, upon
- 116.21 finding such a safe and appropriate location or service provider, may reissue a termination
- 116.22 of housing or services with notice of less than 30 calendar days.
- 116.23 (g) The commissioner of health may order the immediate readmission of a resident to
- 116.24 the facility if:
- 116.25 (1) the refusal to readmit is in violation of state or federal law;
- 116.26 (2) the facility has not complied with subdivision 5 or the conditions described in
- 116.27 subdivision 5, paragraph (a), do not exist; or
- 116.28 (3) the resident has cured or is able to cure the reason for the relocation, or has identified
- 116.29 any reasonable accommodations or modifications, interventions, or alternatives to avoid
- 116.30 the continuance of the relocation.

117.1 (h) Nothing in this section limits the right of a resident or the resident's designated
117.2 representatives, resident representatives, or family to request or receive assistance from the
117.3 ombudsman for long-term care and the protection and advocacy agency under Code of
117.4 Federal Regulations, title 45, section 1326.21, concerning the termination of housing or
117.5 services.

117.6 (i) Residents are not required to request a meeting with the facility prior to submitting
117.7 an appeal hearing request.

117.8 Subd. 7. **Housing or service termination planning.** (a) If a facility terminates housing
117.9 or services, the facility:

117.10 (1) in the event of a termination of housing, has an affirmative duty to ensure a
117.11 coordinated and orderly transfer of the resident to a safe location that is appropriate for the
117.12 resident and the facility must identify that location prior to any appeal hearing;

117.13 (2) in the event of a termination of services, has an affirmative duty to ensure a
117.14 coordinated and orderly transfer of the resident to an appropriate service provider, if services
117.15 are still needed and desired by the resident, and the facility must identify the provider prior
117.16 to any appeal hearing; and

117.17 (3) must consult and cooperate with the resident, the resident's designated representatives,
117.18 resident representatives, family members, any interested professionals, including case
117.19 managers, and applicable agencies to make arrangements to relocate the resident, including
117.20 consideration of the resident's goals.

117.21 (b) A safe location is not a private home where the occupant is unwilling or unable to
117.22 care for the resident, a homeless shelter, a hotel, or a motel. A facility may not terminate a
117.23 resident's housing or services if the resident will, as a result of the termination, become
117.24 homeless, as defined in section 116L.361, subdivision 5, or if an adequate and safe discharge
117.25 location or adequate and needed service provider has not been identified.

117.26 (c) The facility must prepare a written relocation plan. The plan must:

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

117.28 (2) specify the measures needed until relocation that protect the resident and meet the
117.29 resident's health and safety needs.

117.30 (d) A facility may not relocate the resident unless the place to which the resident will
117.31 be relocated indicates acceptance of the resident. If a resident continues to need and desire
117.32 the services provided by the facility, the facility may not terminate services unless another
117.33 service provider has indicated that it will provide those services.

118.1 (e) If a resident is relocated to another facility or a nursing home provider, the facility
118.2 must timely convey to that provider:

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

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

118.6 (3) the resident's current documented diagnoses that are relevant to the services being
118.7 provided;

118.8 (4) the resident's known allergies that are relevant to the services being provided;

118.9 (5) the name and telephone number of the resident's physician, if known, and the current
118.10 physician orders that are relevant to the services being provided;

118.11 (6) all medication administration records that are relevant to the services being provided;

118.12 (7) the most recent resident assessment, if relevant to the services being provided; and

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

118.15 **Subd. 8. Final accounting; return of money and property.** (a) Within 30 days of the
118.16 date of the termination of housing or services, the facility shall:

118.17 (1) provide to the resident, resident representatives, and designated representatives a
118.18 final statement of account;

118.19 (2) provide any refunds due; and

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

118.21 (b) As required by section 504B.178, a facility may not collect a nonrefundable security
118.22 deposit unless it is applied to the first month's charges.

118.23 **Sec. 28. [144I.27] PLANNED CLOSURES.**

118.24 **Subdivision 1. Closure plan required.** In the event that a facility elects to voluntarily
118.25 close the facility, the facility must notify the commissioner and the Office of Ombudsman
118.26 for Long-Term Care in writing by submitting a proposed closure plan.

118.27 **Subd. 2. Content of closure plan.** The facility's proposed closure plan must include:

118.28 (1) the procedures and actions the facility will implement to notify residents of the
118.29 closure, including a copy of the written notice to be given to residents, designated
118.30 representatives, resident representatives, or family;

119.1 (2) the procedures and actions the facility will implement to ensure all residents receive
119.2 appropriate termination planning in accordance with section 144I.26, subdivision 7, and
119.3 final accountings and returns under section 144I.26, subdivision 8;

119.4 (3) assessments of the needs and preferences of individual residents; and

119.5 (4) procedures and actions the facility will implement to maintain compliance with this
119.6 chapter until all residents have relocated.

119.7 Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan
119.8 shall be subject to the commissioner's approval and subdivision 6. The facility shall take
119.9 no action to close the residence prior to the commissioner's approval of the plan. The
119.10 commissioner shall approve or otherwise respond to the plan as soon as practicable.

119.11 (b) The commissioner of health may require the facility to work with a transitional team
119.12 comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, and
119.13 other professionals the commissioner deems necessary to assist in the proper relocation of
119.14 residents.

119.15 Subd. 4. **Termination planning and final accounting requirements.** Prior to
119.16 termination, the facility must follow the termination planning requirements under section
119.17 144I.26, subdivision 7, and final accounting and return requirements under section 144I.26,
119.18 subdivision 8, for residents. The facility must implement the plan approved by the
119.19 commissioner and ensure that arrangements for relocation and continued care that meet
119.20 each resident's social, emotional, and health needs are effectuated prior to closure.

119.21 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan
119.22 and at least 60 calendar days before closing, except as provided under subdivision 6, the
119.23 facility must notify residents, designated representatives, and resident representatives or, if
119.24 a resident has no designated representative or resident representative, a family member, if
119.25 known, of the closure, the proposed date of closure, the contact information of the
119.26 ombudsman for long-term care, and that the facility will follow the termination planning
119.27 requirements under section 144I.26, subdivision 7, and final accounting and return
119.28 requirements under section 144I.26, subdivision 8.

119.29 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the
119.30 commissioner deems the facility can no longer remain open, the facility must meet all
119.31 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds
119.32 would endanger the health and safety of residents. In the event the commissioner determines
119.33 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice
119.34 to residents as soon as practicable or as directed by the commissioner.

120.1 (b) Upon request from the commissioner, a facility must provide the commissioner with
120.2 any documentation related to the appropriateness of its relocation plan, or to any assertion
120.3 that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining open
120.4 would otherwise endanger the health and safety of residents pursuant to paragraph (a).

120.5 Subd. 7. **Other rights.** Nothing in this section or section 144I.26 affects the rights and
120.6 remedies available under chapter 504B, except to the extent those rights or remedies are
120.7 inconsistent with this section.

120.8 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements
120.9 of this section or section 144I.26

120.10 **Sec. 29. [144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.**

120.11 Subdivision 1. **Notice required before relocation within location.** (a) A facility must:

120.12 (1) notify a resident and the resident's representative, if any, at least 14 calendar days
120.13 prior to a proposed nonemergency relocation to a different room at the same location; and

120.14 (2) obtain consent from the resident and the resident's representative, if any.

120.15 (b) A resident must be allowed to stay in the resident's room. If a resident consents to a
120.16 move, any needed reasonable modifications must be made to the new room to accommodate
120.17 the resident's disabilities.

120.18 Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before
120.19 deciding whether the room the resident will be moved to fits the resident's psychological,
120.20 cognitive, and health care needs, including the accessibility of the bathroom.

120.21 Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for
120.22 at least one year and resides in a private room, and whose payments subsequently will be
120.23 made under the medical assistance program under chapter 256B, may not be relocated to a
120.24 shared room without the consent of the resident or the resident's representative, if any.

120.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

120.26 **Sec. 30. [144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

120.27 Subdivision 1. **Regulations.** The commissioner shall regulate facilities pursuant to this
120.28 chapter. The regulations shall include the following:

120.29 (1) provisions to assure, to the extent possible, the health, safety, well-being, and
120.30 appropriate treatment of residents while respecting individual autonomy and choice;

- 121.1 (2) requirements that facilities furnish the commissioner with specified information
121.2 necessary to implement this chapter;
- 121.3 (3) standards of training of facility personnel;
- 121.4 (4) standards for provision of services;
- 121.5 (5) standards for medication management;
- 121.6 (6) standards for supervision of services;
- 121.7 (7) standards for resident evaluation or assessment;
- 121.8 (8) standards for treatments and therapies;
- 121.9 (9) requirements for the involvement of a resident's health care provider, the
121.10 documentation of the health care provider's orders, if required, and the resident's service
121.11 agreement;
- 121.12 (10) the maintenance of accurate, current resident records;
- 121.13 (11) the establishment of levels of licenses based on services provided; and
- 121.14 (12) provisions to enforce these regulations and the basic care and assisted living bill of
121.15 rights.
- 121.16 Subd. 2. **Regulatory functions.** (a) The commissioner shall:
- 121.17 (1) license, survey, and monitor without advance notice facilities in accordance with
121.18 this chapter;
- 121.19 (2) survey every provisional licensee within one year of the provisional license issuance
121.20 date subject to the provisional licensee providing licensed services to residents;
- 121.21 (3) survey facility licensees annually;
- 121.22 (4) investigate complaints of facilities;
- 121.23 (5) issue correction orders and assess civil penalties;
- 121.24 (6) take action as authorized in section 144I.33; and
- 121.25 (7) take other action reasonably required to accomplish the purposes of this chapter.
- 121.26 (b) Beginning August 1, 2021, the commissioner shall review blueprints for all new
121.27 facility construction and must approve the plans before construction may be commenced.
- 121.28 (c) The commissioner shall provide on-site review of the construction to ensure that all
121.29 physical environment standards are met before the facility license is complete.

122.1 Sec. 31. **[144I.30] SURVEYS AND INVESTIGATIONS.**

122.2 **Subdivision 1. Regulatory powers.** (a) The Department of Health is the exclusive state
122.3 agency charged with the responsibility and duty of surveying and investigating all facilities
122.4 required to be licensed under this chapter. The commissioner of health shall enforce all
122.5 sections of this chapter and the rules adopted under this chapter.

122.6 (b) The commissioner, upon request of the facility, must be given access to relevant
122.7 information, records, incident reports, and other documents in the possession of the facility
122.8 if the commissioner considers them necessary for the discharge of responsibilities. For
122.9 purposes of surveys and investigations and securing information to determine compliance
122.10 with licensure laws and rules, the commissioner need not present a release, waiver, or
122.11 consent to the individual. The identities of residents must be kept private as defined in
122.12 section 13.02, subdivision 12.

122.13 **Subd. 2. Surveys.** The commissioner shall conduct surveys of each basic care facility,
122.14 assisted living facility, and assisted living facility with dementia care. The commissioner
122.15 shall conduct a survey of each facility on a frequency of at least once each year. The
122.16 commissioner may conduct surveys more frequently than once a year based on the license
122.17 level, the provider's compliance history, the number of clients served, or other factors as
122.18 determined by the department deemed necessary to ensure the health, safety, and welfare
122.19 of residents and compliance with the law.

122.20 **Subd. 3. Follow-up surveys.** The commissioner may conduct follow-up surveys to
122.21 determine if the facility has corrected deficient issues and systems identified during a survey
122.22 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,
122.23 mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be
122.24 concluded with an exit conference and written information provided on the process for
122.25 requesting a reconsideration of the survey results.

122.26 **Subd. 4. Scheduling surveys.** Surveys and investigations shall be conducted without
122.27 advance notice to the facilities. Surveyors may contact the facility on the day of a survey
122.28 to arrange for someone to be available at the survey site. The contact does not constitute
122.29 advance notice.

122.30 **Subd. 5. Information provided by facility.** The facility shall provide accurate and
122.31 truthful information to the department during a survey, investigation, or other licensing
122.32 activities.

122.33 **Subd. 6. Providing resident records.** Upon request of a surveyor, facilities shall provide
122.34 a list of current and past residents or designated representatives that includes addresses and

123.1 telephone numbers and any other information requested about the services to residents
123.2 within a reasonable period of time.

123.3 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the
123.4 commissioner finds upon survey or during a complaint investigation that a facility, a
123.5 managerial official, or an employee of the provider is not in compliance with this chapter.
123.6 The correction order shall cite the specific statute and document areas of noncompliance
123.7 and the time allowed for correction.

123.8 (b) The commissioner shall mail or e-mail copies of any correction order to the facility
123.9 within 30 calendar days after the survey exit date. A copy of each correction order and
123.10 copies of any documentation supplied to the commissioner shall be kept on file by the
123.11 facility and public documents shall be made available for viewing by any person upon
123.12 request. Copies may be kept electronically.

123.13 (c) By the correction order date, the facility must document in the facility's records any
123.14 action taken to comply with the correction order. The commissioner may request a copy of
123.15 this documentation and the facility's action to respond to the correction order in future
123.16 surveys, upon a complaint investigation, and as otherwise needed.

123.17 Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4
123.18 violations under section 144I.31, the department shall conduct a follow-up survey within
123.19 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall
123.20 focus on whether the previous violations have been corrected and may also address any
123.21 new violations that are observed while evaluating the corrections that have been made.

123.22 **Sec. 32. [144I.31] VIOLATIONS AND FINES.**

123.23 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision
123.24 may be assessed based on the level and scope of the violations described in subdivision 2
123.25 as follows and imposed immediately with no opportunity to correct the violation prior to
123.26 imposition:

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

123.28 (2) Level 2, a fine of \$500 per violation, in addition to any of the enforcement
123.29 mechanisms authorized in section 144I.33 for widespread violations;

123.30 (3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected
123.31 by the violation, in addition to any of the enforcement mechanisms authorized in section
123.32 144I.33;

124.1 (4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident, in addition to any
124.2 of the enforcement mechanisms authorized in section 144I.33; and

124.3 (5) for maltreatment violations as defined in the Minnesota Vulnerable Adults Act in
124.4 section 626.557 including abuse, neglect, financial exploitation, and drug diversion that are
124.5 determined against the facility, an immediate fine shall be imposed of \$5,000 per incident,
124.6 plus \$200 for each resident affected by the violation.

124.7 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized
124.8 by both level and scope, and fines shall be assessed as follows:

124.9 (1) level of violation:

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

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

124.15 (iii) Level 3 is a violation that harmed a resident's health or safety, not including serious
124.16 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
124.17 impairment, or death; and

124.18 (iv) Level 4 is a violation that results in serious injury, impairment, or death; and

124.19 (2) scope of violation:

124.20 (i) isolated, when one or a limited number of residents are affected or one or a limited
124.21 number of staff are involved or the situation has occurred only occasionally;

124.22 (ii) pattern, when more than a limited number of residents are affected, more than a
124.23 limited number of staff are involved, or the situation has occurred repeatedly but is not
124.24 found to be pervasive; and

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

124.27 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a
124.28 facility has not corrected violations by the date specified in the correction order or conditional
124.29 license resulting from a survey or complaint investigation, the commissioner shall provide
124.30 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance
124.31 to the facility. The noncompliance notice must list the violations not corrected.

125.1 Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may
125.2 issue an immediate fine. The licensee must still correct the violation in the time specified.
125.3 The issuance of an immediate fine may occur in addition to any enforcement mechanism
125.4 authorized under section 144I.33. The immediate fine may be appealed as allowed under
125.5 this section.

125.6 (b) The licensee must pay the fines assessed on or before the payment date specified. If
125.7 the licensee fails to fully comply with the order, the commissioner may issue a second fine
125.8 or suspend the license until the licensee complies by paying the fine. A timely appeal shall
125.9 stay payment of the fine until the commissioner issues a final order.

125.10 (c) A licensee shall promptly notify the commissioner in writing when a violation
125.11 specified in the order is corrected. If upon reinspection the commissioner determines that
125.12 a violation has not been corrected as indicated by the order, the commissioner may issue
125.13 an additional fine. The commissioner shall notify the licensee by mail to the last known
125.14 address in the licensing record that a second fine has been assessed. The licensee may appeal
125.15 the second fine as provided under this subdivision.

125.16 (d) A facility that has been assessed a fine under this section has a right to a
125.17 reconsideration or hearing under this section and chapter 14.

125.18 Subd. 5. **Facility cannot avoid payment.** When a fine has been assessed, the licensee
125.19 may not avoid payment by closing, selling, or otherwise transferring the license to a third
125.20 party. In such an event, the licensee shall be liable for payment of the fine.

125.21 Subd. 6. **Additional penalties.** In addition to any fine imposed under this section, the
125.22 commissioner may assess a penalty amount based on costs related to an investigation that
125.23 results in a final order assessing a fine or other enforcement action authorized by this chapter.

125.24 Subd. 7. **Deposit of fines.** Fines collected under this subdivision shall be deposited in
125.25 the state government special revenue fund and credited to an account separate from the
125.26 revenue collected under section 144A.472. Subject to an appropriation by the legislature,
125.27 the revenue from the fines collected must be used by the commissioner for special projects
125.28 to improve home care in Minnesota as recommended by the advisory council established
125.29 in section 144A.4799.

125.30 Sec. 33. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

125.31 Subdivision 1. **Reconsideration process required.** The commissioner shall make
125.32 available to facilities a correction order reconsideration process. This process may be used
125.33 to challenge the correction order issued, including the level and scope described in section

126.1 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction
126.2 order, the correction order is not stayed while it is under reconsideration. The department
126.3 shall post information on its website that the licensee requested reconsideration of the
126.4 correction order and that the review is pending.

126.5 Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in
126.6 writing, a correction order reconsideration regarding any correction order issued to the
126.7 facility. The written request for reconsideration must be received by the commissioner
126.8 within 15 calendar days of the correction order receipt date. The correction order
126.9 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that
126.10 participated in writing or reviewing the correction order being disputed. The correction
126.11 order reconsiderations may be conducted in person, by telephone, by another electronic
126.12 form, or in writing, as determined by the commissioner. The commissioner shall respond
126.13 in writing to the request from a facility for a correction order reconsideration within 60 days
126.14 of the date the facility requests a reconsideration. The commissioner's response shall identify
126.15 the commissioner's decision regarding each citation challenged by the facility.

126.16 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be
126.17 one or more of the following:

126.18 (1) supported in full: the correction order is supported in full, with no deletion of findings
126.19 to the citation;

126.20 (2) supported in substance: the correction order is supported, but one or more findings
126.21 are deleted or modified without any change in the citation;

126.22 (3) correction order cited an incorrect licensing requirement: the correction order is
126.23 amended by changing the correction order to the appropriate statute and/or rule;

126.24 (4) correction order was issued under an incorrect citation: the correction order is amended
126.25 to be issued under the more appropriate correction order citation;

126.26 (5) the correction order is rescinded;

126.27 (6) fine is amended: it is determined that the fine assigned to the correction order was
126.28 applied incorrectly; or

126.29 (7) the level or scope of the citation is modified based on the reconsideration.

126.30 Subd. 4. **Updating the correction order website.** If the correction order findings are
126.31 changed by the commissioner, the commissioner shall update the correction order website.

126.32 Subd. 5. **Provisional licensees.** This section does not apply to provisional licensees.

127.1 Sec. 34. [144I.33] ENFORCEMENT.

127.2 Subdivision 1. Conditions. (a) The commissioner may refuse to grant a provisional
127.3 license, refuse to grant a license as a result of a change in ownership, renew a license,
127.4 suspend or revoke a license, or impose a conditional license if the owner, controlling
127.5 individual, or employee of a basic care facility, assisted living facility, or assisted living
127.6 facility with dementia care:

127.7 (1) is in violation of, or during the term of the license has violated, any of the requirements
127.8 in this chapter or adopted rules;

127.9 (2) permits, aids, or abets the commission of any illegal act in the provision of assisted
127.10 living services;

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

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

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

127.15 (6) denies representatives of the department access to any part of the facility's books,
127.16 records, files, or employees;

127.17 (7) interferes with or impedes a representative of the department in contacting the facility's
127.18 residents;

127.19 (8) interferes with or impedes a representative of the department in the enforcement of
127.20 this chapter or has failed to fully cooperate with an inspection, survey, or investigation by
127.21 the department;

127.22 (9) destroys or makes unavailable any records or other evidence relating to the assisted
127.23 living facility's compliance with this chapter;

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

127.25 (11) fails to timely pay any fines assessed by the commissioner;

127.26 (12) violates any local, city, or township ordinance relating to housing or services;

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

127.29 (14) has operated beyond the scope of the facility's license category.

127.30 (b) A violation by a contractor providing the services of the facility is a violation by
127.31 facility.

128.1 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional
128.2 license designation may include terms that must be completed or met before a suspension
128.3 or conditional license designation is lifted. A conditional license designation may include
128.4 restrictions or conditions that are imposed on the facility. Terms for a suspension or
128.5 conditional license may include one or more of the following and the scope of each will be
128.6 determined by the commissioner:

128.7 (1) requiring a consultant to review, evaluate, and make recommended changes to the
128.8 facility's practices and submit reports to the commissioner at the cost of the facility;

128.9 (2) requiring supervision of the facility or staff practices at the cost of the facility by an
128.10 unrelated person who has sufficient knowledge and qualifications to oversee the practices
128.11 and who will submit reports to the commissioner;

128.12 (3) requiring the facility or employees to obtain training at the cost of the facility;

128.13 (4) requiring the facility to submit reports to the commissioner;

128.14 (5) prohibiting the facility from admitting any new residents for a specified period of
128.15 time; or

128.16 (6) any other action reasonably required to accomplish the purpose of this subdivision
128.17 and subdivision 1.

128.18 (b) A facility subject to this subdivision may continue operating during the period of
128.19 time residents are being transferred to another service provider.

128.20 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies
128.21 provided by law, the commissioner may, without a prior contested case hearing, immediately
128.22 temporarily suspend a license or prohibit delivery of housing or services by a facility for
128.23 not more than 90 calendar days or issue a conditional license, if the commissioner determines
128.24 that there are:

128.25 (1) Level 4 violations; or

128.26 (2) violations that pose an imminent risk of harm to the health or safety of residents.

128.27 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

128.28 (c) A notice stating the reasons for the immediate temporary suspension or conditional
128.29 license and informing the licensee of the right to an expedited hearing under subdivision
128.30 11 must be delivered by personal service to the address shown on the application or the last
128.31 known address of the licensee. The licensee may appeal an order immediately temporarily
128.32 suspending a license or issuing a conditional license. The appeal must be made in writing

129.1 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
129.2 the commissioner within five calendar days after the licensee receives notice. If an appeal
129.3 is made by personal service, it must be received by the commissioner within five calendar
129.4 days after the licensee received the order.

129.5 (d) A licensee whose license is immediately temporarily suspended must comply with
129.6 the requirements for notification and transfer of residents in subdivision 9. The requirements
129.7 in subdivision 9 remain if an appeal is requested.

129.8 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,
129.9 paragraph (a), the commissioner must revoke a license if a controlling individual of the
129.10 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility
129.11 or directly affects resident safety or care. The commissioner shall notify the facility and the
129.12 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of
129.13 revocation.

129.14 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
129.15 within 60 calendar days of notification to suspend or revoke a facility's license or must
129.16 refuse to renew a facility's license if within the preceding two years the facility has incurred
129.17 the following number of uncorrected or repeated violations:

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

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

129.22 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,
129.23 or refuse to renew a facility's license if the facility corrects the violation.

129.24 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated
129.25 by the commissioner to revoke or suspend a facility's license, or a decision by the
129.26 commissioner not to renew a living facility's license, the controlling individual of the facility
129.27 or a designee must provide to the commissioner and the ombudsman for long-term care the
129.28 names of residents and the names and addresses of the residents' guardians, designated
129.29 representatives, and family contacts.

129.30 (b) The controlling individual or designees of the facility must provide updated
129.31 information each month until the proceeding is concluded. If the controlling individual or
129.32 designee of the facility fails to provide the information within this time, the facility is subject
129.33 to the issuance of:

130.1 (1) a correction order; and

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

130.3 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this
130.4 subdivision must require that the facility immediately comply with the request for information
130.5 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the
130.6 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100
130.7 increments for each day the noncompliance continues.

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

130.11 (e) Within ten business days after the commissioner initiates proceedings to revoke,
130.12 suspend, or not renew a facility license, the commissioner must send a written notice of the
130.13 action and the process involved to each resident of the facility and the resident's designated
130.14 representative or, if there is no designated representative and if known, a family member
130.15 or interested person.

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

130.18 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew
130.19 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57
130.20 to 14.69. The hearing must commence within 60 calendar days after the proceedings are
130.21 initiated. In addition to any other remedy provided by law, the commissioner may, without
130.22 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services
130.23 by a provider for not more than 90 calendar days, or issue a conditional license if the
130.24 commissioner determines that there are Level 3 violations that do not pose an imminent
130.25 risk of harm to the health or safety of the facility residents, provided:

130.26 (1) advance notice is given to the facility;

130.27 (2) after notice, the facility fails to correct the problem;

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

130.30 (4) there is an opportunity for a contested case hearing within 30 calendar days unless
130.31 there is an extension granted by an administrative law judge.

131.1 (b) If the commissioner determines there are Level 4 violations or violations that pose
131.2 an imminent risk of harm to the health or safety of the facility residents, the commissioner
131.3 may immediately temporarily suspend a license, prohibit delivery of services by a facility,
131.4 or issue a conditional license without meeting the requirements of paragraph (a), clauses
131.5 (1) to (4).

131.6 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in
131.7 section 144I.31.

131.8 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

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

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

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

131.13 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew
131.14 a license must include a plan for transferring affected residents' cares to other providers by
131.15 the facility that will be monitored by the commissioner. Within three calendar days of being
131.16 notified of the final revocation, refusal to renew, or suspension, the licensee shall provide
131.17 the commissioner, the lead agencies as defined in section 256B.0911, county adult protection
131.18 and case managers, and the ombudsman for long-term care with the following information:

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

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

131.22 (3) the location or current residence of each resident;

131.23 (4) the payor sources for each resident, including payor source identification numbers;

131.24 and

131.25 (5) for each resident, a copy of the resident's service agreement and a list of the types
131.26 of services being provided.

131.27 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
131.28 by mailing the notice to the address in the license record. The licensee shall cooperate with
131.29 the commissioner and the lead agencies, county adult protection and county managers, and
131.30 the ombudsman for long-term care during the process of transferring care of residents to
131.31 qualified providers. Within three calendar days of being notified of the final revocation,
131.32 refusal to renew, or suspension action, the facility must notify and disclose to each of the

132.1 residents, or the resident's representative or emergency contact persons, that the commissioner
 132.2 is taking action against the facility's license by providing a copy of the revocation or
 132.3 suspension notice issued by the commissioner. If the facility does not comply with the
 132.4 disclosure requirements in this section, the commissioner, lead agencies, county adult
 132.5 protection and county managers, and ombudsman for long-term care shall notify the residents,
 132.6 designated representatives, or emergency contact persons about the actions being taken.
 132.7 The revocation, refusal to renew, or suspension notice is public data except for any private
 132.8 data contained therein.

132.9 (c) A facility subject to this subdivision may continue operating while residents are being
 132.10 transferred to other service providers.

132.11 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal
 132.12 of a sanction under this section, other than for a temporary suspension, the commissioner
 132.13 shall request assignment of an administrative law judge. The commissioner's request must
 132.14 include a proposed date, time, and place of hearing. A hearing must be conducted by an
 132.15 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
 132.16 90 calendar days of the request for assignment, unless an extension is requested by either
 132.17 party and granted by the administrative law judge for good cause or for purposes of discussing
 132.18 settlement. In no case shall one or more extensions be granted for a total of more than 90
 132.19 calendar days unless there is a criminal action pending against the licensee. If, while a
 132.20 licensee continues to operate pending an appeal of an order for revocation, suspension, or
 132.21 refusal to renew a license, the commissioner identifies one or more new violations of law
 132.22 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,
 132.23 the commissioner shall act immediately to temporarily suspend the license.

132.24 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's
 132.25 timely appeal of a temporary suspension or issuance of a conditional license, the
 132.26 commissioner shall request assignment of an administrative law judge. The request must
 132.27 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
 132.28 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
 132.29 30 calendar days of the request for assignment, unless an extension is requested by either
 132.30 party and granted by the administrative law judge for good cause. The commissioner shall
 132.31 issue a notice of hearing by certified mail or personal service at least ten business days
 132.32 before the hearing. Certified mail to the last known address is sufficient. The scope of the
 132.33 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
 132.34 of a conditional license should remain in effect and whether there is sufficient evidence to
 132.35 conclude that the licensee's actions or failure to comply with applicable laws are Level 3

133.1 or Level 4 violations as defined in section 144I.31, or that there were violations that posed
133.2 an imminent risk of harm to the resident's health and safety.

133.3 (b) The administrative law judge shall issue findings of fact, conclusions, and a
133.4 recommendation within ten business days from the date of hearing. The parties shall have
133.5 ten calendar days to submit exceptions to the administrative law judge's report. The record
133.6 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
133.7 final order shall be issued within ten business days from the close of the record. When an
133.8 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
133.9 the commissioner shall issue a final order affirming the temporary immediate suspension
133.10 or conditional license within ten calendar days of the commissioner's receipt of the
133.11 withdrawal or dismissal. The licensee is prohibited from operation during the temporary
133.12 suspension period.

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

133.17 (d) A licensee whose license is temporarily suspended must comply with the requirements
133.18 for notification and transfer of residents under subdivision 9. These requirements remain if
133.19 an appeal is requested.

133.20 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under
133.21 section 144I.31, and an action against a license under this section, a licensee must request
133.22 a hearing no later than 15 business days after the licensee receives notice of the action.

133.23 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner
133.24 and managerial officials of a facility whose Minnesota license has not been renewed or that
133.25 has been revoked because of noncompliance with applicable laws or rules shall not be
133.26 eligible to apply for nor will be granted a basic care facility license, an assisted living facility
133.27 license, or an assisted living facility with dementia care license, or be given status as an
133.28 enrolled personal care assistance provider agency or personal care assistant by the Department
133.29 of Human Services under section 256B.0659, for five years following the effective date of
133.30 the nonrenewal or revocation. If the owner and/or managerial officials already have
133.31 enrollment status, the enrollment will be terminated by the Department of Human Services.

133.32 (b) The commissioner shall not issue a license to a facility for five years following the
133.33 effective date of license nonrenewal or revocation if the owner or managerial official,
133.34 including any individual who was an owner or managerial official of another licensed

134.1 provider, had a Minnesota license that was not renewed or was revoked as described in
134.2 paragraph (a).

134.3 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend
134.4 or revoke, the license of a facility that includes any individual as an owner or managerial
134.5 official who was an owner or managerial official of a facility whose Minnesota license was
134.6 not renewed or was revoked as described in paragraph (a) for five years following the
134.7 effective date of the nonrenewal or revocation.

134.8 (d) The commissioner shall notify the facility 30 calendar days in advance of the date
134.9 of nonrenewal, suspension, or revocation of the license. Within ten business days after the
134.10 receipt of the notification, the facility may request, in writing, that the commissioner stay
134.11 the nonrenewal, revocation, or suspension of the license. The facility shall specify the
134.12 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance
134.13 with the licensure laws and regulations; any limits on the authority or responsibility of the
134.14 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,
134.15 or suspension; and any other information to establish that the continuing affiliation with
134.16 these individuals will not jeopardize resident health, safety, or well-being. The commissioner
134.17 shall determine whether the stay will be granted within 30 calendar days of receiving the
134.18 facility's request. The commissioner may propose additional restrictions or limitations on
134.19 the facility's license and require that granting the stay be contingent upon compliance with
134.20 those provisions. The commissioner shall take into consideration the following factors when
134.21 determining whether the stay should be granted:

134.22 (1) the threat that continued involvement of the owners and managerial officials with
134.23 the facility poses to resident health, safety, and well-being;

134.24 (2) the compliance history of the facility; and

134.25 (3) the appropriateness of any limits suggested by the facility.

134.26 If the commissioner grants the stay, the order shall include any restrictions or limitation on
134.27 the provider's license. The failure of the facility to comply with any restrictions or limitations
134.28 shall result in the immediate removal of the stay and the commissioner shall take immediate
134.29 action to suspend, revoke, or not renew the license.

134.30 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may
134.31 be considered by the commissioner when the conditions upon which the revocation was
134.32 based have been corrected and satisfactory evidence of this fact has been furnished to the
134.33 commissioner. A new license may be granted after an inspection has been made and the
134.34 facility has complied with all provisions of this chapter and adopted rules.

135.1 Subd. 15. **Informal conference.** At any time, the applicant or facility and the
135.2 commissioner may hold an informal conference to exchange information, clarify issues, or
135.3 resolve issues.

135.4 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the
135.5 commissioner may bring an action in district court to enjoin a person who is involved in
135.6 the management, operation, or control of a facility or an employee of the facility from
135.7 illegally engaging in activities regulated by sections under this chapter. The commissioner
135.8 may bring an action under this subdivision in the district court in Ramsey County or in the
135.9 district in which the facility is located. The court may grant a temporary restraining order
135.10 in the proceeding if continued activity by the person who is involved in the management,
135.11 operation, or control of a facility, or by an employee of the facility, would create an imminent
135.12 risk of harm to a resident.

135.13 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,
135.14 the commissioner may issue subpoenas and compel the attendance of witnesses and the
135.15 production of all necessary papers, books, records, documents, and other evidentiary material.
135.16 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear
135.17 or testify regarding any matter about which the person may be lawfully questioned or to
135.18 produce any papers, books, records, documents, or evidentiary materials in the matter to be
135.19 heard, the commissioner may apply to the district court in any district, and the court shall
135.20 order the person to comply with the commissioner's order or subpoena. The commissioner
135.21 of health may administer oaths to witnesses or take their affirmation. Depositions may be
135.22 taken in or outside the state in the manner provided by law for taking depositions in civil
135.23 actions. A subpoena or other process or paper may be served on a named person anywhere
135.24 in the state by an officer authorized to serve subpoenas in civil actions, with the same fees
135.25 and mileage and in the same manner as prescribed by law for a process issued out of a
135.26 district court. A person subpoenaed under this subdivision shall receive the same fees,
135.27 mileage, and other costs that are paid in proceedings in district court.

135.28 Sec. 35. **[144L.34] INNOVATION VARIANCE.**

135.29 Subdivision 1. **Definition.** For purposes of this section, "innovation variance" means a
135.30 specified alternative to a requirement of this chapter. An innovation variance may be granted
135.31 to allow a facility to offer services of a type or in a manner that is innovative, will not impair
135.32 the services provided, will not adversely affect the health, safety, or welfare of the residents,
135.33 and is likely to improve the services provided. The innovative variance cannot change any

136.1 of the resident's rights under the basic care and assisted living bill of rights under section
136.2 144J.06.

136.3 Subd. 2. **Conditions.** The commissioner may impose conditions on granting an innovation
136.4 variance that the commissioner considers necessary.

136.5 Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any
136.6 innovation variance and may renew a limited innovation variance.

136.7 Subd. 4. **Applications; innovation variance.** An application for innovation variance
136.8 from the requirements of this chapter may be made at any time, must be made in writing to
136.9 the commissioner, and must specify the following:

136.10 (1) the statute or rule from which the innovation variance is requested;

136.11 (2) the time period for which the innovation variance is requested;

136.12 (3) the specific alternative action that the licensee proposes;

136.13 (4) the reasons for the request; and

136.14 (5) justification that an innovation variance will not impair the services provided, will
136.15 not adversely affect the health, safety, or welfare of residents, and is likely to improve the
136.16 services provided.

136.17 The commissioner may require additional information from the facility before acting on
136.18 the request.

136.19 Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for
136.20 an innovation variance in writing within 45 days of receipt of a complete request. Notice
136.21 of a denial shall contain the reasons for the denial. The terms of a requested innovation
136.22 variance may be modified upon agreement between the commissioner and the facility.

136.23 Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an
136.24 innovation variance shall be deemed to be a violation of this chapter.

136.25 Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny
136.26 renewal of an innovation variance if:

136.27 (1) it is determined that the innovation variance is adversely affecting the health, safety,
136.28 or welfare of the residents;

136.29 (2) the facility has failed to comply with the terms of the innovation variance;

136.30 (3) the facility notifies the commissioner in writing that it wishes to relinquish the
136.31 innovation variance and be subject to the statute previously varied; or

137.1 (4) the revocation or denial is required by a change in law.

137.2 Sec. 36. **[144I.35] RESIDENT QUALITY OF CARE AND OUTCOMES**

137.3 **IMPROVEMENT TASK FORCE.**

137.4 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of
137.5 care and outcomes improvement task force to examine and make recommendations, on an
137.6 ongoing basis, on how to apply proven safety and quality improvement practices and
137.7 infrastructure to settings and providers that provide long-term services and supports.

137.8 Subd. 2. **Membership.** The task force shall include representation from:

137.9 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation
137.10 in health care safety and quality;

137.11 (2) Department of Health staff with expertise in issues related to safety and adverse
137.12 health events;

137.13 (3) consumer organizations;

137.14 (4) direct care providers or their representatives;

137.15 (5) organizations representing long-term care providers and home care providers in
137.16 Minnesota;

137.17 (6) national patient safety experts; and

137.18 (7) other experts in the safety and quality improvement field.

137.19 The task force shall have at least one public member who is or has been a resident in an
137.20 assisted living setting and one public member who has or had a family member living in an
137.21 assisted living setting. The membership shall be voluntary except that public members may
137.22 be reimbursed under section 15.059, subdivision 3.

137.23 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations
137.24 to the commissioner and the legislature on changes needed to promote safety and quality
137.25 improvement practices in long-term care settings and with long-term care providers. The
137.26 task force shall meet no fewer than four times per year. The task force shall be established
137.27 by July 1, 2020.

137.28 Sec. 37. **[144I.36] EXPEDITED RULEMAKING AUTHORIZED.**

137.29 (a) The commissioner shall adopt rules for all basic care facilities and assisted living
137.30 facilities that promote person-centered planning and service and optimal quality of life, and

138.1 that ensure resident rights are protected, resident choice is allowed, and public health and
138.2 safety is ensured.

138.3 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process
138.4 in section 14.389, except that the rulemaking process is exempt from section 14.389,
138.5 subdivision 5.

138.6 (c) The commissioner shall adopt rules that include but are not limited to the following:

138.7 (1) staffing minimums and ratios for each level of licensure to best protect the health
138.8 and safety of residents no matter their vulnerability;

138.9 (2) training prerequisites and ongoing training for administrators and caregiving staff;

138.10 (3) requirements for licensees to ensure minimum nutrition and dietary standards required
138.11 by section 144I.10 are provided;

138.12 (4) procedures for discharge planning and ensuring resident appeal rights;

138.13 (5) core dementia care requirements and training in all levels of licensure;

138.14 (6) requirements for assisted living facilities with dementia care in terms of training,
138.15 care standards, noticing changes of condition, assessments, and health care;

138.16 (7) preadmission criteria, initial assessments, and continuing assessments;

138.17 (8) emergency disaster and preparedness plans;

138.18 (9) uniform checklist disclosure of services;

138.19 (10) uniform consumer information guide elements and other data collected; and

138.20 (11) uniform assessment tool.

138.21 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall
138.22 publish final rules by December 31, 2020.

138.23 **Sec. 38. TRANSITION PERIOD.**

138.24 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited
138.25 rulemaking process.

138.26 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new
138.27 basic care facility, assisted living facility, and assisted living facility with dementia care
138.28 licensure by hiring staff, developing forms, and communicating with stakeholders about
138.29 the new facility licensing.

139.1 (c) Effective August 1, 2021, all existing housing with services establishments providing
139.2 home care services under Minnesota Statutes, chapter 144A, must convert their registration
139.3 to licensure under Minnesota Statutes, chapter 144I.

139.4 (d) Effective August 1, 2021, all new basic care facilities, assisted living facilities, and
139.5 assisted living facilities with dementia care must be licensed by the commissioner.

139.6 (e) Effective August 1, 2021, all basic care facilities, assisted living facilities, and assisted
139.7 living facilities with dementia care must be licensed by the commissioner.

139.8 **Sec. 39. REPEALER.**

139.9 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;
139.10 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;
139.11 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are
139.12 repealed effective August 1, 2021.

ARTICLE 5

DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH DEMENTIA CARE

139.13
139.14 **Section 1. [144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING**
139.15 **FACILITIES WITH DEMENTIA CARE.**

139.16 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with
139.17 dementia care.

139.18 Subd. 2. **Demonstrated capacity.** (a) The applicant must have the ability to provide
139.19 services in a manner that is consistent with the requirements in this section. The commissioner
139.20 shall consider the following criteria, including, but not limited to:

139.21 (1) the experience of the applicant in managing residents with dementia or previous
139.22 long-term care experience; and

139.23 (2) the compliance history of the applicant in the operation of any care facility licensed,
139.24 certified, or registered under federal or state law.

139.25 (b) If the applicant does not have experience in managing residents with dementia, the
139.26 applicant must employ a consultant for at least the first six months of operation. The
139.27 consultant must meet the requirements in paragraph (a), clause (1), and make
139.28 recommendations on providing dementia care services consistent with the requirements of
139.29 this chapter. The consultant must have experience in dementia care operations. The applicant
139.30 must implement the recommendations of the consultant and document an acceptable plan
139.31
139.32

140.1 which may be reviewed by the commissioner upon request to address the consultant's
140.2 identified concerns. The commissioner may review and approve the selection of the
140.3 consultant.

140.4 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an
140.5 assisted living facility with dementia care license to ensure compliance with the physical
140.6 environment requirements.

140.7 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the
140.8 license.

140.9 Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing
140.10 at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility
140.11 with dementia care license. For voluntary relinquishment, the facility must:

140.12 (1) give all residents and their designated representatives 45 calendar days' notice. The
140.13 notice must include:

140.14 (i) the proposed effective date of the relinquishment;

140.15 (ii) changes in staffing;

140.16 (iii) changes in services including the elimination or addition of services; and

140.17 (iv) staff training that shall occur when the relinquishment becomes effective;

140.18 (2) submit a transitional plan to the commissioner demonstrating how the current residents
140.19 shall be evaluated and assessed to reside in other housing settings that are not an assisted
140.20 living facility with dementia care, that are physically unsecured, or that would require
140.21 move-out or transfer to other settings;

140.22 (3) change service or care plans as appropriate to address any needs the residents may
140.23 have with the transition;

140.24 (4) notify the commissioner when the relinquishment process has been completed; and

140.25 (5) revise advertising materials and disclosure information to remove any reference that
140.26 the facility is an assisted living facility with dementia care.

140.27 Sec. 2. **[144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**
140.28 **LIVING FACILITIES WITH DEMENTIA CARE.**

140.29 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care
140.30 is responsible for the care and housing of the persons with dementia and the provision of

141.1 person-centered care that promotes each resident's dignity, independence, and comfort. This
141.2 includes the supervision, training, and overall conduct of the staff.

141.3 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living
141.4 license requirements and the criteria in this section.

141.5 (b) The administrator of an assisted living facility with dementia care license must
141.6 complete and document that at least ten hours of the required annual continuing educational
141.7 requirements relate to the care of individuals with dementia. Continuing education credits
141.8 must be obtained through commissioner-approved sources that may include college courses,
141.9 preceptor credits, self-directed activities, course instructor credits, corporate training,
141.10 in-service training, professional association training, web-based training, correspondence
141.11 courses, telecourses, seminars, and workshops.

141.12 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing
141.13 of assisted living facilities, the assisted living facility with dementia care licensee must
141.14 develop and implement policies and procedures that address the:

141.15 (1) philosophy of how services are provided based upon the assisted living facility
141.16 licensee's values, mission, and promotion of person-centered care and how the philosophy
141.17 shall be implemented;

141.18 (2) evaluation of behavioral symptoms and design of supports for intervention plans;

141.19 (3) wandering and egress prevention that provides detailed instructions to staff in the
141.20 event a resident elopes;

141.21 (4) assessment of residents for the use and effects of medications, including psychotropic
141.22 medications;

141.23 (5) staff training specific to dementia care;

141.24 (6) description of life enrichment programs and how activities are implemented;

141.25 (7) description of family support programs and efforts to keep the family engaged;

141.26 (8) limiting the use of public address and intercom systems for emergencies and
141.27 evacuation drills only;

141.28 (9) transportation coordination and assistance to and from outside medical appointments;
141.29 and

141.30 (10) safekeeping of resident's possessions.

142.1 (b) The policies and procedures must be provided to residents and the resident's
142.2 representative at the time of move-in.

142.3 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

142.4 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide
142.5 residents with dementia-trained staff who have been instructed in the person-centered care
142.6 approach. All direct care and other community staff assigned to care for dementia residents
142.7 must be specially trained to work with residents with Alzheimer's disease and other
142.8 dementias.

142.9 (b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for
142.10 dementia residents.

142.11 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of
142.12 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and
142.13 needs of residents.

142.14 (d) In an emergency situation when trained staff are not available to provide services,
142.15 the facility may assign staff who have not completed the required training. The particular
142.16 emergency situation must be documented and must address:

142.17 (1) the nature of the emergency;

142.18 (2) how long the emergency lasted; and

142.19 (3) the names and positions of staff that provided coverage.

142.20 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide
142.21 support to residents with dementia have a basic understanding and fundamental knowledge
142.22 of the residents' emotional and unique health care needs using person-centered planning
142.23 delivery. Direct care dementia-trained staff and other staff must be trained on the topics
142.24 identified during the expedited rulemaking process. These requirements are in addition to
142.25 the licensing requirements for training.

142.26 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under
142.27 section 144I.31.

142.28 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must
142.29 have experience and knowledge in the care of individuals with dementia.

142.30 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may
142.31 include various methods of instruction, such as classroom style, web-based training, video,
142.32 or one-to-one training. The licensee must have a method for determining and documenting

143.1 each staff person's knowledge and understanding of the training provided. All training must
143.2 be documented.

143.3 **Sec. 4. [144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

143.4 **Subdivision 1. Dementia care services.** (a) In addition to the minimum services required
143.5 of assisted living facilities, an assisted living facility with dementia care must also provide
143.6 the following services:

143.7 (1) assistance with activities of daily living that address the needs of each resident with
143.8 dementia due to cognitive or physical limitations. These services must meet or be in addition
143.9 to the requirements in the licensing rules for the facility. Services must be provided in a
143.10 person-centered manner that promotes resident choice, dignity, and sustains the resident's
143.11 abilities;

143.12 (2) health care services provided according to the licensing statutes and rules of the
143.13 facility;

143.14 (3) a daily meal program for nutrition and hydration must be provided and available
143.15 throughout each resident's waking hours. The individualized nutritional plan for each resident
143.16 must be documented in the resident's service or care plan. In addition, an assisted living
143.17 facility with dementia care must provide meaningful activities that promote or help sustain
143.18 the physical and emotional well-being of residents. The activities must be person-directed
143.19 and available during residents' waking hours.

143.20 (b) Each resident must be evaluated for activities according to the licensing rules of the
143.21 facility. In addition, the evaluation must address the following:

143.22 (1) past and current interests;

143.23 (2) current abilities and skills;

143.24 (3) emotional and social needs and patterns;

143.25 (4) physical abilities and limitations;

143.26 (5) adaptations necessary for the resident to participate; and

143.27 (6) identification of activities for behavioral interventions.

143.28 (c) An individualized activity plan must be developed for each resident based on their
143.29 activity evaluation. The plan must reflect the resident's activity preferences and needs.

144.1 (d) A selection of daily structured and non-structured activities must be provided and
144.2 included on the resident's activity service or care plan as appropriate. Daily activity options
144.3 based on resident evaluation may include but are not limited to:

144.4 (1) occupation or chore related tasks;

144.5 (2) scheduled and planned events such as entertainment or outings;

144.6 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;

144.7 (4) one-to-one activities that encourage positive relationships between residents and
144.8 staff such as telling a life story, reminiscing, or playing music;

144.9 (5) spiritual, creative, and intellectual activities;

144.10 (6) sensory stimulation activities;

144.11 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;

144.12 and

144.13 (8) outdoor activities.

144.14 (e) Behavioral symptoms that negatively impact the resident and others in the assisted
144.15 living facility must be evaluated and included on the service or care plan. The staff must
144.16 initiate and coordinate outside consultation or acute care when indicated.

144.17 (f) Support must be offered to family and other significant relationships on a regularly
144.18 scheduled basis but not less than quarterly.

144.19 (g) Access to secured outdoor space and walkways that allow residents to enter and
144.20 return without staff assistance must be provided.

144.21

ARTICLE 6

144.22

MISCELLANEOUS

144.23 Section 1. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to
144.24 read:

144.25 Subd. 10. **Termination of service plan.** (a) ~~If a~~ An unaffiliated home care provider
144.26 must provide at least 30 days' advance notice of termination of a client's service plan.

144.27 (b) If an unaffiliated home care provider terminates a service plan with a client, and the
144.28 client continues to need home care services, the home care provider shall provide the client
144.29 and the client's representative, if any, with a written notice of termination which includes
144.30 the following information:

145.1 (1) the effective date of termination;

145.2 (2) the reason for termination;

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

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

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

145.10 (6) if applicable, a statement that the notice of termination of home care services does
145.11 not constitute notice of termination of the assisted living establishment or housing with
145.12 services contract with an assisted living establishment or a housing with services
145.13 establishment.

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

145.18 (d) For the purposes of this subdivision:

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

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

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

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

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

- 146.1 (1) the commissioner of health, if requested;
- 146.2 (2) the Office of Ombudsman for Long-Term Care; and
- 146.3 (3) each person seeking placement within a residence, or the ~~person's authorized~~ resident's
- 146.4 designated representative, as defined in section 144J.01, subdivision 9, before an agreement
- 146.5 to provide the care is entered into.

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

146.7 Sec. 3. **REPEALER.**

146.8 Minnesota Statutes 2018, sections 144D.01, subdivision 6; 144D.025; 144D.065;

146.9 144D.066; 144G.01; 144G.02; 144G.03, subdivisions 1, 2, 3, 4, and 5; 144G.05; and

146.10 144G.06, are repealed effective July 1, 2020.

144A.44 HOME CARE BILL OF RIGHTS.

Subdivision 1. **Statement of rights.** A person who receives home care services has these rights:

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

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

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

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

(5) the right to refuse services or treatment;

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

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

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

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

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

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

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

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

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

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

(16) the right to know the provider's reason for termination of services;

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

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

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

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

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

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

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

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

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

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

144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

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

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

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

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

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

144A.442 ASSISTED LIVING CLIENTS; SERVICE TERMINATION.

If an arranged home care provider, as defined in section 144D.01, subdivision 2a, who is not also Medicare certified terminates a service agreement or service plan with an assisted living client, as defined in section 144G.01, subdivision 3, the home care provider shall provide the assisted living client and the legal or designated representatives of the client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

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

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

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

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

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

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

144D.01 DEFINITIONS.

144D.01 DEFINITIONS.

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

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

Subd. 2a. **Arranged home care provider.** "Arranged home care provider" means a home care provider licensed under chapter 144A that provides services to some or all of the residents of a housing with services establishment and that is either the establishment itself or another entity with which the establishment has an arrangement.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 3a. **Direct-care staff.** "Direct-care staff" means staff and employees who provide home care services listed in section 144A.471, subdivisions 6 and 7.

Subd. 4. **Housing with services establishment or establishment.** (a) "Housing with services establishment" or "establishment" means:

(1) an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment; or

(2) an establishment that registers under section 144D.025.

(b) Housing with services establishment does not include:

(1) a nursing home licensed under chapter 144A;

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

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

(4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;

(5) a family adult foster care home licensed by the Department of Human Services;

(6) private homes in which the residents are related by kinship, law, or affinity with the providers of services;

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

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

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

(10) services for persons with developmental disabilities that are provided under a license under chapter 245D; or

(11) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.

Subd. 5. **Supportive services.** "Supportive services" means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, or the central storage of medication for residents.

Subd. 7. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home that is licensed by the Department of Human Services, that is the primary residence of the license holder, and in which the license holder is the primary caregiver.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, or the central storage of medication for residents.

144D.015 DEFINITION FOR PURPOSES OF LONG-TERM CARE INSURANCE.

For purposes of consistency with terminology commonly used in long-term care insurance policies and notwithstanding chapter 144G, a housing with services establishment that is registered under section 144D.03 and that holds, or makes arrangements with an individual or entity that holds any type of home care license and all other licenses, permits, registrations, or other governmental approvals legally required for delivery of the services the establishment offers or provides to its residents, constitutes an "assisted living facility" or "assisted living residence."

144D.02 REGISTRATION REQUIRED.

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

144D.025 OPTIONAL REGISTRATION.

144D.025 OPTIONAL REGISTRATION.

An establishment that meets all the requirements of this chapter except that fewer than 80 percent of the adult residents are age 55 or older, or a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, may, at its option, register as a housing with services establishment.

144D.025 OPTIONAL REGISTRATION.

An establishment that meets all the requirements of this chapter except that fewer than 80 percent of the adult residents are age 55 or older, or a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, may, at its option, register as a housing with services establishment.

144D.03 REGISTRATION.

Subdivision 1. **Registration procedures.** The commissioner shall establish forms and procedures for annual registration of housing with services establishments. The commissioner shall charge an annual registration fee of \$155. No fee shall be refunded. A registered establishment shall notify the commissioner within 30 days of the date it is no longer required to be registered under this chapter or of any change in the business name or address of the establishment, the name or mailing address of the owner or owners, or the name or mailing address of the managing agent. There shall be no fee for submission of the notice.

Subd. 1a. **Surcharge for injunctive relief actions.** The commissioner shall assess each housing with services establishment that offers or provides assisted living under chapter 144G a surcharge on the annual registration fee paid under subdivision 1, to pay for the commissioner's costs related to bringing actions for injunctive relief under section 144G.02, subdivision 2, paragraph (b), on or after July 1, 2007. The commissioner shall assess surcharges using a sliding scale under which the surcharge amount increases with the client capacity of an establishment. The commissioner shall adjust the surcharge as necessary to recover the projected costs of bringing actions for injunctive relief. The commissioner shall adjust the surcharge in accordance with section 16A.1285.

Subd. 2. **Registration information.** The establishment shall provide the following information to the commissioner in order to be registered:

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

(2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or

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comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;

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

(4) verification that the establishment has entered into a housing with services contract, as required in section 144D.04, with each resident or resident's representative;

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

(6) the name and address of at least one natural person who shall be responsible for dealing with the commissioner on all matters provided for in sections 144D.01 to 144D.06, and on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent, if any;

(7) the signature of the authorized representative of the owner or owners or, if the owner or owners are not natural persons, signatures of at least two authorized representatives of each owner, one of which shall be an officer of the owner; and

(8) whether services are included in the base rate to be paid by the resident.

Personal service on the person identified under clause (6) by the owner or owners in the registration shall be considered service on the owner or owners, and it shall not be a defense to any action that personal service was not made on each individual or entity. The designation of one or more individuals under this subdivision shall not affect the legal responsibility of the owner or owners under sections 144D.01 to 144D.06.

144D.04 HOUSING WITH SERVICES CONTRACTS.

144D.04 HOUSING WITH SERVICES CONTRACTS.

Subdivision 1. **Contract required.** No housing with services establishment may operate in this state unless a written housing with services contract, as defined in subdivision 2, is executed between the establishment and each resident or resident's representative and unless the establishment operates in accordance with the terms of the contract. The resident or the resident's representative shall be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

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

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

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

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

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

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

(6) the term of the contract;

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

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

(9) a conspicuous notice informing the tenant of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated,

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including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;

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

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

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

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

(14) billing and payment procedures and requirements;

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

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

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

Subd. 2a. Additional contract requirements. (a) For a resident receiving one or more health-related services from the establishment's arranged home care provider, as defined in section 144D.01, subdivision 6, the contract must include the requirements in paragraph (b). A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by the home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented in the resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915, subdivision 6 and 256B.49, subdivision 15.

(b) The contract must include a statement:

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

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

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

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

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

Subd. 3. Contracts in permanent files. Housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts and the written disclosures required under section 325F.72, if applicable, shall be made available for on-site inspection by the commissioner upon request at any time.

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

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

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

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

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

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

(6) the term of the contract;

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

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

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

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

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

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

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

(14) billing and payment procedures and requirements;

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

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

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

Subd. 3. **Contracts in permanent files.** Housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts and the written disclosures required under section 325F.72, if applicable, shall be made available for on-site inspection by the commissioner upon request at any time.

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

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

(1) the name, mailing address, and telephone number of the arranged home care provider;

(2) the name and mailing address of at least one natural person who is authorized to accept service of process on behalf of the entity described in clause (1);

(3) a description of the process through which a home care service agreement or service plan between a resident and the arranged home care provider, if any, may be modified, amended, or terminated;

(4) the arranged home care provider's billing and payment procedures and requirements; and

(5) any limits to the services available from the arranged provider.

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

If a housing with services establishment has one or more arranged home care providers, the establishment shall arrange to have that arranged home care provider deliver the following information in writing to a prospective resident, prior to the date on which the prospective resident

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executes a contract with the establishment or the prospective resident's move-in date, whichever is earlier:

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

144D.05 AUTHORITY OF COMMISSIONER.

The commissioner shall, upon receipt of information which may indicate the failure of the housing with services establishment, a resident, a resident's representative, or a service provider to comply with a legal requirement to which one or more of them may be subject, make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

The commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which an establishment is located to compel the housing with services establishment to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

144D.06 OTHER LAWS.

In addition to registration under this chapter, a housing with services establishment must comply with chapter 504B and the provisions of section 325F.72, and shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it. A housing with services establishment is not required to obtain a lodging license under chapter 157 and related rules.

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

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

- (1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;
- (2) direct-care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b), or a supervisor meeting the requirements in clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;
- (3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

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

(b) Areas of required training include:

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

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

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

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

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

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

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

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

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

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

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

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

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

(b) Areas of required training include:

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

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

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

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

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

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

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

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

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

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

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

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

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

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

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

Subd. 3. **Technical assistance.** From January 1, 2016, to December 31, 2016, the commissioner shall provide technical assistance instead of imposing fines for noncompliance with the training requirements. During the year of technical assistance, the commissioner shall review the training records to determine if the records meet the requirements and inform the home care provider. The commissioner shall also provide information about available training resources.

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

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

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

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

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

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

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

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

Subd. 3. **Technical assistance.** From January 1, 2016, to December 31, 2016, the commissioner shall provide technical assistance instead of imposing fines for noncompliance with the training requirements. During the year of technical assistance, the commissioner shall review the training records to determine if the records meet the requirements and inform the home care provider. The commissioner shall also provide information about available training resources.

144D.07 RESTRAINTS.

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

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

144D.08 UNIFORM CONSUMER INFORMATION GUIDE.

All housing with services establishments shall make available to all prospective and current residents information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This section does not apply to an establishment registered under section 144D.025 serving the homeless.

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.

144D.10 MANAGER REQUIREMENTS.

(a) The person primarily responsible for oversight and management of a housing with services establishment, as designated by the owner of the housing with services establishment, must obtain at least 30 hours of continuing education every two years of employment as the manager in topics relevant to the operations of the housing with services establishment and the needs of its tenants. Continuing education earned to maintain a professional license, such as nursing home administrator license, nursing license, social worker license, and real estate license, can be used to complete this requirement.

(b) For managers of establishments identified in section 325F.72, this continuing education must include at least eight hours of documented training on the topics identified in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of training on these topics for each 12 months of employment thereafter.

(c) For managers of establishments not covered by section 325F.72, but who provide assisted living services under chapter 144G, this continuing education must include at least four hours of documented training on the topics identified in section 144D.065, paragraph (b), within 160 working hours of hire, and two hours of training on these topics for each 12 months of employment thereafter.

(d) A statement verifying compliance with the continuing education requirement must be included in the housing with services establishment's annual registration to the commissioner of health. The establishment must maintain records for at least three years demonstrating that the person primarily responsible for oversight and management of the establishment has attended educational programs as required by this section.

(e) New managers may satisfy the initial dementia training requirements by producing written proof of previously completed required training within the past 18 months.

(f) This section does not apply to an establishment registered under section 144D.025 serving the homeless.

144D.11 EMERGENCY PLANNING.

(a) Each registered housing with services establishment must meet the following requirements:

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

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- (2) post an emergency disaster plan prominently;
- (3) provide building emergency exit diagrams to all tenants upon signing a lease;
- (4) post emergency exit diagrams on each floor; and
- (5) have a written policy and procedure regarding missing tenants.

(b) Each registered housing with services establishment must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training available to all tenants annually. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) Each registered housing with services location must conduct and document a fire drill or other emergency drill at least every six months. To the extent possible, drills must be coordinated with local fire departments or other community emergency resources.

144G.01 DEFINITIONS.

144G.01 DEFINITIONS.

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

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

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

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

144G.01 DEFINITIONS.

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

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

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

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

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

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.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.

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

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directly by a housing with services establishment or by persons or entities with which the housing with services establishment has made arrangements.

(b) A person or entity entitled to use the phrase "assisted living," according to section 144G.02, subdivision 1, shall do so only with respect to a housing with services establishment, or a service, service package, or program available within a housing with services establishment that, at a minimum:

(1) provides or makes available health-related services under a home care license. At a minimum, health-related services must include:

(i) assistance with self-administration of medication, medication management, or medication administration as defined in section 144A.43; and

(ii) assistance with at least three of the following seven activities of daily living: bathing, dressing, grooming, eating, transferring, continence care, and toileting.

All health-related services shall be provided in a manner that complies with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(2) provides necessary assessments of the physical and cognitive needs of assisted living clients by a registered nurse, as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(3) has and maintains a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

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

(5) has and maintains a system to check on each assisted living client at least daily;

(6) provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements;

(7) has a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs, who shall be:

(i) awake;

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

(iii) capable of communicating with assisted living clients;

(iv) capable of recognizing the need for assistance;

(v) capable of providing either the assistance required or summoning the appropriate assistance; and

(vi) capable of following directions;

(8) offers to provide or make available at least the following supportive services to assisted living clients:

(i) two meals per day;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the client, reasonable assistance with arranging for transportation to medical and social services appointments, and the name of or other identifying information about the person or persons responsible for providing this assistance;

(v) upon the request of the client, reasonable assistance with accessing community resources and social services available in the community, and the name of or other identifying information about the person or persons responsible for providing this assistance; and

(vi) periodic opportunities for socialization; and

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(9) makes available to all prospective and current assisted living clients information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This information must be made available beginning no later than six months after the commissioner makes the uniform format and required components available to providers according to section 144G.06.

Subd. 3. **Exemption from awake-staff requirement.** A housing with services establishment that offers or provides assisted living is exempt from the requirement in subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and responsible for responding to requests for assistance must be awake, if the establishment meets the following requirements:

- (1) the establishment has a maximum capacity to serve 12 or fewer assisted living clients;
- (2) the person or persons available and responsible for responding to requests for assistance are physically present within the housing with services establishment in which the assisted living clients reside;
- (3) the establishment has a system in place that is compatible with the health, safety, and welfare of the establishment's assisted living clients;
- (4) the establishment's housing with services contract, as required by section 144D.04, includes a statement disclosing the establishment's qualification for, and intention to rely upon, this exemption;
- (5) the establishment files with the commissioner, for purposes of public information but not review or approval by the commissioner, a statement describing how the establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement available to actual and prospective assisted living clients; and
- (6) the establishment indicates on its housing with services registration, under section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the exemption under this subdivision.

Subd. 4. **Nursing assessment.** (a) A housing with services establishment offering or providing assisted living shall:

- (1) offer to have the arranged home care provider conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a service plan prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier; and
 - (2) inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier.
- (b) An arranged home care provider is not obligated to conduct a nursing assessment by a registered nurse when requested by a prospective resident if either the geographic distance between the prospective resident and the provider, or urgent or unexpected circumstances, do not permit the assessment to be conducted prior to the date on which the prospective resident executes a contract or moves in, whichever is earlier. When such circumstances occur, the arranged home care provider shall offer to conduct a telephone conference whenever reasonably possible.
- (c) The arranged home care provider shall comply with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285, with respect to the provision of a nursing assessment prior to the delivery of nursing services and the execution of a home care service plan or service agreement.

Subd. 5. **Assistance with arranged home care provider.** The housing with services establishment shall provide each assisted living client with identifying information about a person or persons reasonably available to assist the client with concerns the client may have with respect to the services provided by the arranged home care provider. The establishment shall keep each assisted living client reasonably informed of any changes in the personnel referenced in this subdivision. Upon request of the assisted living client, such personnel or designee shall provide reasonable assistance to the assisted living client in addressing concerns regarding services provided by the arranged home care provider.

Subd. 6. **Termination of housing with services contract.** If a housing with services establishment terminates a housing with services contract with an assisted living client, the establishment shall provide the assisted living client, and the legal or designated representative of

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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.

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.

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;

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(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;

(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.

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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.

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.

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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.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.

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144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

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.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.

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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.

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