

CHAPTER 4659
DEPARTMENT OF HEALTH
ASSISTED LIVING FACILITIES

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4659.0010 APPLICABILITY AND PURPOSE.

This chapter establishes the criteria and procedures for regulating assisted living facilities and assisted living facilities with dementia care and must be read in conjunction with Minnesota Statutes, chapter 144G. The licensee is legally responsible for ensuring compliance by the licensee's facility, and any individual or entity acting on its behalf, with this chapter and Minnesota Statutes, chapter 144G.

Statutory Authority: *MS s 144G.09*

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4659.0020 DEFINITIONS.

Subpart 1. **Scope.** For purposes of this chapter, the definitions in this part have the meanings given them.

Subp. 2. **Assisted living director or director.** "Assisted living director" or "director" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 6.

Subp. 3. **Assisted living facility or facility.** "Assisted living facility" or "facility" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 7.

Subp. 4. **Assisted living facility with dementia care or facility with dementia care.** "Assisted living facility with dementia care" or "facility with dementia care" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 8.

Subp. 5. **Assisted living services.** "Assisted living services" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 9.

Subp. 6. **Board.** "Board" means the Board of Executives for Long Term Services and Supports.

Subp. 7. **Case manager.** "Case manager" means an individual who provides case management services and develops a resident's coordinated service and support plan according to Minnesota Statutes, sections 256B.49, subdivision 15, and 256S.07 to 256S.10.

Subp. 8. **Clinical nurse supervisor.** "Clinical nurse supervisor" means a facility's registered nurse as required under Minnesota Statutes, section 144G.41, subdivision 4.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of health.

Subp. 10. **Competency evaluation.** "Competency evaluation" means the training and competency evaluation required under Minnesota Statutes, section 144G.61.

Subp. 11. **Competent.** "Competent" means appropriately trained and able to perform an assisted living service, supportive service, or delegated health care task or duty under this chapter and Minnesota Statutes, chapter 144G.

Subp. 12. **Department.** "Department" means the Department of Health.

Subp. 13. **Dementia.** "Dementia" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 16.

Subp. 14. **Elopement.** "Elopement" means when a secured dementia unit resident leaves the secured dementia unit, including any attached outdoor space, without the level of staff supervision required by the resident's most recent nursing assessment.

Subp. 15. **Investigator.** "Investigator" means a department staff member that conducts complaint investigations according to Minnesota Statutes, section 144G.30.

Subp. 16. **Licensed health professional.** "Licensed health professional" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 29.

Subp. 17. **Licensee.** "Licensee" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 32.

Subp. 18. **Medication.** "Medication" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 37.

Subp. 19. **Ombudsman.** "Ombudsman" means the Office of Ombudsman for Long-Term Care.

Subp. 20. **Person-centered planning and service delivery.** "Person-centered planning and service delivery" means providing supportive and assisted living services according to Minnesota Statutes, section 245D.07, subdivision 1a, paragraph (b).

Subp. 21. **Prospective resident.** "Prospective resident" means a nonresident individual that is seeking to become a resident of an assisted living facility.

Subp. 22. **Representatives.** "Representatives" includes both a designated representative as defined under Minnesota Statutes, section 144G.08, subdivision 19, and a legal representative as defined under Minnesota Statutes, section 144G.08, subdivision 28.

Subp. 23. **Resident.** "Resident" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 59.

Subp. 24. **Resident record.** "Resident record" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 60.

Subp. 25. **Safe location.** "Safe location" has the meaning given in Minnesota Statutes, section 144G.55, subdivision 2.

Subp. 26. **Service plan.** "Service plan" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 63.

Subp. 27. **Supportive services.** "Supportive services" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 68.

Subp. 28. **Survey.** "Survey" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 69.

Subp. 29. **Surveyor.** "Surveyor" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 70.

Subp. 30. **Unlicensed personnel.** "Unlicensed personnel" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 73.

Subp. 31. **Wandering.** "Wandering" means random or repetitive locomotion by a resident. This movement may be goal-directed such as when the resident appears to be searching for something such as an exit, or may be non-goal-directed or aimless.

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4659.0030 RESPONSIBILITY TO MEET STANDARDS.

The licensee is responsible for the management, operation, and control of the facility, and for providing housing and assisted living services according to this chapter and Minnesota Statutes, chapter 144G.

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4659.0040 LICENSING IN GENERAL.**Subpart 1. Issuance of assisted living facility license.**

A. Upon approving an application for an assisted living facility license, the commissioner must issue a single license for each building that is operated by the licensee as an assisted living facility and is located at a separate address.

B. For purposes of this part, "campus" has the meaning given in Minnesota Statutes, section 144G.08, subdivision 4a.

Subp. 2. License to be posted.

A. For a license issued under subpart 1, item A, the facility must post the original license certificate issued by the commissioner at the main public entrance of the facility.

B. A campus with multiple buildings must post the original license certificate issued by the commissioner at the main public entrance of each building licensed as a facility on the campus. A separate license certificate shall be issued for each building on the campus.

Subp. 3. Required submissions to ombudsman.

A. A licensee must submit a complete, current, and unsigned copy of its assisted living contract to the ombudsman under Minnesota Statutes, section 144G.50, subdivision 1, paragraph (c), clause (1), within 30 calendar days of receiving a provisional license or a permanent license.

B. The contract under item A must include all of the facility's standard contract provisions. If the licensee has multiple standard contracts, it must provide a copy of each contract to the ombudsman. The licensee is not required to submit a copy of each individual resident's contract to the ombudsman to be in compliance with this subpart. If the licensee changes its service offerings or the standard provisions in a contract, the facility must submit a complete and current contract to the ombudsman within 30 calendar days of the change.

C. A licensee required to provide written disclosure to the ombudsman under Minnesota Statutes, section 325F.72, subdivision 1, must do so within 30 calendar days of receiving a provisional assisted living facility with dementia care license or, if a licensee does not receive a provisional license, within 30 calendar days after receiving a license.

Subp. 4. **Location for submissions to ombudsman.** Unless specific notice requirements are provided in rule or statute, notices that licensees are required to provide to the ombudsman under this part; Minnesota Statutes, chapter 144G; and Minnesota Statutes, section 325F.72, must be provided in writing in the manner required by the ombudsman.

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4659.0050 FINES FOR NONCOMPLIANCE.

Fines for violations of parts 4659.0120 and 4659.0130 will be assessed under Minnesota Statutes, section 144G.31.

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4659.0060 ASSISTED LIVING LICENSURE; CONVERSION OF EXISTING ASSISTED LIVING PROVIDERS.

Upon approval of a license application submitted under Minnesota Statutes, section 144G.191, subdivision 4, paragraph (a), the commissioner shall issue a license that is not a provisional license as defined in Minnesota Statutes, section 144G.08, subdivision 55.

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4659.0080 VARIANCE.

Subpart 1. **Request for variance.** A license applicant or licensee may request at any time that the commissioner grant a variance from the provisions of this chapter. The request must be made in writing to the commissioner and must specify the following:

- A. the name and address of the license applicant or licensee requesting the variance;
- B. the rule requirement from which the variance is requested;
- C. the variance requested and the time period for which the variance is requested;
- D. the specific alternative actions, if any, that the license applicant or licensee proposes to follow;
- E. the reasons for the request, including why the license applicant or licensee cannot comply with a requirement in this chapter;

F. justification that the variance will not impair the services provided, and will not adversely affect the health, safety, or welfare of residents or the residents' rights under Minnesota Statutes, chapter 144G, including the assisted living bill of rights;

G. a signed statement attesting to the accuracy of the facts asserted in the variance request; and

H. the name, address, and contact information of any person or entity the license applicant or licensee knows would be adversely affected by granting the variance, including prospective residents, residents, and their representatives.

The commissioner may require additional information from the license applicant or licensee before acting on the request.

Subp. 1a. **Notice.** The commissioner shall make reasonable efforts to ensure that persons or entities who may be affected by the variance have timely notice of the variance request, including affected prospective residents, residents, and their representatives. In addition, the agency shall notify the ombudsman of all variance requests. The commissioner may require the license applicant or licensee requesting the variance to serve notice on the persons or entities entitled to notice under this subpart.

Subp. 2. **Criteria for evaluation.** The decision to grant or deny a variance or variance renewal request must be based on the department's evaluation of the following criteria:

A. whether the alternative measures, if any, comply with the intent of this chapter and are equivalent to or superior to those prescribed in this chapter;

B. whether compliance with this chapter poses an undue burden on the license applicant or licensee; and

C. whether the variance adversely affects the health, safety, or welfare of the residents or any of the residents' rights under Minnesota Statutes, chapter 144G, including the assisted living bill of rights.

Subp. 3. **Duration and conditions.** The commissioner may limit the duration of any variance. The commissioner may impose conditions on granting a variance that the commissioner considers necessary to protect public health, safety, or the environment. A variance has prospective effect only. The commissioner may not grant a variance from a statute or court order. Conditions attached to the variance are an enforceable part of the rule to which the variance applies.

Subp. 4. **Decision and timing.** (a) The commissioner must notify the license applicant or licensee and all persons or entities entitled to notice under subpart 1a, in writing, of the commissioner's decision to grant or deny a variance request or variance renewal request, or to revoke a variance. If the variance request or variance renewal request is granted, the notification must specify the period of time for which the variance is effective and the alternative measures or conditions, if any, to be met by the license applicant or licensee. If the commissioner denies, revokes, or refuses to renew a variance, the commissioner must notify the license applicant or licensee, in writing, of the reasons for the decision and the right to appeal the decision under subpart 8.

(b) The commissioner shall grant or deny a variance request or variance renewal request as soon as practicable, and within 60 days of receipt of the completed variance application, unless the license applicant or licensee agrees to a later date. Failure of an agency to act on a request for a variance or variance renewal within 60 days constitutes approval of the variance or variance renewal.

Subp. 5. **Renewal.** A licensee seeking to renew a variance must submit the request required under subpart 1 at least 45 days before the expiration date of the variance.

Subp. 6. **Violation of variances.** A failure of the licensee to comply with the terms of the granted variance is a violation of this chapter.

Subp. 7. **Denial, revocation, or refusal to renew.** The commissioner shall deny, revoke, or refuse to renew a variance if:

A. the variance adversely impacts the health, safety, or welfare of residents or the residents' rights under Minnesota Statutes, chapter 144G, and the assisted living bill of rights;

B. the license applicant or licensee has otherwise failed to demonstrate that a variance should be granted under the criteria in subpart 2;

C. the license applicant or licensee has failed to comply with the terms of the variance under subparts 3 and 4;

D. the license applicant or licensee notifies the commissioner in writing that it wishes to relinquish the variance; or

E. the revocation, denial, or refusal to renew a variance is required by a change in law.

Subp. 8. **Appeal procedure.** A license applicant or licensee may appeal the denial, revocation, or refusal to renew a variance by requesting a hearing from the commissioner. The request must be made in writing to the commissioner and delivered personally or by mail within ten calendar days after the license applicant or licensee receives the notice. If mailed, the request must be postmarked within ten calendar days after the license applicant or licensee receives the notice. The request for hearing must set forth in detail the reasons why the license applicant or licensee contends the decision of the commissioner should be reversed or modified. At the hearing, the applicant or licensee has the burden of proving by a preponderance of the evidence that the variance should be granted or renewed, except in a proceeding challenging the revocation of a variance, where the department has the burden of proving by a preponderance of the evidence that a revocation is appropriate. Hearings under this subpart must be conducted under the Administrative Procedure Act in Minnesota Statutes, chapter 14, and the rules of the Office of Administrative Hearings related to contested case proceedings in parts 1400.5010 to 1400.8400.

Subp. 9. **Fees and costs.** When requesting a variance under this part, the license applicant or licensee shall pay a fee as provided under Minnesota Statutes, section 14.056, subdivision 2.

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4659.0090 UNIFORM CHECKLIST DISCLOSURE OF SERVICES.

Subpart 1. **Definition.** For purposes of this part "Uniform Checklist Disclosure of Services" or "checklist" means the checklist developed and posted by the commissioner under subpart 2 and Minnesota Statutes, section 144G.40, subdivision 2, that an assisted living facility must provide to prospective residents before a contract is executed to enhance understanding of policies and services that are provided and are not provided by the facility.

Subp. 2. **Uniform checklist disclosure of services.** The commissioner shall post a Uniform Checklist Disclosure of Services template with a comprehensive list of assisted living services, developed according to Minnesota Statutes, section 144G.40, subdivision 2, paragraph (c), on the department's website for facility use. The commissioner shall update the checklist on an as-needed basis.

Subp. 3. **Submission of checklist to commissioner.**

A. An applicant or licensee shall submit a completed checklist with the license application or renewal.

B. Whenever a facility changes the services that the facility offers under the assisted living facility contract, the facility must submit an updated checklist to the commissioner within 30 calendar days of the change in services.

Subp. 4. **Use of uniform checklist disclosure of services.** A facility shall:

A. provide an up-to-date checklist to each prospective resident and each prospective resident's representatives who request information about the facility;

B. provide the checklist separately from all other documents and forms; and

C. not use another form to substitute for the checklist.

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4659.0100 EMERGENCY DISASTER AND PREPAREDNESS PLAN; INCORPORATION BY REFERENCE.

A. Assisted living facilities shall comply with the federal emergency preparedness regulations for long-term care facilities under Code of Federal Regulations, title 42, section 483.73, or successor requirements.

B. This part references documents, specifications, methods, and standards in "State Operations Manual Appendix Z - Emergency Preparedness for All Provider and Certified Supplier Types: Interpretive Guidance," which is incorporated by reference. This material is subject to frequent change and is available from the United States Centers for Medicare & Medicaid Services. It is conveniently available online at <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/SOM%20Appendix%20Z%202019.pdf>,

or by mail to U.S. Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244.

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4659.0110 MISSING RESIDENT PLAN.

Subpart 1. Applicability.

A. This part applies only to a resident who receives assisted living services:

(1) who is incapable of taking appropriate action for self-preservation under emergency conditions; or

(2) who is identified as at risk for wandering or elopement according to the resident's most recent assessment or review.

B. For purposes of this subpart, a resident is incapable of taking appropriate action for self-preservation under emergency conditions if the resident:

(1) is not ambulatory or mobile; or

(2) lacks the physical, mental, or cognitive capability to:

(a) recognize a danger, signal, or alarm requiring residents to evacuate from a facility;

(b) initiate and complete the evacuation without requiring more than minimal assistance from another person;

(c) select an alternative means of escape or take appropriate action if the primary evacuation route from the facility is blocked or inaccessible; and

(d) remain at a designated location outside the facility until further instruction is given.

Subp. 2. Missing resident policies and procedures.

A. The facility must develop and follow a missing resident plan that includes at least the following:

(1) identify a staff member for each shift who is responsible for implementing the missing resident plan, and ensure at least one staff member who is responsible for implementing the missing-resident plan is on site 24 hours a day, seven days a week;

(2) require that staff alert the staff member identified in subitem (1) immediately if it is suspected that a resident may be missing;

(3) identify staff by position description who are responsible for searching for missing residents or suspected missing residents;

(4) require that staff conduct an immediate and thorough search of the facility, the facility's premises, and the immediate neighborhood in each direction when a resident is suspected to be missing;

(5) require that a suspected missing resident be considered missing if the resident is not located after staff complete the search in subitem (4);

(6) require that staff immediately notify local law enforcement when a facility determines, under subitem (5) or otherwise, that a resident is missing;

(7) require that staff immediately contact the resident's representatives and the resident's case manager, if applicable, when a resident is determined missing; and

(8) require that staff cooperate with local law enforcement and provide any information that is necessary to identify and locate the missing resident.

B. When a resident is missing or is suspected missing, a facility's implementation of a missing resident plan does not relieve the facility of its obligation to provide assisted living services and appropriate care to all residents in the facility according to each resident's service plan, assisted living contract, and the requirements of this chapter and Minnesota Statutes, chapter 144G.

Subp. 3. **Additional notification required.** After the missing resident is located, a staff member must immediately notify local law enforcement, the resident's representatives, and the resident's case manager, if any.

Subp. 4. **Review missing resident plan.** The assisted living director and clinical nurse supervisor must review the missing resident plan at least quarterly and document any changes to the plan.

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4659.0120 PROCEDURES FOR RESIDENT TERMINATION AND DISCHARGE PLANNING.

Subpart 1. Pretermination meeting notice.

A. Before issuing a notice of termination, the facility must schedule a pretermination meeting under Minnesota Statutes, section 144G.52, subdivision 2, and provide written notice of the meeting to the resident and the resident's representatives at least five business days in advance of the scheduled meeting.

B. The facility must schedule and participate in the pretermination meeting, and make reasonable efforts to ensure that the resident and the resident's representatives are able to attend the meeting. If an in-person meeting is impractical or impossible, the facility may schedule and

participate in a meeting via telephone, video, or other means as provided for emergency relocations under subpart 2. If the resident or the resident's representatives fail to cooperate in the scheduling of the meeting or fail to appear at a properly noticed meeting, the facility may issue a notice of termination, provided that the facility demonstrates reasonable efforts to ensure the resident's and the resident's representatives' attendance at the meeting and that proper notice was provided to all parties. If the resident or resident's representatives fail to comply with agreements reached at the pretermination meeting, the facility may proceed with a notice of termination without holding another pretermination meeting, so long as notice of termination is provided at least seven days before the notice is issued.

C. For a resident who receives a home and community-based services waiver under Minnesota Statutes, section 256B.49 and chapter 256S, the facility must provide written notice of the pretermination meeting to the resident's case manager at least five business days in advance.

D. In addition to the notice requirements under Minnesota Statutes, section 144G.52, subdivision 2, the pretermination meeting written notice under item A must include:

- (1) a proposed time, date, and location of the meeting;
- (2) a detailed explanation of the reason or reasons for the proposed termination;
- (3) a list of facility individuals who will attend the meeting;
- (4) an explanation that the resident may invite family members, representatives, relevant health professionals, a representative from the Office of Ombudsman for Long-Term Care, and other individuals of the resident's choosing to participate in the pretermination meeting;
- (5) contact information for the Office of Ombudsman for Long-Term Care and the Office for Ombudsman for Mental Health and Developmental Disabilities and a statement that the ombudsman offices provide advocacy services to residents;
- (6) the name and contact information of an individual at the facility whom the resident may contact about the meeting or to request an accommodation;
- (7) notice that attendees may request reasonable accommodations for a communication disability or if they speak a language other than English; and
- (8) notice that if the resident's housing or services are terminated, the resident has the right to appeal under part 4659.0210 and Minnesota Statutes, section 144G.54.

E. The facility must provide written notice to the resident, the resident's representatives, and the resident's case manager of any change to the date, time, or location of the pretermination meeting.

Subp. 2. **Emergency relocation notice.**

A. If there is an emergency relocation under Minnesota Statutes, section 144G.52, subdivision 9, and the licensee intends to issue a notice of termination following the relocation, and an in-person pretermination meeting is impractical or impossible, the facility must use telephonic,

video, or other electronic format for the meeting under Minnesota Statutes, section 144G.52, subdivision 2.

B. If the pretermination meeting is held through telephonic, video, or other electronic format under Minnesota Statutes, section 144G.52, subdivision 2, paragraph (d), the facility must ensure that the resident, the resident's representatives, and any case manager or representative of an ombudsman's office are able to participate in the pretermination meeting. The facility must make reasonable efforts to ensure that anyone else the resident invites to the meeting is able to participate.

C. If a pretermination meeting is held after an emergency relocation, the licensee must issue a notice to the resident, the resident's representatives, and the resident's case manager, if applicable, containing the information in subpart 1, item D, at least 24 hours in advance of the pretermination meeting. The notice must include detailed instructions on how to access the means of communication for the meeting.

D. If notice to the ombudsman is required under Minnesota Statutes, section 144G.52, subdivision 9, paragraph (c), clause (3), the facility must provide the notice as soon as practicable, and in any event no later than 24 hours after the notice requirement is triggered.

Subp. 3. Identifying and offering accommodations, modifications, and alternatives. In addition to the requirements in Minnesota Statutes, section 144G.52, subdivision 2, paragraph (a), clause (2), at the pretermination meeting, the facility must collaborate with the resident and the resident's representatives, case manager, and any other individual invited by the resident to identify and offer any potential reasonable accommodations, modifications, interventions, or alternatives that can address the issues underlying the termination.

Subp. 4. Summarizing pretermination meeting outcomes. Within 24 hours after the pretermination meeting, the facility must provide the resident and the resident's representatives and case manager, if present at the pretermination meeting, with a written summary of the meeting, including any agreements reached about any accommodation, modification, intervention, or alternative that will be used to avoid terminating the resident's assisted living contract.

Subp. 5. Providing notice.

A. A facility must provide written notice of the resident's contract termination by hand delivery or by first-class mail. Service of the notice must be proved by affidavit of the person effectuating service.

B. If sent by mail, the facility must mail the notice to the resident's last known address.

C. A facility providing a notice to the ombudsman under Minnesota Statutes, section 144G.52, subdivision 7, paragraph (a), must provide the notice as soon as practicable, but in any event no later than two business days after the facility provided notice to the resident. The notice must include a phone number for the resident, or, if the resident does not have a phone number, the phone number of the resident's representatives or case manager.

Subp. 6. Resident-relocation evaluation.

A. If the facility terminates the resident's contract or the resident plans to move out of the facility because the facility has initiated the pretermination or termination process, the facility must prepare a written resident-relocation evaluation. The evaluation must include:

- (1) the resident's current service plan;
- (2) a list of safe and appropriate housing and service providers that are in reasonably close geographic proximity to the facility and are able to accept a new resident;
- (3) the resident's needs and choices; and
- (4) the right of the resident to tour the safe location and appropriate service provider, if applicable, prior to relocation.

B. The facility must provide a written copy of the resident-relocation evaluation to the resident and the resident's representatives and case manager as soon as practicable but no later than the planning conference under subpart 7, item A.

Subp. 7. Resident-relocation plan.

A. If the facility terminates the resident's contract or the resident plans to move out of the facility because the facility has initiated the pretermination or termination process, the facility must hold a planning conference and develop a written relocation plan with the resident, the resident's representatives and case manager, if any, and other individuals invited by the resident.

B. The relocation plan must incorporate the resident-relocation evaluation developed in subpart 6.

C. The resident-relocation plan must include:

- (1) the date and time that the resident will move;
- (2) the contact information of the receiving facility;
- (3) how the resident and the resident's personal property, including pets, will be transported to the new housing provider;
- (4) how the facility will care for and store the resident's belongings;
- (5) recommendations to assist the resident to adjust to the new living environment;
- (6) recommendations for addressing the stress that a resident with dementia may experience when moving to a new living environment, if applicable;
- (7) recommendations for ensuring the safe and proper transfer of the resident's medications and durable medical equipment;
- (8) arrangements that have been made for the resident's follow-up care and meals;

(9) a plan for transferring and reconnecting phone, Internet services, and any electronic monitoring equipment; and

(10) who is responsible for paying moving expenses and how the expenses will be paid.

D. The facility must implement the resident-relocation plan, must comply with the coordinated move requirements in Minnesota Statutes, section 144G.55, and must provide a copy of the plan to the resident and, with the resident's consent, to the resident's representatives and case manager, if applicable.

Subp. 8. Providing resident-relocation information to receiving facility or other service provider. In addition to the requirements in Minnesota Statutes, section 144G.43, subdivision 4, and with the resident's consent, the facility must provide the following information in writing to the resident's receiving facility or other service provider:

A. the name and address of the facility, the dates of the resident's admission and discharge, and the name and address of a person at the facility to contact for additional information;

B. names and addresses of any significant social or community contacts the resident has identified to the facility;

C. the resident's most recent service or care plan, if the resident has received services from the facility; and

D. the resident's current "do not resuscitate" order and "physician order for life-sustaining treatment," if any.

Subp. 9. Resident discharge summary. At the time of discharge, the facility must provide the resident, and, with the resident's consent, the resident's representatives and case manager, with a written discharge summary that includes:

A. a summary of the resident's stay that includes diagnoses, courses of illnesses, allergies, treatments and therapies, and pertinent lab, radiology, and consultation results;

B. a final summary of the resident's status from the latest assessment or review under Minnesota Statutes, section 144G.70, if applicable, that includes the resident status, including baseline and current mental, behavioral, and functional status;

C. a reconciliation of all predischARGE medications with the resident's postdischarge prescribed and over-the-counter medications; and

D. a postdischarge plan that is developed with the resident and, with the resident's consent, the resident's representatives, which will help the resident adjust to a new living environment. The postdischarge plan must indicate where the resident plans to reside, any arrangements that have been made for the resident's follow-up care, and any postdischarge medical and nonmedical services the resident will need.

Subp. 10. Services pending appeal. If the resident needs additional services during a pending termination appeal, the facility must contact and inform the resident's representatives and case

manager, if any, of the resident's responsibility to contract and ensure payment for those services according to Minnesota Statutes, section 144G.54, subdivision 6.

Subp. 11. Expedited termination.

A. A facility seeking an expedited termination under Minnesota Statutes, section 144G.52, subdivision 5, must comply with all of the requirements of this part.

B. If the facility seeks a termination or expedited termination on the basis of Minnesota Statutes, section 144G.52, subdivision 5, paragraph (b), clause (2), the facility must provide the assessment that forms the basis of the expedited termination to the resident with the notice of termination and include the name and contact information of any medical professionals who performed the assessment.

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4659.0130 CONDITIONS FOR PLANNED CLOSURES.

Subpart 1. Planned closure; notifying commissioner and ombudsman.

A. Before voluntarily closing, a facility must submit to the commissioner, the Office of Ombudsman for Mental Health and Developmental Disabilities, and the Office of the Ombudsman for Long Term Care the following in writing:

- (1) the proposed closure plan; and
- (2) the name and contact information for a facility staff person who is responsible for managing the facility during the facility's closure process.

B. A facility may not accept new residents or enter into new assisted living contracts for any new residents as of the date that written notification of the closure is submitted under item A.

C. A licensee must comply with the requirements of this part when the licensee decides to not renew the assisted living contracts of all of its residents.

Subp. 2. Proposed closure plan; contents. A facility's proposed closure plan must include:

- A. the reason for the closure and the proposed date of closure;
- B. a proposed timetable for relocating residents, and how the facility will facilitate residents' relocations;
- C. a list identifying each resident that will need to be relocated;
- D. for those residents identified under item C:
 - (1) the resident's current levels of care, whether the resident receives services from the facility, and any special needs or medical conditions;

(2) the resident's payment source and, if applicable, medical assistance identification number;

(3) the names and contact information of the resident's representatives and case manager, if any; and

(4) the names and contact information for those residents who do not have a representative or case manager but who the facility has reason to believe may have diminished cognitive capacity;

E. identification of at least two safe and appropriate housing providers and, for residents receiving services, appropriate service providers that are in reasonably close geographic proximity to the facility and may be able to accept a resident;

F. the roles and responsibilities of the licensee, assisted living director, and any temporary managers or monitors during the closure process, and their contact information;

G. policies and procedures for ongoing operations and management of the facility during the closure process that ensure:

(1) payment of all operating expenses;

(2) staffing and resources to continue providing services, medications, treatments, and supplies to meet each resident's needs, as ordered by the resident's physician or practitioner, until closure;

(3) residents' meals, medications, and treatments are not disrupted during the closure process;

(4) transportation of residents during discharge and transfer;

(5) residents' telephone, Internet services, and any electronic monitoring equipment are transferred and reconnected;

(6) residents' personal funds are accounted for, maintained, and reported to the resident and resident's representatives during the closure process; and

(7) residents' belongings are labeled and kept safe, and residents are given contact information for retrieving missing items after the facility has closed.

Subp. 3. Commissioner acknowledgment of notice.

A. Within 14 calendar days of receiving notice under subpart 1, the commissioner shall acknowledge receipt in writing of a facility's planned closure to the licensee.

B. Within 45 calendar days of acknowledging receipt of the notice under subpart 1, the commissioner shall approve the proposed closure plan and verify in writing the effective date of the closure to the licensee.

(1) During this period, the commissioner may contact the licensee about necessary amendments to the closure plan before the commissioner approves it and verifies the effective date of the closure.

(2) During this period, the licensee must establish and maintain ongoing communication with the commissioner regarding the status of the closure of the facility and timely respond to the commissioner's inquiries.

C. When the commissioner receives written notices of at least three license relinquishments or planned closures within 30 calendar days from the same licensee, the commissioner shall approve and verify the effective date of each closure in writing to the licensee within 75 calendar days of acknowledging receipt of the third notice.

D. No residents may be relocated pursuant to a proposed closure plan until the commissioner approves the proposed closure plan or until a modified closure plan is agreed upon by the commissioner and the licensee.

Subp. 4. **Notice to residents.** The licensee shall provide the same written notice of the closure to each resident and the resident's representatives and case manager that was submitted in subpart 1 and approved by the commissioner. The notice must include contact information for the Office of the Ombudsman for Long Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, and a primary facility contact that the resident and the resident's representatives and case manager can contact to discuss relocating the resident out of the facility due to the planned closure.

Subp. 5. **Resident-relocation evaluation.**

A. After the commissioner approves the closure plan, the facility must prepare a written resident-relocation evaluation for each resident identified under subpart 2, item C. The evaluation must include:

- (1) the resident's current service plans;
- (2) the list of safe and appropriate housing and service providers identified under subpart 2, item E;
- (3) the resident's needs and choices; and
- (4) the right of the resident to tour the safe location and appropriate service provider, if applicable, prior to relocation.

B. The facility must provide a written copy of the resident-relocation evaluation to the resident and the resident's representatives and case manager as soon as practicable but no later than the planning conference under subpart 6, item A.

Subp. 6. Resident-relocation plan.

A. The facility must hold a planning conference and develop a written resident-relocation plan with each resident and the resident's representatives, case manager, and other individuals invited by the resident to the planning conference.

B. The relocation plan must incorporate the relocation evaluation developed in subpart 5.

C. The resident-relocation plan must comply with part 4659.0120, subpart 7, item C.

D. The facility must implement the resident-relocation plan, must comply with the coordinated move requirements under Minnesota Statutes, section 144G.55, and must provide a copy of the resident-relocation plan to the resident and, with the resident's consent, the resident's representatives and case manager, if applicable.

E. The department may visit the facility to monitor the closure process.

Subp. 7. Resident-relocation verification. Within 14 calendar days of all residents having left the facility, the licensee, based on information provided by the resident or resident's representatives, case manager, or family members, shall notify the commissioner in writing that the licensee completed the closure and verify to the commissioner that the licensee complied with the coordinated move requirements in Minnesota Statutes, section 144G.55.

Subp. 8. Information regarding resident relocation to receiving provider. The facility must comply with part 4659.0120, subpart 8, for all residents who relocate due to the closure.

Subp. 9. Disbursing resident funds. Within 30 calendar days of the effective date of the facility closure, the facility must follow the requirements of Minnesota Statutes, section 144G.42, subdivision 5.

Subp. 10. Resident discharge summary. When a resident moves out of the facility, the facility must provide the resident with a written discharge summary that complies with part 4659.0120, subpart 9.

Subp. 11. License forfeiture. The licensee forfeits its assisted living facility license or assisted living facility with dementia care license upon the effective date of closure identified in subpart 3.

Statutory Authority: *MS s 144G.09*

History: *46 SR 33*

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4659.0140 INITIAL ASSESSMENTS AND CONTINUING ASSESSMENTS.**Subpart 1. Admissions.**

A. The assisted living director, in cooperation with the clinical nurse supervisor, is responsible for admitting residents to the facility according to the facility's admission policies.

B. Unless otherwise provided by law, an assisted living facility must not admit or retain a resident unless it can provide sufficient care and supervision to meet the resident's needs, based on the resident's known physical, mental, cognitive, or behavioral condition. The facility is in compliance with this provision if the resident has voluntarily elected to receive care and supervision for the resident's needs through the use of an unaffiliated service provider as permitted under Minnesota Statutes, section 144G.50, subdivision 2, paragraph (e), clause (4).

C. Prospective residents who are denied admission must be informed of the reason for the denial.

Subp. 2. Nursing assessment.

A. A nursing assessment or reassessment under Minnesota Statutes, section 144G.70, subdivision 2, paragraphs (b) and (c), must be conducted on a prospective resident or resident receiving any of the assisted living services identified in Minnesota Statutes, section 144G.08, subdivision 9, clauses (6) to (12).

B. The nursing assessment or reassessment under item A must:

- (1) address part 4659.0150, subpart 2, items A to N;
- (2) be conducted in person unless an exception under Minnesota Statutes, section 144G.70, subdivision 2, paragraph (b), applies;
- (3) be conducted using a uniform assessment tool that complies with part 4659.0150;
and
- (4) be in writing, dated, and signed by the registered nurse who conducted the assessment.

Subp. 3. Individualized review.

A. An individualized review or subsequent review under Minnesota Statutes, section 144G.70, subdivision 2, paragraph (d), must be conducted for a prospective resident or resident receiving only the assisted living services identified in Minnesota Statutes, section 144G.08, subdivision 9, clauses (1) to (5).

B. An individualized initial review or review under Minnesota Statutes, section 144G.70, subdivision 2, paragraph (d), for a prospective resident or resident must:

- (1) address part 4659.0150, subpart 2, items A to C and N;
- (2) be conducted in person unless an exception under Minnesota Statutes, section 144G.70, subdivision 2, paragraph (b) applies;
- (3) be conducted using a uniform assessment tool that complies with part 4659.0150;
and
- (4) be in writing, dated, and signed by the nurse who conducted the individualized review.

Subp. 4. Assessor; qualifications.

A. A registered nurse shall complete nursing assessments and reassessments required under Minnesota Statutes, section 144G.70, subdivision 2, paragraphs (b) and (c). Ongoing monitoring may be completed by other licensed nurses acting within the scope of their licenses under Minnesota Statutes, section 148.171.

B. A staff member who meets the qualifications in Minnesota Statutes, section 144G.60, subdivision 2, shall conduct the individualized initial review and subsequent reviews.

Subp. 5. Temporary service plan admission. If a facility admits an individual according to a temporary service plan under Minnesota Statutes, section 144G.70, subdivision 3, the nurse assessment must be conducted within 72 hours of initiating services.

Subp. 6. Consumer protections under temporary service plan. An individual who is admitted to an assisted living facility under a temporary service plan under Minnesota Statutes, section 144G.70, subdivision 3, and has not executed an assisted living contract shall receive the same consumer protections and rights under Minnesota Statutes, chapter 144G, provided to a resident who has executed an assisted living contract.

Subp. 7. Weekend assessments. An assisted living facility must be able to conduct a nursing assessment on a holiday or on a weekend for a resident who is ready to be discharged from the hospital and return to the facility.

Statutory Authority: *MS s 144G.09*

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4659.0150 UNIFORM ASSESSMENT TOOL.

Subpart 1. Definition. For purposes of this part, "Uniform Assessment Tool" means an assessment tool that meets the requirements of this part and is used by a licensee to comprehensively evaluate a resident's or prospective resident's physical, mental, and cognitive needs.

Subp. 2. Assessment tool elements. Each facility must develop a uniform assessment tool. The facility may use any acceptable form or format for the tool, such as an online or a hard-copy paper assessment tool, as long as the tool includes the elements identified in this subpart. A uniform assessment tool must address the following:

A. the resident's personal lifestyle preferences, including:

(1) sleep schedule, dietary and social needs, leisure activities, and any other customary routine that is important to the resident's quality of life;

(2) spiritual and cultural preferences; and

(3) advance health care directives and end-of-life preferences, including whether a person has or wants to seek a "do not resuscitate" order and "do not attempt resuscitation order" or "physician/provider orders for life-sustaining treatment" order;

- B. activities of daily living, including:
 - (1) toileting pattern, bowel, and bladder control;
 - (2) dressing, grooming, bathing, and personal hygiene;
 - (3) mobility, including ambulation, transfers, and assistive devices; and
 - (4) eating, dental status, oral care, and assistive devices and dentures, if applicable;
- C. instrumental activities of daily living, including:
 - (1) ability to self manage medications;
 - (2) housework and laundry; and
 - (3) transportation;
- D. physical health status, including:
 - (1) a review of relevant health history and current health conditions, including medical and nursing diagnoses;
 - (2) allergies and sensitivities related to medication, seasonality, environment, and food and if any of the allergies or sensitivities are life threatening;
 - (3) infectious conditions;
 - (4) a review of medications according to Minnesota Statutes, section 144G.71, subdivision 2, including prescriptions, over-the-counter medications, and supplements, and for each:
 - (a) the reason taken;
 - (b) any side effects, contraindications, allergic or adverse reactions, and actions to address these issues;
 - (c) the dosage;
 - (d) the frequency of use;
 - (e) the route administered or taken;
 - (f) any difficulties the resident faces in taking the medication;
 - (g) whether the resident self administers the medication;
 - (h) the resident's preferences in how to take medication;
 - (i) interventions needed in management of medications to prevent diversion of medication by the resident or others who may have access to the medications; and

(j) provide instructions to the resident and resident's legal or designated representatives on interventions to manage the resident's medications and prevent diversion of medications;

(5) a review of medical, dental, and emergency room visits in the past 12 months, including visits to a primary health care provider, hospitalizations, surgeries, and care from a postacute care facility;

(6) a review of any reports from a physical therapist, occupational therapist, speech therapist, or cognitive evaluations within the last 12 months;

(7) weight; and

(8) initial vital signs if indicated by health conditions or medications;

E. emotional and mental health conditions, including:

(1) review of history of and any diagnoses of mood disorders, including depression, anxiety, bipolar disorder, and thought or behavioral disorders;

(2) current symptoms of mental health conditions and behavioral expressions of concerns; and

(3) effective medication treatment and nonmedication interventions;

F. cognition, including:

(1) a review of any neurocognitive evaluations and diagnoses; and

(2) current memory, orientation, confusion, and decision-making status and ability;

G. communication and sensory capabilities, including:

(1) hearing;

(2) vision;

(3) speech;

(4) assistive communication and sensory devices including hearing aids; and

(5) the ability to understand and be understood;

H. pain, including:

(1) location, frequency, intensity, and duration; and

(2) effectiveness of medication and nonmedication alternatives;

I. skin conditions;

J. nutritional and hydration status and preferences;

K. list of treatments, including type, frequency, and level of assistance needed;

- L. nursing needs, including potential to receive nursing-delegated services;
- M. risk indicators, including:
 - (1) risk for falls including history of falls;
 - (2) emergency evacuation ability;
 - (3) complex medication regimen;
 - (4) risk for dehydration, including history of urinary tract infections and current fluid intake pattern;
 - (5) risk for emotional or psychological distress due to personal losses;
 - (6) unsuccessful prior placements;
 - (7) elopement risk including history or previous elopements;
 - (8) smoking, including the ability to smoke without causing burns or injury to the resident or others or damage to property; and
 - (9) alcohol and drug use, including the resident's alcohol use or drug use not prescribed by a physician;
- N. who has decision-making authority for the resident, including:
 - (1) the presence of any advance health care directive or other legal document that establishes a substitute decision maker; and
 - (2) the scope of decision-making authority of a substitute decision maker under subitem (1); and
- O. the need for follow-up referrals for additional medical or cognitive care by health professionals.

Subp. 3. **Record keeping.** Assessment tool results, including those from an assessment supplement, must be maintained in the resident's record as required under Minnesota Statutes, section 144G.43.

Subp. 4. **Licensee attestation.** An applicant for an assisted living facility license or a licensee renewing an assisted living facility license must attest to the commissioner in a manner determined by the commissioner that the uniform assessment tool used by the applicant or licensee complies with this part.

Subp. 5. **Department access to uniform assessment tool.** At the time of a survey, investigation, or other licensing activity, the licensee must provide the department access to or copy of the uniform assessment tool as required under Minnesota Statutes, section 144G.30, subdivision 4, to verify compliance with this part.

Statutory Authority: *MS s 144G.09*

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4659.0160 RELINQUISHING AN ASSISTED LIVING FACILITY WITH DEMENTIA CARE LICENSE.

Subpart 1. **Voluntary relinquishment; notifying commissioner and ombudsman.** Before relinquishing an assisted living facility with dementia care license, a licensee shall submit to the commissioner and ombudsman in writing:

A. the transition plan; and

B. the name and contact information of another individual, in addition to the facility director, responsible for the daily operation and management of the facility during the relinquishment process.

Subp. 2. **Transitional plan; contents.** In addition to the requirements under Minnesota Statutes, section 144G.80, subdivision 3, paragraph (a), clause (2), the transition plan must include:

A. the reason for relinquishing the license and the proposed date of relinquishment;

B. the proposed timetable for resident transitions, the resources that the facility will provide, and how the facility will facilitate resident transitions;

C. a list of residents who may require a change in service plan because of the relinquishment and a description of the residents' respective levels of care, special needs, or conditions; and

D. a list identifying each resident, if any, to whom the facility expects to issue a notice of termination of housing or assisted living services because of relinquishment.

Subp. 3. **Notice to residents.**

A. Along with the notice to residents required under Minnesota Statutes, section 144G.80, subdivision 3, the facility shall:

(1) notify all residents and their representatives and case managers, if any, in writing of the license relinquishment, the proposed date that the license will be relinquished, and the reason for the license relinquishment; and

(2) provide a primary facility contact that the resident and the resident's representatives and case manager, if any, can contact to discuss transitioning the resident out of the facility.

B. Once the facility has notified residents according to item A, the facility must revise advertising materials and disclosure information to remove any reference that the facility is an assisted living facility with dementia care and communicate to all potential residents and new residents entering the facility that the licensee will be relinquishing its license.

Subp. 4. Resident-relocation evaluation.

A. For each resident identified according to subpart 2, item D, whose contract the facility terminates, the facility must prepare a resident-relocation evaluation and comply with part 4659.0120, subpart 6.

B. The resident-relocation evaluation under item A may include recommendations for continuing to receive housing and assisted living services from the assisted living facility that is relinquishing its assisted living facility with dementia care license.

Subp. 5. Resident-relocation plan. For each resident identified in subpart 2, item D, whose contract the facility terminates, the facility must hold a planning conference and develop a written relocation plan and comply with part 4659.0120, subpart 7.

Subp. 6. Verifying resident relocation. Within 14 calendar days of all residents identified in subpart 2, item D, whose contracts the facility terminates, having left the facility, the licensee, based on information provided by each resident or resident's representatives, case manager, or family member, shall verify to the commissioner in writing that the residents are safely relocated according to this part and the coordinated move requirements in Minnesota Statutes, section 144G.55.

Subp. 7. Information regarding resident relocation to receiving provider. The facility must comply with part 4659.0120, subpart 8, for all residents who relocate due to the license relinquishment.

Subp. 8. Disbursement of resident funds. Within 30 calendar days of the effective date of the license relinquishment, the facility must follow the requirements of Minnesota Statutes, section 144G.42, subdivision 5, for all residents who relocate due to the license relinquishment.

Subp. 9. Resident discharge summary. When a resident moves out of the facility, the facility must provide the resident with a written discharge summary that complies with part 4659.0120, subpart 9.

Subp. 10. Assisted living facility with dementia care license forfeiture.

A. The licensee forfeits its assisted living facility with a dementia care license upon the proposed date of license relinquishment under subpart 2, item A, unless the commissioner has approved an extension to that date in writing.

B. The commissioner shall reclassify the license to the assisted living facility license category as of the date of relinquishment.

C. A licensee shall not reapply for an assisted living facility with dementia care license until one year after the date of license relinquishment.

Statutory Authority: *MS s 144G.09*

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4659.0180 STAFFING.

Subpart 1. **Definition.** For purposes of this part, "direct-care staff" means staff who provide services for residents that include assistance with activities of daily living, medication administration, resident-focused activities, supervision, and support.

Subp. 2. **Clinical nurse supervisor.** The facility's clinical nurse supervisor may also fulfill any of the responsibilities that a registered nurse is required to perform at the facility under Minnesota Statutes, chapter 144G

Subp. 3. **Direct-care staffing; plan required.** A clinical nurse supervisor must develop and implement a written staffing plan that provides an adequate number of qualified direct-care staff to meet the residents' needs 24 hours a day, seven days a week. When developing a direct-care staffing plan, the clinical nurse supervisor must ensure that staffing levels are adequate to address the following:

A. each resident's needs, as identified in the resident's service plan and assisted living contract;

B. each resident's acuity level, as determined by the most recent assessment or individualized review;

C. the ability of staff to timely meet the residents' scheduled and reasonably foreseeable unscheduled needs given the physical layout of the facility premises;

D. whether the facility has a secured dementia care unit; and

E. staff experience, training, and competency.

Subp. 4. **Daily staffing schedule.**

A. The clinical nurse supervisor must develop a 24-hour daily staffing schedule. The schedule must:

(1) include direct-care staff work schedules for each direct-care staff member showing all work shifts, including days and hours worked; and

(2) identify the direct-care staff member's resident assignments or work location.

B. The daily work schedule in item A must be posted, after redacting direct-care staff members' resident assignments, at the beginning of each work shift in a central location in each building of a facility or campus, accessible to staff, residents, volunteers, and the public. The facility shall not disclose any information that is protected by law from public disclosure.

Subp. 5. **Direct-care staff availability.** A minimum of two direct-care staff must be scheduled and available to assist at all times whenever a resident requires the assistance of two direct-care staff for scheduled reasonably foreseeable and unscheduled needs, as reflected in the resident's assessments and service plan.

Subp. 6. **Direct-care staff availability; night supervision.** During the hours of 10:00 p.m. to 6:00 a.m., direct-care staff shall respond to a resident's request for assistance with health or safety needs within a reasonable amount of time as provided in Minnesota Statutes, section 144G.41, subdivision 1, clause (12), item (ii).

Statutory Authority: *MS s 144G.09*

History: *46 SR 33*

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4659.0190 TRAINING REQUIREMENTS.

Subpart 1. **Training policy.** A facility must establish, implement, and keep current policies and procedures for staff orientation, training, and competency evaluation, and a process for evaluating staff performance as required under Minnesota Statutes, section 144G.41, subdivision 2, that meets:

A. the orientation, training, and competency requirements under this part and Minnesota Statutes, sections 144G.42 and 144G.60 to 144G.64; and

B. for a facility with an assisted living facility with dementia care license, the additional staff training requirements under Minnesota Statutes, sections 144G.80, 144G.82, and 144G.83.

Subp. 2. **Additional orientation.** In addition to the staff orientation requirements identified in subpart 1, the facility's training policy must include orientation training on:

A. the staff person's job description upon hire and whenever there is a change to the job description that changes the nature of the job or how the job is to be performed;

B. the facility's organization chart and the roles of staff within the facility, and the services offered by the facility as identified in the uniform checklist disclosure of services; and

C. the identification of incidents of maltreatment as defined under Minnesota Statutes, section 626.5572, subdivision 15, including abuse, financial exploitation, and neglect, and an explanation that any act that constitutes maltreatment is prohibited.

Subp. 3. **Additional training requirements for assisted living facilities with dementia care licenses.**

A. In addition to the other training requirements identified in subpart 1, direct care dementia-trained staff under Minnesota Statutes, section 144G.83, subdivision 1, and other staff having direct contact with residents of a facility that has an assisted living facility with dementia care license must receive training on the following topics:

(1) understanding cognitive impairment, and behavioral and psychological symptoms of dementia; and

(2) standards of dementia care, including nonpharmacological dementia care practices that are person-centered and evidence-informed.

B. A facility with an assisted living facility with dementia care license is responsible for ensuring and maintaining documentation that individuals providing or overseeing staff training relating to dementia and dementia care have the work experience and training required under Minnesota Statutes, section 144G.83, subdivision 3, and have successfully passed a skills competency or knowledge test required by the commissioner before the individual provides or oversees staff training. The commissioner must publish and update as needed a list of acceptable skills competency or knowledge tests on the department's website that are based on current best practice standards in the field of dementia care and meet requirements of Minnesota Statutes, section 144G.83, subdivision 3, clause (2).

Subp. 4. **Staff competency; retraining.** The facility's training policy must identify the requirements for retraining staff when the facility determines that a staff person is not demonstrating competency when performing assigned tasks. If retraining does not result in competency, the facility must identify the additional steps it will follow to ensure the staff person achieves competency, the time frame for completing the additional steps, and the actions the facility will take to protect resident rights until competency is achieved.

Subp. 5. **Portability of staff training.**

A. Unlicensed personnel providing assisted living services who transfer from one licensed assisted living facility to another or who are newly hired by a licensed assisted living facility may satisfy the training requirements under Minnesota Statutes, section 144G.61, subdivision 2, by providing written proof of previously completed training within the past 18 months.

B. The facility must complete an evaluation of the competency of the unlicensed personnel in the areas where the previously completed training is being accepted by the facility before the staff person may provide assisted living services to residents. Competency evaluations must be conducted by a competency evaluator under subpart 6 and Minnesota Statutes, section 144G.61, subdivision 1, and maintained under Minnesota Statutes, section 144G.42, subdivision 8.

Subp. 6. **Training records and documentation.**

A. The facility must maintain a record of staff training and competency required under this part and Minnesota Statutes, chapter 144G, that documents the following information for each competency evaluation, training, retraining, and orientation topic:

- (1) facility name, location, and license number;
- (2) name of the training topic or training program, and the training methodology, such as classroom style, web-based training, video, or one-to-one training;
- (3) date of the training and competency evaluation, and the total amount of time of the training and competency evaluation;
- (4) name and title of the instructor and the instructor's signature, and the name and title of the competency evaluator, if different from the instructor, and the evaluator's signature with a statement attesting that the employee successfully completed the training and competency evaluation; and

(5) name and title of the staff person completing the training, and the staff person's signature with a statement attesting that the staff person successfully completed the training as described in the training documentation.

B. Documentation of the completed competency evaluation, training, retraining, or orientation must be provided to the employee at the time the evaluation or training is completed.

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4659.0200 NONRENEWAL OF HOUSING, REDUCTION IN SERVICES; REQUIRED NOTICES.

Subpart 1. **Relocation requirements for nonrenewal of housing and reduction in services.** A facility that decides not to renew a resident's housing under Minnesota Statutes, section 144G.53, paragraph (a), clause (1), or that reduces a resident's services to the extent that the resident is required to move under Minnesota Statutes, section 144G.55, subdivision 1, paragraph (a), must comply with part 4659.0120, subparts 6 to 9.

Subp. 2. Service reduction notice.

A. A facility providing notice to the ombudsman under Minnesota Statutes, section 144G.55, subdivision 1, paragraph (f), must provide the notice as soon as practicable but no later than two calendar days after determining that the resident will move.

B. The notice under item A must include:

- (1) the resident's name and contact information;
- (2) the names and contact information for the resident's representatives and case manager, if any;
- (3) a description of the reduction of service; and
- (4) the reasons that the facility, resident, resident's representatives, or case manager has provided for why the reduction in services will require the resident to move.

Subp. 3. Change in facility operations notice.

A. A facility sending notice to the ombudsman or the Office of Ombudsman for Mental Health and Developmental Disabilities under Minnesota Statutes, section 144G.56, subdivision 5, paragraph (a), clause (4), must provide the notice in writing and as soon as practicable.

B. The notice under item A must include:

- (1) the effective date of the proposed transfer;
- (2) the facility's plan for notifying residents and their representatives, case managers, and family members of the transfers;

(3) the facility's plan for safely transferring residents and their belongings;

(4) the facility's plans for minimizing the number of transfers, considering residents' needs and preferences, and providing reasonable accommodations to residents regarding the transfers; and

(5) the affected residents' names, living unit numbers, and phone numbers or, if the affected residents do not have phone numbers, their representatives' phone numbers.

Statutory Authority: *MS s 144G.09*

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4659.0210 TERMINATION APPEALS; PROCEDURES AND TIMELINES FOR APPEALS.

Subpart 1. **Resident appeal notice of termination.** Upon receipt of the facility's written notice of an assisted living contract termination, a resident has:

A. 30 calendar days to appeal a termination under Minnesota Statutes, section 144G.52, subdivision 7, paragraph (b), based on nonpayment of rent or services, or violating the assisted living contract; and

B. 15 calendar days to appeal an expedited termination of housing or services under Minnesota Statutes, section 144G.52, subdivision 7, paragraph (c).

Subp. 2. **Contact commissioner to start appeal.** Within the timelines stated in subpart 1, the resident or an individual acting on the resident's behalf shall contact the department in writing to request an appeal of the termination. The failure of a resident to request a hearing within the provided timelines constitutes a waiver of the right to a hearing.

Subp. 3. **Hearing process.**

A. Hearings under Minnesota Statutes, section 144G.54, shall be conducted in an expedited process, with a hearing held as soon as practicable, but in no event later than 14 calendar days after the Office of Administrative Hearings receives the request for hearing, unless the chief administrative law judge determines, under Minnesota Statutes, section 144G.54, subdivision. 3, paragraph (c), that the hearing should be a formal contested case proceeding conducted under parts 1400.5010 to 1400.8400 and Minnesota Statutes, chapter 14.

B. Formal contested case proceedings shall be held according to parts 1400.5010 to 1400.8400 and Minnesota Statutes, sections 14.57 to 14.62.

C. If the resident is unable to provide self-representation at the hearing or wishes to have an individual present on the resident's behalf, an individual of the resident's choosing may present the resident's appeal to the administrative law judge on the resident's behalf.

D. In cases involving unrepresented residents, the administrative law judge shall take appropriate steps to identify and develop in the hearing relevant facts necessary for making an informed and fair decision. An unrepresented resident shall be provided an adequate opportunity

to respond to testimony or other evidence presented at the hearing. The administrative law judge shall ensure that an unrepresented resident has a full and reasonable opportunity at the hearing to establish a record for appeal.

Subp. 4. **Order of commissioner.** If a hearing has been held, the commissioner may issue a final order within 14 calendar days after receipt of the recommendation of the administrative law judge. The parties may, within the first seven of those 14 calendar days, submit additional written argument to the commissioner on the recommendation and the commissioner will consider the written arguments. If the commissioner does not issue a final order within 14 calendar days after receipt of the recommendation, the recommendation of the administrative law judge constitutes the final order. Final orders may be appealed in the manner provided in Minnesota Statutes, sections 14.63 to 14.69.

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