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State of Minnesota  
HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **5392**

04/18/2024 Authored by Acomb  
The bill was read for the first time and referred to the Committee on Human Services Policy

1.1 A bill for an act

1.2 relating to public policy; modifying electronic monitoring requirements; establishing

1.3 private enforcement of certain rights; modifying the hospice bill of rights;

1.4 expanding membership of the licensed home care provider advisory council;

1.5 modifying enforcement of assisted living facility licensing; modifying medication

1.6 management in assisted living facilities; modifying powers of health care agents;

1.7 modifying guardianship provisions; amending Minnesota Statutes 2022, sections

1.8 144.6502, subdivision 3; 144.6512, by adding a subdivision; 144.652, by adding

1.9 a subdivision; 144A.13, by adding a subdivision; 144A.4799, subdivision 1;

1.10 144A.751, subdivision 1; 144G.08, by adding a subdivision; 144G.30, subdivisions

1.11 4, 5; 144G.71, subdivisions 2, 3, 5; 144G.92, by adding a subdivision; 145C.07,

1.12 subdivision 5, by adding a subdivision; 524.5-120; 524.5-311; 573.02, subdivision

1.13 3; proposing coding for new law in Minnesota Statutes, chapter 144G.

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

1.15 Section 1. Minnesota Statutes 2022, section 144.6502, subdivision 3, is amended to read:

1.16 Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this

1.17 subdivision, a resident must consent to electronic monitoring in the resident's room or private

1.18 living unit in writing on a notification and consent form. If the resident has not affirmatively

1.19 objected to electronic monitoring and the resident representative attests that the resident's

1.20 medical professional ~~determines~~ determined that the resident currently lacks the ability to

1.21 understand and appreciate the nature and consequences of electronic monitoring, the resident

1.22 representative may consent on behalf of the resident. For purposes of this subdivision, a

1.23 resident affirmatively objects when the resident orally, visually, or through the use of

1.24 auxiliary aids or services declines electronic monitoring. The resident's response must be

1.25 documented on the notification and consent form.

2.1 (b) Prior to a resident representative consenting on behalf of a resident, the resident must  
2.2 be asked if the resident wants electronic monitoring to be conducted. The resident  
2.3 representative must explain to the resident:

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

2.5 (2) the standard conditions that may be placed on the electronic monitoring device's use,  
2.6 including those listed in subdivision 6;

2.7 (3) with whom the recording may be shared under subdivision 10 or 11; and

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

2.9 (c) A resident, or resident representative when consenting on behalf of the resident, may  
2.10 consent to electronic monitoring with any conditions of the resident's or resident  
2.11 representative's choosing, including the list of standard conditions provided in subdivision  
2.12 6. A resident, or resident representative when consenting on behalf of the resident, may  
2.13 request that the electronic monitoring device be turned off or the visual or audio recording  
2.14 component of the electronic monitoring device be blocked at any time.

2.15 (d) Prior to implementing electronic monitoring, a resident, or resident representative  
2.16 when acting on behalf of the resident, must obtain the written consent on the notification  
2.17 and consent form of any other resident residing in the shared room or shared private living  
2.18 unit. A roommate's or roommate's resident representative's written consent must comply  
2.19 with the requirements of paragraphs (a) to (c). Consent by a roommate or a roommate's  
2.20 resident representative under this paragraph authorizes the resident's use of any recording  
2.21 obtained under this section, as provided under subdivision 10 or 11.

2.22 (e) Any resident conducting electronic monitoring must immediately remove or disable  
2.23 an electronic monitoring device prior to a new roommate moving into a shared room or  
2.24 shared private living unit, unless the resident obtains the roommate's or roommate's resident  
2.25 representative's written consent as provided under paragraph (d) prior to the roommate  
2.26 moving into the shared room or shared private living unit. Upon obtaining the new  
2.27 roommate's signed notification and consent form and submitting the form to the facility as  
2.28 required under subdivision 5, the resident may resume electronic monitoring.

2.29 (f) The resident or roommate, or the resident representative or roommate's resident  
2.30 representative if the representative is consenting on behalf of the resident or roommate, may  
2.31 withdraw consent at any time and the withdrawal of consent must be documented on the  
2.32 original consent form as provided under subdivision 5, paragraph (d).

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

3.1 Sec. 2. Minnesota Statutes 2022, section 144.6512, is amended by adding a subdivision  
3.2 to read:

3.3 Subd. 7. **Cause of action for retaliation; damages.** In addition to the remedies otherwise  
3.4 provided by or available under law, a resident or an interested person on behalf of a resident  
3.5 may bring an action against a nursing home for retaliation as outlined in this section, and  
3.6 if prevailing on such an action, recover up to \$3,000 for costs and reasonable attorney fees,  
3.7 and receive other equitable relief as determined by the court.

3.8 Sec. 3. Minnesota Statutes 2022, section 144.652, is amended by adding a subdivision to  
3.9 read:

3.10 Subd. 3. **Enforcement of the health care bill of rights by nursing home residents.** In  
3.11 addition to the remedies otherwise provided by or available under law, a resident of a nursing  
3.12 home or a legal representative on behalf of a resident, in addition to seeking any remedy  
3.13 otherwise available under law, may bring a civil action against a nursing home to enforce  
3.14 section 144.651, subdivision 14, 20, 22, 26, 30, or 33, and if prevailing on such an action,  
3.15 recover up to \$3,000 for costs and reasonable attorney fees, and receive other equitable  
3.16 relief as determined by the court.

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

3.18 Sec. 4. Minnesota Statutes 2022, section 144A.13, is amended by adding a subdivision to  
3.19 read:

3.20 Subd. 3. **Antiretaliation training required.** All employees of a nursing home must  
3.21 participate in annual training on preventing retaliation prohibited under section 144.6512.

3.22 Sec. 5. Minnesota Statutes 2022, section 144A.4799, subdivision 1, is amended to read:

3.23 Subdivision 1. **Membership.** The commissioner of health shall appoint ~~13~~ 14 persons  
3.24 to a home care and assisted living program advisory council consisting of the following:

3.25 (1) two public members as defined in section 214.02 who shall be persons who are  
3.26 currently receiving home care services, persons who have received home care services  
3.27 ~~within five years of the application date~~, persons who have family members receiving home  
3.28 care services, or persons who have family members who have received home care services  
3.29 ~~within five years of the application date~~;

4.1 (2) two Minnesota home care licensees representing basic and comprehensive levels of  
4.2 licensure who may be a managerial official, an administrator, a supervising registered nurse,  
4.3 or an unlicensed personnel performing home care tasks;

4.4 (3) one member representing the Minnesota Board of Nursing;

4.5 (4) one member representing the Office of Ombudsman for Long-Term Care;

4.6 (5) one member representing the Office of Ombudsman for Mental Health and  
4.7 Developmental Disabilities;

4.8 (6) beginning July 1, 2021, one member of a county health and human services or county  
4.9 adult protection office;

4.10 (7) two Minnesota assisted living facility licensees representing assisted living facilities  
4.11 and assisted living facilities with dementia care levels of licensure who may be the facility's  
4.12 assisted living director, managerial official, or clinical nurse supervisor;

4.13 (8) one organization representing long-term care providers, home care providers, and  
4.14 assisted living providers in Minnesota; ~~and~~

4.15 (9) two public members as defined in section 214.02. One public member shall be a  
4.16 person who either is or has been a resident in an assisted living facility and one public  
4.17 member shall be a person who has or had a family member living in an assisted living  
4.18 facility setting; and

4.19 (10) one member from a nonprofit advocacy organization for adults receiving home care  
4.20 and care in assisted living facilities.

4.21 Sec. 6. Minnesota Statutes 2022, section 144A.751, subdivision 1, is amended to read:

4.22 Subdivision 1. **Statement of rights.** An individual who receives hospice care has the  
4.23 right to:

4.24 (1) receive written information about rights in advance of receiving hospice care or  
4.25 during the initial evaluation visit before the initiation of hospice care, including what to do  
4.26 if rights are violated;

4.27 (2) receive care and services according to a suitable hospice plan of care and subject to  
4.28 accepted hospice care standards and to take an active part in creating and changing the plan  
4.29 and evaluating care and services;

4.30 (3) be told in advance of receiving care about the services that will be provided, the  
4.31 disciplines that will furnish care, the frequency of visits proposed to be furnished, other

5.1 choices that are available, and the consequence of these choices, including the consequences  
5.2 of refusing these services;

5.3 (4) be told in advance, whenever possible, of any change in the hospice plan of care and  
5.4 to take an active part in any change;

5.5 (5) refuse services or treatment;

5.6 (6) know, in advance, any limits to the services available from a provider, and the  
5.7 provider's grounds for a termination of services;

5.8 (7) know in advance of receiving care whether the hospice services may be covered by  
5.9 health insurance, medical assistance, Medicare, or other health programs in which the  
5.10 individual is enrolled;

5.11 (8) receive, upon request, a good faith estimate of the reimbursement the provider expects  
5.12 to receive from the health plan company in which the individual is enrolled. A good faith  
5.13 estimate must also be made available at the request of an individual who is not enrolled in  
5.14 a health plan company. This payment information does not constitute a legally binding  
5.15 estimate of the cost of services;

5.16 (9) know that there may be other services available in the community, including other  
5.17 end of life services and other hospice providers, and know where to go for information  
5.18 about these services;

5.19 (10) choose freely among available providers and change providers after services have  
5.20 begun, within the limits of health insurance, medical assistance, Medicare, or other health  
5.21 programs;

5.22 (11) have personal, financial, and medical information kept private and be advised of  
5.23 the provider's policies and procedures regarding disclosure of such information;

5.24 (12) be allowed access to records and written information from records according to  
5.25 sections 144.291 to 144.298;

5.26 (13) be served by people who are properly trained and competent to perform their duties;

5.27 (14) be treated with courtesy and respect and to have the patient's property treated with  
5.28 respect;

5.29 (15) voice grievances regarding treatment or care that is, or fails to be, furnished or  
5.30 regarding the lack of courtesy or respect to the patient or the patient's property;

5.31 (16) be free from physical and verbal abuse;

6.1 (17) reasonable, advance notice of changes in services or charges, including at least ten  
6.2 days' advance notice of the termination of a service by a provider, except in cases where:

6.3 (i) the recipient of services engages in conduct that alters the conditions of employment  
6.4 between the hospice provider and the individual providing hospice services, or creates an  
6.5 abusive or unsafe work environment for the individual providing hospice services;

6.6 (ii) an emergency for the informal caregiver or a significant change in the recipient's  
6.7 condition has resulted in service needs that exceed the current service provider agreement  
6.8 and that cannot be safely met by the hospice provider; or

6.9 (iii) the recipient is no longer certified as terminally ill;

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

6.11 (19) know how to contact an individual associated with the provider who is responsible  
6.12 for handling problems and to have the provider investigate and attempt to resolve the  
6.13 grievance or complaint;

6.14 (20) know the name and address of the state or county agency to contact for additional  
6.15 information or assistance;

6.16 (21) assert these rights personally, or have them asserted by the hospice patient's family  
6.17 when the patient has been judged incompetent, without retaliation; ~~and~~

6.18 (22) have pain and symptoms managed to the patient's desired level of comfort-, including  
6.19 ensuring appropriate pain medications are immediately available to the patient;

6.20 (23) revoke hospice election at any time; and

6.21 (24) receive curative treatment for any condition unrelated to the condition that qualified  
6.22 the individual for hospice while remaining on hospice election.

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

6.24 Sec. 7. Minnesota Statutes 2022, section 144G.08, is amended by adding a subdivision to  
6.25 read:

6.26 Subd. 55a. **Registered nurse.** "Registered nurse" has the meaning given in section  
6.27 148.171, subdivision 20.

6.28 Sec. 8. Minnesota Statutes 2022, section 144G.30, subdivision 4, is amended to read:

6.29 Subd. 4. **Information provided by facility.** (a) The assisted living facility shall provide  
6.30 accurate and truthful information to the department during a survey, investigation, or other

7.1 licensing activities. Notwithstanding section 144G.31, the commissioner shall impose a fine  
7.2 upon an assisted living facility found to have provided inaccurate or untruthful information.

7.3 (b) Upon request of a surveyor, assisted living facilities shall within a reasonable period  
7.4 of time provide a list of current and past residents and their legal representatives and  
7.5 designated representatives that includes addresses and telephone numbers and any other  
7.6 information requested about the services to residents.

7.7 Sec. 9. Minnesota Statutes 2022, section 144G.30, subdivision 5, is amended to read:

7.8 Subd. 5. **Correction orders.** (a) A correction order ~~may~~ must be issued whenever the  
7.9 commissioner finds upon survey or during a complaint investigation that a facility, a  
7.10 managerial official, an agent of the facility, or an employee of the facility is not in compliance  
7.11 with this chapter. The correction order shall cite the specific statute and document areas of  
7.12 noncompliance and the time allowed for correction.

7.13 (b) The commissioner shall mail or email copies of any correction order to the facility  
7.14 within 30 calendar days after the survey exit date. A copy of each correction order and  
7.15 copies of any documentation supplied to the commissioner shall be kept on file by the  
7.16 facility and public documents shall be made available for viewing by any person upon  
7.17 request. Copies may be kept electronically.

7.18 (c) By the correction order date, the facility must document in the facility's records any  
7.19 action taken to comply with the correction order. The commissioner ~~may~~ must request a  
7.20 copy of this documentation and the facility's action to respond to the correction order in  
7.21 future surveys, upon a complaint investigation, ~~and as~~ or otherwise ~~needed~~.

7.22 Sec. 10. Minnesota Statutes 2022, section 144G.71, subdivision 2, is amended to read:

7.23 Subd. 2. **Provision of medication management services.** (a) For each resident who  
7.24 requests medication management services, the facility shall, prior to providing medication  
7.25 management services, have a registered nurse, ~~licensed health professional, or authorized~~  
7.26 ~~prescriber under section 151.37~~ conduct an assessment to determine what medication  
7.27 management services will be provided and how the services will be provided. This assessment  
7.28 must be conducted face-to-face with the resident. The assessment must include an  
7.29 identification and review of all medications the resident is known to be taking. The review  
7.30 and identification must include indications for medications, side effects, contraindications,  
7.31 allergic or adverse reactions, and actions to address these issues.

8.1 (b) The assessment must identify interventions needed in management of medications  
8.2 to prevent diversion of medication by the resident or others who may have access to the  
8.3 medications and provide instructions to the resident and legal or designated representatives  
8.4 on interventions to manage the resident's medications and prevent diversion of medications.  
8.5 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or  
8.6 improper disposition of medications.

8.7 Sec. 11. Minnesota Statutes 2022, section 144G.71, subdivision 3, is amended to read:

8.8 Subd. 3. **Individualized medication monitoring and reassessment.** ~~The assisted living~~  
8.9 ~~facility~~ A registered nurse must monitor and reassess the resident's medication management  
8.10 services as needed under subdivision 2 when the resident presents with symptoms or other  
8.11 issues that may be medication-related ~~and, at a minimum, annually,~~ including assessments  
8.12 and reassessments pursuant to section 144G.70.

8.13 Sec. 12. Minnesota Statutes 2022, section 144G.71, subdivision 5, is amended to read:

8.14 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving  
8.15 individualized medication management services, ~~the assisted living facility~~ a registered  
8.16 nurse must prepare and include in the service plan a written statement of the medication  
8.17 management services that will be provided to the resident. ~~The facility~~ registered nurse must  
8.18 develop and maintain a current individualized medication management record for each  
8.19 resident based on the resident's assessment that must contain the following:

8.20 (1) a statement describing the medication management services that will be provided;

8.21 (2) a description of storage of medications based on the resident's needs and preferences,  
8.22 risk of diversion, and consistent with the manufacturer's directions;

8.23 (3) documentation of specific resident instructions relating to the administration of  
8.24 medications;

8.25 (4) identification of persons responsible for monitoring medication supplies and ensuring  
8.26 that medication refills are ordered on a timely basis;

8.27 (5) identification of medication management tasks that may be delegated to unlicensed  
8.28 personnel;

8.29 (6) procedures for staff notifying a registered nurse or appropriate licensed health  
8.30 professional when a problem arises with medication management services; and

9.1 (7) any resident-specific requirements relating to documenting medication administration,  
 9.2 verifications that all medications are administered as prescribed, and monitoring of  
 9.3 medication use to prevent possible complications or adverse reactions.

9.4 (b) The medication management record must be current and updated when there are any  
 9.5 changes.

9.6 (c) Medication reconciliation must be completed when a licensed nurse, licensed health  
 9.7 professional, or authorized prescriber is providing medication management.

9.8 Sec. 13. **[144G.9103] ENFORCEMENT OF RIGHTS.**

9.9 In addition to the remedies otherwise provided by or available under law, a resident or  
 9.10 resident's designated representative may bring a civil action against an assisted living  
 9.11 establishment to enforce section 144G.91, subdivision 6, 8, 12, 20, 21, or 22, and if prevailing  
 9.12 on such an action, recover up to \$3,000 for costs and reasonable attorney fees, and receive  
 9.13 other equitable relief as determined by the court.

9.14 **EFFECTIVE DATE.** This section is effective August 1, 2023.

9.15 Sec. 14. Minnesota Statutes 2022, section 144G.92, is amended by adding a subdivision  
 9.16 to read:

9.17 **Subd. 6. Cause of action for retaliation; damages.** In addition to the remedies otherwise  
 9.18 provided by or available under law, a resident or an interested person on behalf of a resident  
 9.19 may bring an action against an assisted living facility for retaliation as outlined in this  
 9.20 section, and if prevailing on such an action, recover up to \$3,000 for costs and reasonable  
 9.21 attorney fees, and receive other equitable relief as determined by the court.

9.22 Sec. 15. Minnesota Statutes 2022, section 145C.07, subdivision 5, is amended to read:

9.23 **Subd. 5. ~~Visitation~~ Visits by health care agent.** A health care agent may visit the  
 9.24 principal when the principal is a patient in a health care facility regardless of whether the  
 9.25 principal retains decision-making capacity, unless:

9.26 (1) the principal has otherwise specified in the health care directive;

9.27 (2) a principal who retains decision-making capacity indicates otherwise; or

9.28 (3) a health care provider reasonably determines that the principal must be isolated from  
 9.29 all visitors or that the presence of the health care agent would endanger the health or safety  
 9.30 of the principal, other patients, or the facility in which the care is being provided.

10.1 Sec. 16. Minnesota Statutes 2022, section 145C.07, is amended by adding a subdivision  
10.2 to read:

10.3 Subd. 6. Visits by others. A health care agent must not restrict the ability of the principal  
10.4 to communicate, visit, or interact with others, unless the health care agent has good cause  
10.5 to believe restriction is necessary because interaction with the person poses a risk of  
10.6 significant physical, psychological, or financial harm to the principal, and there is no other  
10.7 means to avoid such significant harm. Restricting the ability of the principal to communicate,  
10.8 visit, or interact with others includes preventing the principal from receiving visitors,  
10.9 participating in social activities, making or receiving telephone calls, sending or receiving  
10.10 personal mail, sending or receiving electronic communications, including through social  
10.11 media. Notwithstanding section 145C.10, paragraph (c), restrictions not made according to  
10.12 this subdivision carry no presumption that the health care agent is acting in good faith.

10.13 Sec. 17. Minnesota Statutes 2022, section 524.5-120, is amended to read:

10.14 **524.5-120 BILL OF RIGHTS FOR PERSONS SUBJECT TO GUARDIANSHIP**  
10.15 **OR CONSERVATORSHIP.**

10.16 The person subject to guardianship or person subject to conservatorship retains all rights  
10.17 not restricted by court order and these rights must be enforced by the court. These rights  
10.18 include the right to:

10.19 (1) treatment with dignity and respect;

10.20 (2) due consideration of current and previously stated personal desires and preferences,  
10.21 including but not limited to medical treatment preferences, cultural practices, religious  
10.22 beliefs, and other preferences and opinions in decisions made by the guardian or conservator;

10.23 (3) participate in decision making about and receive timely and appropriate health care  
10.24 and medical treatment that does not violate known preferences or conscientious, religious,  
10.25 or moral beliefs of the person subject to guardianship or person subject to conservatorship;

10.26 (4) exercise control of all aspects of life unless delegated specifically to the guardian or  
10.27 conservator by court order;

10.28 (5) guardianship or conservatorship services individually suited to the conditions and  
10.29 needs of the person subject to guardianship or the person subject to conservatorship;

10.30 (6) petition the court to prevent or initiate a change in abode;

11.1 (7) care, comfort, social and recreational needs, employment and employment supports,  
11.2 training, education, habilitation, and rehabilitation care and services, within available  
11.3 resources;

11.4 (8) be consulted concerning, and to decide to the extent possible, the reasonable care  
11.5 and disposition of the clothing, furniture, vehicles, and other personal property and effects  
11.6 of the person subject to guardianship or person subject to conservatorship, to object to the  
11.7 disposition of personal property and effects, and to petition the court for a review of the  
11.8 guardian's or conservator's proposed disposition;

11.9 (9) personal privacy;

11.10 (10) communicate, visit, or interact with others, including receiving visitors or making  
11.11 or receiving telephone calls, personal mail, or electronic communications including through  
11.12 social media, or participating in social activities, ~~unless~~. If the guardian has good cause to  
11.13 believe restriction is necessary because interaction with the person poses a risk of significant  
11.14 physical, psychological, or financial harm to the person subject to guardianship, and there  
11.15 is no other means to avoid the significant harm, the court may order restriction of such  
11.16 visitation, to the extent necessary to prevent such significant harm, upon a written petition  
11.17 by the guardian supporting that the criteria for restriction are met. In all cases, the guardian  
11.18 shall provide written notice of the restrictions imposed ~~to the court~~, to the person subject  
11.19 to guardianship, and to the person subject to restrictions. The person subject to guardianship  
11.20 or the person subject to restrictions may petition the court to remove or modify the  
11.21 restrictions;

11.22 (11) marry and procreate, unless court approval is required;

11.23 (12) elect or object to sterilization as provided in section 524.5-313, paragraph (c), clause  
11.24 (4), item (iv);

11.25 (13) at any time, petition the court for termination or modification of the guardianship  
11.26 or conservatorship, and any decisions made by the guardian or conservator in relation to  
11.27 powers granted, or for other appropriate relief;

11.28 (14) be represented by an attorney in any proceeding or for the purpose of petitioning  
11.29 the court;

11.30 (15) vote, unless restricted by the court;

11.31 (16) be consulted concerning, and make decisions to the extent possible, about personal  
11.32 image and name, unless restricted by the court; and

12.1 (17) execute a health care directive, including both health care instructions and the  
 12.2 appointment of a health care agent, if the court has not granted a guardian any of the powers  
 12.3 or duties under section 524.5-313, paragraph (c), clause (1), (2), or (4).

12.4 Sec. 18. Minnesota Statutes 2022, section 524.5-311, is amended to read:

12.5 **524.5-311 EMERGENCY GUARDIAN.**

12.6 (a) If the court finds that compliance with the procedures of this article will likely result  
 12.7 in substantial harm to the respondent's health, safety, or welfare, and that no other person  
 12.8 appears to have authority and willingness to act in the circumstances, the court, on petition  
 12.9 by a person interested in the respondent's welfare, may appoint an emergency guardian  
 12.10 whose authority may not exceed 60 days and who may exercise only the powers specified  
 12.11 in the order. A county that is acting under section 626.557, subdivision 10, by petitioning  
 12.12 for appointment of an emergency guardian on behalf of a vulnerable adult may be granted  
 12.13 authority to act for a period not to exceed 90 days. An emergency guardian's appointment  
 12.14 under this section may only be extended once for a period not to exceed 60 days if the court  
 12.15 finds good cause for the continuation of the guardianship. Immediately upon receipt of the  
 12.16 petition for an emergency guardianship, the court shall appoint a lawyer to represent the  
 12.17 respondent in the proceeding. ~~Except as otherwise provided in paragraph (b),~~ Reasonable  
 12.18 notice of the time and place of a hearing on the petition must be given to the respondent, to  
 12.19 interested persons, and any other persons as the court directs.

12.20 ~~(b) An emergency guardian may be appointed without notice to the respondent and the~~  
 12.21 ~~respondent's lawyer only if the court finds from affidavit or other sworn testimony that the~~  
 12.22 ~~respondent will be substantially harmed before a hearing on the appointment can be held.~~  
 12.23 ~~If the court appoints an emergency guardian without notice to the respondent, the respondent~~  
 12.24 ~~must be given notice of the appointment within 48 hours after the appointment. The court~~  
 12.25 ~~shall hold a hearing on the appropriateness of the appointment within five days after the~~  
 12.26 ~~appointment.~~

12.27 ~~(e)~~ (b) Appointment of an emergency guardian, ~~with or without notice,~~ is not a  
 12.28 determination of the respondent's incapacity.

12.29 ~~(d)~~ (c) The court may remove an emergency guardian at any time. An emergency guardian  
 12.30 shall make any report the court requires. In other respects, the provisions of this article  
 12.31 concerning guardians apply to an emergency guardian.

13.1 ~~(e)~~ (d) Any documents or information disclosing or pertaining to health or financial  
13.2 information shall be filed as confidential documents, consistent with the bill of particulars  
13.3 under section 524.5-121.

13.4 (e) If the respondent is a patient in a hospital or care facility, a rebuttable presumption  
13.5 exists that there is no substantial harm to the respondent's health, safety, or welfare.

13.6 Sec. 19. Minnesota Statutes 2022, section 573.02, subdivision 3, is amended to read:

13.7 Subd. 3. **Trustee for action.** Upon written petition by the surviving spouse or, one of  
13.8 the next of kin, or other interested person as determined by the court, the court having  
13.9 jurisdiction of an action falling within the provisions of subdivisions 1 or 2, shall appoint  
13.10 a suitable and competent person as trustee to commence or continue such action and obtain  
13.11 recovery of damages therein. The trustee, before commencing duties shall file a consent  
13.12 and oath. Before receiving any money, the trustee shall file a bond as security therefor in  
13.13 such form and with such sureties as the court may require.