

864.24

**ARTICLE 14**

864.25

**RESIDENT RIGHTS AND CONSUMER PROTECTIONS**864.26 Section 1. [144.6512] RETALIATION IN NURSING HOMES PROHIBITED.864.27 Subdivision 1. **Definitions.** For the purposes of this section:

864.28 (1) "nursing home" means a facility licensed as a nursing home under chapter 144A;

864.29 and

865.1 (2) "resident" means a person residing in a nursing home.

865.2 Subd. 2. **Retaliation prohibited.** A nursing home or agent of the nursing home may not  
865.3 retaliate against a resident or employee if the resident, employee, or any person acting on  
865.4 behalf of the resident:865.5 (1) files a complaint or grievance, makes an inquiry, or asserts any right;865.6 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any  
865.7 right;865.8 (3) files or indicates an intention to file a maltreatment report, whether mandatory or  
865.9 voluntary, under section 626.557;865.10 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic  
865.11 problems or concerns to the administrator or manager of the nursing home, the Office of  
865.12 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or  
865.13 advocacy organization;865.14 (5) advocates or seeks advocacy assistance for necessary or improved care or services  
865.15 or enforcement of rights under this section or other law;865.16 (6) takes or indicates an intention to take civil action;865.17 (7) participates or indicates an intention to participate in any investigation or  
865.18 administrative or judicial proceeding;865.19 (8) contracts or indicates an intention to contract to receive services from a service  
865.20 provider of the resident's choice other than the nursing home; or865.21 (9) places or indicates an intention to place a camera or electronic monitoring device in  
865.22 the resident's private space as provided under section 144J.05.865.23 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against  
865.24 a resident includes but is not limited to any of the following actions taken or threatened by  
865.25 a nursing home or an agent of the nursing home against a resident, or any person with a  
865.26 familial, personal, legal, or professional relationship with the resident:

- 865.27 (1) the discharge, eviction, transfer, or termination of services;
- 865.28 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 865.29 (3) any form of discrimination;
- 865.30 (4) restriction or prohibition of access:
- 865.31 (i) of the resident to the nursing home or visitors; or
- 866.1 (ii) to the resident by a family member or a person with a personal, legal, or professional
- 866.2 relationship with the resident;
- 866.3 (5) the imposition of involuntary seclusion or withholding food, care, or services;
- 866.4 (6) restriction of any of the rights granted to residents under state or federal law;
- 866.5 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
- 866.6 living arrangements;
- 866.7 (8) an arbitrary increase in charges or fees;
- 866.8 (9) removing, tampering with, or deprivation of technology, communication, or electronic
- 866.9 monitoring devices; or
- 866.10 (10) any oral or written communication of false information about a person advocating
- 866.11 on behalf of the resident.
- 866.12 **Subd. 4. Retaliation against an employee.** For purposes of this section, to retaliate
- 866.13 against an employee includes but is not limited to any of the following actions taken or
- 866.14 threatened by the nursing home or an agent of the nursing home against an employee:
- 866.15 (1) discharge or transfer;
- 866.16 (2) demotion or refusal to promote;
- 866.17 (3) reduction in compensation, benefits, or privileges;
- 866.18 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- 866.19 (5) any form of discrimination.
- 866.20 **Subd. 5. Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
- 866.21 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
- 866.22 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.
- 866.23 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if
- 866.24 a good faith report of maltreatment pursuant to section 626.557 is made by the nursing home
- 866.25 or agent of the nursing home against the visitor, family member, or other person with a

- 866.26 personal, legal, or professional relationship that is subject to the restriction or prohibition  
 866.27 of access.
- 866.28 (c) The presumption does not apply to any oral or written communication described in  
 866.29 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant  
 866.30 to section 626.557 made by the nursing home or agent of the nursing home against the  
 866.31 person advocating on behalf of the resident.
- 867.1 (d) The presumption does not apply to a termination of a contract of admission, as that  
 867.2 term is defined under section 144.6501, subdivision 1, for a reason permitted under state  
 867.3 or federal law.
- 867.4 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision  
 867.5 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,  
 867.6 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.
- 867.7 **EFFECTIVE DATE.** This section is effective August 1, 2019.
- 867.8 Sec. 2. [144G.07] RETALIATION PROHIBITED.
- 867.9 Subdivision 1. **Definitions.** For the purposes of this section and section 144G.08:
- 867.10 (1) "facility" means a housing with services establishment registered under section  
 867.11 144D.02 and operating under title protection under this chapter; and
- 867.12 (2) "resident" means a resident of a facility.
- 867.13 Subd. 2. **Retaliation prohibited.** A facility or agent of the facility may not retaliate  
 867.14 against a resident or employee if the resident, employee, or any person on behalf of the  
 867.15 resident:
- 867.16 (1) files a complaint or grievance, makes an inquiry, or asserts any right;
- 867.17 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any  
 867.18 right;
- 867.19 (3) files or indicates an intention to file a maltreatment report, whether mandatory or  
 867.20 voluntary, under section 626.557;
- 867.21 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic  
 867.22 problems or concerns to the administrator or manager of the facility, the Office of  
 867.23 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or  
 867.24 advocacy organization;
- 867.25 (5) advocates or seeks advocacy assistance for necessary or improved care or services  
 867.26 or enforcement of rights under this section or other law;
- 867.27 (6) takes or indicates an intention to take civil action;

- 867.28 (7) participates or indicates an intention to participate in any investigation or  
867.29 administrative or judicial proceeding;
- 867.30 (8) contracts or indicates an intention to contract to receive services from a service  
867.31 provider of the resident's choice other than the facility; or
- 868.1 (9) places or indicates an intention to place a camera or electronic monitoring device in  
868.2 the resident's private space as provided under section 144J.05;
- 868.3 **Subd. 3. Retaliation against a resident.** For purposes of this section, to retaliate against  
868.4 a resident includes but is not limited to any of the following actions taken or threatened by  
868.5 a facility or an agent of the facility against a resident, or any person with a familial, personal,  
868.6 legal, or professional relationship with the resident:
- 868.7 (1) the discharge, eviction, transfer, or termination of services;
- 868.8 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 868.9 (3) any form of discrimination;
- 868.10 (4) restriction or prohibition of access:
- 868.11 (i) of the resident to the facility or visitors; or
- 868.12 (ii) to the resident by a family member or a person with a personal, legal, or professional  
868.13 relationship with the resident;
- 868.14 (5) the imposition of involuntary seclusion or withholding food, care, or services;
- 868.15 (6) restriction of any of the rights granted to residents under state or federal law;
- 868.16 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or  
868.17 living arrangements;
- 868.18 (8) an arbitrary increase in charges or fees;
- 868.19 (9) removing, tampering with, or deprivation of technology, communication, or electronic  
868.20 monitoring devices; or
- 868.21 (10) any oral or written communication of false information about a person advocating  
868.22 on behalf of the resident.
- 868.23 **Subd. 4. Retaliation against an employee.** For purposes of this section, to retaliate  
868.24 against an employee includes but is not limited to any of the following actions taken or  
868.25 threatened by the facility or an agent of the facility against an employee:
- 868.26 (1) discharge or transfer;
- 868.27 (2) demotion or refusal to promote;

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

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

868.30 (5) any form of discrimination.

869.1 Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs  
869.2 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision  
869.3 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

869.4 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if  
869.5 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or  
869.6 agent of the facility against the visitor, family member, or other person with a personal,  
869.7 legal, or professional relationship that is subject to the restriction or prohibition of access.

869.8 (c) The presumption does not apply to any oral or written communication described in  
869.9 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant  
869.10 to section 626.557 made by the facility or agent of the facility against the person advocating  
869.11 on behalf of the resident.

869.12 (d) The presumption does not apply to a termination of a contract of admission, as that  
869.13 term is defined under section 144.6501, subdivision 1, for a reason permitted under state  
869.14 or federal law.

869.15 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision  
869.16 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,  
869.17 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

869.18 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,  
869.19 2021.

869.20 Sec. 3. **[144G.08] DECEPTIVE MARKETING AND BUSINESS PRACTICES**  
869.21 **PROHIBITED.**

869.22 Subdivision 1. **Prohibitions.** (a) No employee or agent of any facility may make any  
869.23 false, fraudulent, deceptive, or misleading statements or representations or material omissions  
869.24 in marketing, advertising, or any other description or representation of care or services.

869.25 (b) No housing with services contract as required under section 144D.04, subdivision  
869.26 1, may include any provision that the facility knows or should know to be deceptive,  
869.27 unlawful, or unenforceable under state or federal law, nor include any provision that requires  
869.28 or implies a lesser standard of care or responsibility than is required by law.

869.29 (c) No facility may advertise or represent that the facility has a dementia care unit without  
869.30 complying with disclosure requirements under section 325F.72 and any training requirements  
869.31 required by law or rule.

- 870.1 Subd. 2. **Remedies.** (a) A violation of this section constitutes a violation of section  
 870.2 325F.69, subdivision 1. The attorney general or a county attorney may enforce this section  
 870.3 using the remedies in section 325F.70.
- 870.4 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause  
 870.5 of action under section 325F.71, subdivision 4, for the violation of this section, unless the  
 870.6 resident otherwise has a cause of action under section 626.557, subdivision 17.
- 870.7 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,  
 870.8 2021.
- 870.9 Sec. 4. [144J.01] DEFINITIONS:
- 870.10 Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have  
 870.11 the meanings given them unless the context clearly indicates otherwise.
- 870.12 Subd. 2. **Assisted living contract.** "Assisted living contract" means the legal agreement  
 870.13 between a resident and an assisted living facility for housing and assisted living services.
- 870.14 Subd. 3. **Assisted living facility.** "Assisted living facility" has the meaning given in  
 870.15 section 144I.01, subdivision 6.
- 870.16 Subd. 4. **Assisted living facility with dementia care.** "Assisted living facility with  
 870.17 dementia care" has the meaning given in section 144I.01, subdivision 8.
- 870.18 Subd. 5. **Assisted living services.** "Assisted living services" has the meaning given in  
 870.19 section 144I.01, subdivision 7.
- 870.20 Subd. 6. **Attorney-in-fact.** "Attorney-in-fact" means a person designated by a principal  
 870.21 to exercise the powers granted by a written and valid power of attorney under chapter 523.
- 870.22 Subd. 7. **Conservator.** "Conservator" means a court-appointed conservator acting in  
 870.23 accordance with the powers granted to the conservator under chapter 524.
- 870.24 Subd. 8. **Designated representative.** "Designated representative" means a person  
 870.25 designated in writing by the resident in an assisted living contract and identified in the  
 870.26 resident's records on file with the assisted living facility.
- 870.27 Subd. 9. **Facility.** "Facility" means an assisted living facility.
- 870.28 Subd. 10. **Guardian.** "Guardian" means a court-appointed guardian acting in accordance  
 870.29 with the powers granted to the guardian under chapter 524.
- 870.30 Subd. 11. **Health care agent.** "Health care agent" has the meaning given in section  
 870.31 145C.01, subdivision 2.
- 871.1 Subd. 12. **Legal representative.** "Legal representative" means one of the following in  
 871.2 the order of priority listed, to the extent the person may reasonably be identified and located:

- 871.3 (1) a guardian;
- 871.4 (2) a conservator;
- 871.5 (3) a health care agent; or
- 871.6 (4) an attorney-in-fact.
- 871.7 Subd. 13. **Licensed health care professional.** "Licensed health care professional" means:
- 871.8 (1) a physician licensed under chapter 147;
- 871.9 (2) an advanced practice registered nurse, as that term is defined in section 148.171,
- 871.10 subdivision 3;
- 871.11 (3) a licensed practical nurse, as that term is defined in section 148.171, subdivision 8;
- 871.12 or
- 871.13 (4) a registered nurse, as that term is defined in section 148.171, subdivision 20.
- 871.14 Subd. 14. **Resident.** "Resident" means a person living in an assisted living facility.
- 871.15 Subd. 15. **Resident record.** "Resident record" has the meaning given in section 144I.01,
- 871.16 subdivision 53.
- 871.17 Subd. 16. **Service plan.** "Service plan" has the meaning given in section 144I.01,
- 871.18 subdivision 57.
- 871.19 **EFFECTIVE DATE.** This section is effective August 1, 2021.
- 871.20 Sec. 5. **[144J.02] RESIDENT RIGHTS.**
- 871.21 Subdivision 1. **Applicability.** This section applies to assisted living facility residents.
- 871.22 Subd. 2. **Legislative intent.** The rights established under this section for the benefit of
- 871.23 residents do not limit any other rights available under law. No facility may request or require
- 871.24 that any resident waive any of these rights at any time for any reason, including as a condition
- 871.25 of admission to the facility.
- 871.26 Subd. 3. **Information about rights and facility policies.** (a) Before receiving services,
- 871.27 residents have the right to be informed by the facility of the rights granted under this section.
- 871.28 The information must be in plain language and in terms residents can understand. The
- 871.29 facility must make reasonable accommodations for residents who have communication
- 871.30 disabilities and those who speak a language other than English.
- 872.1 (b) Every facility must:
- 872.2 (1) indicate what recourse residents have if their rights are violated; and
- 872.3 (2) provide the information required under section 144J.10.

872.4 (c) Upon request, residents and their legal representatives and designated representatives  
 872.5 have the right to copies of current facility policies and inspection findings of state and local  
 872.6 health authorities, and to receive further explanation of the rights provided under this section,  
 872.7 consistent with chapter 13 and section 626.557.

872.8 Subd. 4. **Courteous treatment.** Residents have the right to be treated with courtesy and  
 872.9 respect, and to have the resident's property treated with respect.

872.10 Subd. 5. **Appropriate care and services.** (a) Residents have the right to care and services  
 872.11 that are appropriate based on the resident's needs and according to an up-to-date service  
 872.12 plan. All service plans must be designed to enable residents to achieve their highest level  
 872.13 of emotional, psychological, physical, medical, and functional well-being and safety.

872.14 (b) Residents have the right to receive health care and other assisted living services with  
 872.15 continuity from people who are properly trained and competent to perform their duties and  
 872.16 in sufficient numbers to adequately provide the services agreed to in the assisted living  
 872.17 contract and the service plan.

872.18 Subd. 6. **Participation in care and service planning.** Residents have the right to actively  
 872.19 participate in the planning, modification, and evaluation of their care and services. This  
 872.20 right includes:

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

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

872.24 (3) the right to include a family member or the resident's health care agent and designated  
 872.25 representative, or both; and

872.26 (4) the right to be told in advance of, and take an active part in decisions regarding, any  
 872.27 recommended changes in the service plan.

872.28 Subd. 7. **Information about individuals providing services.** Before receiving services,  
 872.29 residents have the right to be told the type and disciplines of staff who will be providing  
 872.30 the services, the frequency of visits proposed to be furnished, and other choices that are  
 872.31 available for addressing the resident's needs.

873.1 Subd. 8. **Information about health care treatment.** Where applicable, residents have  
 873.2 the right to be given by their attending physician complete and current information concerning  
 873.3 their diagnosis, cognitive functioning level, treatment, alternatives, risks, and prognosis as  
 873.4 required by the physician's legal duty to disclose. This information must be in terms and  
 873.5 language the residents can reasonably be expected to understand. This information must  
 873.6 include the likely medical or major psychological results of the treatment and its alternatives.

873.7 Subd. 9. **Information about other providers and services.** (a) Residents have the right  
 873.8 to be informed by the assisted living facility, prior to executing an assisted living contract,  
 873.9 that other public and private services may be available and the resident has the right to



- 873.10 purchase, contract for, or obtain services from a provider other than the assisted living  
873.11 facility or related assisted living services provider.
- 873.12 (b) Assisted living facilities must make every effort to assist residents in obtaining  
873.13 information regarding whether Medicare, medical assistance, or another public program  
873.14 will pay for any of the services.
- 873.15 Subd. 10. **Information about charges.** Before services are initiated, residents have the  
873.16 right to be notified:
- 873.17 (1) of all charges for services;
- 873.18 (2) whether payment may be expected from health insurance, public programs, or other  
873.19 sources, if known, and the amount of such payments; and
- 873.20 (3) what charges the resident may be responsible for paying.
- 873.21 Subd. 11. **Refusal of care or services.** (a) Residents have the right to refuse care or  
873.22 services.
- 873.23 (b) A provider must document in the resident's record that the provider informed a  
873.24 resident who refuses care, services, treatment, medication, or dietary restrictions of the  
873.25 likely medical, health-related, or psychological consequences of the refusal.
- 873.26 (c) In cases where a resident lacks capacity but has not been adjudicated incompetent,  
873.27 or when legal requirements limit the right to refuse medical treatment, the conditions and  
873.28 circumstances must be fully documented by the attending physician in the resident's record.
- 873.29 Subd. 12. **Freedom from maltreatment.** Residents have the right to be free from  
873.30 maltreatment. For the purposes of this subdivision, "maltreatment" means conduct described  
873.31 in section 626.5572, subdivision 15, and includes the intentional and nontherapeutic infliction  
873.32 of physical pain or injury, or any persistent course of conduct intended to produce mental  
873.33 or emotional distress.
- 874.1 Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to every  
874.2 consideration of their privacy, individuality, and cultural identity as related to their social,  
874.3 religious, and psychological well-being. Staff must respect the privacy of a resident's space  
874.4 by knocking on the door and seeking consent before entering, except in an emergency or  
874.5 where clearly inadvisable.
- 874.6 (b) Residents have the right to respect and privacy regarding the resident's health care  
874.7 and personal care program. Case discussion, consultation, examination, and treatment are  
874.8 confidential and must be conducted discreetly. Privacy must be respected during toileting,  
874.9 bathing, and other activities of personal hygiene, except as needed for resident safety or  
874.10 assistance.
- 874.11 Subd. 14. **Communication privacy.** (a) Residents have the right to communicate  
874.12 privately with persons of their choice. Assisted living facilities that are unable to provide a

- 874.13 private area for communication must make reasonable arrangements to accommodate the  
 874.14 privacy of residents' communications.
- 874.15 (b) Personal mail must be sent by the assisted living facility without interference and  
 874.16 received unopened unless medically or programmatically contraindicated and documented  
 874.17 by a licensed health care professional listed in the resident's record.
- 874.18 (c) Residents must be provided access to a telephone to make and receive calls.
- 874.19 Subd. 15. Confidentiality of records. (a) Residents have the right to have personal,  
 874.20 financial, health, and medical information kept private, to approve or refuse release of  
 874.21 information to any outside party, and to be advised of the assisted living facility's policies  
 874.22 and procedures regarding disclosure of the information. Residents must be notified when  
 874.23 personal records are requested by any outside party.
- 874.24 (b) Residents have the right to access their own records and written information from  
 874.25 those records in accordance with sections 144.291 to 144.298.
- 874.26 Subd. 16. Grievances and inquiries. (a) Residents have the right to make and receive  
 874.27 a timely response to a complaint or inquiry, without limitation. Residents have the right to  
 874.28 know and every facility must provide the name and contact information of the person  
 874.29 representing the facility who is designated to handle and resolve complaints and inquiries.
- 874.30 (b) A facility must promptly investigate, make a good faith attempt to resolve, and  
 874.31 provide a timely response to the complaint or inquiry.
- 874.32 (c) Residents have the right to recommend changes in policies and services to staff and  
 874.33 managerial officials, as that term is defined in section 144I.01, subdivision 31.
- 875.1 Subd. 17. Visitors and social participation. (a) Residents have the right to meet with  
 875.2 or receive visits at any time by the resident's family, guardian, conservator, health care  
 875.3 agent, attorney, advocate, or religious or social work counselor, or any person of the resident's  
 875.4 choosing.
- 875.5 (b) Residents have the right to participate in commercial, religious, social, community,  
 875.6 and political activities without interference and at their discretion if the activities do not  
 875.7 infringe on the right to privacy of other residents.
- 875.8 Subd. 18. Access to counsel and advocacy services. Notwithstanding subdivision 15,  
 875.9 residents have the right to the immediate access by:
- 875.10 (1) the resident's legal counsel;
- 875.11 (2) any representative of the protection and advocacy system designated by the state  
 875.12 under Code of Federal Regulations, title 45, section 1326.21; or
- 875.13 (3) any representative of the Office of Ombudsman for Long-Term Care.

875.14 Subd. 19. **Right to come and go freely.** Residents have the right to enter and leave the  
 875.15 facility as they choose. This right may be restricted only as allowed by other law and  
 875.16 consistent with a resident's service plan.

875.17 Subd. 20. **Access to technology.** Residents have the right to access Internet service at  
 875.18 their expense, unless offered by the facility.

875.19 Subd. 21. **Resident councils.** Residents have the right to organize and participate in  
 875.20 resident councils. The facility must provide a resident council with space and privacy for  
 875.21 meetings, where doing so is reasonably achievable. Staff, visitors, or other guests may attend  
 875.22 resident council meetings only at the council's invitation. The facility must provide a  
 875.23 designated staff person who is approved by the resident council and the facility to be  
 875.24 responsible for providing assistance and responding to written requests that result from  
 875.25 meetings. The facility must consider the views of the resident council and must act promptly  
 875.26 upon the grievances and recommendations of the council, but a facility is not required to  
 875.27 implement as recommended every request of the council. The facility shall, with the approval  
 875.28 of the resident council, take reasonably achievable steps to make residents aware of upcoming  
 875.29 meetings in a timely manner.

875.30 Subd. 22. **Family councils.** Residents have the right to participate in family councils  
 875.31 formed by families or residents. The facility must provide a family council with space and  
 875.32 privacy for meetings, where doing so is reasonably achievable. The facility must provide a  
 875.33 designated staff person who is approved by the family council and the facility to be  
 876.1 responsible for providing assistance and responding to written requests that result from  
 876.2 meetings. The facility must consider the views of the family council and must act promptly  
 876.3 upon the grievances and recommendations of the council, but a facility is not required to  
 876.4 implement as recommended every request of the council. The facility shall, with the approval  
 876.5 of the family council, take reasonably achievable steps to make residents and family members  
 876.6 aware of upcoming meetings in a timely manner.

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

876.8 Sec. 6. **[144J.03] RETALIATION PROHIBITED.**

876.9 Subdivision 1. **Retaliation prohibited.** A facility or agent of a facility may not retaliate  
 876.10 against a resident or employee if the resident, employee, or any person acting on behalf of  
 876.11 the resident:

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

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

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

876.17 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic  
 876.18 problems or concerns to the administrator or manager of the facility, the Office of

- 876.19 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or  
 876.20 advocacy organization;
- 876.21 (5) advocates or seeks advocacy assistance for necessary or improved care or services  
 876.22 or enforcement of rights under this section or other law;
- 876.23 (6) takes or indicates an intention to take civil action;
- 876.24 (7) participates or indicates an intention to participate in any investigation or  
 876.25 administrative or judicial proceeding;
- 876.26 (8) contracts or indicates an intention to contract to receive services from a service  
 876.27 provider of the resident's choice other than the facility; or
- 876.28 (9) places or indicates an intention to place a camera or electronic monitoring device in  
 876.29 the resident's private space as provided under section 144J.05.
- 876.30 Subd. 2. **Retaliation against a resident.** For purposes of this section, to retaliate against  
 876.31 a resident includes but is not limited to any of the following actions taken or threatened by  
 877.1 a facility or an agent of the facility against a resident, or any person with a familial, personal,  
 877.2 legal, or professional relationship with the resident:
- 877.3 (1) the discharge, eviction, transfer, or termination of services;
- 877.4 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 877.5 (3) any form of discrimination;
- 877.6 (4) restriction or prohibition of access:
- 877.7 (i) of the resident to the facility or visitors; or
- 877.8 (ii) to the resident by a family member or a person with a personal, legal, or professional  
 877.9 relationship with the resident;
- 877.10 (5) the imposition of involuntary seclusion or withholding food, care, or services;
- 877.11 (6) restriction of any of the rights granted to residents under state or federal law;
- 877.12 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or  
 877.13 living arrangements;
- 877.14 (8) an arbitrary increase in charges or fees;
- 877.15 (9) removing, tampering with, or deprivation of technology, communication, or electronic  
 877.16 monitoring devices; or
- 877.17 (10) any oral or written communication of false information about a person advocating  
 877.18 on behalf of the resident.

- 877.19 Subd. 3. **Retaliation against an employee.** For purposes of this section, to retaliate  
 877.20 against an employee includes but is not limited to any of the following actions taken or  
 877.21 threatened by the facility or an agent of the facility against an employee:
- 877.22 (1) discharge or transfer;
- 877.23 (2) demotion or refusal to promote;
- 877.24 (3) reduction in compensation, benefits, or privileges;
- 877.25 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- 877.26 (5) any form of discrimination.
- 877.27 Subd. 4. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs  
 877.28 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision  
 877.29 2 or 3 and taken within 90 days of an initial action described in subdivision 1 is retaliatory.
- 878.1 (b) The presumption does not apply to actions described in subdivision 2, clause (4), if  
 878.2 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or  
 878.3 agent of the facility against the visitor, family member, or other person with a personal  
 878.4 legal, or professional relationship that is subject to the restriction or prohibition of access.
- 878.5 (c) The presumption does not apply to any oral or written communication described in  
 878.6 subdivision 2, clause (10), that is associated with a good faith report of maltreatment pursuant  
 878.7 to section 626.557 made by the facility or agent of the facility against the person advocating  
 878.8 on behalf of the resident.
- 878.9 (d) The presumption does not apply to a discharge, eviction, transfer, or termination of  
 878.10 services that occurs for a reason permitted under section 144J.08, subdivision 3 or 6, provided  
 878.11 the assisted living facility has complied with the applicable requirements in sections 144J.08  
 878.12 and 144.10.
- 878.13 Subd. 5. **Other laws.** Nothing in this section affects the rights available to a resident  
 878.14 under section 626.557.
- 878.15 **EFFECTIVE DATE.** This section is effective August 1, 2021.
- 878.16 Sec. 7. **[144J.04] DECEPTIVE MARKETING AND BUSINESS PRACTICES**  
 878.17 **PROHIBITED.**
- 878.18 (a) No employee or agent of any facility may make any false, fraudulent, deceptive, or  
 878.19 misleading statements or representations or material omissions in marketing, advertising,  
 878.20 or any other description or representation of care or services.
- 878.21 (b) No assisted living contract may include any provision that the facility knows or  
 878.22 should know to be deceptive, unlawful, or unenforceable under state or federal law, nor

878.23 include any provision that requires or implies a lesser standard of care or responsibility than  
878.24 is required by law.

878.25 (c) No facility may advertise or represent that it is licensed as an assisted living facility  
878.26 with dementia care without complying with disclosure requirements under section 325F.72  
878.27 and any training requirements required under chapter 144I or in rule.

878.28 (d) A violation of this section constitutes a violation of section 325F.69, subdivision 1.  
878.29 The attorney general or a county attorney may enforce this section using the remedies in  
878.30 section 325F.70.

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

879.1 Sec. 8. [144J.05] ELECTRONIC MONITORING IN CERTAIN FACILITIES.

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

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

879.5 (c) "Department" means the Department of Health.

879.6 (d) "Electronic monitoring" means the placement and use of an electronic monitoring  
879.7 device by a resident in the resident's room or private living unit in accordance with this  
879.8 section.

879.9 (e) "Electronic monitoring device" means a camera or other device that captures, records,  
879.10 or broadcasts audio, video, or both, that is placed in a resident's room or private living unit  
879.11 and is used to monitor the resident or activities in the room or private living unit.

879.12 (f) "Facility" means a facility that is:

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

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

879.15 (3) until August 1, 2021, a housing with services establishment registered under chapter  
879.16 144D that is either subject to chapter 144G or has a disclosed special unit under section  
879.17 325F.72; or

879.18 (4) on or after August 1, 2021, an assisted living facility.

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

879.20 (h) "Resident representative" means one of the following in the order of priority listed,  
879.21 to the extent the person may reasonably be identified and located:

## UEH2414-1 ARTICLE 9

307.2 Sec. 21. [144.6502] ELECTRONIC MONITORING IN CERTAIN HEALTH CARE  
307.3 FACILITIES.

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

307.9 (c) "Commissioner" means the commissioner of health.

307.10 (d) "Department" means the Department of Health.

307.6 (b) "Electronic monitoring" means the placement and use of an electronic monitoring  
307.7 device by a resident in the resident's room or private living unit in accordance with this  
307.8 section.

307.11 (e) "Electronic monitoring device" means a camera or other device that captures, records,  
307.12 or broadcasts audio, video, or both, that is placed in a resident's room or private living unit  
307.13 and is used to monitor the resident or activities in the room or private living unit.

307.14 (f) "Facility" means a nursing home licensed under chapter 144A, a boarding care home  
307.15 licensed under sections 144.50 to 144.56, or a housing with services establishment registered  
307.16 under chapter 144D that is either subject to chapter 144G or has a disclosed special unit  
307.17 under section 325F.72.

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

307.19 (h) "Resident representative" means one of the following in the order of priority listed,  
307.20 to the extent the person may reasonably be identified and located:

- 879.22 (1) a court-appointed guardian;
- 879.23 (2) a health care agent as defined in section 145C.01, subdivision 2; or
- 879.24 (3) a person who is not an agent of a facility or of a home care provider designated in  
879.25 writing by the resident and maintained in the resident's records on file with the facility or  
879.26 with the resident's executed housing with services contract or nursing home contract.
- 879.27 **Subd. 2. Electronic monitoring authorized.** (a) A resident or a resident representative  
879.28 may conduct electronic monitoring of the resident's room or private living unit through the  
879.29 use of electronic monitoring devices placed in the resident's room or private living unit as  
879.30 provided in this section.
- 880.1 (b) Nothing in this section precludes the use of electronic monitoring of health care  
880.2 allowed under other law.
- 880.3 (c) Electronic monitoring authorized under this section is not a covered service under  
880.4 home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and  
880.5 256B.49.
- 880.6 (d) This section does not apply to monitoring technology authorized as a home and  
880.7 community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.
- 880.8 **Subd. 3. Consent to electronic monitoring.** (a) Except as otherwise provided in this  
880.9 subdivision, a resident must consent to electronic monitoring in the resident's room or private  
880.10 living unit in writing on a notification and consent form. If the resident has not affirmatively  
880.11 objected to electronic monitoring and the resident's medical professional determines that  
880.12 the resident currently lacks the ability to understand and appreciate the nature and  
880.13 consequences of electronic monitoring, the resident representative may consent on behalf  
880.14 of the resident. For purposes of this subdivision, a resident affirmatively objects when the  
880.15 resident orally, visually, or through the use of auxiliary aids or services declines electronic  
880.16 monitoring. The resident's response must be documented on the notification and consent  
880.17 form.
- 880.18 (b) Prior to a resident representative consenting on behalf of a resident, the resident must  
880.19 be asked if the resident wants electronic monitoring to be conducted. The resident  
880.20 representative must explain to the resident:
- 880.21 (1) the type of electronic monitoring device to be used;
- 880.22 (2) the standard conditions that may be placed on the electronic monitoring device's use,  
880.23 including those listed in subdivision 6;
- 880.24 (3) with whom the recording may be shared under subdivision 10 or 11; and
- 880.25 (4) the resident's ability to decline all recording.
- 880.26 (c) A resident, or resident representative when consenting on behalf of the resident, may  
880.27 consent to electronic monitoring with any conditions of the resident's or resident

- 307.21 (1) a court-appointed guardian;
- 307.22 (2) a health care agent under section 145C.01, subdivision 2; or
- 307.23 (3) a person who is not an agent of a facility or of a home care provider designated in  
307.24 writing by the resident and maintained in the resident's records on file with the facility or  
307.25 with the resident's executed housing with services contract.
- 307.26 **Subd. 2. Electronic monitoring.** (a) A resident or a resident representative may conduct  
307.27 electronic monitoring of the resident's room or private living unit through the use of electronic  
307.28 monitoring devices placed in the resident's room or private living unit as provided in this  
307.29 section.
- 307.30 (b) Nothing in this section precludes the use of electronic monitoring of health care  
307.31 allowed under other law.
- 308.1 (c) Electronic monitoring authorized under this section is not a covered service under  
308.2 home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and  
308.3 256B.49.
- 308.4 (d) This section does not apply to monitoring technology authorized as a home and  
308.5 community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.
- 308.6 **Subd. 3. Consent to electronic monitoring.** (a) Except as otherwise provided in this  
308.7 subdivision, a resident must consent to electronic monitoring in the resident's room or private  
308.8 living unit in writing on a notification and consent form. If the resident has not affirmatively  
308.9 objected to electronic monitoring and the resident's medical professional determines that  
308.10 the resident currently lacks the ability to understand and appreciate the nature and  
308.11 consequences of electronic monitoring, the resident representative may consent on behalf  
308.12 of the resident. For purposes of this subdivision, a resident affirmatively objects when the  
308.13 resident orally, visually, or through the use of auxiliary aids or services declines electronic  
308.14 monitoring. The resident's response must be documented on the notification and consent  
308.15 form.
- 308.16 (b) Prior to a resident representative consenting on behalf of a resident, the resident must  
308.17 be asked if the resident wants electronic monitoring to be conducted. The resident  
308.18 representative must explain to the resident:
- 308.19 (1) the type of electronic monitoring device to be used;
- 308.20 (2) the standard conditions that may be placed on the electronic monitoring device's use,  
308.21 including those listed in subdivision 6;
- 308.22 (3) with whom the recording may be shared under subdivision 10 or 11; and
- 308.23 (4) the resident's ability to decline all recording.
- 308.24 (c) A resident, or resident representative when consenting on behalf of the resident, may  
308.25 consent to electronic monitoring with any conditions of the resident's or resident



880.28 representative's choosing, including the list of standard conditions provided in subdivision  
 880.29 6. A resident, or resident representative when consenting on behalf of the resident, may  
 880.30 request that the electronic monitoring device be turned off or the visual or audio recording  
 880.31 component of the electronic monitoring device be blocked at any time.

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

881.6 (e) Any resident conducting electronic monitoring must immediately remove or disable  
 881.7 an electronic monitoring device prior to a new roommate moving into a shared room or  
 881.8 shared private living unit, unless the resident obtains the roommate's or roommate's resident  
 881.9 representative's written consent as provided under paragraph (d) prior to the roommate  
 881.10 moving into the shared room or shared private living unit. Upon obtaining the new  
 881.11 roommate's signed notification and consent form and submitting the form to the facility as  
 881.12 required under subdivision 5, the resident may resume electronic monitoring.

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

881.17 Subd. 4. Refusal of roommate to consent. If a resident of a facility who is residing in  
 881.18 a shared room or shared living unit, or the resident representative of such a resident when  
 881.19 acting on behalf of the resident, wants to conduct electronic monitoring and another resident  
 881.20 living in or moving into the same shared room or shared living unit refuses to consent to  
 881.21 the use of an electronic monitoring device, the facility shall make a reasonable attempt to  
 881.22 accommodate the resident who wants to conduct electronic monitoring. A facility has met  
 881.23 the requirement to make a reasonable attempt to accommodate a resident or resident  
 881.24 representative who wants to conduct electronic monitoring when, upon notification that a  
 881.25 roommate has not consented to the use of an electronic monitoring device in the resident's  
 881.26 room, the facility offers to move the resident to another shared room or shared living unit  
 881.27 that is available at the time of the request. If a resident chooses to reside in a private room  
 881.28 or private living unit in a facility in order to accommodate the use of an electronic monitoring  
 881.29 device, the resident must pay either the private room rate in a nursing home setting, or the  
 881.30 applicable rent in a housing with services establishment or assisted living facility. If a facility  
 881.31 is unable to accommodate a resident due to lack of space, the facility must reevaluate the  
 881.32 request every two weeks until the request is fulfilled. A facility is not required to provide  
 881.33 a private room, a single-bed room, or a private living unit to a resident who is unable to  
 881.34 pay.

308.26 representative's choosing, including the list of standard conditions provided in subdivision  
 308.27 6. A resident, or resident representative when consenting on behalf of the resident, may  
 308.28 request that the electronic monitoring device be turned off or the visual or audio recording  
 308.29 component of the electronic monitoring device be blocked at any time.

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

309.4 (e) Any resident conducting electronic monitoring must immediately remove or disable  
 309.5 an electronic monitoring device prior to a new roommate moving into a shared room or  
 309.6 shared private living unit, unless the resident obtains the roommate's or roommate's resident  
 309.7 representative's written consent as provided under paragraph (d) prior to the roommate  
 309.8 moving into the shared room or shared private living unit. Upon obtaining the new  
 309.9 roommate's signed notification and consent form and submitting the form to the facility as  
 309.10 required under subdivision 5, the resident may resume electronic monitoring.

309.11 (f) The resident or roommate, or the resident representative or roommate's resident  
 309.12 representative if the representative is consenting on behalf of the resident or roommate, may  
 309.13 withdraw consent at any time and the withdrawal of consent must be documented on the  
 309.14 original consent form as provided under subdivision 5, paragraph (c).

309.15 Subd. 4. Refusal of roommate to consent. If a resident of a facility who is residing in  
 309.16 a shared room or shared living unit, or the resident representative of such a resident when  
 309.17 acting on behalf of the resident, wants to conduct electronic monitoring and another resident  
 309.18 living in or moving into the same shared room or shared living unit refuses to consent to  
 309.19 the use of an electronic monitoring device, the facility shall make a reasonable attempt to  
 309.20 accommodate the resident who wants to conduct electronic monitoring. A facility has met  
 309.21 the requirement to make a reasonable attempt to accommodate a resident or resident  
 309.22 representative who wants to conduct electronic monitoring when, upon notification that a  
 309.23 roommate has not consented to the use of an electronic monitoring device in the resident's  
 309.24 room, the facility offers to move the resident to another shared room or shared living unit  
 309.25 that is available at the time of the request. If a resident chooses to reside in a private room  
 309.26 or private living unit in a facility in order to accommodate the use of an electronic monitoring  
 309.27 device, the resident must pay either the private room rate in a nursing home setting, or the  
 309.28 applicable rent in a housing with services establishment. If a facility is unable to  
 309.29 accommodate a resident due to lack of space, the facility must reevaluate the request every  
 309.30 two weeks until the request is fulfilled. A facility is not required to provide a private room,  
 309.31 a single-bed room, or a private living unit to a resident who is unable to pay.



882.1 Subd. 5. Notice to facility; exceptions. (a) Electronic monitoring may begin only after  
 882.2 the resident or resident representative who intends to place an electronic monitoring device  
 882.3 and any roommate or roommate's resident representative completes the notification and  
 882.4 consent form and submits the form to the facility.

882.5 (b) Notwithstanding paragraph (a), the resident or resident representative who intends  
 882.6 to place an electronic monitoring device may do so without submitting a notification and  
 882.7 consent form to the facility for up to 30 days:

882.8 (1) if the resident or the resident representative reasonably fears retaliation against the  
 882.9 resident by the facility, timely submits the completed notification and consent form to the  
 882.10 Office of Ombudsman for Long-Term Care, and timely submits a Minnesota Adult Abuse  
 882.11 Reporting Center report or police report, or both, upon evidence from the electronic  
 882.12 monitoring device that suspected maltreatment has occurred;

882.13 (2) if there has not been a timely written response from the facility to a written  
 882.14 communication from the resident or resident representative expressing a concern prompting  
 882.15 the desire for placement of an electronic monitoring device and if the resident or a resident  
 882.16 representative timely submits a completed notification and consent form to the Office of  
 882.17 Ombudsman for Long-Term Care; or

882.18 (3) if the resident or resident representative has already submitted a Minnesota Adult  
 882.19 Abuse Reporting Center report or police report regarding the resident's concerns prompting  
 882.20 the desire for placement and if the resident or a resident representative timely submits a  
 882.21 completed notification and consent form to the Office of Ombudsman for Long-Term Care.

882.22 (c) Upon receipt of any completed notification and consent form, the facility must place  
 882.23 the original form in the resident's file or file the original form with the resident's housing  
 882.24 with services contract. The facility must provide a copy to the resident and the resident's  
 882.25 roommate, if applicable.

882.26 (d) In the event that a resident or roommate, or the resident representative or roommate's  
 882.27 resident representative if the representative is consenting on behalf of the resident or  
 882.28 roommate, chooses to alter the conditions under which consent to electronic monitoring is  
 882.29 given or chooses to withdraw consent to electronic monitoring, the facility must make  
 882.30 available the original notification and consent form so that it may be updated. Upon receipt  
 882.31 of the updated form, the facility must place the updated form in the resident's file or file the  
 882.32 original form with the resident's signed housing with services contract. The facility must  
 882.33 provide a copy of the updated form to the resident and the resident's roommate, if applicable.

309.32 Subd. 5. Notice to facility. (a) Electronic monitoring may begin only after the resident  
 309.33 or resident representative who intends to place an electronic monitoring device and any  
 309.34 roommate or roommate's resident representative completes the notification and consent  
 309.35 form and submits the form to the facility.

310.22 (f) Notwithstanding paragraph (a), the resident or resident representative who intends  
 310.23 to place an electronic monitoring device may do so without submitting a notification and  
 310.24 consent form to the facility, provided that:

310.25 (1) the resident or resident representative reasonably fears retaliation by the facility;

310.26 (2) the resident does not have a roommate;

310.27 (3) the resident or resident representative submits the completed notification and consent  
 310.28 form to the Office of the Ombudsman for Long-Term Care;

310.29 (4) the resident or resident representative submits the notification and consent form to  
 310.30 the facility within seven calendar days of placing the electronic monitoring device; and

310.31 (5) the resident or resident representative immediately submits a Minnesota Adult Abuse  
 310.32 Reporting Center report or police report upon evidence from the electronic monitoring  
 310.33 device that suspected maltreatment has occurred between the time the electronic monitoring  
 311.1 device is placed under this paragraph and the time the resident or resident representative  
 311.2 submits the completed notification and consent form to the facility.

310.1 (b) Upon receipt of any completed notification and consent form, the facility must place  
 310.2 the original form in the resident's file or file the original form with the resident's housing  
 310.3 with services contract. The facility must provide a copy to the resident and the resident's  
 310.4 roommate, if applicable.

310.5 (c) In the event that a resident or roommate, or the resident representative or roommate's  
 310.6 resident representative if the representative is consenting on behalf of the resident or  
 310.7 roommate, chooses to alter the conditions under which consent to electronic monitoring is  
 310.8 given or chooses to withdraw consent to electronic monitoring, the facility must make  
 310.9 available the original notification and consent form so that it may be updated. Upon receipt  
 310.10 of the updated form, the facility must place the updated form in the resident's file or file the  
 310.11 original form with the resident's signed housing with services contract. The facility must  
 310.12 provide a copy of the updated form to the resident and the resident's roommate, if applicable.

883.1 (e) If a new roommate, or the new roommate's resident representative when consenting  
 883.2 on behalf of the new roommate, does not submit to the facility a completed notification and  
 883.3 consent form and the resident conducting the electronic monitoring does not remove or  
 883.4 disable the electronic monitoring device, the facility must remove the electronic monitoring  
 883.5 device.

883.6 (f) If a roommate, or the roommate's resident representative when withdrawing consent  
 883.7 on behalf of the roommate, submits an updated notification and consent form withdrawing  
 883.8 consent and the resident conducting electronic monitoring does not remove or disable the  
 883.9 electronic monitoring device, the facility must remove the electronic monitoring device.

883.10 Subd. 6. Form requirements. (a) The notification and consent form completed by the  
 883.11 resident must include, at a minimum, the following information:

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

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

883.17 (ii) who was present when the resident was asked;

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

883.19 (iv) the source of authority allowing the resident representative to sign the notification  
 883.20 and consent form on the resident's behalf;

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

883.24 (i) the date the roommate was asked if the roommate wants electronic monitoring to be  
 883.25 conducted;

883.26 (ii) who was present when the roommate was asked;

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

883.28 (iv) the source of authority allowing the resident representative to sign the notification  
 883.29 and consent form on the roommate's behalf;

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

884.1 (4) a list of standard conditions or restrictions that the resident or a roommate may elect  
 884.2 to place on the use of the electronic monitoring device, including but not limited to:

884.3 (i) prohibiting audio recording;

310.13 (d) If a new roommate, or the new roommate's resident representative when consenting  
 310.14 on behalf of the new roommate, does not submit to the facility a completed notification and  
 310.15 consent form and the resident conducting the electronic monitoring does not remove or  
 310.16 disable the electronic monitoring device, the facility must remove the electronic monitoring  
 310.17 device.

310.18 (e) If a roommate, or the roommate's resident representative when withdrawing consent  
 310.19 on behalf of the roommate, submits an updated notification and consent form withdrawing  
 310.20 consent and the resident conducting electronic monitoring does not remove or disable the  
 310.21 electronic monitoring device, the facility must remove the electronic monitoring device.

311.3 Subd. 6. Form requirements. (a) The notification and consent form completed by the  
 311.4 resident must include, at a minimum, the following information:

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

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

311.10 (ii) who was present when the resident was asked;

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

311.12 (iv) the source of authority allowing the resident representative to sign the notification  
 311.13 and consent form on the resident's behalf;

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

311.17 (i) the date the roommate was asked if the roommate wants electronic monitoring to be  
 311.18 conducted;

311.19 (ii) who was present when the roommate was asked;

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

311.21 (iv) the source of authority allowing the resident representative to sign the notification  
 311.22 and consent form on the resident's behalf;

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

311.24 (4) a list of standard conditions or restrictions that the resident or a roommate may elect  
 311.25 to place on the use of the electronic monitoring device, including but not limited to:

311.26 (i) prohibiting audio recording;

884.4 (ii) prohibiting video recording;

884.5 (iii) prohibiting broadcasting of audio or video;

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

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

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

884.13 (5) any other condition or restriction elected by the resident or roommate on the use of  
 884.14 an electronic monitoring device;

884.15 (6) a statement of the circumstances under which a recording may be disseminated under  
 884.16 subdivision 10;

884.17 (7) a signature box for documenting that the resident or roommate has withdrawn consent;  
 884.18 and

884.19 (8) an acknowledgment that the resident, in accordance with subdivision 3, consents to  
 884.20 the Office of Ombudsman for Long-Term Care and its representatives disclosing information  
 884.21 about the form. Disclosure under this clause shall be limited to:

884.22 (i) the fact that the form was received from the resident or resident representative;

884.23 (ii) if signed by a resident representative, the name of the resident representative and  
 884.24 the source of authority allowing the resident representative to sign the notification and  
 884.25 consent form on the resident's behalf; and

884.26 (iii) the type of electronic monitoring device placed.

884.27 (b) Facilities must make the notification and consent form available to the residents and  
 884.28 inform residents of their option to conduct electronic monitoring of their rooms or private  
 884.29 living unit.

884.30 (c) Notification and consent forms received by the Office of Ombudsman for Long-Term  
 884.31 Care are classified under section 256.9744.

885.1 Subd. 7. **Costs and installation.** (a) A resident or resident representative choosing to  
 885.2 conduct electronic monitoring must do so at the resident's own expense, including paying  
 885.3 purchase, installation, maintenance, and removal costs.

885.4 (b) If a resident chooses to place an electronic monitoring device that uses Internet  
 885.5 technology for visual or audio monitoring, the resident may be responsible for contracting  
 885.6 with an Internet service provider.

311.27 (ii) prohibiting video recording;

311.28 (iii) prohibiting broadcasting of audio or video;

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

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

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

312.8 (5) any other condition or restriction elected by the resident or roommate on the use of  
 312.9 an electronic monitoring device;

312.10 (6) a statement of the circumstances under which a recording may be disseminated under  
 312.11 subdivision 10;

312.12 (7) a signature box for documenting that the resident or roommate has withdrawn consent;  
 312.13 and

312.14 (8) an acknowledgment that the resident, in accordance with subdivision 3, consents,  
 312.15 authorizes, and allows the Office of Ombudsman for Long-Term Care and representatives  
 312.16 of its office to disclose information about the form limited to:

312.17 (i) the fact that the form was received from the resident or resident representative;

312.18 (ii) if signed by a resident representative, the name of the resident representative and  
 312.19 the source of authority allowing the resident representative to sign the notification and  
 312.20 consent form on the resident's behalf; and

312.21 (iii) the type of electronic monitoring device placed.

312.22 (b) Facilities must make the notification and consent form available to the residents and  
 312.23 inform residents of their option to conduct electronic monitoring of their rooms or private  
 312.24 living unit.

312.25 (c) Notification and consent forms received by the Office of Ombudsman for Long-Term  
 312.26 Care are data protected under section 256.9744.

312.27 Subd. 7. **Cost and installation.** (a) A resident choosing to conduct electronic monitoring  
 312.28 must do so at the resident's own expense, including paying purchase, installation,  
 312.29 maintenance, and removal costs.

312.30 (b) If a resident chooses to place an electronic monitoring device that uses Internet  
 312.31 technology for visual or audio monitoring, the resident may be responsible for contracting  
 312.32 with an Internet service provider.

885.7 (c) The facility shall make a reasonable attempt to accommodate the resident's installation  
 885.8 needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when  
 885.9 available for other public uses. A facility has the burden of proving that a requested  
 885.10 accommodation is not reasonable.

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

885.13 **Subd. 8. Notice to visitors.** (a) A facility must post a sign at each facility entrance  
 885.14 accessible to visitors that states: "Electronic monitoring devices, including security cameras  
 885.15 and audio devices, may be present to record persons and activities."

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

885.18 **Subd. 9. Obstruction of electronic monitoring devices.** (a) A person must not knowingly  
 885.19 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a  
 885.20 resident's room or private living unit without the permission of the resident or resident  
 885.21 representative.

885.22 (b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring  
 885.23 device or blocks the visual recording component of the electronic monitoring device at the  
 885.24 direction of the resident or resident representative, or if consent has been withdrawn.

885.25 **Subd. 10. Dissemination of recordings.** (a) No person may access any video or audio  
 885.26 recording created through authorized electronic monitoring without the written consent of  
 885.27 the resident or resident representative.

885.28 (b) Except as required under other law, a recording or copy of a recording made as  
 885.29 provided in this section may only be disseminated for the purpose of addressing health,  
 885.30 safety, or welfare concerns of one or more residents.

885.31 (c) A person disseminating a recording or copy of a recording made as provided in this  
 885.32 section in violation of paragraph (b) may be civilly or criminally liable.

886.1 **Subd. 11. Admissibility of evidence.** Subject to applicable rules of evidence and  
 886.2 procedure, any video or audio recording created through electronic monitoring under this  
 886.3 section may be admitted into evidence in a civil, criminal, or administrative proceeding.

886.4 **Subd. 12. Liability.** (a) For the purposes of state law, the mere presence of an electronic  
 886.5 monitoring device in a resident's room or private living unit is not a violation of the resident's  
 886.6 right to privacy under section 144.651 or 144A.44.

886.7 (b) For the purposes of state law, a facility or home care provider is not civilly or  
 886.8 criminally liable for the mere disclosure by a resident or a resident representative of a  
 886.9 recording.

313.1 (c) The facility shall make a reasonable attempt to accommodate the resident's installation  
 313.2 needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when  
 313.3 available for other public uses.

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

313.6 **Subd. 8. Notice to visitors.** (a) A facility shall post a sign at each facility entrance  
 313.7 accessible to visitors that states "Security cameras and audio devices may be present to  
 313.8 record persons and activities."

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

313.11 **Subd. 9. Obstruction of electronic monitoring devices.** (a) A person must not knowingly  
 313.12 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a  
 313.13 resident's room or private living unit without the permission of the resident or resident  
 313.14 representative.

313.15 (b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring  
 313.16 device or blocks the visual recording component of the electronic monitoring device at the  
 313.17 direction of the resident or resident representative, or if consent has been withdrawn.

313.18 **Subd. 10. Dissemination of recordings.** (a) No person may access any video or audio  
 313.19 recording created through authorized electronic monitoring without the written consent of  
 313.20 the resident or resident representative.

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

313.24 (c) A person disseminating a recording or copy of a recording made as provided in this  
 313.25 section in violation of paragraph (b) may be civilly or criminally liable.

313.26 **Subd. 11. Admissibility of evidence.** Subject to applicable rules of evidence and  
 313.27 procedure, any video or audio recording created through electronic monitoring under this  
 313.28 section may be admitted into evidence in a civil, criminal, or administrative proceeding.

313.29 **Subd. 12. Liability.** (a) For the purposes of state law, the mere presence of an electronic  
 313.30 monitoring device in a resident's room or private living unit is not a violation of the resident's  
 313.31 right to privacy under section 144.651 or 144A.44.

314.1 (b) For the purposes of state law, a facility or home care provider is not civilly or  
 314.2 criminally liable for the mere disclosure by a resident or a resident representative of a  
 314.3 recording.

886.10 Subd. 13. **Immunity from liability.** The Office of Ombudsman for Long-Term Care  
 886.11 and representatives of the office are immune from liability for conduct described in section  
 886.12 256.9742, subdivision 2.

886.13 Subd. 14. **Resident protections.** (a) A facility must not:

886.14 (1) refuse to admit a potential resident or remove a resident because the facility disagrees  
 886.15 with the decision of the potential resident, the resident, or a resident representative acting  
 886.16 on behalf of the resident regarding electronic monitoring;

886.17 (2) retaliate or discriminate against any resident for consenting or refusing to consent  
 886.18 to electronic monitoring, as provided in section 144.6512, 144G.07, or 144J.03; or

886.19 (3) prevent the placement or use of an electronic monitoring device by a resident who  
 886.20 has provided the facility or the Office of Ombudsman for Long-Term Care with notice and  
 886.21 consent as required under this section.

886.22 (b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights  
 886.23 and obligations in this section is contrary to public policy and is void and unenforceable.

886.24 Subd. 15. **Employee discipline.** (a) An employee of the facility or an employee of a  
 886.25 contractor providing services at the facility who is the subject of proposed corrective or  
 886.26 disciplinary action based upon evidence obtained by electronic monitoring must be given  
 886.27 access to that evidence for purposes of defending against the proposed action.

886.28 (b) An employee who obtains a recording or a copy of the recording must treat the  
 886.29 recording or copy confidentially and must not further disseminate it to any other person  
 886.30 except as required under law. Any copy of the recording must be returned to the facility or  
 886.31 resident who provided the copy when it is no longer needed for purposes of defending  
 886.32 against a proposed action.

887.1 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided  
 887.2 under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to  
 887.3 comply with:

887.4 (1) subdivision 5, paragraphs (c) to (f);

887.5 (2) subdivision 6, paragraph (b);

887.6 (3) subdivision 7, paragraph (c); and

887.7 (4) subdivisions 8 to 10 and 14.

887.8 (b) The commissioner may exercise the commissioner's authority under section 144D.05  
 887.9 to compel a housing with services establishment to meet the requirements of this section.

314.4 Subd. 13. **Immunity from liability.** The Office of Ombudsman for Long-Term Care  
 314.5 and representatives of the office are immune from liability as provided under section  
 314.6 256.9742, subdivision 2.

314.7 Subd. 14. **Resident protections.** (a) A facility must not:

314.8 (1) refuse to admit a potential resident or remove a resident because the facility disagrees  
 314.9 with the potential resident's or the resident's decisions regarding electronic monitoring,  
 314.10 including when the decision is made by a resident representative acting on behalf of the  
 314.11 resident;

314.12 (2) retaliate or discriminate against any resident for consenting or refusing to consent  
 314.13 to electronic monitoring; or

314.14 (3) prevent the placement or use of an electronic monitoring device by a resident who  
 314.15 has provided the facility or the Office of the Ombudsman for Long-Term Care with notice  
 314.16 and consent as required under this section.

314.17 (b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights  
 314.18 and obligations in this section is contrary to public policy and is void and unenforceable.

314.19 Subd. 15. **Employee discipline.** An employee of the facility or of a contractor providing  
 314.20 services at the facility, including an arranged home care provider as defined in section  
 314.21 144D.01, subdivision 2a, who is the subject of proposed corrective or disciplinary action  
 314.22 based upon evidence obtained by electronic monitoring must be given access to that evidence  
 314.23 for purposes of defending against the proposed action. The recording or a copy of the  
 314.24 recording must be treated confidentially by the employee and must not be further  
 314.25 disseminated to any other person except as required under law. Any copy of the recording  
 314.26 must be returned to the facility or resident who provided the copy when it is no longer  
 314.27 needed for purposes of defending against a proposed action.

314.28 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided  
 314.29 under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to  
 314.30 comply with subdivision 5, paragraphs (b) to (e); 6, paragraph (b); 7, paragraph (c); 8; 9;  
 314.31 10; or 14. For each violation of this section, the commissioner may impose a fine up to \$500  
 314.32 upon a finding of noncompliance with a correction order issued according to this subdivision.

315.1 (b) The commissioner may exercise the commissioner's authority provided under section  
 315.2 144D.05 to compel a housing with services establishment to meet the requirements of this  
 315.3 section.

887.10 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to all contracts  
887.11 in effect, entered into, or renewed on or after that date.

887.12 Sec. 9. [144J.06] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT

887.13 All facilities must, regardless of the source of payment and for all persons seeking to  
887.14 reside or residing in the facility:

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

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

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

887.19 Sec. 10. [144J.07] CONSUMER ADVOCACY AND LEGAL SERVICES

887.20 Upon execution of an assisted living contract, every facility must provide the resident  
887.21 and the resident's legal and designated representatives with the names and contact  
887.22 information, including telephone numbers and e-mail addresses, of:

887.23 (1) nonprofit organizations that provide advocacy or legal services to residents including  
887.24 but not limited to the designated protection and advocacy organization in Minnesota that  
887.25 provides advice and representation to individuals with disabilities; and

887.26 (2) the Office of Ombudsman for Long-Term Care, including both the state and regional  
887.27 contact information.

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

888.1 Sec. 11. [144J.08] INVOLUNTARY DISCHARGES AND SERVICE  
888.2 TERMINATIONS.

315.4 **EFFECTIVE DATE.** This section is effective January 1, 2020, and applies to all  
315.5 agreements in effect, entered into, or renewed on or after that date.

349.18 Sec. 63. **DIRECTION TO THE COMMISSIONER OF HEALTH.**

349.19 The commissioner of health shall prescribe the notification and consent form described  
349.20 in Minnesota Statutes, section 144.6502, subdivision 6, no later than January 1, 2020. The  
349.21 commissioner shall make the form available on the department's website.

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

354.1 Sec. 70. **TRANSITION TO AUTHORIZED ELECTRONIC MONITORING IN**  
354.2 **CERTAIN HEALTH CARE FACILITIES.**

354.3 Any resident, resident representative, or other person conducting electronic monitoring  
354.4 in a resident's room or private living unit prior to January 1, 2020, must comply with the  
354.5 requirements of Minnesota Statutes, section 144.6502, by January 1, 2020.

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

888.3 Subdivision 1. **Definitions.** (a) For the purposes of this section and sections 144J.09 and  
888.4 144J.10, the following terms have the meanings given them.

888.5 (b) "Facility" means:

888.6 (1) a housing with services establishment registered under section 144D.02 and operating  
888.7 under title protection provided under chapter 144G; or

888.8 (2) on or after August 1, 2021, an assisted living facility.

888.9 (c) "Refusal to readmit" means a refusal by an assisted living facility, upon a request  
888.10 from a resident or an agent of the resident, to allow the resident to return to the facility,  
888.11 whether or not a notice of termination of housing or services has been issued.

888.12 (d) "Termination of housing or services" or "termination" means an involuntary  
888.13 facility-initiated discharge, eviction, transfer, or service termination not initiated at the oral  
888.14 or written request of the resident or to which the resident objects.

888.15 Subd. 2. **Prerequisite to termination of housing or services.** Before issuing a notice  
888.16 of termination, a facility must explain in person and in detail the reasons for the termination,  
888.17 and must convene a conference with the resident, the resident's legal representatives, the  
888.18 resident's designated representative, the resident's family, applicable state and social services  
888.19 agencies, and relevant health professionals to identify and offer reasonable accommodations  
888.20 and modifications, interventions, or alternatives to avoid the termination.

888.21 Subd. 3. **Permissible reasons to terminate housing or services.** (a) A facility is  
888.22 prohibited from terminating housing or services for grounds other than those specified in  
888.23 paragraphs (b) and (c). A facility initiating a termination under paragraph (b) or (c) must  
888.24 comply with subdivision 2.

888.25 (b) A facility may not initiate a termination unless the termination is necessary and the  
888.26 facility produces a written determination, supported by documentation, of the necessity of  
888.27 the termination. A termination is necessary only if:

888.28 (1) the resident has engaged in documented conduct that substantially interferes with  
888.29 the rights, health, or safety of other residents;

888.30 (2) the resident has committed any of the acts enumerated under section 504B.171 that  
888.31 substantially interfere with the rights, health, or safety of other residents; or

889.1 (3) the facility can demonstrate that the resident's needs exceed the scope of services for  
889.2 which the resident contracted or which are included in the resident's service plan.

889.3 (c) A facility may initiate a termination for nonpayment, provided the facility:

889.4 (1) makes reasonable efforts to accommodate temporary financial hardship;



- 889.5 (2) informs the resident of private subsidies and public benefits options that may be  
 889.6 available, including but not limited to benefits available under sections 256B.0915 and  
 889.7 256B.49; and
- 889.8 (3) if the resident applies for public benefits, timely responds to state or county agency  
 889.9 questions regarding the application.
- 889.10 (d) A facility may not initiate a termination of housing or services to a resident receiving  
 889.11 public benefits in the event of a temporary interruption in benefits. A temporary interruption  
 889.12 of benefits does not constitute nonpayment.
- 889.13 Subd. 4. **Notice of termination required.** (a) A facility initiating a termination of housing  
 889.14 or services must issue a written notice that complies with subdivision 5 at least 30 days  
 889.15 prior to the effective date of the termination to the resident, to the resident's legal  
 889.16 representative and designated representative, or if none, to a family member if known, and  
 889.17 to the Ombudsman for Long-Term Care.
- 889.18 (b) A facility may relocate a resident with less than 30 days' notice only in the event of  
 889.19 emergencies, as provided in subdivision 6.
- 889.20 (c) The notice requirements in paragraph (a) do not apply if the facility's license is  
 889.21 restricted by the commissioner or the facility ceases operations. In the event of a license  
 889.22 restriction or cessation of operations, the facility must follow the commissioner's directions  
 889.23 for resident relocations contained in section 144J.10.
- 889.24 Subd. 5. **Content of notice.** The notice required under subdivision 4 must contain, at a  
 889.25 minimum:
- 889.26 (1) the effective date of the termination;
- 889.27 (2) a detailed explanation of the basis for the termination, including, but not limited to,  
 889.28 clinical or other supporting rationale;
- 889.29 (3) contact information for, and a statement that the resident has the right to appeal the  
 889.30 termination to, the Office of Administrative Hearings;
- 889.31 (4) contact information for the Ombudsman for Long-Term Care;
- 890.1 (5) the name and contact information of a person employed by the facility with whom  
 890.2 the resident may discuss the notice of termination of housing or services;
- 890.3 (6) if the termination is for services, a statement that the notice of termination of services  
 890.4 does not constitute a termination of housing or an eviction from the resident's home, and  
 890.5 that the resident has the right to remain in the facility if the resident can secure necessary  
 890.6 services from another provider of the resident's choosing; and
- 890.7 (7) if the resident must relocate;



- 890.8 (i) a statement that the facility must actively participate in a coordinated transfer of the  
890.9 resident's care to a safe and appropriate service provider; and
- 890.10 (ii) the name of and contact information for the new location or provider, or a statement  
890.11 that the location or provider must be identified prior to the effective date of the termination.
- 890.12 Subd. 6. **Exception for emergencies.** (a) A facility may relocate a resident from a facility  
890.13 with less than 30 days' notice if relocation is required:
- 890.14 (1) due to a resident's urgent medical needs and is ordered by a licensed health care  
890.15 professional; or
- 890.16 (2) because of an imminent risk to the health or safety of another resident or a staff  
890.17 member of the facility.
- 890.18 (b) A facility relocating a resident under this subdivision must:
- 890.19 (1) remove the resident to an appropriate location. A private home where the occupant  
890.20 is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel is not  
890.21 an appropriate location; and
- 890.22 (2) provide notice of the contact information for and location to which the resident has  
890.23 been relocated, contact information for any new service provider and for the Ombudsman  
890.24 for Long-Term Care, the reason for the relocation, a statement that, if the resident is refused  
890.25 readmission to the facility, the resident has the right to appeal any refusal to readmit to the  
890.26 Office of Administrative Hearings, and, if ascertainable, the approximate date or range of  
890.27 dates when the resident is expected to return to the facility or a statement that such date is  
890.28 not currently ascertainable, to:
- 890.29 (i) the resident, the resident's legal representative and designated representative, or if  
890.30 none, a family member if known immediately upon relocation of the resident; and
- 890.31 (ii) the Office of Ombudsman for Long-Term Care as soon as practicable if the resident  
890.32 has been relocated from the facility for more than 48 hours.
- 891.1 (c) The resident has the right to return to the facility if the conditions under paragraph  
891.2 (a) no longer exist.
- 891.3 (d) If the facility determines that the resident cannot return to the facility or the facility  
891.4 cannot provide the necessary services to the resident upon return, the facility must as soon  
891.5 as practicable but in no event later than 24 hours after the refusal or determination, comply  
891.6 with subdivision 4, and section 144J.10.
- 891.7 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,  
891.8 2021, for housing with services establishments registered under section 144D.02 and  
891.9 operating under title protection provided by and subject to chapter 144G.
- 891.10 (b) This section is effective for assisted living facilities August 1, 2021.

891.11 Sec. 12. [144J.09] APPEAL OF TERMINATION OF HOUSING OR SERVICES.

891.12 Subdivision 1. Right to appeal termination of housing or services. A resident, the  
 891.13 resident's legal representative or designated representative, or a family member, has the  
 891.14 right to appeal a termination of housing or services or a facility's refusal to readmit the  
 891.15 resident after an emergency relocation and to request a contested case hearing with the  
 891.16 Office of Administrative Hearings.

891.17 Subd. 2. Appeals process. (a) An appeal and request for a contested case hearing must  
 891.18 be filed in writing or electronically as authorized by the chief administrative law judge.

891.19 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon  
 891.20 as practicable, and in any event no later than 14 calendar days after the office receives the  
 891.21 request and within three business days in the event of an appeal of a refusal to readmit. The  
 891.22 hearing must be held at the facility where the resident lives, unless it is impractical or the  
 891.23 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing  
 891.24 may also be attended by telephone as allowed by the administrative law judge, after  
 891.25 considering how a telephonic hearing will affect the resident's ability to participate. The  
 891.26 hearing shall be limited to the amount of time necessary for the participants to expeditiously  
 891.27 present the facts about the proposed termination or refusal to readmit. The administrative  
 891.28 law judge shall issue a recommendation to the commissioner as soon as practicable, and in  
 891.29 any event no later than ten calendar days after the hearing or within two calendar days after  
 891.30 the hearing in the case of a refusal to readmit.

891.31 (c) The facility bears the burden of proof to establish by a preponderance of the evidence  
 891.32 that the termination of housing or services or the refusal to readmit is permissible under law  
 891.33 and does not constitute retaliation under section 144G.07 or 144J.03.

892.1 (d) Appeals from final determinations issued by the Office of Administrative Hearings  
 892.2 shall be as provided in sections 14.63 to 14.68.

892.3 (e) The Office of Administrative Hearings must grant the appeal and the commissioner  
 892.4 of health may order the assisted living facility to rescind the termination of housing and  
 892.5 services or readmit the resident if:

892.6 (1) the termination or refusal to readmit was in violation of state or federal law;

892.7 (2) the resident cures or demonstrates the ability to cure the reason for the termination  
 892.8 or refusal to readmit, or has identified any reasonable accommodation or modification,  
 892.9 intervention, or alternative to the termination;

892.10 (3) termination would result in great harm or potential great harm to the resident as  
 892.11 determined by a totality of the circumstances; or

892.12 (4) the facility has failed to identify a safe and appropriate location to which the resident  
 892.13 is to be relocated as required under section 144J.10.

892.14 (f) The Office of Administrative Hearings has the authority to make any other  
892.15 determinations or orders regarding any conditions that may be placed upon the resident's  
892.16 readmission or continued residency, including but not limited to changes to the service plan  
892.17 or required increases in services.

892.18 (g) Nothing in this section limits the right of a resident or the resident's designated  
892.19 representative to request or receive assistance from the Office of Ombudsman for Long-Term  
892.20 Care and the protection and advocacy agency protection and advocacy system designated  
892.21 by the state under Code of Federal Regulations, title 45, section 1326.21, concerning the  
892.22 termination of housing or services.

892.23 Subd. 3. **Representation at the hearing.** Parties may, but are not required to, be  
892.24 represented by counsel at a contested case hearing on an appeal. The appearance of a party  
892.25 without counsel does not constitute the unauthorized practice of law.

892.26 Subd. 4. **Service provision while appeal pending.** Housing or services may not be  
892.27 terminated during the pendency of an appeal and until a final determination is made by the  
892.28 Office of Administrative Hearings.

892.29 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,  
892.30 2021, for housing with services establishments registered under section 144D.02 and  
892.31 operating under title protection provided by and subject to chapter 144G.

892.32 (b) This section is effective for assisted living facilities August 1, 2021.

893.1 Sec. 13. [144J.10] HOUSING AND SERVICE TERMINATION; RELOCATION  
893.2 PLANNING.

893.3 Subdivision 1. **Duties of the facility.** If a facility terminates housing or services, if a  
893.4 facility intends to cease operations, or if a facility's license is restricted by the commissioner  
893.5 requiring termination of housing or services to residents, the facility:

893.6 (1) in the event of a termination of housing, has an affirmative duty to ensure a  
893.7 coordinated and orderly transfer of the resident to a safe location that is appropriate for the  
893.8 resident. The facility must identify that location prior to any appeal hearing;

893.9 (2) in the event of a termination of services, has an affirmative duty to ensure a  
893.10 coordinated and orderly transfer of the resident to an appropriate service provider, if services  
893.11 are still needed and desired by the resident. The facility must identify the provider prior to  
893.12 any appeal hearing; and

893.13 (3) must consult and cooperate with the resident; the resident's legal representatives,  
893.14 designated representative, and family members; any interested professionals, including case  
893.15 managers; and applicable agencies to consider the resident's goals and make arrangements  
893.16 to relocate the resident.

893.17 Subd. 2. **Safe location.** A safe location is not a private home where the occupant is  
893.18 unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility

- 893.19 may not terminate a resident's housing or services if the resident will, as a result of the  
893.20 termination, become homeless, as that term is defined in section 116L.361, subdivision 5,  
893.21 or if an adequate and safe discharge location or adequate and needed service provider has  
893.22 not been identified.
- 893.23 Subd. 3. **Written relocation plan required.** The facility must prepare a written relocation  
893.24 plan for a resident being relocated. The plan must:
- 893.25 (1) contain all the necessary steps to be taken to reduce transfer trauma; and
- 893.26 (2) specify the measures needed until relocation that protect the resident and meet the  
893.27 resident's health and safety needs.
- 893.28 Subd. 4. **No relocation without receiving setting accepting.** A facility may not relocate  
893.29 the resident unless the place to which the resident will be relocated indicates acceptance of  
893.30 the resident.
- 893.31 Subd. 5. **No termination of services without another provider.** If a resident continues  
893.32 to need and desire the services provided by the facility, the facility may not terminate services  
893.33 unless another service provider has indicated that it will provide those services.
- 894.1 Subd. 6. **Information that must be conveyed.** If a resident is relocated to another facility  
894.2 or to a nursing home, or if care is transferred to another provider, the facility must timely  
894.3 convey to that facility, nursing home, or provider:
- 894.4 (1) the resident's full name, date of birth, and insurance information;
- 894.5 (2) the name, telephone number, and address of the resident's designated representatives  
894.6 and legal representatives, if any;
- 894.7 (3) the resident's current documented diagnoses that are relevant to the services being  
894.8 provided;
- 894.9 (4) the resident's known allergies that are relevant to the services being provided;
- 894.10 (5) the name and telephone number of the resident's physician, if known, and the current  
894.11 physician orders that are relevant to the services being provided;
- 894.12 (6) all medication administration records that are relevant to the services being provided;
- 894.13 (7) the most recent resident assessment, if relevant to the services being provided; and
- 894.14 (8) copies of health care directives, "do not resuscitate" orders, and any guardianship  
894.15 orders or powers of attorney.
- 894.16 Subd. 7. **Final accounting; return of money and property.** (a) Within 30 days of the  
894.17 effective date of the termination of housing or services, the facility must:

- 894.18 (1) provide to the resident, resident's legal representatives, and the resident's designated  
894.19 representative a final statement of account;
- 894.20 (2) provide any refunds due;
- 894.21 (3) return any money, property, or valuables held in trust or custody by the facility; and
- 894.22 (4) as required under section 504B.178, refund the resident's security deposit unless it  
894.23 is applied to the first month's charges.
- 894.24 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,  
894.25 2021, for housing with services establishments registered under section 144D.02 and  
894.26 operating under title protection provided by and subject to chapter 144G.
- 894.27 (b) This section is effective for assisted living facilities August 1, 2021.
- 895.1 Sec. 14. [144J.11] FORCED ARBITRATION.
- 895.2 (a) An assisted living facility must affirmatively disclose, orally and conspicuously in  
895.3 writing in an assisted living contract, any arbitration provision in the contract that precludes  
895.4 limits, or delays the ability of a resident from taking a civil action.
- 895.5 (b) A forced arbitration requirement must not include a choice of law or choice of venue  
895.6 provision. Assisted living contracts must adhere to Minnesota law and any other applicable  
895.7 federal or local law. Any civil actions by any litigant must be taken in Minnesota judicial  
895.8 or administrative courts.
- 895.9 (c) A forced arbitration provision must not be unconscionable. All or the portion of a  
895.10 forced arbitration provision found by a court to be unconscionable shall have no effect on  
895.11 the remaining provisions, terms, or conditions of the contract.
- 895.12 **EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered  
895.13 into on or after that date.
- 895.14 Sec. 15. [144J.12] VIOLATION OF RIGHTS.
- 895.15 (a) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause  
895.16 of action under section 325F.71, subdivision 4, for the violation of section 144J.02,  
895.17 subdivisions 12, 15, and 18, or section 144J.04.
- 895.18 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause  
895.19 of action under section 325F.71, subdivision 4, for the violation of section 144J.03, unless  
895.20 the resident otherwise has a cause of action under section 626.557, subdivision 17.
- 895.21 **EFFECTIVE DATE.** This section is effective August 1, 2021.
- 895.22 Sec. 16. [144J.13] APPLICABILITY OF OTHER LAWS.
- 895.23 Assisted living facilities:

895.24 (1) are subject to and must comply with chapter 504B;

895.25 (2) must comply with section 325F.72; and

895.26 (3) are not required to obtain a lodging license under chapter 157 and related rules.

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

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

896.2 Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31

896.3 for repeated and intentional violations of this section. However, no private right of action

896.4 may be maintained as provided under section 8.31, subdivision 3a.

896.5 **ARTICLE 15**

896.6 **INDEPENDENT SENIOR LIVING FACILITIES**

896.7 Section 1. [144K.01] DEFINITIONS.

896.8 Subdivision 1. **Applicability.** For the purposes of this chapter, the definitions in this

896.9 section have the meanings given.

896.10 Subd. 2. **Dementia.** "Dementia" has the meaning given in section 144I.01, subdivision

896.11 16.

896.12 Subd. 3. **Designated representative.** "Designated representative" means a person

896.13 designated in writing by the resident in a residency and services contract and identified in

896.14 the resident's records on file with the independent senior living facility.

896.15 Subd. 4. **Facility.** "Facility" means an independent senior living facility.

896.16 Subd. 5. **Independent senior living facility.** "Independent senior living facility" means

896.17 a facility that, for a fee, provides sleeping accommodations to one or more adults and offers

896.18 or provides one or more supportive services directly or through a related supportive services

896.19 provider. For purposes of this chapter, independent senior living facility does not include:

896.20 (1) emergency shelter, transitional housing, or any other residential units serving

896.21 exclusively or primarily homeless individuals, as defined under section 116L.361;

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

896.23 (3) a hospital, certified boarding care home, or supervised living facility licensed under

896.24 sections 144.50 to 144.56;

896.25 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts

896.26 9520.0500 to 9520.0670, or under chapter 245D or 245G;

896.27 (5) a lodging establishment serving as a shelter for individuals fleeing domestic violence;

- 896.28 (6) services and residential settings licensed under chapter 245A, including adult foster  
 896.29 care and services and settings governed under the standards in chapter 245D;
- 897.1 (7) private homes where the residents own or rent the home and control all aspects of  
 897.2 the property and building;
- 897.3 (8) a duly organized condominium, cooperative, and common interest community, or  
 897.4 owners' association of the condominium, cooperative, and common interest community  
 897.5 where at least 80 percent of the units that comprise the condominium, cooperative, or  
 897.6 common interest community are occupied by individuals who are the owners, members, or  
 897.7 shareholders of the units;
- 897.8 (9) temporary family health care dwellings as defined in sections 394.307 and 462.3593;
- 897.9 (10) settings offering services conducted by and for the adherents of any recognized  
 897.10 church or religious denomination for its members through spiritual means or by prayer for  
 897.11 healing;
- 897.12 (11) housing financed pursuant to sections 462A.37 and 462A.375, units financed with  
 897.13 low-income housing tax credits pursuant to United States Code, title 26, section 42, and  
 897.14 units financed by the Minnesota Housing Finance Agency that are intended to serve  
 897.15 individuals with disabilities or individuals who are homeless;
- 897.16 (12) rental housing developed under United States Code, title 42, section 1437, or United  
 897.17 States Code, title 12, section 1701q;
- 897.18 (13) rental housing designated for occupancy by only elderly or elderly and disabled  
 897.19 residents under United States Code, title 42, section 1437e, or rental housing for qualifying  
 897.20 families under Code of Federal Regulations, title 24, section 983.56;
- 897.21 (14) rental housing funded under United States Code, title 42, chapter 89, or United  
 897.22 States Code, title 42, section 8011; or
- 897.23 (15) an assisted living facility or assisted living facility with dementia care licensed  
 897.24 under chapter 144I.
- 897.25 Subd. 6. **Manager.** "Manager" means a manager of an independent senior living facility.
- 897.26 Subd. 7. **Residency and services contract or contract.** "Residency and services contract"  
 897.27 or "contract" means the legal agreement between an independent senior living facility and  
 897.28 a resident for the provision of housing and supportive services.
- 897.29 Subd. 8. **Related supportive services provider.** "Related supportive services provider"  
 897.30 means a service provider that provides supportive services to a resident under a business  
 897.31 relationship or other affiliation with the independent senior living facility.
- 898.1 Subd. 9. **Resident.** "Resident" means a person residing in an independent senior living  
 898.2 facility.

- 898.3 Subd. 10. **Supportive services.** "Supportive services" means:
- 898.4 (1) assistance with laundry, shopping, and household chores;
- 898.5 (2) housekeeping services;
- 898.6 (3) provision of meals or assistance with meals or food preparation;
- 898.7 (4) help with arranging, or arranging transportation to, medical, social, recreational,
- 898.8 personal, or social services appointments; or
- 898.9 (5) provision of social or recreational services.
- 898.10 Arranging for services does not include making referrals or contacting a service provider
- 898.11 in an emergency.
- 898.12 Subd. 11. **Wellness check services.** "Wellness check services" means having
- 898.13 maintaining, and documenting a system to, by any means, check on the health, safety, and
- 898.14 well-being of a resident.
- 898.15 Sec. 2. [144K.02] DECEPTIVE MARKETING AND BUSINESS PRACTICES
- 898.16 PROHIBITED.
- 898.17 (a) No employee or agent of any independent senior living facility may make any false,
- 898.18 fraudulent, deceptive, or misleading statements or representations or material omissions in
- 898.19 marketing, advertising, or any other description or representation of care or services.
- 898.20 (b) No residency and services contract required under section 144K.03, subdivision 1,
- 898.21 may include any provision that the facility knows or should know to be deceptive, unlawful,
- 898.22 or unenforceable under state or federal law.
- 898.23 (c) No facility may advertise or represent that the facility is an assisted living facility as
- 898.24 defined in section 144I.01, subdivision 6, or an assisted living facility with dementia care
- 898.25 as defined in section 144I.01, subdivision 8.
- 898.26 Sec. 3. [144K.025] REQUIRED DISCLOSURE BY FACILITY.
- 898.27 An independent senior living facility must disclose to prospective residents and residents
- 898.28 that the facility is not licensed as an assisted living facility and is not permitted to provide
- 898.29 assisted living services, as defined in section 144I.01, subdivision 7, either directly or through
- 898.30 a provider under a business relationship or other affiliation with the facility.
- 899.1 Sec. 4. [144K.03] RESIDENCY AND SERVICES CONTRACT.
- 899.2 Subdivision 1. **Contract required.** (a) No independent senior living facility may operate
- 899.3 in this state unless a written contract that meets the requirements of subdivision 2 is executed
- 899.4 between the facility and each resident and unless the establishment operates in accordance
- 899.5 with the terms of the contract.



- 899.6 (b) The facility must give a complete copy of any signed contract and any addendums,  
 899.7 and all supporting documents and attachments, to the resident promptly after a contract and  
 899.8 any addendums have been signed by the resident.
- 899.9 (c) The contract must contain all the terms concerning the provision of housing and  
 899.10 supportive services, whether the services are provided directly or through a related supportive  
 899.11 services provider.
- 899.12 Subd. 2. **Contents of contract.** A residency and services contract must include at least  
 899.13 the following elements in itself or through supporting documents or attachments:
- 899.14 (1) the name, telephone number, and physical mailing address, which may not be a  
 899.15 public or private post office box, of:
- 899.16 (i) the facility and, where applicable, the related supportive services provider;  
 899.17 (ii) the managing agent of the facility, if applicable; and  
 899.18 (iii) at least one natural person who is authorized to accept service of process on behalf  
 899.19 of the facility;
- 899.20 (2) the term of the contract;
- 899.21 (3) a description of all the terms and conditions of the contract, including a description  
 899.22 of the services to be provided and any limitations to the services provided to the resident  
 899.23 for the contracted amount;
- 899.24 (4) a delineation of the grounds under which the resident may be evicted or have services  
 899.25 terminated;
- 899.26 (5) billing and payment procedures and requirements;
- 899.27 (6) a statement regarding the ability of a resident to receive services from service  
 899.28 providers with whom the facility does not have a business relationship;
- 899.29 (7) a description of the facility's complaint resolution process available to residents,  
 899.30 including the name and contact information of the person representing the facility who is  
 899.31 designated to handle and resolve complaints;
- 900.1 (8) the toll-free complaint line for the Office of Ombudsman for Long-Term Care; and  
 900.2 (9) a statement regarding the availability of and contact information for long-term care  
 900.3 consultation services under section 256B.0911 in the county in which the facility is located.
- 900.4 Subd. 3. **Designation of representative.** (a) Before or at the time of execution of a  
 900.5 residency and services contract, every facility must offer the resident the opportunity to  
 900.6 identify a designated representative in writing in the contract and provide the following  
 900.7 verbatim notice on a document separate from the contract:

900.8 **RIGHT TO DESIGNATE A REPRESENTATIVE FOR CERTAIN PURPOSES.**

900.9 You have the right to name anyone as your "Designated Representative" to assist you  
 900.10 or, if you are unable, advocate on your behalf. A "Designated Representative" does not take  
 900.11 the place of your guardian, conservator, power of attorney ("attorney-in-fact"), or health  
 900.12 care power of attorney ("health care agent").

900.13 (b) The contract must contain a page or space for the name and contact information of  
 900.14 the designated representative and a box the resident must initial if the resident declines to  
 900.15 name a designated representative. Notwithstanding subdivision 5, the resident has the right  
 900.16 at any time to add or change the name and contact information of the designated  
 900.17 representative.

900.18 Subd. 4. **Contracts are consumer contracts.** A contract under this section is a consumer  
 900.19 contract under sections 325G.29 to 325G.37.

900.20 Subd. 5. **Additions and amendments to contract.** The resident must agree in writing  
 900.21 to any additions or amendments to the contract. Upon agreement between the resident or  
 900.22 resident's designated representative and the facility, a new contract or an addendum to the  
 900.23 existing contract must be executed and signed and provided to the resident and the resident's  
 900.24 legal representative.

900.25 Subd. 6. **Contracts in permanent files.** Residency and services contracts and related  
 900.26 documents executed by each resident must be maintained by the facility in files from the  
 900.27 date of execution until three years after the contract is terminated.

900.28 Subd. 7. **Waivers of liability prohibited.** The contract must not include a waiver of  
 900.29 facility liability for the health and safety or personal property of a resident. The contract  
 900.30 must not include any provision that the facility knows or should know to be deceptive,  
 900.31 unlawful, or unenforceable under state or federal law, and must not include any provision  
 900.32 that requires or implies a lesser standard of responsibility than is required by law.

901.1 Subd. 8. **Contract restriction.** No independent senior living facility may offer wellness  
 901.2 check services.

901.3 Sec. 5. **[144K.04] TERMINATION OF RESIDENCY AND SERVICES CONTRACT.**

901.4 Subdivision 1. **Notice required.** An independent senior living facility must provide at  
 901.5 least 30 days prior notice of a termination of the residency and services contract.

901.6 Subd. 2. **Content of notice.** The notice required under subdivision 1 must contain, at a  
 901.7 minimum:

901.8 (1) the effective date of termination of the contract;

901.9 (2) a detailed explanation of the basis for the termination;

901.10 (3) a list of known facilities in the immediate geographic area.

- 901.11 (4) information on how to contact the Office of Ombudsman for Long-Term Care and  
 901.12 the Ombudsman for Mental Health and Developmental Disabilities;
- 901.13 (6) a statement of any steps the resident can take to avoid termination;
- 901.14 (7) the name and contact information of a person employed by the facility with whom  
 901.15 the resident may discuss the notice of termination and, without extending the termination  
 901.16 notice period, an affirmative offer to meet with the resident and any person or persons of  
 901.17 the resident's choosing to discuss the termination;
- 901.18 (8) a statement that, with respect to the notice of termination, reasonable accommodation  
 901.19 is available for a resident with a disability; and
- 901.20 (9) an explanation that:
- 901.21 (i) the resident must vacate the apartment, along with all personal possessions, on or  
 901.22 before the effective date of termination;
- 901.23 (ii) failure to vacate the apartment by the date of termination may result in the filing of  
 901.24 an eviction action in court by the facility, and that the resident may present a defense, if  
 901.25 any, to the court at that time; and
- 901.26 (iii) the resident may seek legal counsel in connection with the notice of termination.
- 901.27 Sec. 6. [144K.05] MANAGER REQUIREMENTS.
- 901.28 (a) The manager of an independent senior living facility must obtain at least 30 hours  
 901.29 of continuing education every two years of employment as the manager in topics relevant  
 901.30 to the operations of the facility and the needs of its residents. Continuing education earned  
 902.1 to maintain a professional license, such as a nursing home administrator license, nursing  
 902.2 license, social worker license, or real estate license, may be used to satisfy this requirement.  
 902.3 The continuing education must include at least four hours of documented training on dementia  
 902.4 and related disorders, activities of daily living, problem solving with challenging behaviors,  
 902.5 and communication skills within 160 working hours of hire and two hours of training on  
 902.6 these topics for each 12 months of employment thereafter.
- 902.7 (b) The facility must maintain records for at least three years demonstrating that the  
 902.8 manager has attended educational programs as required by this section. New managers may  
 902.9 satisfy the initial dementia training requirements by producing written proof of having  
 902.10 previously completed training within the past 18 months.
- 902.11 Sec. 7. [144K.06] FIRE PROTECTION AND PHYSICAL ENVIRONMENT.
- 902.12 Subdivision 1. **Comprehensive fire protection system required.** Every independent  
 902.13 senior living facility must have a comprehensive fire protection system that includes:
- 902.14 (1) protection throughout the facility by an approved supervised automatic sprinkler  
 902.15 system according to building code requirements established in Minnesota Rules, part

- 902.16 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance  
 902.17 with the National Fire Protection Association (NFPA) Standard 72;
- 902.18 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard  
 902.19 10; and
- 902.20 (3) the physical environment, including walls, floors, ceiling, all furnishings, grounds,  
 902.21 systems, and equipment kept in a continuous state of good repair and operation with regard  
 902.22 to the health, safety, comfort, and well-being of the residents in accordance with a  
 902.23 maintenance and repair program.
- 902.24 Subd. 2. **Fire drills.** Fire drills shall be conducted in accordance with the residential  
 902.25 board and care requirements in the Life Safety Code.
- 902.26 Sec. 8. [144K.07] EMERGENCY PLANNING.
- 902.27 Subdivision 1. **Requirements.** Each independent senior living facility must meet the  
 902.28 following requirements:
- 902.29 (1) have a written emergency disaster plan that contains a plan for evacuation, addresses  
 902.30 elements of sheltering in-place, identifies temporary relocation sites, and details staff  
 902.31 assignments in the event of a disaster or an emergency;
- 903.1 (2) post an emergency disaster plan prominently;
- 903.2 (3) provide building emergency exit diagrams to all residents upon signing a residency  
 903.3 and services contract;
- 903.4 (4) post emergency exit diagrams on each floor; and
- 903.5 (5) have a written policy and procedure regarding missing residents.
- 903.6 Subd. 2. **Emergency and disaster training.** Each independent senior living facility  
 903.7 must provide emergency and disaster training to all staff during the initial staff orientation  
 903.8 and annually thereafter and must make emergency and disaster training available to all  
 903.9 residents annually. Staff who have not received emergency and disaster training are allowed  
 903.10 to work only when trained staff are also working on site.
- 903.11 Sec. 9. [144K.08] OTHER LAWS.
- 903.12 An independent senior living facility must comply with chapter 504B and must obtain  
 903.13 and maintain all other licenses, permits, registrations, or other governmental approvals  
 903.14 required of it.
- 903.15 **EFFECTIVE DATE.** This section is effective August 1, 2021.
- 903.16 Sec. 10. [144K.09] ENFORCEMENT.

903.17 (a) A violation of this chapter constitutes a violation of section 325F.69, subdivision 1.  
 903.18 The attorney general may enforce this section using the remedies in section 325F.70.

903.19 (b) A resident who meets the criteria in section 325F.71, subdivision 1, has a cause of  
 903.20 action under section 325F.71, subdivision 4, for a violation of this chapter.

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

903.22 **ARTICLE 16**

903.23 **ASSISTED LIVING LICENSURE**

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

903.25 144.122 LICENSE, PERMIT, AND SURVEY FEES.

903.26 (a) The state commissioner of health, by rule, may prescribe procedures and fees for  
 903.27 filing with the commissioner as prescribed by statute and for the issuance of original and  
 903.28 renewal permits, licenses, registrations, and certifications issued under authority of the  
 903.29 commissioner. The expiration dates of the various licenses, permits, registrations, and  
 903.30 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include  
 904.1 application and examination fees and a penalty fee for renewal applications submitted after  
 904.2 the expiration date of the previously issued permit, license, registration, and certification.  
 904.3 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,  
 904.4 registrations, and certifications when the application therefor is submitted during the last  
 904.5 three months of the permit, license, registration, or certification period. Fees proposed to  
 904.6 be prescribed in the rules shall be first approved by the Department of Management and  
 904.7 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be  
 904.8 in an amount so that the total fees collected by the commissioner will, where practical,  
 904.9 approximate the cost to the commissioner in administering the program. All fees collected  
 904.10 shall be deposited in the state treasury and credited to the state government special revenue  
 904.11 fund unless otherwise specifically appropriated by law for specific purposes.

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

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

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

904.23	<u>Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals</u>	\$7,655 plus \$16 per bed	
904.24			
904.25			
904.26			
904.27	<u>Non-JCAHO and non-AOA hospitals</u>	\$5,280 plus \$250 per bed	
904.28	<u>Nursing home</u>	\$183 plus \$91 per bed until June 30, 2018.	
904.29		\$183 plus \$100 per bed between July 1, 2018,	
904.30		and June 30, 2020. \$183 plus \$105 per bed	
904.31		beginning July 1, 2020.	
904.32	<u>The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities, assisted living facilities, and assisted living facilities with dementia care at the following levels:</u>		
904.33			
904.34			
904.35	<u>Outpatient surgical centers</u>	\$3,712	
904.36	<u>Boarding care homes</u>	\$183 plus \$91 per bed	
904.37	<u>Supervised living facilities</u>	\$183 plus \$91 per bed.	
905.1	<u>Assisted living facilities with dementia care</u>	<u>\$..... plus \$..... per bed.</u>	
905.2	<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>	
905.3	<u>Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017, or later.</u>		
905.4			
905.5			
905.6	<u>(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:</u>		
905.7			
905.8			
905.9	<u>Prospective payment surveys for hospitals</u>	\$	900
905.10	<u>Swing bed surveys for nursing homes</u>	\$	1,200
905.11	<u>Psychiatric hospitals</u>	\$	1,400
905.12	<u>Rural health facilities</u>	\$	1,100
905.13	<u>Portable x-ray providers</u>	\$	500
905.14	<u>Home health agencies</u>	\$	1,800

905.15	<u>Outpatient therapy agencies</u>	\$	800
905.16	<u>End stage renal dialysis providers</u>	\$	2,100
905.17	<u>Independent therapists</u>	\$	800
905.18	<u>Comprehensive rehabilitation outpatient facilities</u>	\$	1,200
905.19	<u>Hospice providers</u>	\$	1,700
905.20	<u>Ambulatory surgical providers</u>	\$	1,800
905.21	<u>Hospitals</u>	\$	4,200

905.22	<u>Other provider categories or additional</u>	<u>Actual surveyor costs: average</u>
905.23	<u>resurveys required to complete initial</u>	<u>surveyor cost x number of hours for</u>
905.24	<u>certification</u>	<u>the survey process.</u>

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

905.29 Sec. 2. [144I.01] DEFINITIONS.

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

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

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

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

906.3 Subd. 5. **Assisted living administrator.** "Assisted living administrator" means a person  
 906.4 who administers, manages, supervises, or is in general administrative charge of an assisted  
 906.5 living facility, whether or not the individual has an ownership interest in the facility, and  
 906.6 whether or not the person's functions or duties are shared with one or more individuals and  
 906.7 who is licensed by the Board of Executives for Long Term Services and Supports pursuant  
 906.8 to section 144I.31.

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

- 906.13 (i) emergency shelter, transitional housing, or any other residential units serving  
906.14 exclusively or primarily homeless individuals, as defined under section 116L.361;
- 906.15 (ii) a nursing home licensed under chapter 144A;
- 906.16 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections  
906.17 144.50 to 144.56;
- 906.18 (iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts  
906.19 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments  
906.20 that provide dementia care services;
- 906.21 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;
- 906.22 (vi) services and residential settings licensed under chapter 245A, including adult foster  
906.23 care and services and settings governed under the standards in chapter 245D;
- 906.24 (vii) private homes where the residents own or rent the home and control all aspects of  
906.25 the property and building;
- 906.26 (viii) a duly organized condominium, cooperative, and common interest community, or  
906.27 owners' association of the condominium, cooperative, and common interest community  
906.28 where at least 80 percent of the units that comprise the condominium, cooperative, or  
906.29 common interest community are occupied by individuals who are the owners, members, or  
906.30 shareholders of the units;
- 906.31 (ix) temporary family health care dwellings as defined in sections 394.307 and 462.3593;
- 907.1 (x) settings offering services conducted by and for the adherents of any recognized  
907.2 church or religious denomination for its members through spiritual means or by prayer for  
907.3 healing;
- 907.4 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with  
907.5 low-income housing tax credits pursuant to United States Code, title 26, section 42, and  
907.6 units financed by the Minnesota Housing Finance Agency that are intended to serve  
907.7 individuals with disabilities or individuals who are homeless;
- 907.8 (xii) rental housing developed under United States Code, title 42, section 1437, or United  
907.9 States Code, title 12, section 1701q;
- 907.10 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled  
907.11 residents under United States Code, title 42, section 1437e, or rental housing for qualifying  
907.12 families under Code of Federal Regulations, title 24, section 983.56; or
- 907.13 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United  
907.14 States Code, title 42, section 8011.



- 907.15 Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic  
907.16 care services and one or more of the following:
- 907.17 (1) services of an advanced practice nurse, registered nurse, licensed practical nurse,  
907.18 physical therapist, respiratory therapist, occupational therapist, speech-language pathologist,  
907.19 dietitian or nutritionist, or social worker;
- 907.20 (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed  
907.21 health professional within the person's scope of practice;
- 907.22 (3) medication management services;
- 907.23 (4) hands-on assistance with transfers and mobility;
- 907.24 (5) treatment and therapies;
- 907.25 (6) assisting residents with eating when the clients have complicated eating problems  
907.26 as identified in the resident record or through an assessment such as difficulty swallowing,  
907.27 recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous  
907.28 instruments to be fed; or
- 907.29 (7) providing other complex or specialty health care services.
- 907.30 Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with  
907.31 dementia care" means a licensed assisted living facility that also provides dementia care  
908.1 services. An assisted living facility with dementia care may also have a secured dementia  
908.2 care unit.
- 908.3 Subd. 9. **Assisted living facility contract.** "Assisted living facility contract" means the  
908.4 legal agreement between an assisted living facility and a resident for the provision of housing  
908.5 and services.
- 908.6 Subd. 10. **Basic care services.** "Basic care services" means assistive tasks provided by  
908.7 licensed or unlicensed personnel that include:
- 908.8 (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and  
908.9 bathing;
- 908.10 (2) providing standby assistance;
- 908.11 (3) providing verbal or visual reminders to the resident to take regularly scheduled  
908.12 medication, which includes bringing the client previously set-up medication, medication in  
908.13 original containers, or liquid or food to accompany the medication;
- 908.14 (4) providing verbal or visual reminders to the client to perform regularly scheduled  
908.15 treatments and exercises;
- 908.16 (5) preparing modified diets ordered by a licensed health professional;

- 908.17 (6) having, maintaining, and documenting a system to, by any means, check on the  
 908.18 health, safety, and well-being of a resident; and
- 908.19 (7) supportive services in addition to the provision of at least one of the activities in  
 908.20 clauses (1) to (5).
- 908.21 Subd. 11. **Change of ownership.** "Change of ownership" means a change in the individual  
 908.22 or legal entity that is responsible for the operation of a facility.
- 908.23 Subd. 12. **Commissioner.** "Commissioner" means the commissioner of health.
- 908.24 Subd. 13. **Compliance officer.** "Compliance officer" means a designated individual  
 908.25 who is qualified by knowledge, training, and experience in health care or risk management  
 908.26 to promote, implement, and oversee the facility's compliance program. The compliance  
 908.27 officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance  
 908.28 processes; and address fraud, abuse, and waste under this chapter and state and federal law.
- 908.29 Subd. 14. **Controlled substance.** "Controlled substance" has the meaning given in  
 908.30 section 152.01, subdivision 4.
- 909.1 Subd. 15. **Controlling individual.** (a) "Controlling individual" means an owner of a  
 909.2 facility licensed under this chapter and the following individuals, if applicable:
- 909.3 (1) each officer of the organization, including the chief executive officer and chief  
 909.4 financial officer;
- 909.5 (2) the individual designated as the authorized agent under section 245A.04, subdivision  
 909.6 1, paragraph (b);
- 909.7 (3) the individual designated as the compliance officer under section 256B.04, subdivision  
 909.8 21, paragraph (b); and
- 909.9 (4) each managerial official whose responsibilities include the direction of the  
 909.10 management or policies of the facility.
- 909.11 (b) Controlling individual also means any owner who directly or indirectly owns five  
 909.12 percent or more interest in:
- 909.13 (1) the land on which the facility is located, including a real estate investment trust  
 909.14 (REIT);
- 909.15 (2) the structure in which a facility is located;
- 909.16 (3) any mortgage, contract for deed, or other obligation secured in whole or part by the  
 909.17 land or structure comprising the facility; or
- 909.18 (4) any lease or sublease of the land, structure, or facilities comprising the facility.
- 909.19 (c) Controlling individual does not include:

- 909.20 (1) a bank, savings bank, trust company, savings association, credit union, industrial  
 909.21 loan and thrift company, investment banking firm, or insurance company unless the entity  
 909.22 operates a program directly or through a subsidiary;
- 909.23 (2) government and government-sponsored entities such as the U.S. Department of  
 909.24 Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota  
 909.25 Housing Finance Agency which provide loans, financing, and insurance products for housing  
 909.26 sites;
- 909.27 (3) an individual who is a state or federal official, or a state or federal employee, or a  
 909.28 member or employee of the governing body of a political subdivision of the state or federal  
 909.29 government that operates one or more facilities, unless the individual is also an officer,  
 909.30 owner, or managerial official of the facility, receives remuneration from the facility, or  
 909.31 owns any of the beneficial interests not excluded in this subdivision;
- 910.1 (4) an individual who owns less than five percent of the outstanding common shares of  
 910.2 a corporation:
- 910.3 (i) whose securities are exempt under section 80A.45, clause (6); or  
 910.4 (ii) whose transactions are exempt under section 80A.46, clause (2);
- 910.5 (5) an individual who is a member of an organization exempt from taxation under section  
 910.6 290.05, unless the individual is also an officer, owner, or managerial official of the license  
 910.7 or owns any of the beneficial interests not excluded in this subdivision. This clause does  
 910.8 not exclude from the definition of controlling individual an organization that is exempt from  
 910.9 taxation; or
- 910.10 (6) an employee stock ownership plan trust, or a participant or board member of an  
 910.11 employee stock ownership plan, unless the participant or board member is a controlling  
 910.12 individual.
- 910.13 Subd. 16. **Dementia.** "Dementia" means the loss of intellectual function of sufficient  
 910.14 severity that interferes with an individual's daily functioning. Dementia affects an individual's  
 910.15 memory and ability to think, reason, speak, and move. Symptoms may also include changes  
 910.16 in personality, mood, and behavior. Irreversible dementias include but are not limited to:
- 910.17 (1) Alzheimer's disease;
- 910.18 (2) vascular dementia;
- 910.19 (3) Lewy body dementia;
- 910.20 (4) frontal-temporal lobe dementia;
- 910.21 (5) alcohol dementia;
- 910.22 (6) Huntington's disease; and

- 910.23 (7) Creutzfeldt-Jakob disease.
- 910.24 Subd. 17. **Dementia care services.** "Dementia care services" means a distinct form of  
910.25 long-term care designed to meet the specific needs of an individual with dementia.
- 910.26 Subd. 18. **Dementia-trained staff.** "Dementia-trained staff" means any employee that  
910.27 has completed the minimum training requirements and has demonstrated knowledge and  
910.28 understanding in supporting individuals with dementia.
- 910.29 Subd. 19. **Designated representative.** "Designated representative" means one of the  
910.30 following in the order of priority listed, to the extent the person may reasonably be identified  
910.31 and located:
- 911.1 (1) a court-appointed guardian acting in accordance with the powers granted to the  
911.2 guardian under chapter 524;
- 911.3 (2) a conservator acting in accordance with the powers granted to the conservator under  
911.4 chapter 524;
- 911.5 (3) a health care agent acting in accordance with the powers granted to the health care  
911.6 agent under chapter 145C;
- 911.7 (4) a power of attorney acting in accordance with the powers granted to the  
911.8 attorney-in-fact under chapter 523; or
- 911.9 (5) the resident representative.
- 911.10 Subd. 20. **Dietary supplement.** "Dietary supplement" means a product taken by mouth  
911.11 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may  
911.12 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as  
911.13 enzymes, organ tissue, glandulars, or metabolites.
- 911.14 Subd. 21. **Direct contact.** "Direct contact" means providing face-to-face care, training,  
911.15 supervision, counseling, consultation, or medication assistance to residents of a facility.
- 911.16 Subd. 22. **Direct ownership interest.** "Direct ownership interest" means an individual  
911.17 or organization with the possession of at least five percent equity in capital, stock, or profits  
911.18 of an organization, or who is a member of a limited liability company. An individual with  
911.19 a five percent or more direct ownership is presumed to have an effect on the operation of  
911.20 the facility with respect to factors affecting the care or training provided.
- 911.21 Subd. 23. **Facility.** "Facility" means an assisted living facility and an assisted living  
911.22 facility with dementia care.
- 911.23 Subd. 24. **Hands-on assistance.** "Hands-on assistance" means physical help by another  
911.24 person without which the resident is not able to perform the activity.
- 911.25 Subd. 25. **Indirect ownership interest.** "Indirect ownership interest" means an individual  
911.26 or organization with a direct ownership interest in an entity that has a direct or indirect

- 911.27 ownership interest in a facility of at least five percent or more. An individual with a five  
 911.28 percent or more indirect ownership is presumed to have an effect on the operation of the  
 911.29 facility with respect to factors affecting the care or training provided.
- 911.30 Subd. 26. **Licensed health professional.** "Licensed health professional" means a person  
 911.31 licensed in Minnesota to practice the professions described in section 214.01, subdivision  
 911.32 2.
- 912.1 Subd. 27. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the  
 912.2 resident occupancy level requested by a licensee and approved by the commissioner.
- 912.3 Subd. 28. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner  
 912.4 issues a license for a facility and who is responsible for the management, control, and  
 912.5 operation of a facility. A facility must be managed, controlled, and operated in a manner  
 912.6 that enables it to use its resources effectively and efficiently to attain or maintain the highest  
 912.7 practicable physical, mental, and psychosocial well-being of each resident.
- 912.8 Subd. 29. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,  
 912.9 subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or  
 912.10 any persistent course of conduct intended to produce mental or emotional distress.
- 912.11 Subd. 30. **Management agreement.** "Management agreement" means a written, executed  
 912.12 agreement between a licensee and manager regarding the provision of certain services on  
 912.13 behalf of the licensee.
- 912.14 Subd. 31. **Managerial official.** "Managerial official" means an individual who has the  
 912.15 decision-making authority related to the operation of the facility and the responsibility for  
 912.16 the ongoing management or direction of the policies, services, or employees of the facility.
- 912.17 Subd. 32. **Medication.** "Medication" means a prescription or over-the-counter drug. For  
 912.18 purposes of this chapter only, medication includes dietary supplements.
- 912.19 Subd. 33. **Medication administration.** "Medication administration" means performing  
 912.20 a set of tasks that includes the following:
- 912.21 (1) checking the resident's medication record;  
 912.22 (2) preparing the medication as necessary;  
 912.23 (3) administering the medication to the resident;  
 912.24 (4) documenting the administration or reason for not administering the medication; and  
 912.25 (5) reporting to a registered nurse or appropriate licensed health professional any concerns  
 912.26 about the medication, the resident, or the resident's refusal to take the medication.
- 912.27 Subd. 34. **Medication management.** "Medication management" means the provision  
 912.28 of any of the following medication-related services to a resident:

- 912.29 (1) performing medication setup;
- 912.30 (2) administering medications;
- 912.31 (3) storing and securing medications;
- 913.1 (4) documenting medication activities;
- 913.2 (5) verifying and monitoring the effectiveness of systems to ensure safe handling and  
913.3 administration;
- 913.4 (6) coordinating refills;
- 913.5 (7) handling and implementing changes to prescriptions;
- 913.6 (8) communicating with the pharmacy about the resident's medications; and
- 913.7 (9) coordinating and communicating with the prescriber.
- 913.8 Subd. 35. **Medication reconciliation.** "Medication reconciliation" means the process  
913.9 of identifying the most accurate list of all medications the resident is taking, including the  
913.10 name, dosage, frequency, and route by comparing the resident record to an external list of  
913.11 medications obtained from the resident, hospital, prescriber or other provider.
- 913.12 Subd. 36. **Medication setup.** "Medication setup" means arranging medications by a  
913.13 nurse, pharmacy, or authorized prescriber for later administration by the resident or by  
913.14 facility staff.
- 913.15 Subd. 37. **New construction.** "New construction" means a new building, renovation,  
913.16 modification, reconstruction, physical changes altering the use of occupancy, or an addition  
913.17 to a building.
- 913.18 Subd. 38. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to  
913.19 148.285.
- 913.20 Subd. 39. **Occupational therapist.** "Occupational therapist" means a person who is  
913.21 licensed under sections 148.6401 to 148.6449.
- 913.22 Subd. 40. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.
- 913.23 Subd. 41. **Owner.** "Owner" means an individual or organization that has a direct or  
913.24 indirect ownership interest of five percent or more in a facility. For purposes of this chapter,  
913.25 "owner of a nonprofit corporation" means the president and treasurer of the board of directors  
913.26 or, for an entity owned by an employee stock ownership plan, means the president and  
913.27 treasurer of the entity. A government entity that is issued a license under this chapter shall  
913.28 be designated the owner. An individual with a five percent or more direct or indirect  
913.29 ownership is presumed to have an effect on the operation of the facility with respect to  
913.30 factors affecting the care or training provided.

- 913.31 Subd. 42. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not  
 913.32 required by federal law to bear the symbol "Rx only."
- 914.1 Subd. 43. **Person-centered planning and service delivery.** "Person-centered planning  
 914.2 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph  
 914.3 (b).
- 914.4 Subd. 44. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision  
 914.5 3.
- 914.6 Subd. 45. **Physical therapist.** "Physical therapist" means a person who is licensed under  
 914.7 sections 148.65 to 148.78.
- 914.8 Subd. 46. **Physician.** "Physician" means a person who is licensed under chapter 147.
- 914.9 Subd. 47. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;  
 914.10 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.
- 914.11 Subd. 48. **Prescription.** "Prescription" has the meaning given in section 151.01,  
 914.12 subdivision 16a.
- 914.13 Subd. 49. **Provisional license.** "Provisional license" means the initial license the  
 914.14 department issues after approval of a complete written application and before the department  
 914.15 completes the provisional license survey and determines that the provisional licensee is in  
 914.16 substantial compliance.
- 914.17 Subd. 50. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be  
 914.18 completed at predetermined times or according to a predetermined routine.
- 914.19 Subd. 51. **Reminder.** "Reminder" means providing a verbal or visual reminder to a  
 914.20 resident.
- 914.21 Subd. 52. **Resident.** "Resident" means a person living in an assisted living facility.
- 914.22 Subd. 53. **Resident record.** "Resident record" means all records that document  
 914.23 information about the services provided to the resident.
- 914.24 Subd. 54. **Resident representative.** "Resident representative" means a person designated  
 914.25 in writing by the resident and identified in the resident's records on file with the facility.
- 914.26 Subd. 55. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed  
 914.27 under chapter 147C.
- 914.28 Subd. 56. **Revenues.** "Revenues" means all money received by a licensee derived from  
 914.29 the provision of home care services, including fees for services and appropriations of public  
 914.30 money for home care services.

- 915.1 Subd. 57. **Service plan.** "Service plan" means the written plan between the resident or  
915.2 the resident's representative and the provisional licensee or licensee about the services that  
915.3 will be provided to the resident.
- 915.4 Subd. 58. **Social worker.** "Social worker" means a person who is licensed under chapter  
915.5 148D or 148E.
- 915.6 Subd. 59. **Speech-language pathologist.** "Speech-language pathologist" has the meaning  
915.7 given in section 148.512.
- 915.8 Subd. 60. **Standby assistance.** "Standby assistance" means the presence of another  
915.9 person within arm's reach to minimize the risk of injury while performing daily activities  
915.10 through physical intervention or cueing to assist a resident with an assistive task by providing  
915.11 cues, oversight, and minimal physical assistance.
- 915.12 Subd. 61. **Substantial compliance.** "Substantial compliance" means complying with  
915.13 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks  
915.14 to residents.
- 915.15 Subd. 62. **Supportive services.** "Supportive services" means:
- 915.16 (1) assistance with laundry, shopping, and household chores;
- 915.17 (2) housekeeping services;
- 915.18 (3) provision or assistance with meals or food preparation;
- 915.19 (4) help with arranging for, or arranging transportation to medical, social, recreational,  
915.20 personal, or social services appointments; or
- 915.21 (5) provision of social or recreational services.
- 915.22 Arranging for services does not include making referrals, or contacting a service provider  
915.23 in an emergency.
- 915.24 Subd. 63. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure  
915.25 for compliance with this chapter.
- 915.26 Subd. 64. **Surveyor.** "Surveyor" means a staff person of the department who is authorized  
915.27 to conduct surveys of assisted living facilities and applicants.
- 915.28 Subd. 65. **Termination of housing or services.** "Termination of housing or services"  
915.29 means a discharge, eviction, transfer, or service termination initiated by the facility. A  
915.30 facility-initiated termination is one which the resident objects to and did not originate through  
915.31 a resident's verbal or written request. A resident-initiated termination is one where a resident  
916.1 or, if appropriate, a designated representative provided a verbal or written notice of intent  
916.2 to leave the facility. A resident-initiated termination does not include the general expression  
916.3 of a desire to return home or the elopement of residents with cognitive impairment.



- 916.4 Subd. 66. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,  
 916.5 other than medications, ordered or prescribed by a licensed health professional and provided  
 916.6 to a resident to cure, rehabilitate, or ease symptoms.
- 916.7 Subd. 67. **Unit of government.** "Unit of government" means a city, county, town, school  
 916.8 district, other political subdivision of the state, or an agency of the state or federal  
 916.9 government, that includes any instrumentality of a unit of government.
- 916.10 Subd. 68. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise  
 916.11 licensed or certified by a governmental health board or agency who provide services to a  
 916.12 resident.
- 916.13 Subd. 69. **Verbal.** "Verbal" means oral and not in writing.
- 916.14 Sec. 3. **[144I.02] ASSISTED LIVING FACILITY LICENSE.**
- 916.15 Subdivision 1. **License required.** Beginning August 1, 2021, an entity may not operate  
 916.16 an assisted living facility in Minnesota unless it is licensed under this chapter.
- 916.17 Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for  
 916.18 assisted living facility licensure.
- 916.19 (b) An assisted living category is an assisted living facility that provides basic care  
 916.20 services and comprehensive assisted living services.
- 916.21 (c) An assisted living facility with dementia care category is an assisted living facility  
 916.22 that provides basic care services, comprehensive assisted living services, and dementia care  
 916.23 services. An assisted living facility with dementia care may also provide dementia care  
 916.24 services in a secure dementia care unit.
- 916.25 Subd. 3. **Violations; penalty.** (a) Operating a facility without a license is a misdemeanor  
 916.26 punishable by a fine imposed by the commissioner.
- 916.27 (b) A controlling individual of the facility in violation of this section is guilty of a  
 916.28 misdemeanor. This paragraph shall not apply to any controlling individual who had no legal  
 916.29 authority to affect or change decisions related to the operation of the facility.
- 916.30 (c) The sanctions in this section do not restrict other available sanctions in law.
- 917.1 Sec. 4. **[144I.03] PROVISIONAL LICENSE.**
- 917.2 Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants,  
 917.3 the commissioner shall issue a provisional license to each of the licensure categories specified  
 917.4 in section 144I.02, subdivision 2, which is effective for up to one year from the license  
 917.5 effective date, except that a provisional license may be extended according to subdivision  
 917.6 2, paragraph (c).
- 917.7 (b) Assisted living facilities are subject to evaluation and approval by the commissioner  
 917.8 of the facility's physical environment and its operational aspects before a change in ownership

917.9 or capacity, or an addition of services which necessitates a change in the facility's physical  
917.10 environment.

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

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

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

917.23 (d) If the provisional licensee is in substantial compliance with the survey, the  
917.24 commissioner shall issue a facility license. If the provisional licensee is not in substantial  
917.25 compliance with the initial survey, the commissioner shall either: (1) not issue the facility  
917.26 license and terminate the provisional license; or (2) extend the provisional license for a  
917.27 period not to exceed 90 days and apply conditions necessary to bring the facility into  
917.28 substantial compliance. If the provisional licensee is not in substantial compliance with the  
917.29 survey within the time period of the extension or if the provisional licensee does not satisfy  
917.30 the license conditions, the commissioner may deny the license.

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

918.3 (b) The provisional licensee requesting the reconsideration must make the request in  
918.4 writing and must list and describe the reasons why the provisional licensee disagrees with  
918.5 the decision to deny the facility license or the decision to extend the provisional license  
918.6 with conditions.

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

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

918.12 (1) a reconsideration is in process;

- 918.13 (2) an extension of the provisional license and terms associated with it is in active  
 918.14 negotiation between the commissioner and the licensee and the commissioner confirms the  
 918.15 negotiation is active; or
- 918.16 (3) a transfer of residents to a new facility is underway and not all of the residents have  
 918.17 relocated.
- 918.18 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license  
 918.19 is denied must comply with the requirements for notification and transfer of residents in  
 918.20 section 144J.08.
- 918.21 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section  
 918.22 144J.08, subdivision 6, paragraph (b), is \$1,000.
- 918.23 Sec. 5. [144I.04] APPLICATION FOR LICENSURE
- 918.24 Subdivision 1. **License applications.** (a) Each application for a facility license, including  
 918.25 a provisional license, must include information sufficient to show that the applicant meets  
 918.26 the requirements of licensure, including:
- 918.27 (1) the business name and legal entity name of the operating entity; street address and  
 918.28 mailing address of the facility; and the names, e-mail addresses, telephone numbers, and  
 918.29 mailing addresses of all owners, controlling individuals, managerial officials, and the assisted  
 918.30 living administrator;
- 918.31 (2) the name and e-mail address of the managing agent, if applicable;
- 919.1 (3) the licensed bed capacity and the license category;
- 919.2 (4) the license fee in the amount specified in section 144.122;
- 919.3 (5) any judgments, private or public litigation, tax liens, written complaints, administrative  
 919.4 actions, or investigations by any government agency against the applicant, owner, controlling  
 919.5 individual, managerial official, or assisted living administrator that are unresolved or  
 919.6 otherwise filed or commenced within the preceding ten years;
- 919.7 (6) documentation of compliance with the background study requirements in section  
 919.8 144I.06 for the owner, controlling individuals, and managerial officials. Each application  
 919.9 for a new license must include documentation for the applicant and for each individual with  
 919.10 five percent or more direct or indirect ownership in the applicant;
- 919.11 (7) evidence of workers' compensation coverage as required by sections 176.181 and  
 919.12 176.182;
- 919.13 (8) disclosure that the provider has no liability coverage or, if the provider has coverage,  
 919.14 documentation of coverage;
- 919.15 (9) a copy of the executed lease agreement if applicable;

- 919.16 (10) a copy of the management agreement if applicable;
- 919.17 (11) a copy of the operations transfer agreement or similar agreement if applicable;
- 919.18 (12) a copy of the executed agreement if the facility has contracted services with another  
919.19 organization or individual for services such as managerial, billing, consultative, or medical  
919.20 personnel staffing;
- 919.21 (13) a copy of the organizational chart that identifies all organizations and individuals  
919.22 with any ownership interests in the facility;
- 919.23 (14) whether any applicant, owner, controlling individual, managerial official, or assisted  
919.24 living administrator of the facility has ever been convicted of a crime or found civilly liable  
919.25 for an offense involving moral turpitude, including forgery, embezzlement, obtaining money  
919.26 under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense  
919.27 or violation; any violation of section 626.557 or any other similar law in any other state; or  
919.28 any violation of a federal or state law or regulation in connection with activities involving  
919.29 any consumer fraud, false advertising, deceptive trade practices, or similar consumer  
919.30 protection law;
- 920.1 (15) whether the applicant or any owner, controlling individual, managerial official, or  
920.2 assisted living administrator of the facility has a record of defaulting in the payment of  
920.3 money collected for others, including the discharge of debts through bankruptcy proceedings;
- 920.4 (16) documentation that the applicant has designated one or more owners, controlling  
920.5 individuals, or employees as an agent or agents, which shall not affect the legal responsibility  
920.6 of any other owner or controlling individual under this chapter;
- 920.7 (17) the signature of the owner or owners, or an authorized agent of the owner or owners  
920.8 of the facility applicant. An application submitted on behalf of a business entity must be  
920.9 signed by at least two owners or controlling individuals;
- 920.10 (18) identification of all states where the applicant or individual having a five percent  
920.11 or more ownership, currently or previously has been licensed as owner or operator of a  
920.12 long-term care, community-based, or health care facility or agency where its license or  
920.13 federal certification has been denied, suspended, restricted, conditioned, or revoked under  
920.14 a private or state-controlled receivership, or where these same actions are pending under  
920.15 the laws of any state or federal authority; and
- 920.16 (19) any other information required by the commissioner.
- 920.17 Subd. 2. Agents. (a) An application for a facility license or for renewal of a facility  
920.18 license must specify one or more owners, controlling individuals, or employees as agents;
- 920.19 (1) who shall be responsible for dealing with the commissioner on all requirements of  
920.20 this chapter; and

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

920.24 (b) Notwithstanding any law to the contrary, personal service on the designated person  
 920.25 or persons named in the application is deemed to be service on all of the controlling  
 920.26 individuals or managerial employees of the facility and it is not a defense to any action  
 920.27 arising under this chapter that personal service was not made on each controlling individual  
 920.28 or managerial official of the facility. The designation of one or more controlling individuals  
 920.29 or managerial officials under this subdivision shall not affect the legal responsibility of any  
 920.30 other controlling individual or managerial official under this chapter.

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

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

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

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

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

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

921.15 Subd. 2. New license required. (a) Before acquiring ownership of a facility, a prospective  
 921.16 applicant must apply for a new license. The licensee of an assisted living facility must  
 921.17 change whenever the following events occur, including but not limited to:

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

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

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

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

921.26 (i) a different person; or

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

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

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

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

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

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

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

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

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

922.24 Subd. 2. **Reconsideration.** If an individual is disqualified under section 144.057 or  
 922.25 chapter 245C, the individual may request reconsideration of the disqualification. If the  
 922.26 individual requests reconsideration and the commissioner sets aside or rescinds the  
 922.27 disqualification, the individual is eligible to be involved in the management, operation, or  
 922.28 control of the facility. If an individual has a disqualification under section 245C.15,  
 922.29 subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred

- 922.30 from a set aside, and the individual must not be involved in the management, operation, or  
 922.31 control of the facility.
- 922.32 Subd. 3. **Data classification.** Data collected under this subdivision shall be classified  
 922.33 as private data on individuals under section 13.02, subdivision 12.
- 923.1 Subd. 4. **Termination in good faith.** Termination of an employee in good faith reliance  
 923.2 on information or records obtained under this section regarding a confirmed conviction does  
 923.3 not subject the assisted living facility to civil liability or liability for unemployment benefits.
- 923.4 Sec. 8. [144I.07] LICENSE RENEWAL.
- 923.5 Except as provided in section ....., a license that is not a provisional license may be  
 923.6 renewed for a period of up to one year if the licensee satisfies the following:
- 923.7 (1) submits an application for renewal in the format provided by the commissioner at  
 923.8 least 60 days before expiration of the license;
- 923.9 (2) submits the renewal fee under section 144I.04, subdivision 3;
- 923.10 (3) submits the late fee under section 144I.04, subdivision 3, if the renewal application  
 923.11 is received less than 30 days before the expiration date of the license;
- 923.12 (4) provides information sufficient to show that the applicant meets the requirements of  
 923.13 licensure, including items required under section 144I.04, subdivision 1; and
- 923.14 (5) provides any other information deemed necessary by the commissioner.
- 923.15 Sec. 9. [144I.08] NOTIFICATION OF CHANGES IN INFORMATION.
- 923.16 A provisional licensee or licensee shall notify the commissioner in writing prior to any  
 923.17 financial or contractual change and within 60 calendar days after any change in the  
 923.18 information required in section 144I.04, subdivision 1.
- 923.19 Sec. 10. [144I.09] CONSIDERATION OF APPLICATIONS.
- 923.20 (a) The commissioner shall consider an applicant's performance history in Minnesota  
 923.21 and in other states, including repeat violations or rule violations, before issuing a provisional  
 923.22 license, license, or renewal license.
- 923.23 (b) An applicant must not have a history within the last five years in Minnesota or in  
 923.24 any other state of a license or certification involuntarily suspended or voluntarily terminated  
 923.25 during any enforcement process in a facility that provides care to children, the elderly or ill  
 923.26 individuals, or individuals with disabilities.
- 923.27 (c) Failure to provide accurate information or demonstrate required performance history  
 923.28 may result in the denial of a license.

- 923.29 (d) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license  
 923.30 or impose conditions if:
- 924.1 (1) the applicant fails to provide complete and accurate information on the application  
 924.2 and the commissioner concludes that the missing or corrected information is needed to  
 924.3 determine if a license shall be granted;
- 924.4 (2) the applicant, knowingly or with reason to know, made a false statement of a material  
 924.5 fact in an application for the license or any data attached to the application or in any matter  
 924.6 under investigation by the department;
- 924.7 (3) the applicant refused to allow representatives or agents of the department to inspect  
 924.8 its books, records, and files, or any portion of the premises;
- 924.9 (4) willfully prevented, interfered with, or attempted to impede in any way: (i) the work  
 924.10 of any authorized representative of the department, the ombudsman for long-term care, or  
 924.11 the ombudsman for mental health and developmental disabilities; or (ii) the duties of the  
 924.12 commissioner, local law enforcement, city or county attorneys, adult protection, county  
 924.13 case managers, or other local government personnel;
- 924.14 (5) the applicant has a history of noncompliance with federal or state regulations that  
 924.15 were detrimental to the health, welfare, or safety of a resident or a client; and
- 924.16 (6) the applicant violates any requirement in this chapter.
- 924.17 (e) For all new licensees after a change in ownership, the commissioner shall complete  
 924.18 a survey within six months after the new license is issued.
- 924.19 Sec. 11. [144I.10] MINIMUM ASSISTED LIVING FACILITY REQUIREMENTS.
- 924.20 Subdivision 1. **Minimum requirements.** All licensed facilities shall:
- 924.21 (1) distribute to residents, families, and resident representatives the assisted living bill  
 924.22 of rights in section 144J.02;
- 924.23 (2) provide health-related services in a manner that complies with the Nurse Practice  
 924.24 Act in sections 148.171 to 148.285;
- 924.25 (3) utilize person-centered planning and service delivery process as defined in section  
 924.26 245D.07;
- 924.27 (4) have and maintain a system for delegation of health care activities to unlicensed  
 924.28 personnel by a registered nurse, including supervision and evaluation of the delegated  
 924.29 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;
- 924.30 (5) provide a means for residents to request assistance for health and safety needs 24  
 924.31 hours per day, seven days per week;



- 925.1 (6) allow residents the ability to furnish and decorate the resident's unit within the terms  
925.2 of the lease;
- 925.3 (7) permit residents access to food at any time;
- 925.4 (8) allow residents to choose the resident's visitors and times of visits;
- 925.5 (9) allow the resident the right to choose a roommate if sharing a unit;
- 925.6 (10) notify the resident of the resident's right to have and use a lockable door to the  
925.7 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with  
925.8 a specific need to enter the unit shall have keys, and advance notice must be given to the  
925.9 resident before entrance, when possible;
- 925.10 (11) develop and implement a staffing plan for determining its staffing level that:
- 925.11 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness  
925.12 of staffing levels in the facility;
- 925.13 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably  
925.14 foreseeable unscheduled needs of each resident as required by the residents' assessments  
925.15 and service plans on a 24-hour per day basis; and
- 925.16 (iii) ensures that the facility can respond promptly and effectively to individual resident  
925.17 emergencies and to emergency, life safety, and disaster situations affecting staff or residents  
925.18 in the facility;
- 925.19 (12) ensures that a person or persons are available 24 hours per day, seven days per  
925.20 week, who are responsible for responding to the requests of residents for assistance with  
925.21 health or safety needs, who shall be:
- 925.22 (i) awake;
- 925.23 (ii) located in the same building, in an attached building, or on a contiguous campus  
925.24 with the facility in order to respond within a reasonable amount of time;
- 925.25 (iii) capable of communicating with residents;
- 925.26 (iv) capable of providing or summoning the appropriate assistance; and
- 925.27 (v) capable of following directions. For an assisted living facility providing dementia  
925.28 care, the awake person must be physically present in the locked or secure unit; and
- 925.29 (13) offer to provide or make available at least the following services to residents:
- 925.30 (i) at least three daily nutritious meals with snacks available seven days per week,  
925.31 according to the recommended dietary allowances in the United States Department of  
926.1 Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The  
926.2 following apply:

- 926.3 (A) modified special diets that are appropriate to residents' needs and choices;
- 926.4 (B) menus prepared at least one week in advance, and made available to all residents.
- 926.5 The facility must encourage residents' involvement in menu planning. Meal substitutions
- 926.6 must be of similar nutritional value if a resident refuses a food that is served. Residents
- 926.7 must be informed in advance of menu changes;
- 926.8 (C) food must be prepared and served according to the Minnesota Food Code, Minnesota
- 926.9 Rules, chapter 4626; and
- 926.10 (D) the facility cannot require a resident to include and pay for meals in their contract;
- 926.11 (ii) weekly housekeeping;
- 926.12 (iii) weekly laundry service;
- 926.13 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
- 926.14 for transportation to medical and social services appointments, shopping, and other recreation,
- 926.15 and provide the name of or other identifying information about the person or persons
- 926.16 responsible for providing this assistance;
- 926.17 (v) upon the request of the resident, provide reasonable assistance with accessing
- 926.18 community resources and social services available in the community, and provide the name
- 926.19 of or other identifying information about the person or persons responsible for providing
- 926.20 this assistance; and
- 926.21 (vi) have a daily program of social and recreational activities that are based upon
- 926.22 individual and group interests, physical, mental, and psychosocial needs, and that creates
- 926.23 opportunities for active participation in the community at large.
- 926.24 **Subd. 2. Policies and procedures.** (a) Each facility must have policies and procedures
- 926.25 in place to address the following and keep them current:
- 926.26 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;
- 926.27 (2) conducting and handling background studies on employees;
- 926.28 (3) orientation, training, and competency evaluations of staff, and a process for evaluating
- 926.29 staff performance;
- 926.30 (4) handling complaints from residents, family members, or designated representatives
- 926.31 regarding staff or services provided by staff;
- 927.1 (5) conducting initial evaluation of residents' needs and the providers' ability to provide
- 927.2 those services;
- 927.3 (6) conducting initial and ongoing resident evaluations and assessments and how changes
- 927.4 in a resident's condition are identified, managed, and communicated to staff and other health
- 927.5 care providers as appropriate;

- 927.6 (7) orientation to and implementation of the assisted living bill of rights;
- 927.7 (8) infection control practices;
- 927.8 (9) reminders for medications, treatments, or exercises, if provided; and
- 927.9 (10) conducting appropriate screenings, or documentation of prior screenings, to show  
 927.10 that staff are free of tuberculosis, consistent with current United States Centers for Disease  
 927.11 Control and Prevention standards.
- 927.12 (b) For assisted living facilities and assisted living facilities with dementia care, the  
 927.13 following are also required:
- 927.14 (1) conducting initial and ongoing assessments of the resident's needs by a registered  
 927.15 nurse or appropriate licensed health professional, including how changes in the resident's  
 927.16 conditions are identified, managed, and communicated to staff and other health care  
 927.17 providers, as appropriate;
- 927.18 (2) ensuring that nurses and licensed health professionals have current and valid licenses  
 927.19 to practice;
- 927.20 (3) medication and treatment management;
- 927.21 (4) delegation of tasks by registered nurses or licensed health professionals;
- 927.22 (5) supervision of registered nurses and licensed health professionals; and
- 927.23 (6) supervision of unlicensed personnel performing delegated tasks.
- 927.24 Subd. 3. **Infection control program.** The facility shall establish and maintain an infection  
 927.25 control program.
- 927.26 Subd. 4. **Clinical nurse supervision.** All assisted living facilities must have a clinical  
 927.27 nurse supervisor who is a registered nurse licensed in Minnesota.
- 927.28 Subd. 5. **Resident and family or resident representative councils.** (a) If a resident,  
 927.29 family, or designated representative chooses to establish a council, the licensee shall support  
 927.30 the council's establishment. The facility must provide assistance and space for meetings and  
 927.31 afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A  
 928.1 staff person must be designated the responsibility of providing this assistance and responding  
 928.2 to written requests that result from council meetings. Resident council minutes are public  
 928.3 data and shall be available to all residents in the facility. Family or resident representatives  
 928.4 may attend resident councils upon invitation by a resident on the council.
- 928.5 (b) All assisted living facilities shall engage their residents and families or designated  
 928.6 representatives in the operation of their community and document the methods and results  
 928.7 of this engagement.
- 928.8 Subd. 6. **Resident grievances.** All facilities must post in a conspicuous place information  
 928.9 about the facilities' grievance procedure, and the name, telephone number, and e-mail contact

- 928.10 information for the individuals who are responsible for handling resident grievances. The  
 928.11 notice must also have the contact information for the state and applicable regional Office  
 928.12 of Ombudsman for Long-Term Care.
- 928.13 Subd. 7. **Protecting resident rights.** A facility shall ensure that every resident has access  
 928.14 to consumer advocacy or legal services by:
- 928.15 (1) providing names and contact information, including telephone numbers and e-mail  
 928.16 addresses of at least three organizations that provide advocacy or legal services to residents;
- 928.17 (2) providing the name and contact information for the Minnesota Office of Ombudsman  
 928.18 for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental  
 928.19 Disabilities, including both the state and regional contact information;
- 928.20 (3) assisting residents in obtaining information on whether Medicare or medical assistance  
 928.21 under chapter 256B will pay for services;
- 928.22 (4) making reasonable accommodations for people who have communication disabilities  
 928.23 and those who speak a language other than English; and
- 928.24 (5) providing all information and notices in plain language and in terms the residents  
 928.25 can understand.
- 928.26 Subd. 8. **Protection-related rights.** (a) In addition to the rights required in the assisted  
 928.27 living bill of rights under section 144J.02, the following rights must be provided to all  
 928.28 residents. The facility must promote and protect these rights for each resident by making  
 928.29 residents aware of these rights and ensuring staff are trained to support these rights:
- 928.30 (1) the right to furnish and decorate the resident's unit within the terms of the lease;  
 928.31 (2) the right to access food at any time;  
 928.32 (3) the right to choose visitors and the times of visits;  
 929.1 (4) the right to choose a roommate if sharing a unit;  
 929.2 (5) the right to personal privacy including the right to have and use a lockable door on  
 929.3 the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff  
 929.4 member with a specific need to enter the unit shall have keys, and advance notice must be  
 929.5 given to the resident before entrance, when possible;
- 929.6 (6) the right to engage in chosen activities;  
 929.7 (7) the right to engage in community life;  
 929.8 (8) the right to control personal resources; and  
 929.9 (9) the right to individual autonomy, initiative, and independence in making life choices  
 929.10 including a daily schedule and with whom to interact.

929.11 (b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for  
 929.12 an individual resident only if determined necessary for health and safety reasons identified  
 929.13 by the facility through an initial assessment or reassessment under section 144I.15,  
 929.14 subdivision 9, and documented in the written service plan under section 144I.15, subdivision  
 929.15 10. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49  
 929.16 must be documented by the case manager in the resident's coordinated service and support  
 929.17 plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision  
 929.18 15.

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

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

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

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

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

930.1 Sec. 12. [144I.11] FACILITY RESPONSIBILITIES; HOUSING AND  
 930.2 SERVICE-RELATED MATTERS.

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

930.8 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, a  
 930.9 facility must provide to prospective residents, the prospective resident's designated  
 930.10 representative, and any other person or persons the resident chooses:

930.11 (1) a written checklist listing all services permitted under the facility's license, identifying  
 930.12 all services the facility offers to provide under the assisted living facility contract, and  
 930.13 identifying all services allowed under the license that the facility does not provide; and

930.14 (2) an oral explanation of the services offered under the contract.

930.15 (b) The requirements of paragraph (a) must be completed prior to the execution of the  
 930.16 resident contract.

- 930.17 (c) The commissioner must, in consultation with all interested stakeholders, design the  
 930.18 uniform checklist disclosure form for use as provided under paragraph (a).
- 930.19 Subd. 3. **Reservation of rights.** Nothing in this chapter:
- 930.20 (1) requires a resident to utilize any service provided by or through, or made available  
 930.21 in, a facility;
- 930.22 (2) prevents a facility from requiring, as a condition of the contract, that the resident pay  
 930.23 for a package of services even if the resident does not choose to use all or some of the  
 930.24 services in the package. For residents who are eligible for home and community-based  
 930.25 waiver services under sections 256B.0915 and 256B.49, payment for services will follow  
 930.26 the policies of those programs;
- 930.27 (3) requires a facility to fundamentally alter the nature of the operations of the facility  
 930.28 in order to accommodate a resident's request; or
- 930.29 (4) affects the duty of a facility to grant a resident's request for reasonable  
 930.30 accommodations.
- 931.1 Sec. 13. [144I.12] TRANSFER OF RESIDENTS WITHIN FACILITY.
- 931.2 (a) A facility must provide for the safe, orderly, and appropriate transfer of residents  
 931.3 within the facility.
- 931.4 (b) If an assisted living contract permits resident transfers within the facility, the facility  
 931.5 must provide at least 30 days' advance notice of the transfer to the resident and the resident's  
 931.6 designated representative.
- 931.7 (c) In situations where there is a curtailment, reduction, capital improvement, or change  
 931.8 in operations within a facility, the facility must minimize the number of transfers needed  
 931.9 to complete the project or change in operations, consider individual resident needs and  
 931.10 preferences, and provide reasonable accommodation for individual resident requests regarding  
 931.11 the room transfer. The facility must provide notice to the Office of Ombudsman for  
 931.12 Long-Term Care and, when appropriate, the Office of Ombudsman for Mental Health and  
 931.13 Developmental Disabilities in advance of any notice to residents, residents' designated  
 931.14 representatives, and families when all of the following circumstances apply:
- 931.15 (1) the transfers of residents within the facility are being proposed due to curtailment,  
 931.16 reduction, capital improvements, or change in operations;
- 931.17 (2) the transfers of residents within the facility are not temporary moves to accommodate  
 931.18 physical plan upgrades or renovation; and
- 931.19 (3) the transfers involve multiple residents being moved simultaneously.
- 931.20 **EFFECTIVE DATE.** This section is effective August 1, 2021.

931.21 Sec. 14. [144I.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.

931.22 Subdivision 1. **Display of license.** The original current license must be displayed at the  
931.23 main entrance of the facility. The facility must provide a copy of the license to any person  
931.24 who requests it.

931.25 Subd. 2. **Quality management.** The facility shall engage in quality management  
931.26 appropriate to the size of the facility and relevant to the type of services provided. The  
931.27 quality management activity means evaluating the quality of care by periodically reviewing  
931.28 resident services, complaints made, and other issues that have occurred and determining  
931.29 whether changes in services, staffing, or other procedures need to be made in order to ensure  
931.30 safe and competent services to residents. Documentation about quality management activity  
931.31 must be available for two years. Information about quality management must be available  
931.32 to the commissioner at the time of the survey, investigation, or renewal.

932.1 Subd. 3. **Facility restrictions.** (a) This subdivision does not apply to licensees that are  
932.2 Minnesota counties or other units of government.

932.3 (b) A facility or staff person cannot accept a power-of-attorney from residents for any  
932.4 purpose, and may not accept appointments as guardians or conservators of residents.

932.5 (c) A facility cannot serve as a resident's representative.

932.6 Subd. 4. **Handling resident's finances and property.** (a) A facility may assist residents  
932.7 with household budgeting, including paying bills and purchasing household goods, but may  
932.8 not otherwise manage a resident's property. A facility must provide a resident with receipts  
932.9 for all transactions and purchases paid with the resident's funds. When receipts are not  
932.10 available, the transaction or purchase must be documented. A facility must maintain records  
932.11 of all such transactions.

932.12 (b) A facility or staff person may not borrow a resident's funds or personal or real  
932.13 property, nor in any way convert a resident's property to the facility's or staff person's  
932.14 possession.

932.15 (c) Nothing in this section precludes a facility or staff from accepting gifts of minimal  
932.16 value or precludes the acceptance of donations or bequests made to a facility that are exempt  
932.17 from income tax under section 501(c) of the Internal Revenue Code of 1986.

932.18 Subd. 5. **Reporting maltreatment of vulnerable adults; abuse prevention plan.** (a)  
932.19 All facilities must comply with the requirements for the reporting of maltreatment of  
932.20 vulnerable adults in section 626.557. Each facility must establish and implement a written  
932.21 procedure to ensure that all cases of suspected maltreatment are reported.

932.22 (b) Each facility must develop and implement an individual abuse prevention plan for  
932.23 each vulnerable adult. The plan shall contain an individualized review or assessment of the  
932.24 person's susceptibility to abuse by another individual, including other vulnerable adults; the  
932.25 person's risk of abusing other vulnerable adults; and statements of the specific measures to

- 932.26 be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes  
 932.27 of the abuse prevention plan, abuse includes self-abuse.
- 932.28 Subd. 6. **Reporting suspected crime and maltreatment.** (a) A facility shall support  
 932.29 protection and safety through access to the state's systems for reporting suspected criminal  
 932.30 activity and suspected vulnerable adult maltreatment by:
- 932.31 (1) posting the 911 emergency number in common areas and near telephones provided  
 932.32 by the assisted living facility;
- 933.1 (2) posting information and the reporting number for the Minnesota Adult Abuse  
 933.2 Reporting Center under section 626.557 to report suspected maltreatment of a vulnerable  
 933.3 adult; and
- 933.4 (3) providing reasonable accommodations with information and notices in plain language.
- 933.5 Subd. 7. **Employee records.** (a) The facility must maintain current records of each paid  
 933.6 employee, regularly scheduled volunteers providing services, and each individual contractor  
 933.7 providing services. The records must include the following information:
- 933.8 (1) evidence of current professional licensure, registration, or certification if licensure,  
 933.9 registration, or certification is required by this statute or other rules;
- 933.10 (2) records of orientation, required annual training and infection control training, and  
 933.11 competency evaluations;
- 933.12 (3) current job description, including qualifications, responsibilities, and identification  
 933.13 of staff persons providing supervision;
- 933.14 (4) documentation of annual performance reviews that identify areas of improvement  
 933.15 needed and training needs;
- 933.16 (5) for individuals providing facility services, verification that required health screenings  
 933.17 under section 144I.034, subdivision 7, have taken place and the dates of those screenings;  
 933.18 and
- 933.19 (6) documentation of the background study as required under section 144.057.
- 933.20 (b) Each employee record must be retained for at least three years after a paid employee,  
 933.21 volunteer, or contractor ceases to be employed by, provide services at, or be under contract  
 933.22 with the facility. If a facility ceases operation, employee records must be maintained for  
 933.23 three years after facility operations cease.
- 933.24 Subd. 8. **Compliance officer.** Every assisted living facility shall have a compliance  
 933.25 officer who is a licensed assisted living administrator. An individual licensed as a nursing  
 933.26 home administrator, an assisted living administrator, or a health services executive shall  
 933.27 automatically meet the qualifications of a compliance officer.



933.28 Sec. 15. [144I.14] FACILITY RESPONSIBILITIES; STAFF.

933.29 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing  
 933.30 services must be trained and competent in the provision of services consistent with current  
 933.31 practice standards appropriate to the resident's needs and be informed of the assisted living  
 933.32 bill of rights under section 144J.02.

934.1 Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals  
 934.2 and nurses providing services as employees of a licensed facility must possess a current  
 934.3 Minnesota license or registration to practice.

934.4 (b) Licensed health professionals and registered nurses must be competent in assessing  
 934.5 resident needs, planning appropriate services to meet resident needs, implementing services,  
 934.6 and supervising staff if assigned.

934.7 (c) Nothing in this section limits or expands the rights of nurses or licensed health  
 934.8 professionals to provide services within the scope of their licenses or registrations, as  
 934.9 provided by law.

934.10 Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

934.11 (1) successfully completed a training and competency evaluation appropriate to the  
 934.12 services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

934.13 (2) demonstrated competency by satisfactorily completing a written or oral test on the  
 934.14 tasks the unlicensed personnel will perform and on the topics listed in subdivision 6,  
 934.15 paragraph (b); and successfully demonstrated competency of topics in subdivision 6,  
 934.16 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

934.17 Unlicensed personnel providing basic care services shall not perform delegated nursing or  
 934.18 therapy tasks.

934.19 (b) Unlicensed personnel performing delegated nursing tasks in an assisted living facility  
 934.20 must:

934.21 (1) have successfully completed training and demonstrated competency by successfully  
 934.22 completing a written or oral test of the topics in subdivision 6, paragraphs (b) and (c), and  
 934.23 a practical skills test on tasks listed in subdivision 6, paragraphs (b), clauses (5) and (7),  
 934.24 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

934.25 (2) satisfy the current requirements of Medicare for training or competency of home  
 934.26 health aides or nursing assistants, as provided by Code of Federal Regulations, title 42,  
 934.27 section 483 or 484.36; or

934.28 (3) have, before April 19, 1993, completed a training course for nursing assistants that  
 934.29 was approved by the commissioner.

934.30 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned  
 934.31 by a licensed health professional must meet the requirements for delegated tasks in

- 934.32 subdivision 4 and any other training or competency requirements within the licensed health  
 935.1 professional's scope of practice relating to delegation or assignment of tasks to unlicensed  
 935.2 personnel.
- 935.3 Subd. 4. **Delegation of assisted living services.** A registered nurse or licensed health  
 935.4 professional may delegate tasks only to staff who are competent and possess the knowledge  
 935.5 and skills consistent with the complexity of the tasks and according to the appropriate  
 935.6 Minnesota practice act. The assisted living facility must establish and implement a system  
 935.7 to communicate up-to-date information to the registered nurse or licensed health professional  
 935.8 regarding the current available staff and their competency so the registered nurse or licensed  
 935.9 health professional has sufficient information to determine the appropriateness of delegating  
 935.10 tasks to meet individual resident needs and preferences.
- 935.11 Subd. 5. **Temporary staff.** When a facility contracts with a temporary staffing agency,  
 935.12 those individuals must meet the same requirements required by this section for personnel  
 935.13 employed by the facility and shall be treated as if they are staff of the facility.
- 935.14 Subd. 6. **Requirements for instructors, training content, and competency evaluations**  
 935.15 **for unlicensed personnel.** (a) Instructors and competency evaluators must meet the following  
 935.16 requirements:
- 935.17 (1) training and competency evaluations of unlicensed personnel providing basic care  
 935.18 services must be conducted by individuals with work experience and training in providing  
 935.19 basic care services; and
- 935.20 (2) training and competency evaluations of unlicensed personnel providing comprehensive  
 935.21 assisted living services must be conducted by a registered nurse, or another instructor may  
 935.22 provide training in conjunction with the registered nurse.
- 935.23 (b) Training and competency evaluations for all unlicensed personnel must include the  
 935.24 following:
- 935.25 (1) documentation requirements for all services provided;
- 935.26 (2) reports of changes in the resident's condition to the supervisor designated by the  
 935.27 facility;
- 935.28 (3) basic infection control, including blood-borne pathogens;
- 935.29 (4) maintenance of a clean and safe environment;
- 935.30 (5) appropriate and safe techniques in personal hygiene and grooming, including:
- 935.31 (i) hair care and bathing;
- 935.32 (ii) care of teeth, gums, and oral prosthetic devices;
- 936.1 (iii) care and use of hearing aids; and

- 936.2 (iv) dressing and assisting with toileting;
- 936.3 (6) training on the prevention of falls;
- 936.4 (7) standby assistance techniques and how to perform them;
- 936.5 (8) medication, exercise, and treatment reminders;
- 936.6 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 936.7 (10) preparation of modified diets as ordered by a licensed health professional;
- 936.8 (11) communication skills that include preserving the dignity of the resident and showing  
936.9 respect for the resident and the resident's preferences, cultural background, and family;
- 936.10 (12) awareness of confidentiality and privacy;
- 936.11 (13) understanding appropriate boundaries between staff and residents and the resident's  
936.12 family;
- 936.13 (14) procedures to use in handling various emergency situations; and
- 936.14 (15) awareness of commonly used health technology equipment and assistive devices.
- 936.15 (c) In addition to paragraph (b), training and competency evaluation for unlicensed  
936.16 personnel providing comprehensive assisted living services must include:
- 936.17 (1) observing, reporting, and documenting resident status;
- 936.18 (2) basic knowledge of body functioning and changes in body functioning, injuries, or  
936.19 other observed changes that must be reported to appropriate personnel;
- 936.20 (3) reading and recording temperature, pulse, and respirations of the resident;
- 936.21 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
- 936.22 (5) safe transfer techniques and ambulation;
- 936.23 (6) range of motioning and positioning; and
- 936.24 (7) administering medications or treatments as required.
- 936.25 (d) When the registered nurse or licensed health professional delegates tasks, that person  
936.26 must ensure that prior to the delegation the unlicensed personnel is trained in the proper  
936.27 methods to perform the tasks or procedures for each resident and are able to demonstrate  
936.28 the ability to competently follow the procedures and perform the tasks. If an unlicensed  
936.29 personnel has not regularly performed the delegated assisted living task for a period of 24  
937.1 consecutive months, the unlicensed personnel must demonstrate competency in the task to  
937.2 the registered nurse or appropriate licensed health professional. The registered nurse or

937.3 licensed health professional must document instructions for the delegated tasks in the  
 937.4 resident's record.

937.5 Subd. 7. **Tuberculosis prevention and control.** A facility must establish and maintain  
 937.6 a comprehensive tuberculosis infection control program according to the most current  
 937.7 tuberculosis infection control guidelines issued by the United States Centers for Disease  
 937.8 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the  
 937.9 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a  
 937.10 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,  
 937.11 students, and volunteers. The Department of Health shall provide technical assistance  
 937.12 regarding implementation of the guidelines.

937.13 Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility must  
 937.14 meet the following requirements:

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

937.18 (2) post an emergency disaster plan prominently;

937.19 (3) provide building emergency exit diagrams to all residents;

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

937.21 (5) have a written policy and procedure regarding missing tenant residents.

937.22 (b) Each facility must provide emergency and disaster training to all staff during the  
 937.23 initial staff orientation and annually thereafter and must make emergency and disaster  
 937.24 training annually available to all residents. Staff who have not received emergency and  
 937.25 disaster training are allowed to work only when trained staff are also working on site.

937.26 (c) Each facility must meet any additional requirements adopted in rule.

937.27 Sec. 16. [144I.15] FACILITY RESPONSIBILITIES WITH RESPECT TO  
 937.28 RESIDENTS.

937.29 Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) A facility  
 937.30 shall provide the resident and the designated representative a written notice of the rights  
 937.31 under section 144J.02 before the initiation of services to that resident. The facility shall  
 938.1 make all reasonable efforts to provide notice of the rights to the resident and the designated  
 938.2 representative in a language the resident and designated representative can understand.

938.3 (b) In addition to the text of the bill of rights in section 144J.02, the notice shall also  
 938.4 contain the following statement describing how to file a complaint.

938.5 "If you want to report suspected maltreatment of a vulnerable adult, you may call the  
 938.6 Minnesota Adult Abuse Reporting Center at 1-844-880-1574. If you have a complaint about  
 938.7 the facility or person providing your services, you may contact the Office of Health Facility

938.8 Complaints, Minnesota Department of Health. You may also contact the Office of  
 938.9 Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and  
 938.10 Developmental Disabilities."

938.11 (c) The statement must include the telephone number, website address, e-mail address,  
 938.12 mailing address, and street address of the Office of Health Facility Complaints at the  
 938.13 Minnesota Department of Health, the Office of Ombudsman for Long-Term Care, and the  
 938.14 Office of Ombudsman for Mental Health and Developmental Disabilities. The statement  
 938.15 must include the facility's name, address, e-mail, telephone number, and name or title of  
 938.16 the person at the facility to whom problems or complaints may be directed. It must also  
 938.17 include a statement that the facility will not retaliate because of a complaint.

938.18 (d) A facility must obtain written acknowledgment of the resident's receipt of the bill of  
 938.19 rights or shall document why an acknowledgment cannot be obtained. The acknowledgment  
 938.20 may be obtained from the resident and the designated representative. Acknowledgment of  
 938.21 receipt shall be retained in the resident's record.

938.22 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide  
 938.23 all notices in plain language that residents can understand and make reasonable  
 938.24 accommodations for residents who have communication disabilities and those whose primary  
 938.25 language is a language other than English.

938.26 Subd. 3. **Notice of services for dementia, Alzheimer's disease, or related disorders.** A  
 938.27 facility that provides services to residents with dementia shall provide in written or electronic  
 938.28 form, to residents and families or other persons who request it, a description of the training  
 938.29 program and related training it provides, including the categories of employees trained, the  
 938.30 frequency of training, and the basic topics covered.

938.31 Subd. 4. **Services oversight and information.** A facility shall provide each resident  
 938.32 with identifying and contact information about the persons who can assist with health care  
 938.33 or supportive services being provided. A facility shall keep each resident informed of changes  
 938.34 in the personnel referenced in this subdivision.

939.1 Subd. 5. **Notice to residents; change in ownership or management.** A facility must  
 939.2 provide prompt written notice to the resident or designated representative of any change of  
 939.3 legal name, telephone number, and physical mailing address, which may not be a public or  
 939.4 private post office box, of:

939.5 (1) the licensee of the facility;

939.6 (2) the manager of the facility, if applicable; and

939.7 (3) the agent authorized to accept legal process on behalf of the facility.

939.8 Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless  
 939.9 the facility has staff, sufficient in qualifications, competency, and numbers, to adequately

939.10 provide the services agreed to in the service plan and that are within the facility's scope of  
939.11 practice.

939.12 Subd. 7. **Referrals.** If a facility reasonably believes that a resident is in need of another  
939.13 medical or health service, including a licensed health professional, or social service provider,  
939.14 the facility shall:

939.15 (1) determine the resident's preferences with respect to obtaining the service; and  
939.16 (2) inform the resident of the resources available, if known, to assist the resident in  
939.17 obtaining services.

939.18 Subd. 8. **Initiation of services.** When a facility initiates services and the individualized  
939.19 assessment required in subdivision 9 has not been completed, the facility must complete a  
939.20 temporary plan and agreement with the resident for services.

939.21 Subd. 9. **Initial assessments and monitoring.** (a) An assisted living facility shall conduct  
939.22 a nursing assessment by a registered nurse of the physical and cognitive needs of the  
939.23 prospective resident and propose a temporary service plan prior to the date on which a  
939.24 prospective resident executes a contract with a facility or the date on which a prospective  
939.25 resident moves in, whichever is earlier. If necessitated by either the geographic distance  
939.26 between the prospective resident and the facility, or urgent or unexpected circumstances,  
939.27 the assessment may be conducted using telecommunication methods based on practice  
939.28 standards that meet the resident's needs and reflect person-centered planning and care  
939.29 delivery. The nursing assessment must be completed within five days of the start of services.

939.30 (b) Resident reassessment and monitoring must be conducted no more than 14 days after  
939.31 initiation of services. Ongoing resident reassessment and monitoring must be conducted as  
939.32 needed based on changes in the needs of the resident and cannot exceed 90 days from the  
939.33 last date of the assessment.

940.1 (c) Residents who are not receiving any services shall not be required to undergo an  
940.2 initial nursing assessment.

940.3 (d) A facility must inform the prospective resident of the availability of and contact  
940.4 information for long-term care consultation services under section 256B.0911, prior to the  
940.5 date on which a prospective resident executes a contract with a facility or the date on which  
940.6 a prospective resident moves in, whichever is earlier.

940.7 Subd. 10. **Service plan, implementation, and revisions to service plan.** (a) No later  
940.8 than 14 days after the date that services are first provided, a facility shall finalize a current  
940.9 written service plan.

940.10 (b) The service plan and any revisions must include a signature or other authentication  
940.11 by the facility and by the resident or the designated representative documenting agreement  
940.12 on the services to be provided. The service plan must be revised, if needed, based on resident  
940.13 reassessment under subdivision 9. The facility must provide information to the resident

- 940.14 about changes to the facility's fee for services and how to contact the Office of Ombudsman  
 940.15 for Long-Term Care.
- 940.16 (c) The facility must implement and provide all services required by the current service  
 940.17 plan.
- 940.18 (d) The service plan and the revised service plan must be entered into the resident's  
 940.19 record, including notice of a change in a resident's fees when applicable.
- 940.20 (e) Staff providing services must be informed of the current written service plan.
- 940.21 (f) The service plan must include:
- 940.22 (1) a description of the services to be provided, the fees for services, and the frequency  
 940.23 of each service, according to the resident's current assessment and resident preferences;
- 940.24 (2) the identification of staff or categories of staff who will provide the services;
- 940.25 (3) the schedule and methods of monitoring assessments of the resident;
- 940.26 (4) the schedule and methods of monitoring staff providing services; and
- 940.27 (5) a contingency plan that includes:
- 940.28 (i) the action to be taken by the facility and by the resident and the designated  
 940.29 representative if the scheduled service cannot be provided;
- 940.30 (ii) information and a method for a resident and the designated representative to contact  
 940.31 the facility;
- 941.1 (iii) the names and contact information of persons the resident wishes to have notified  
 941.2 in an emergency or if there is a significant adverse change in the resident's condition,  
 941.3 including identification of and information as to who has authority to sign for the resident  
 941.4 in an emergency; and
- 941.5 (iv) the circumstances in which emergency medical services are not to be summoned  
 941.6 consistent with chapters 145B and 145C, and declarations made by the resident under those  
 941.7 chapters.
- 941.8 Subd. 11. **Use of restraints.** Residents of assisted living facilities must be free from any  
 941.9 physical or chemical restraints. Restraints are only permissible if determined necessary for  
 941.10 health and safety reasons identified by the facility through an initial assessment or  
 941.11 reassessment, under subdivision 9, and documented in the written service plan under  
 941.12 subdivision 10.
- 941.13 Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,  
 941.14 family member, or other caregiver of the resident requests that an employee or other agent  
 941.15 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the  
 941.16 request:

- 941.17 (1) shall take no action to discontinue the treatment; and
- 941.18 (2) shall promptly inform the supervisor or other agent of the facility of the resident's  
941.19 request.
- 941.20 (b) Upon being informed of a request for discontinuance of treatment, the facility shall  
941.21 promptly:
- 941.22 (1) inform the resident that the request will be made known to the physician or advanced  
941.23 practice registered nurse who ordered the resident's treatment;
- 941.24 (2) inform the physician or advanced practice registered nurse of the resident's request;  
941.25 and
- 941.26 (3) work with the resident and the resident's physician or advanced practice registered  
941.27 nurse to comply with chapter 145C.
- 941.28 (c) This section does not require the facility to discontinue treatment, except as may be  
941.29 required by law or court order.
- 941.30 (d) This section does not diminish the rights of residents to control their treatments,  
941.31 refuse services, or terminate their relationships with the facility.
- 942.1 (e) This section shall be construed in a manner consistent with chapter 145B or 145C,  
942.2 whichever applies, and declarations made by residents under those chapters.
- 942.3 Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to  
942.4 the protections in section 152.34.
- 942.5 Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter  
942.6 504B.
- 942.7 Sec. 17. [144I.16] PROVISION OF SERVICES.
- 942.8 Subdivision 1. **Availability of contact person to staff.** (a) Assisted living facilities and  
942.9 assisted living facilities that provide dementia care must have a registered nurse available  
942.10 for consultation to staff performing delegated nursing tasks and must have an appropriate  
942.11 licensed health professional available if performing other delegated services such as therapies.
- 942.12 (b) The appropriate contact person must be readily available either in person, by  
942.13 telephone, or by other means to the staff at times when the staff is providing services.
- 942.14 Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care  
942.15 services must be supervised periodically where the services are being provided to verify  
942.16 that the work is being performed competently and to identify problems and solutions to  
942.17 address issues relating to the staff's ability to provide the services. The supervision of the  
942.18 unlicensed personnel must be done by staff of the facility having the authority, skills, and



- 942.19 ability to provide the supervision of unlicensed personnel and who can implement changes  
 942.20 as needed, and train staff.
- 942.21 (b) Supervision includes direct observation of unlicensed personnel while the unlicensed  
 942.22 personnel are providing the services and may also include indirect methods of gaining input  
 942.23 such as gathering feedback from the resident. Supervisory review of staff must be provided  
 942.24 at a frequency based on the staff person's competency and performance.
- 942.25 Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff  
 942.26 who perform delegated nursing or therapy tasks must be supervised by an appropriate  
 942.27 licensed health professional or a registered nurse per the assisted living facility's policy  
 942.28 where the services are being provided to verify that the work is being performed competently  
 942.29 and to identify problems and solutions related to the staff person's ability to perform the  
 942.30 tasks. Supervision of staff performing medication or treatment administration shall be  
 942.31 provided by a registered nurse or appropriate licensed health professional and must include  
 942.32 observation of the staff administering the medication or treatment and the interaction with  
 942.33 the resident.
- 943.1 (b) The direct supervision of staff performing delegated tasks must be provided within  
 943.2 30 days after the date on which the individual begins working for the facility and first  
 943.3 performs the delegated tasks for residents and thereafter as needed based on performance.  
 943.4 This requirement also applies to staff who have not performed delegated tasks for one year  
 943.5 or longer.
- 943.6 Subd. 4. **Documentation.** A facility must retain documentation of supervision activities  
 943.7 in the personnel records.
- 943.8 Sec. 18. [144I.17] MEDICATION MANAGEMENT.
- 943.9 Subdivision 1. **Medication management services.** (a) This section applies only to  
 943.10 assisted living facilities that provide medication management services.
- 943.11 (b) An assisted living facility that provides medication management services must  
 943.12 develop, implement, and maintain current written medication management policies and  
 943.13 procedures. The policies and procedures must be developed under the supervision and  
 943.14 direction of a registered nurse, licensed health professional, or pharmacist consistent with  
 943.15 current practice standards and guidelines.
- 943.16 (c) The written policies and procedures must address requesting and receiving  
 943.17 prescriptions for medications; preparing and giving medications; verifying that prescription  
 943.18 drugs are administered as prescribed; documenting medication management activities;  
 943.19 controlling and storing medications; monitoring and evaluating medication use; resolving  
 943.20 medication errors; communicating with the prescriber, pharmacist, and resident and  
 943.21 designated representative, if any; disposing of unused medications; and educating residents  
 943.22 and designated representatives about medications. When controlled substances are being  
 943.23 managed, the policies and procedures must also identify how the provider will ensure security

943.24 and accountability for the overall management, control, and disposition of those substances  
943.25 in compliance with state and federal regulations and with subdivision 23.

943.26 Subd. 2. **Provision of medication management services.** (a) For each resident who  
943.27 requests medication management services, the assisted living facility shall, prior to providing  
943.28 medication management services, have a registered nurse, licensed health professional, or  
943.29 authorized prescriber under section 151.37 conduct an assessment to determine what  
943.30 medication management services will be provided and how the services will be provided.  
943.31 This assessment must be conducted face-to-face with the resident. The assessment must  
943.32 include an identification and review of all medications the resident is known to be taking.  
943.33 The review and identification must include indications for medications, side effects,  
943.34 contraindications, allergic or adverse reactions, and actions to address these issues.

944.1 (b) The assessment must identify interventions needed in management of medications  
944.2 to prevent diversion of medication by the resident or others who may have access to the  
944.3 medications and provide instructions to the resident and designated representative on  
944.4 interventions to manage the resident's medications and prevent diversion of medications.  
944.5 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or  
944.6 improper disposition of medications.

944.7 Subd. 3. **Individualized medication monitoring and reassessment.** The assisted living  
944.8 facility must monitor and reassess the resident's medication management services as needed  
944.9 under subdivision 2 when the resident presents with symptoms or other issues that may be  
944.10 medication-related and, at a minimum, annually.

944.11 Subd. 4. **Resident refusal.** The assisted living facility must document in the resident's  
944.12 record any refusal for an assessment for medication management by the resident. The assisted  
944.13 living facility must discuss with the resident the possible consequences of the resident's  
944.14 refusal and document the discussion in the resident's record.

944.15 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving  
944.16 medication management services, the assisted living facility must prepare and include in  
944.17 the service plan a written statement of the medication management services that will be  
944.18 provided to the resident. The assisted living facility must develop and maintain a current  
944.19 individualized medication management record for each resident based on the resident's  
944.20 assessment that must contain the following:

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

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

944.24 (3) documentation of specific resident instructions relating to the administration of  
944.25 medications;

- 944.26 (4) identification of persons responsible for monitoring medication supplies and ensuring  
944.27 that medication refills are ordered on a timely basis;
- 944.28 (5) identification of medication management tasks that may be delegated to unlicensed  
944.29 personnel;
- 944.30 (6) procedures for staff notifying a registered nurse or appropriate licensed health  
944.31 professional when a problem arises with medication management services; and
- 945.1 (7) any resident-specific requirements relating to documenting medication administration,  
945.2 verifications that all medications are administered as prescribed, and monitoring of  
945.3 medication use to prevent possible complications or adverse reactions.
- 945.4 (b) The medication management record must be current and updated when there are any  
945.5 changes.
- 945.6 (c) Medication reconciliation must be completed when a licensed nurse, licensed health  
945.7 professional, or authorized prescriber is providing medication management.
- 945.8 Subd. 6. **Administration of medication.** Medications may be administered by a nurse,  
945.9 physician, or other licensed health practitioner authorized to administer medications or by  
945.10 unlicensed personnel who have been delegated medication administration tasks by a  
945.11 registered nurse.
- 945.12 Subd. 7. **Delegation of medication administration.** When administration of medications  
945.13 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered  
945.14 nurse has:
- 945.15 (1) instructed the unlicensed personnel in the proper methods to administer the  
945.16 medications, and the unlicensed personnel has demonstrated the ability to competently  
945.17 follow the procedures;
- 945.18 (2) specified, in writing, specific instructions for each resident and documented those  
945.19 instructions in the resident's records; and
- 945.20 (3) communicated with the unlicensed personnel about the individual needs of the  
945.21 resident.
- 945.22 Subd. 8. **Documentation of administration of medications.** Each medication  
945.23 administered by the assisted living facility staff must be documented in the resident's record.  
945.24 The documentation must include the signature and title of the person who administered the  
945.25 medication. The documentation must include the medication name, dosage, date and time  
945.26 administered, and method and route of administration. The staff must document the reason  
945.27 why medication administration was not completed as prescribed and document any follow-up  
945.28 procedures that were provided to meet the resident's needs when medication was not  
945.29 administered as prescribed and in compliance with the resident's medication management  
945.30 plan.

945.31 Subd. 9. **Documentation of medication setup.** Documentation of dates of medication  
945.32 setup, name of medication, quantity of dose, times to be administered, route of administration,  
945.33 and name of person completing medication setup must be done at the time of setup.

946.1 Subd. 10. **Medication management for residents who will be away from home.** (a)  
946.2 An assisted living facility that is providing medication management services to the resident  
946.3 must develop and implement policies and procedures for giving accurate and current  
946.4 medications to residents for planned or unplanned times away from home according to the  
946.5 resident's individualized medication management plan. The policies and procedures must  
946.6 state that:

946.7 (1) for planned time away, the medications must be obtained from the pharmacy or set  
946.8 up by the licensed nurse according to appropriate state and federal laws and nursing standards  
946.9 of practice;

946.10 (2) for unplanned time away, when the pharmacy is not able to provide the medications,  
946.11 a licensed nurse or unlicensed personnel shall give the resident and designated representative  
946.12 medications in amounts and dosages needed for the length of the anticipated absence, not  
946.13 to exceed seven calendar days;

946.14 (3) the resident or designated representative must be provided written information on  
946.15 medications, including any special instructions for administering or handling the medications,  
946.16 including controlled substances;

946.17 (4) the medications must be placed in a medication container or containers appropriate  
946.18 to the provider's medication system and must be labeled with the resident's name and the  
946.19 dates and times that the medications are scheduled; and

946.20 (5) the resident and designated representative must be provided in writing the facility's  
946.21 name and information on how to contact the facility.

946.22 (b) For unplanned time away when the licensed nurse is not available, the registered  
946.23 nurse may delegate this task to unlicensed personnel if:

946.24 (1) the registered nurse has trained the unlicensed staff and determined the unlicensed  
946.25 staff is competent to follow the procedures for giving medications to residents; and

946.26 (2) the registered nurse has developed written procedures for the unlicensed personnel,  
946.27 including any special instructions or procedures regarding controlled substances that are  
946.28 prescribed for the resident. The procedures must address:

946.29 (i) the type of container or containers to be used for the medications appropriate to the  
946.30 provider's medication system;

946.31 (ii) how the container or containers must be labeled;

- 947.1 (iii) written information about the medications to be given to the resident or designated  
 947.2 representative;
- 947.3 (iv) how the unlicensed staff must document in the resident's record that medications  
 947.4 have been given to the resident and the designated representative, including documenting  
 947.5 the date the medications were given to the resident or the designated representative and who  
 947.6 received the medications, the person who gave the medications to the resident, the number  
 947.7 of medications that were given to the resident, and other required information;
- 947.8 (v) how the registered nurse shall be notified that medications have been given to the  
 947.9 resident or designated representative and whether the registered nurse needs to be contacted  
 947.10 before the medications are given to the resident or the designated representative;
- 947.11 (vi) a review by the registered nurse of the completion of this task to verify that this task  
 947.12 was completed accurately by the unlicensed personnel; and
- 947.13 (vii) how the unlicensed personnel must document in the resident's record any unused  
 947.14 medications that are returned to the facility, including the name of each medication and the  
 947.15 doses of each returned medication.
- 947.16 **Subd. 11. Prescribed and nonprescribed medication.** The assisted living facility must  
 947.17 determine whether the facility shall require a prescription for all medications the provider  
 947.18 manages. The assisted living facility must inform the resident or the designated representative  
 947.19 whether the facility requires a prescription for all over-the-counter and dietary supplements  
 947.20 before the facility agrees to manage those medications.
- 947.21 **Subd. 12. Medications; over-the-counter drugs; dietary supplements not**  
 947.22 **prescribed.** An assisted living facility providing medication management services for  
 947.23 over-the-counter drugs or dietary supplements must retain those items in the original labeled  
 947.24 container with directions for use prior to setting up for immediate or later administration.  
 947.25 The facility must verify that the medications are up to date and stored as appropriate.
- 947.26 **Subd. 13. Prescriptions.** There must be a current written or electronically recorded  
 947.27 prescription as defined in section 151.01, subdivision 16a, for all prescribed medications  
 947.28 that the assisted living facility is managing for the resident.
- 947.29 **Subd. 14. Renewal of prescriptions.** Prescriptions must be renewed at least every 12  
 947.30 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions  
 947.31 for controlled substances must comply with chapter 152.
- 948.1 **Subd. 15. Verbal prescription orders.** Verbal prescription orders from an authorized  
 948.2 prescriber must be received by a nurse or pharmacist. The order must be handled according  
 948.3 to Minnesota Rules, part 6800.6200.
- 948.4 **Subd. 16. Written or electronic prescription.** When a written or electronic prescription  
 948.5 is received, it must be communicated to the registered nurse in charge and recorded or placed  
 948.6 in the resident's record.

- 948.7 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,  
948.8 or electronically must be kept confidential according to sections 144.291 to 144.298 and  
948.9 144A.44.
- 948.10 Subd. 18. **Medications provided by resident or family members.** When the assisted  
948.11 living facility is aware of any medications or dietary supplements that are being used by  
948.12 the resident and are not included in the assessment for medication management services,  
948.13 the staff must advise the registered nurse and document that in the resident's record.
- 948.14 Subd. 19. **Storage of medications.** An assisted living facility must store all prescription  
948.15 medications in securely locked and substantially constructed compartments according to  
948.16 the manufacturer's directions and permit only authorized personnel to have access.
- 948.17 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate  
948.18 or later administration, must be kept in the original container in which it was dispensed by  
948.19 the pharmacy bearing the original prescription label with legible information including the  
948.20 expiration or beyond-use date of a time-dated drug.
- 948.21 Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or  
948.22 saved for use by anyone other than the resident.
- 948.23 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by  
948.24 the assisted living facility must be given to the resident or the designated representative  
948.25 when the resident's service plan ends or medication management services are no longer part  
948.26 of the service plan. Medications for a resident who is deceased or that have been discontinued  
948.27 or have expired may be given to the resident or the designated representative for disposal.
- 948.28 (b) The assisted living facility shall dispose of any medications remaining with the  
948.29 facility that are discontinued or expired or upon the termination of the service contract or  
948.30 the resident's death according to state and federal regulations for disposition of medications  
948.31 and controlled substances.
- 948.32 (c) Upon disposition, the facility must document in the resident's record the disposition  
948.33 of the medication including the medication's name, strength, prescription number as  
949.1 applicable, quantity, to whom the medications were given, date of disposition, and names  
949.2 of staff and other individuals involved in the disposition.
- 949.3 Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication  
949.4 management must develop and implement procedures for loss or spillage of all controlled  
949.5 substances defined in Minnesota Rules, part 6800.4220. These procedures must require that  
949.6 when a spillage of a controlled substance occurs, a notation must be made in the resident's  
949.7 record explaining the spillage and the actions taken. The notation must be signed by the  
949.8 person responsible for the spillage and include verification that any contaminated substance  
949.9 was disposed of according to state or federal regulations.

949.10 (b) The procedures must require that the facility providing medication management  
 949.11 investigate any known loss or unaccounted for prescription drugs and take appropriate action  
 949.12 required under state or federal regulations and document the investigation in required records.

949.13 Sec. 19. [144I.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.

949.14 Subdivision 1. Treatment and therapy management services. This section applies  
 949.15 only to assisted living facilities that provide comprehensive assisted living services.

949.16 Subd. 2. Policies and procedures. (a) An assisted living facility that provides treatment  
 949.17 and therapy management services must develop, implement, and maintain up-to-date written  
 949.18 treatment or therapy management policies and procedures. The policies and procedures  
 949.19 must be developed under the supervision and direction of a registered nurse or appropriate  
 949.20 licensed health professional consistent with current practice standards and guidelines.

949.21 (b) The written policies and procedures must address requesting and receiving orders  
 949.22 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting  
 949.23 treatment or therapy activities, educating and communicating with residents about treatments  
 949.24 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and  
 949.25 communicating with the prescriber.

949.26 Subd. 3. Individualized treatment or therapy management plan. For each resident  
 949.27 receiving management of ordered or prescribed treatments or therapy services, the assisted  
 949.28 living facility must prepare and include in the service plan a written statement of the treatment  
 949.29 or therapy services that will be provided to the resident. The facility must also develop and  
 949.30 maintain a current individualized treatment and therapy management record for each resident  
 949.31 which must contain at least the following:

949.32 (1) a statement of the type of services that will be provided;

950.1 (2) documentation of specific resident instructions relating to the treatments or therapy  
 950.2 administration;

950.3 (3) identification of treatment or therapy tasks that will be delegated to unlicensed  
 950.4 personnel;

950.5 (4) procedures for notifying a registered nurse or appropriate licensed health professional  
 950.6 when a problem arises with treatments or therapy services; and

950.7 (5) any resident-specific requirements relating to documentation of treatment and therapy  
 950.8 received, verification that all treatment and therapy was administered as prescribed, and  
 950.9 monitoring of treatment or therapy to prevent possible complications or adverse reactions.  
 950.10 The treatment or therapy management record must be current and updated when there are  
 950.11 any changes.

950.12 Subd. 4. Administration of treatments and therapy. Ordered or prescribed treatments  
 950.13 or therapies must be administered by a nurse, physician, or other licensed health professional  
 950.14 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed



950.15 personnel by the licensed health professional according to the appropriate practice standards  
 950.16 for delegation or assignment. When administration of a treatment or therapy is delegated  
 950.17 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or  
 950.18 authorized licensed health professional has:

950.19 (1) instructed the unlicensed personnel in the proper methods with respect to each resident  
 950.20 and the unlicensed personnel has demonstrated the ability to competently follow the  
 950.21 procedures;

950.22 (2) specified, in writing, specific instructions for each resident and documented those  
 950.23 instructions in the resident's record; and

950.24 (3) communicated with the unlicensed personnel about the individual needs of the  
 950.25 resident.

950.26 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment  
 950.27 or therapy administered by an assisted living facility must be in the resident's record. The  
 950.28 documentation must include the signature and title of the person who administered the  
 950.29 treatment or therapy and must include the date and time of administration. When treatment  
 950.30 or therapies are not administered as ordered or prescribed, the provider must document the  
 950.31 reason why it was not administered and any follow-up procedures that were provided to  
 950.32 meet the resident's needs.

951.1 Subd. 6. **Treatment and therapy orders.** There must be an up-to-date written or  
 951.2 electronically recorded order from an authorized prescriber for all treatments and therapies.  
 951.3 The order must contain the name of the resident, a description of the treatment or therapy  
 951.4 to be provided, and the frequency, duration, and other information needed to administer the  
 951.5 treatment or therapy. Treatment and therapy orders must be renewed at least every 12  
 951.6 months.

951.7 Subd. 7. **Right to outside service provider; other payors.** Under section 144J.02, a  
 951.8 resident is free to retain therapy and treatment services from an off-site service provider.  
 951.9 Assisted living facilities must make every effort to assist residents in obtaining information  
 951.10 regarding whether the Medicare program, the medical assistance program under chapter  
 951.11 256B, or another public program will pay for any or all of the services.

951.12 Sec. 20. [144I.19] RESIDENT RECORD REQUIREMENTS.

951.13 Subdivision 1. **Resident record.** (a) The facility must maintain records for each resident  
 951.14 for whom it is providing services. Entries in the resident records must be current, legible,  
 951.15 permanently recorded, dated, and authenticated with the name and title of the person making  
 951.16 the entry.

951.17 (b) Resident records, whether written or electronic, must be protected against loss,  
 951.18 tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable  
 951.19 relevant federal and state laws. The facility shall establish and implement written procedures



- 951.20 to control use, storage, and security of resident's records and establish criteria for release  
951.21 of resident information.
- 951.22 (c) The facility may not disclose to any other person any personal, financial, or medical  
951.23 information about the resident, except:
- 951.24 (1) as may be required by law;
- 951.25 (2) to employees or contractors of the facility, another facility, other health care  
951.26 practitioner or provider, or inpatient facility needing information in order to provide services  
951.27 to the resident, but only the information that is necessary for the provision of services;
- 951.28 (3) to persons authorized in writing by the resident or the resident's representative to  
951.29 receive the information, including third-party payers; and
- 951.30 (4) to representatives of the commissioner authorized to survey or investigate facilities  
951.31 under this chapter or federal laws.
- 952.1 Subd. 2. Access to records. The facility must ensure that the appropriate records are  
952.2 readily available to employees and contractors authorized to access the records. Resident  
952.3 records must be maintained in a manner that allows for timely access, printing, or  
952.4 transmission of the records. The records must be made readily available to the commissioner  
952.5 upon request.
- 952.6 Subd. 3. Contents of resident record. Contents of a resident record include the following  
952.7 for each resident:
- 952.8 (1) identifying information, including the resident's name, date of birth, address, and  
952.9 telephone number;
- 952.10 (2) the name, address, and telephone number of an emergency contact, family members,  
952.11 designated representative, if any, or others as identified;
- 952.12 (3) names, addresses, and telephone numbers of the resident's health and medical service  
952.13 providers, if known;
- 952.14 (4) health information, including medical history, allergies, and when the provider is  
952.15 managing medications, treatments or therapies that require documentation, and other relevant  
952.16 health records;
- 952.17 (5) the resident's advance directives, if any;
- 952.18 (6) copies of any health care directives, guardianships, powers of attorney, or  
952.19 conservatorships;
- 952.20 (7) the facility's current and previous assessments and service plans;
- 952.21 (8) all records of communications pertinent to the resident's services;

- 952.22 (9) documentation of significant changes in the resident's status and actions taken in  
 952.23 response to the needs of the resident, including reporting to the appropriate supervisor or  
 952.24 health care professional;
- 952.25 (10) documentation of incidents involving the resident and actions taken in response to  
 952.26 the needs of the resident, including reporting to the appropriate supervisor or health care  
 952.27 professional;
- 952.28 (11) documentation that services have been provided as identified in the service plan;
- 952.29 (12) documentation that the resident has received and reviewed the assisted living bill  
 952.30 of rights;
- 952.31 (13) documentation of complaints received and any resolution;
- 953.1 (14) a discharge summary, including service termination notice and related  
 953.2 documentation, when applicable; and
- 953.3 (15) other documentation required under this chapter and relevant to the resident's  
 953.4 services or status.
- 953.5 Subd. 4. **Transfer of resident records.** If a resident transfers to another facility or  
 953.6 another health care practitioner or provider, or is admitted to an inpatient facility, the facility,  
 953.7 upon request of the resident or the resident's representative, shall take steps to ensure a  
 953.8 coordinated transfer including sending a copy or summary of the resident's record to the  
 953.9 new facility or the resident, as appropriate.
- 953.10 Subd. 5. **Record retention.** Following the resident's discharge or termination of services,  
 953.11 a facility must retain a resident's record for at least five years or as otherwise required by  
 953.12 state or federal regulations. Arrangements must be made for secure storage and retrieval of  
 953.13 resident records if the facility ceases to operate.
- 953.14 Sec. 21. [144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS
- 953.15 Subdivision 1. **Orientation of staff and supervisors.** All staff providing and supervising  
 953.16 direct services must complete an orientation to facility licensing requirements and regulations  
 953.17 before providing services to residents. The orientation may be incorporated into the training  
 953.18 required under subdivision 6. The orientation need only be completed once for each staff  
 953.19 person and is not transferable to another facility.
- 953.20 Subd. 2. **Content.** (a) The orientation must contain the following topics:
- 953.21 (1) an overview of this chapter;
- 953.22 (2) an introduction and review of the facility's policies and procedures related to the  
 953.23 provision of assisted living services by the individual staff person;
- 953.24 (3) handling of emergencies and use of emergency services;

- 953.25 (4) compliance with and reporting of the maltreatment of vulnerable adults under section  
 953.26 626.557, including information on the Minnesota Adult Abuse Reporting Center;
- 953.27 (5) assisted living bill of rights under section 144J.02;
- 953.28 (6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities  
 953.29 related to ensuring the exercise and protection of those rights;
- 953.30 (7) the principles of person-centered service planning and delivery and how they apply  
 953.31 to direct support services provided by the staff person;
- 954.1 (8) handling of residents' complaints, reporting of complaints, and where to report  
 954.2 complaints, including information on the Office of Health Facility Complaints;
- 954.3 (9) consumer advocacy services of the Office of Ombudsman for Long-Term Care,  
 954.4 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care  
 954.5 Ombudsman at the Department of Human Services, county-managed care advocates, or  
 954.6 other relevant advocacy services; and
- 954.7 (10) a review of the types of assisted living services the employee will be providing and  
 954.8 the facility's category of licensure.
- 954.9 (b) In addition to the topics in paragraph (a), orientation may also contain training on  
 954.10 providing services to residents with hearing loss. Any training on hearing loss provided  
 954.11 under this subdivision must be high quality and research based, may include online training,  
 954.12 and must include training on one or more of the following topics:
- 954.13 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
 954.14 and the challenges it poses to communication;
- 954.15 (2) health impacts related to untreated age-related hearing loss, such as increased  
 954.16 incidence of dementia, falls, hospitalizations, isolation, and depression; or
- 954.17 (3) information about strategies and technology that may enhance communication and  
 954.18 involvement, including communication strategies, assistive listening devices, hearing aids,  
 954.19 visual and tactile alerting devices, communication access in real time, and closed captions.
- 954.20 Subd. 3. **Verification and documentation of orientation.** Each facility shall retain  
 954.21 evidence in the employee record of each staff person having completed the orientation  
 954.22 required by this section.
- 954.23 Subd. 4. **Orientation to resident.** Staff providing services must be oriented specifically  
 954.24 to each individual resident and the services to be provided. This orientation may be provided  
 954.25 in person, orally, in writing, or electronically.
- 954.26 Subd. 5. **Training required relating to dementia.** All direct care staff and supervisors  
 954.27 providing direct services must receive training that includes a current explanation of  
 954.28 Alzheimer's disease and related disorders, effective approaches to use to problem solve

- 954.29 when working with a resident's challenging behaviors, and how to communicate with  
 954.30 residents who have dementia or related memory disorders.
- 954.31 **Subd. 6. Required annual training.** (a) All staff that perform direct services must  
 954.32 complete at least eight hours of annual training for each 12 months of employment. The  
 955.1 training may be obtained from the facility or another source and must include topics relevant  
 955.2 to the provision of assisted living services. The annual training must include:
- 955.3 (1) training on reporting of maltreatment of vulnerable adults under section 626.557;  
 955.4 (2) review of the assisted living bill of rights in section 144J.02;
- 955.5 (3) review of infection control techniques used in the home and implementation of  
 955.6 infection control standards including a review of hand washing techniques; the need for and  
 955.7 use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials  
 955.8 and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable  
 955.9 equipment; disinfecting environmental surfaces; and reporting communicable diseases;
- 955.10 (4) effective approaches to use to problem solve when working with a resident's  
 955.11 challenging behaviors, and how to communicate with residents who have Alzheimer's  
 955.12 disease or related disorders;
- 955.13 (5) review of the facility's policies and procedures relating to the provision of assisted  
 955.14 living services and how to implement those policies and procedures;
- 955.15 (6) review of protection-related rights as stated in section 144I.10, subdivision 8, and  
 955.16 staff responsibilities related to ensuring the exercise and protection of those rights; and
- 955.17 (7) the principles of person-centered service planning and delivery and how they apply  
 955.18 to direct support services provided by the staff person.
- 955.19 (b) In addition to the topics in paragraph (a), annual training may also contain training  
 955.20 on providing services to residents with hearing loss. Any training on hearing loss provided  
 955.21 under this subdivision must be high quality and research based, may include online training,  
 955.22 and must include training on one or more of the following topics:
- 955.23 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
 955.24 and challenges it poses to communication;
- 955.25 (2) the health impacts related to untreated age-related hearing loss, such as increased  
 955.26 incidence of dementia, falls, hospitalizations, isolation, and depression; or
- 955.27 (3) information about strategies and technology that may enhance communication and  
 955.28 involvement, including communication strategies, assistive listening devices, hearing aids,  
 955.29 visual and tactile alerting devices, communication access in real time, and closed captions.
- 955.30 **Subd. 7. Documentation.** A facility must retain documentation in the employee records  
 955.31 of staff who have satisfied the orientation and training requirements of this section.

- 956.1 Subd. 8. **Implementation.** A facility must implement all orientation and training topics  
 956.2 covered in this section.
- 956.3 Sec. 22. [144I.21] TRAINING IN DEMENTIA CARE REQUIRED.
- 956.4 (a) Assisted living facilities and assisted living facilities with dementia care must meet  
 956.5 the following training requirements:
- 956.6 (1) supervisors of direct-care staff must have at least eight hours of initial training on  
 956.7 topics specified under paragraph (b) within 120 working hours of the employment start  
 956.8 date, and must have at least two hours of training on topics related to dementia care for each  
 956.9 12 months of employment thereafter;
- 956.10 (2) direct-care employees must have completed at least eight hours of initial training on  
 956.11 topics specified under paragraph (b) within 160 working hours of the employment start  
 956.12 date. Until this initial training is complete, an employee must not provide direct care unless  
 956.13 there is another employee on site who has completed the initial eight hours of training on  
 956.14 topics related to dementia care and who can act as a resource and assist if issues arise. A  
 956.15 trainer of the requirements under paragraph (b) or a supervisor meeting the requirements  
 956.16 in clause (1) must be available for consultation with the new employee until the training  
 956.17 requirement is complete. Direct-care employees must have at least two hours of training on  
 956.18 topics related to dementia for each 12 months of employment thereafter;
- 956.19 (3) staff who do not provide direct care, including maintenance, housekeeping, and food  
 956.20 service staff, must have at least four hours of initial training on topics specified under  
 956.21 paragraph (b) within 160 working hours of the employment start date, and must have at  
 956.22 least two hours of training on topics related to dementia care for each 12 months of  
 956.23 employment thereafter; and
- 956.24 (4) new employees may satisfy the initial training requirements by producing written  
 956.25 proof of previously completed required training within the past 18 months.
- 956.26 (b) Areas of required training include:
- 956.27 (1) an explanation of Alzheimer's disease and related disorders;
- 956.28 (2) assistance with activities of daily living;
- 956.29 (3) problem solving with challenging behaviors; and
- 956.30 (4) communication skills.
- 957.1 (c) The facility shall provide to consumers in written or electronic form a description of  
 957.2 the training program, the categories of employees trained, the frequency of training, and  
 957.3 the basic topics covered.
- 957.4 Sec. 23. [144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.

957.5 Subdivision 1. **Restrictions.** The controlling individual of a facility may not include  
 957.6 any person who was a controlling individual of any other nursing home, assisted living  
 957.7 facility, or assisted living facility with dementia care during any period of time in the previous  
 957.8 two-year period:

957.9 (1) during which time of control the nursing home, assisted living facility, or assisted  
 957.10 living facility with dementia care incurred the following number of uncorrected or repeated  
 957.11 violations:

957.12 (i) two or more uncorrected violations or one or more repeated violations that created  
 957.13 an imminent risk to direct resident care or safety; or

957.14 (ii) four or more uncorrected violations or two or more repeated violations of any nature,  
 957.15 including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

957.16 (2) who, during that period, was convicted of a felony or gross misdemeanor that relates  
 957.17 to the operation of the nursing home, assisted living facility, or assisted living facility with  
 957.18 dementia care, or directly affects resident safety or care.

957.19 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the  
 957.20 facility who had no legal authority to affect or change decisions related to the operation of  
 957.21 the nursing home, assisted living facility, or assisted living facility with dementia care that  
 957.22 incurred the uncorrected violations.

957.23 Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a)  
 957.24 In lieu of revoking, suspending, or refusing to renew the license of a facility where a  
 957.25 controlling individual was disqualified by subdivision 1, clause (1), the commissioner may  
 957.26 issue an order staying the revocation, suspension, or nonrenewal of the facility's license.  
 957.27 The order may but need not be contingent upon the facility's compliance with restrictions  
 957.28 and conditions imposed on the license to ensure the proper operation of the facility and to  
 957.29 protect the health, safety, comfort, treatment, and well-being of the residents in the facility.  
 957.30 The decision to issue an order for a stay must be made within 90 days of the commissioner's  
 957.31 determination that a controlling individual of the facility is disqualified by subdivision 1,  
 957.32 clause (1), from operating a facility.

958.1 (b) In determining whether to issue a stay and to impose conditions and restrictions, the  
 958.2 commissioner must consider the following factors:

958.3 (1) the ability of the controlling individual to operate other facilities in accordance with  
 958.4 the licensure rules and laws;

958.5 (2) the conditions in the nursing home, assisted living facility, or assisted living facility  
 958.6 with dementia care that received the number and type of uncorrected or repeated violations  
 958.7 described in subdivision 1, clause (1); and

958.8 (3) the conditions and compliance history of each of the nursing homes, assisted living  
958.9 facilities, and assisted living facilities with dementia care owned or operated by the  
958.10 controlling individuals.

958.11 (c) The commissioner's decision to exercise the authority under this subdivision in lieu  
958.12 of revoking, suspending, or refusing to renew the license of the facility is not subject to  
958.13 administrative or judicial review.

958.14 (d) The order for the stay of revocation, suspension, or nonrenewal of the facility license  
958.15 must include any conditions and restrictions on the license that the commissioner deems  
958.16 necessary based on the factors listed in paragraph (b).

958.17 (e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the  
958.18 commissioner shall inform the controlling individual in writing of any conditions and  
958.19 restrictions that will be imposed. The controlling individual shall, within ten working days,  
958.20 notify the commissioner in writing of a decision to accept or reject the conditions and  
958.21 restrictions. If the facility rejects any of the conditions and restrictions, the commissioner  
958.22 must either modify the conditions and restrictions or take action to suspend, revoke, or not  
958.23 renew the facility's license.

958.24 (f) Upon issuance of the order for a stay of revocation, suspension, or nonrenewal, the  
958.25 controlling individual shall be responsible for compliance with the conditions and restrictions.  
958.26 Any time after the conditions and restrictions have been in place for 180 days, the controlling  
958.27 individual may petition the commissioner for removal or modification of the conditions and  
958.28 restrictions. The commissioner must respond to the petition within 30 days of receipt of the  
958.29 written petition. If the commissioner denies the petition, the controlling individual may  
958.30 request a hearing under the provisions of chapter 14. Any hearing shall be limited to a  
958.31 determination of whether the conditions and restrictions shall be modified or removed. At  
958.32 the hearing, the controlling individual bears the burden of proof.

959.1 (g) The failure of the controlling individual to comply with the conditions and restrictions  
959.2 contained in the order for stay shall result in the immediate removal of the stay and the  
959.3 commissioner shall take action to suspend, revoke, or not renew the license.

959.4 (h) The conditions and restrictions are effective for two years after the date they are  
959.5 imposed.

959.6 (i) Nothing in this subdivision shall be construed to limit in any way the commissioner's  
959.7 ability to impose other sanctions against a facility licensee under the standards in state or  
959.8 federal law whether or not a stay of revocation, suspension, or nonrenewal is issued.

959.9 Sec. 24. [144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.

959.10 Subdivision 1. **Notification.** (a) If the proposed or current licensee uses a manager, the  
959.11 licensee must have a written management agreement that is consistent with this chapter.

- 959.12 (b) The proposed or current licensee must notify the commissioner of its use of a manager  
 959.13 upon:
- 959.14 (1) initial application for a license;  
 959.15 (2) retention of a manager following initial application;  
 959.16 (3) change of managers; and  
 959.17 (4) modification of an existing management agreement.
- 959.18 (c) The proposed or current licensee must provide to the commissioner a written  
 959.19 management agreement, including an organizational chart showing the relationship between  
 959.20 the proposed or current licensee, management company, and all related organizations.
- 959.21 (d) The written management agreement must be submitted:
- 959.22 (1) 60 days before:
- 959.23 (i) the initial licensure date;  
 959.24 (ii) the proposed change of ownership date; or  
 959.25 (iii) the effective date of the management agreement; or
- 959.26 (2) 30 days before the effective date of any amendment to an existing management  
 959.27 agreement.
- 959.28 (e) The proposed licensee or the current licensee must notify the residents and their  
 959.29 representatives 60 days before entering into a new management agreement.
- 959.30 (f) A proposed licensee must submit a management agreement.
- 960.1 Subd. 2. **Management agreement; licensee.** (a) The licensee is legally responsible for:
- 960.2 (1) the daily operations and provisions of services in the facility;  
 960.3 (2) ensuring the facility is operated in a manner consistent with all applicable laws and  
 960.4 rules;
- 960.5 (3) ensuring the manager acts in conformance with the management agreement; and  
 960.6 (4) ensuring the manager does not present as, or give the appearance that the manager  
 960.7 is the licensee.
- 960.8 (b) The licensee must not give the manager responsibilities that are so extensive that the  
 960.9 licensee is relieved of daily responsibility for the daily operations and provision of services  
 960.10 in the assisted living facility. If the licensee does so, the commissioner must determine that  
 960.11 a change of ownership has occurred.



- 960.12 (c) The licensee and manager must act in accordance with the terms of the management  
960.13 agreement. If the commissioner determines they are not, then the department may impose  
960.14 enforcement remedies.
- 960.15 (d) The licensee may enter into a management agreement only if the management  
960.16 agreement creates a principal/agent relationship between the licensee and manager.
- 960.17 (e) The manager shall not subcontract the manager's responsibilities to a third party.
- 960.18 Subd. 3. **Terms of agreement.** A management agreement at a minimum must:
- 960.19 (1) describe the responsibilities of the licensee and manager, including items, services,  
960.20 and activities to be provided;
- 960.21 (2) require the licensee's governing body, board of directors, or similar authority to  
960.22 appoint the administrator;
- 960.23 (3) provide for the maintenance and retention of all records in accordance with this  
960.24 chapter and other applicable laws;
- 960.25 (4) allow unlimited access by the commissioner to documentation and records according  
960.26 to applicable laws or regulations;
- 960.27 (5) require the manager to immediately send copies of inspections and notices of  
960.28 noncompliance to the licensee;
- 960.29 (6) state that the licensee is responsible for reviewing, acknowledging, and signing all  
960.30 facility initial and renewal license applications;
- 961.1 (7) state that the manager and licensee shall review the management agreement annually  
961.2 and notify the commissioner of any change according to applicable regulations;
- 961.3 (8) acknowledge that the licensee is the party responsible for complying with all laws  
961.4 and rules applicable to the facility;
- 961.5 (9) require the licensee to maintain ultimate responsibility over personnel issues relating  
961.6 to the operation of the facility and care of the residents including but not limited to staffing  
961.7 plans, hiring, and performance management of employees, orientation, and training;
- 961.8 (10) state the manager will not present as, or give the appearance that the manager is  
961.9 the licensee; and
- 961.10 (11) state that a duly authorized manager may execute resident leases or agreements on  
961.11 behalf of the licensee, but all such resident leases or agreements must be between the licensee  
961.12 and the resident.
- 961.13 Subd. 4. **Commissioner review.** The commissioner may review a management agreement  
961.14 at any time. Following the review, the department may require:

- 961.15 (1) the proposed or current licensee or manager to provide additional information or  
 961.16 clarification;
- 961.17 (2) any changes necessary to:
- 961.18 (i) bring the management agreement into compliance with this chapter; and
- 961.19 (ii) ensure that the licensee has not been relieved of the legal responsibility for the daily  
 961.20 operations of the facility; and
- 961.21 (3) the licensee to participate in monthly meetings and quarterly on-site visits to the  
 961.22 facility.
- 961.23 Subd. 5. **Resident funds.** (a) If the management agreement delegates day-to-day  
 961.24 management of resident funds to the manager, the licensee:
- 961.25 (1) retains all fiduciary and custodial responsibility for funds that have been deposited  
 961.26 with the facility by the resident;
- 961.27 (2) is directly accountable to the resident for such funds; and
- 961.28 (3) must ensure any party responsible for holding or managing residents' personal funds  
 961.29 is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident  
 961.30 funds and provides proof of bond or insurance.
- 962.1 (b) If responsibilities for the day-to-day management of the resident funds are delegated  
 962.2 to the manager, the manager must:
- 962.3 (1) provide the licensee with a monthly accounting of the resident funds; and
- 962.4 (2) meet all legal requirements related to holding and accounting for resident funds.
- 962.5 Sec. 25. [144I.24] MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE  
 962.6 SAFETY REQUIREMENTS.
- 962.7 Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required  
 962.8 for all assisted living facilities and assisted living facilities with dementia care:
- 962.9 (1) public utilities must be available, and working or inspected and approved water and  
 962.10 septic systems are in place;
- 962.11 (2) the location is publicly accessible to fire department services and emergency medical  
 962.12 services;
- 962.13 (3) the location's topography provides sufficient natural drainage and is not subject to  
 962.14 flooding;
- 962.15 (4) all-weather roads and walks must be provided within the lot lines to the primary  
 962.16 entrance and the service entrance, including employees' and visitors' parking at the site; and

- 962.17 (5) the location must include space for outdoor activities for residents.
- 962.18 (b) An assisted living facility with a dementia care unit must also meet the following  
962.19 requirements:
- 962.20 (1) a hazard vulnerability assessment or safety risk must be performed on and around  
962.21 the property. The hazards indicated on the assessment must be assessed and mitigated to  
962.22 protect the residents from harm; and
- 962.23 (2) the facility shall be protected throughout by an approved supervised automatic  
962.24 sprinkler system by August 1, 2029.
- 962.25 Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2019,  
962.26 each assisted living facility and assisted living facility with dementia care must have a  
962.27 comprehensive fire protection system that includes:
- 962.28 (1) protection throughout by an approved supervised automatic sprinkler system according  
962.29 to building code requirements established in Minnesota Rules, part 1305.0903, or smoke  
962.30 detectors in each occupied room installed and maintained in accordance with the National  
962.31 Fire Protection Association (NFPA) Standard 72;
- 963.1 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard  
963.2 10; and
- 963.3 (3) the physical environment, including walls, floors, ceiling, all furnishings, grounds,  
963.4 systems, and equipment must be kept in a continuous state of good repair and operation  
963.5 with regard to the health, safety, comfort, and well-being of the residents in accordance  
963.6 with a maintenance and repair program.
- 963.7 (b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the  
963.8 residential board and care requirements in the Life Safety Code.
- 963.9 Subd. 3. **Local laws apply.** Assisted living facilities shall comply with all applicable  
963.10 state and local governing laws, regulations, standards, ordinances, and codes for fire safety,  
963.11 building, and zoning requirements.
- 963.12 Subd. 4. **Assisted living facilities; design.** (a) After July 31, 2021, all assisted living  
963.13 facilities with six or more residents must meet the provisions relevant to assisted living  
963.14 facilities of the most current edition of the Facility Guidelines Institute "Guidelines for  
963.15 Design and Construction of Residential Health, Care and Support Facilities" and of adopted  
963.16 rules. This minimum design standard shall be met for all new licenses, new construction,  
963.17 modifications, renovations, alterations, change of use, or additions. In addition to the  
963.18 guidelines, assisted living facilities, and assisted living facilities with dementia care shall  
963.19 provide the option of a bath in addition to a shower for all residents.

- 963.20 (b) The commissioner shall establish an implementation timeline for mandatory usage  
963.21 of the latest published guidelines. However, the commissioner shall not enforce the latest  
963.22 published guidelines before six months after the date of publication.
- 963.23 Subd. 5. **Assisted living facilities; life safety code.** (a) After August 1, 2021, all assisted  
963.24 living facilities with six or more residents shall meet the applicable provisions of the most  
963.25 current edition of the NFPA Standard 101, Life Safety Code, Residential Board and Care  
963.26 Occupancies chapter. This minimum design standard shall be met for all new licenses, new  
963.27 construction, modifications, renovations, alterations, change of use, or additions.
- 963.28 (b) The commissioner shall establish an implementation timeline for mandatory usage  
963.29 of the latest published Life Safety Code. However, the commissioner shall not enforce the  
963.30 latest published guidelines before six months after the date of publication.
- 963.31 Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a)  
963.32 Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet  
963.33 the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety  
964.1 Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all  
964.2 new licenses, new construction, modifications, renovations, alterations, change of use or  
964.3 additions.
- 964.4 (b) The commissioner shall establish an implementation timeline for mandatory usage  
964.5 of the newest-published Life Safety Code. However, the commissioner shall not enforce  
964.6 the newly-published guidelines before 6 months after the date of publication.
- 964.7 Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning  
964.8 on or after August 1, 2021, the following must be provided to the commissioner:
- 964.9 (1) architectural and engineering plans and specifications for new construction must be  
964.10 prepared and signed by architects and engineers who are registered in Minnesota. Final  
964.11 working drawings and specifications for proposed construction must be submitted to the  
964.12 commissioner for review and approval.
- 964.13 (2) final architectural plans and specifications must include elevations and sections  
964.14 through the building showing types of construction, and must indicate dimensions and  
964.15 assignments of rooms and areas, room finishes, door types and hardware, elevations and  
964.16 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts  
964.17 of dietary and laundry areas. Plans must show the location of fixed equipment and sections  
964.18 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions  
964.19 must be indicated. The roof plan must show all mechanical installations. The site plan must  
964.20 indicate the proposed and existing buildings, topography, roadways, walks and utility service  
964.21 lines; and
- 964.22 (3) final mechanical and electrical plans and specifications must address the complete  
964.23 layout and type of all installations, systems, and equipment to be provided. Heating plans  
964.24 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,  
964.25 boilers, breeching and accessories. Ventilation plans must include room air quantities, ducts,

- 964.26 fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing plans  
964.27 must include the fixtures and equipment fixture schedule; water supply and circulating  
964.28 pipng, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation  
964.29 of water and sewer services; and the building fire protection systems. Electrical plans must  
964.30 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and  
964.31 light panels, transformers, and service feeders. Plans must show location of nurse call signals,  
964.32 cable lines, fire alarm stations, and fire detectors and emergency lighting.
- 964.33 (b) Unless construction is begun within one year after approval of the final working  
964.34 drawing and specifications, the drawings must be resubmitted for review and approval.
- 965.1 (c) The commissioner must be notified within 30 days before completion of construction  
965.2 so that the commissioner can make arrangements for a final inspection by the commissioner.
- 965.3 (d) At least one set of complete life safety plans, including changes resulting from  
965.4 remodeling or alterations, must be kept on file in the facility.
- 965.5 Subd. 8. **Variances or waivers.** (a) A facility may request that the commissioner grant  
965.6 a variance or waiver from the provisions of this section. A request for a waiver must be  
965.7 submitted to the commissioner in writing. Each request must contain:
- 965.8 (1) the specific requirement for which the variance or waiver is requested;  
965.9 (2) the reasons for the request;  
965.10 (3) the alternative measures that will be taken if a variance or waiver is granted;  
965.11 (4) the length of time for which the variance or waiver is requested; and  
965.12 (5) other relevant information deemed necessary by the commissioner to properly evaluate  
965.13 the request for the waiver.
- 965.14 (b) The decision to grant or deny a variance or waiver must be based on the  
965.15 commissioner's evaluation of the following criteria:
- 965.16 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or  
965.17 well-being of a patient;  
965.18 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to  
965.19 those prescribed in this section; and  
965.20 (3) whether compliance with the requirements would impose an undue burden on the  
965.21 applicant.
- 965.22 (c) The commissioner must notify the applicant in writing of the decision. If a variance  
965.23 or waiver is granted, the notification must specify the period of time for which the variance  
965.24 or waiver is effective and the alternative measures or conditions, if any, to be met by the  
965.25 applicant.

965.26 (d) Alternative measures or conditions attached to a variance or waiver have the force  
 965.27 and effect of this chapter and are subject to the issuance of correction orders and fines in  
 965.28 accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a  
 965.29 violation of this section is that specified for the specific requirement for which the variance  
 965.30 or waiver was requested.

966.1 (e) A request for the renewal of a variance or waiver must be submitted in writing at  
 966.2 least 45 days before its expiration date. Renewal requests must contain the information  
 966.3 specified in paragraph (b). A variance or waiver must be renewed by the department if the  
 966.4 applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance  
 966.5 with the alternative measures or conditions imposed at the time the original variance or  
 966.6 waiver was granted.

966.7 (f) The department must deny, revoke, or refuse to renew a variance or waiver if it is  
 966.8 determined that the criteria in paragraph (a) are not met. The applicant must be notified in  
 966.9 writing of the reasons for the decision and informed of the right to appeal the decision.

966.10 (g) An applicant may contest the denial, revocation, or refusal to renew a variance or  
 966.11 waiver by requesting a contested case hearing under chapter 14. The applicant must submit,  
 966.12 within 15 days of the receipt of the department's decision, a written request for a hearing.  
 966.13 The request for hearing must set forth in detail the reasons why the applicant contends the  
 966.14 decision of the department should be reversed or modified. At the hearing, the applicant  
 966.15 has the burden of proving by a preponderance of the evidence that the applicant satisfied  
 966.16 the criteria specified in paragraph (b), except in a proceeding challenging the revocation of  
 966.17 a variance or waiver.

966.18 Sec. 26. [144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.

966.19 Subdivision 1. **Contract required.** (a) An assisted living facility or assisted living facility  
 966.20 with dementia care may not offer or provide housing or services to a resident unless it has  
 966.21 executed a written contract with the resident.

966.22 (b) The contract must:

966.23 (1) be signed by both:

966.24 (i) the resident or the designated representative; and

966.25 (ii) the licensee or an agent of the facility; and

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

966.27 (i) housing; and

966.28 (ii) services, whether provided directly by the facility or by management agreement.

966.29 (c) A facility must:

- 966.30 (1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term  
966.31 Care a complete unsigned copy of its contract; and
- 967.1 (2) give a complete copy of any signed contract and any addendums, and all supporting  
967.2 documents and attachments, to the resident or the designated representative promptly after  
967.3 a contract and any addendum has been signed by the resident or the designated representative.
- 967.4 (d) A contract under this section is a consumer contract under sections 325G.29 to  
967.5 325G.37.
- 967.6 (e) Before or at the time of execution of the contract, the facility must offer the resident  
967.7 the opportunity to identify a designated or resident representative or both in writing in the  
967.8 contract. The contract must contain a page or space for the name and contact information  
967.9 of the designated or resident representative or both and a box the resident must initial if the  
967.10 resident declines to name a designated or resident representative. Notwithstanding paragraph  
967.11 (f), the resident has the right at any time to rescind the declination or add or change the  
967.12 name and contact information of the designated or resident representative.
- 967.13 (f) The resident must agree in writing to any additions or amendments to the contract.  
967.14 Upon agreement between the resident or resident's designated representative and the facility,  
967.15 a new contract or an addendum to the existing contract must be executed and signed.
- 967.16 Subd. 2. **Contents and contract; contact information.** (a) The contract must include  
967.17 in a conspicuous place and manner on the contract the legal name and the license number  
967.18 of the facility.
- 967.19 (b) The contract must include the name, telephone number, and physical mailing address,  
967.20 which may not be a public or private post office box, of:
- 967.21 (1) the facility and contracted service provider when applicable;
- 967.22 (2) the licensee of the facility;
- 967.23 (3) the managing agent of the facility, if applicable; and
- 967.24 (4) at least one natural person who is authorized to accept service of process on behalf  
967.25 of the facility.
- 967.26 (c) The contract must include:
- 967.27 (1) a description of all the terms and conditions of the contract, including a description  
967.28 of and any limitations to the housing and/or services to be provided for the contracted  
967.29 amount;
- 967.30 (2) a delineation of the cost and nature of any other services to be provided for an  
967.31 additional fee;

- 968.1 (3) a delineation and description of any additional fees the resident may be required to  
968.2 pay if the resident's condition changes during the term of the contract;
- 968.3 (4) a delineation of the grounds under which the resident may be discharged, evicted,  
968.4 or transferred or have services terminated; and
- 968.5 (5) billing and payment procedures and requirements.
- 968.6 (d) The contract must include a description of the facility's complaint resolution process  
968.7 available to residents, including the name and contact information of the person representing  
968.8 the facility who is designated to handle and resolve complaints.
- 968.9 (e) The contract must include a clear and conspicuous notice of:
- 968.10 (1) the right under section 144J.09 to challenge a discharge, eviction, or transfer or  
968.11 service termination;
- 968.12 (2) the facility's policy regarding transfer of residents within the facility, under what  
968.13 circumstances a transfer may occur, and whether or not consent of the resident being asked  
968.14 to transfer is required;
- 968.15 (3) contact information for the Office of Ombudsman for Long-Term Care, the  
968.16 Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health  
968.17 Facility Complaints;
- 968.18 (4) the resident's right to obtain services from an unaffiliated service provider;
- 968.19 (5) a description of the assisted living facility's policies related to medical assistance  
968.20 waivers under sections 256B.0915 and 256B.49, including:
- 968.21 (i) whether the provider is enrolled with the commissioner of human services to provide  
968.22 customized living services under medical assistance waivers;
- 968.23 (ii) whether there is a limit on the number of people residing at the assisted living facility  
968.24 who can receive customized living services at any point in time. If so, the limit must be  
968.25 provided;
- 968.26 (iii) whether the assisted living facility requires a resident to pay privately for a period  
968.27 of time prior to accepting payment under medical assistance waivers, and if so, the length  
968.28 of time that private payment is required;
- 968.29 (iv) a statement that medical assistance waivers provide payment for services, but do  
968.30 not cover the cost of rent;
- 969.1 (v) a statement that residents may be eligible for assistance with rent through the housing  
969.2 support program; and



969.3 (vi) a description of the rent requirements for people who are eligible for medical  
 969.4 assistance waivers but who are not eligible for assistance through the housing support  
 969.5 program;

969.6 (6) the contact information to obtain long-term care consulting services under section  
 969.7 256B.0911; and

969.8 (7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.

969.9 (f) The contract must include a description of the facility's complaint resolution process  
 969.10 available to residents, including the name and contact information of the person representing  
 969.11 the facility who is designated to handle and resolve complaints.

969.12 Subd. 3. **Additional contract requirements.** (a) A restriction of a resident's rights under  
 969.13 this subdivision is allowed only if determined necessary for health and safety reasons  
 969.14 identified by the facility's registered nurse in an initial assessment or reassessment, under  
 969.15 section 144I.15, subdivision 9, and documented in the written service plan under section  
 969.16 144I.15, subdivision 10. Any restrictions of those rights for individuals served under sections  
 969.17 256B.0915 and 256B.49 must be documented in the resident's coordinated service and  
 969.18 support plan (CSSP), as defined under sections 256B.0915, subdivision 6, and 256B.49,  
 969.19 subdivision 15.

969.20 (b) The contract must include a statement:

969.21 (1) regarding the ability of a resident to furnish and decorate the resident's unit within  
 969.22 the terms of the lease;

969.23 (2) regarding the resident's right to access food at any time;

969.24 (3) regarding a resident's right to choose the resident's visitors and times of visits;

969.25 (4) regarding the resident's right to choose a roommate if sharing a unit; and

969.26 (5) notifying the resident of the resident's right to have and use a lockable door to the  
 969.27 resident's unit. The landlord shall provide the locks on the unit. Only a staff member with  
 969.28 a specific need to enter the unit shall have keys, and advance notice must be given to the  
 969.29 resident before entrance, when possible.

969.30 Subd. 4. **Filing.** The contract and related documents executed by each resident or the  
 969.31 designated representative must be maintained by the facility in files from the date of execution  
 969.32 until three years after the contract is terminated or expires. The contracts and all associated  
 970.1 documents will be available for on-site inspection by the commissioner at any time. The  
 970.2 documents shall be available for viewing or copies shall be made available to the resident  
 970.3 and the designated representative at any time.

970.4 Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of  
 970.5 facility liability for the health and safety or personal property of a resident. The contract  
 970.6 must not include any provision that the facility knows or should know to be deceptive,

970.7 unlawful, or unenforceable under state or federal law, nor include any provision that requires  
 970.8 or implies a lesser standard of care or responsibility than is required by law.

970.9 Sec. 27. [144I.27] PLANNED CLOSURES.

970.10 Subdivision 1. **Closure plan required.** In the event that a facility elects to voluntarily  
 970.11 close the facility, the facility must notify the commissioner and the Office of Ombudsman  
 970.12 for Long-Term Care in writing by submitting a proposed closure plan.

970.13 Subd. 2. **Content of closure plan.** The facility's proposed closure plan must include:

970.14 (1) the procedures and actions the facility will implement to notify residents of the  
 970.15 closure, including a copy of the written notice to be given to residents, designated  
 970.16 representatives, resident representatives, or family;

970.17 (2) the procedures and actions the facility will implement to ensure all residents receive  
 970.18 appropriate termination planning in accordance with section 144J.10, subdivisions 1 to 6,  
 970.19 and final accountings and returns under section 144J.10, subdivision 7;

970.20 (3) assessments of the needs and preferences of individual residents; and

970.21 (4) procedures and actions the facility will implement to maintain compliance with this  
 970.22 chapter until all residents have relocated.

970.23 Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan  
 970.24 shall be subject to the commissioner's approval and subdivision 6. The facility shall take  
 970.25 no action to close the residence prior to the commissioner's approval of the plan. The  
 970.26 commissioner shall approve or otherwise respond to the plan as soon as practicable.

970.27 (b) The commissioner of health may require the facility to work with a transitional team  
 970.28 comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, and  
 970.29 other professionals the commissioner deems necessary to assist in the proper relocation of  
 970.30 residents.

970.31 Subd. 4. **Termination planning and final accounting requirements.** Prior to  
 970.32 termination, the facility must follow the termination planning requirements under section  
 971.1 144J.10, subdivisions 1 to 6, and final accounting and return requirements under section  
 971.2 144J.10, subdivision 7, for residents. The facility must implement the plan approved by the  
 971.3 commissioner and ensure that arrangements for relocation and continued care that meet  
 971.4 each resident's social, emotional, and health needs are effectuated prior to closure.

971.5 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan  
 971.6 and at least 60 calendar days before closing, except as provided under subdivision 6, the  
 971.7 facility must notify residents, designated representatives, and resident representatives or, if  
 971.8 a resident has no designated representative or resident representative, a family member, if  
 971.9 known, of the closure, the proposed date of closure, the contact information of the  
 971.10 ombudsman for long-term care, and that the facility will follow the termination planning

- 971.11 requirements under section 144J.10, subdivisions 1 to 6, and final accounting and return  
 971.12 requirements under section 144J.10, subdivision 7.
- 971.13 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the  
 971.14 commissioner deems the facility can no longer remain open, the facility must meet all  
 971.15 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds  
 971.16 would endanger the health and safety of residents. In the event the commissioner determines  
 971.17 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice  
 971.18 to residents as soon as practicable or as directed by the commissioner.
- 971.19 (b) Upon request from the commissioner, a facility must provide the commissioner with  
 971.20 any documentation related to the appropriateness of its relocation plan, or to any assertion  
 971.21 that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining open  
 971.22 would otherwise endanger the health and safety of residents pursuant to paragraph (a).
- 971.23 Subd. 7. **Other rights.** Nothing in this section or section 144J.08 or 144J.10 affects the  
 971.24 rights and remedies available under chapter 504B, except to the extent those rights or  
 971.25 remedies are inconsistent with this section.
- 971.26 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements  
 971.27 of this section or section 144J.08 or 144J.10.
- 971.28 Sec. 28. [144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.
- 971.29 Subdivision 1. **Notice required before relocation within location.** (a) A facility must:
- 971.30 (1) notify a resident and the resident's representative, if any, at least 14 calendar days  
 971.31 prior to a proposed nonemergency relocation to a different room at the same location; and
- 971.32 (2) obtain consent from the resident and the resident's representative, if any.
- 972.1 (b) A resident must be allowed to stay in the resident's room. If a resident consents to a  
 972.2 move, any needed reasonable modifications must be made to the new room to accommodate  
 972.3 the resident's disabilities.
- 972.4 Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before  
 972.5 deciding whether the room the resident will be moved to fits the resident's psychological,  
 972.6 cognitive, and health care needs, including the accessibility of the bathroom.
- 972.7 Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for  
 972.8 at least one year and resides in a private room, and whose payments subsequently will be  
 972.9 made under the medical assistance program under chapter 256B, may not be relocated to a  
 972.10 shared room without the consent of the resident or the resident's representative, if any.
- 972.11 **EFFECTIVE DATE.** This section is effective August 1, 2021.
- 972.12 Sec. 29. [144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.

- 972.13 Subdivision 1. **Regulations.** The commissioner shall regulate facilities pursuant to this  
972.14 chapter. The regulations shall include the following:
- 972.15 (1) provisions to assure, to the extent possible, the health, safety, well-being, and  
972.16 appropriate treatment of residents while respecting individual autonomy and choice;
- 972.17 (2) requirements that facilities furnish the commissioner with specified information  
972.18 necessary to implement this chapter;
- 972.19 (3) standards of training of facility personnel;
- 972.20 (4) standards for provision of services;
- 972.21 (5) standards for medication management;
- 972.22 (6) standards for supervision of services;
- 972.23 (7) standards for resident evaluation or assessment;
- 972.24 (8) standards for treatments and therapies;
- 972.25 (9) requirements for the involvement of a resident's health care provider, the  
972.26 documentation of the health care provider's orders, if required, and the resident's service  
972.27 plan;
- 972.28 (10) the maintenance of accurate, current resident records;
- 972.29 (11) the establishment of levels of licenses based on services provided; and
- 972.30 (12) provisions to enforce these regulations and the assisted living bill of rights.
- 973.1 Subd. 2. **Regulatory functions.** (a) The commissioner shall:
- 973.2 (1) license, survey, and monitor without advance notice facilities in accordance with  
973.3 this chapter;
- 973.4 (2) survey every provisional licensee within one year of the provisional license issuance  
973.5 date subject to the provisional licensee providing licensed services to residents;
- 973.6 (3) survey facility licensees annually;
- 973.7 (4) investigate complaints of facilities;
- 973.8 (5) issue correction orders and assess civil penalties;
- 973.9 (6) take action as authorized in section 144I.33; and
- 973.10 (7) take other action reasonably required to accomplish the purposes of this chapter.
- 973.11 (b) Beginning August 1, 2021, the commissioner shall review blueprints for all new  
973.12 facility construction and must approve the plans before construction may be commenced.

973.13 (c) The commissioner shall provide on-site review of the construction to ensure that all  
 973.14 physical environment standards are met before the facility license is complete.

973.15 Sec. 30. [144I.30] SURVEYS AND INVESTIGATIONS.

973.16 Subdivision 1. **Regulatory powers.** (a) The Department of Health is the exclusive state  
 973.17 agency charged with the responsibility and duty of surveying and investigating all facilities  
 973.18 required to be licensed under this chapter. The commissioner of health shall enforce all  
 973.19 sections of this chapter and the rules adopted under this chapter.

973.20 (b) The commissioner, upon request of the facility, must be given access to relevant  
 973.21 information, records, incident reports, and other documents in the possession of the facility  
 973.22 if the commissioner considers them necessary for the discharge of responsibilities. For  
 973.23 purposes of surveys and investigations and securing information to determine compliance  
 973.24 with licensure laws and rules, the commissioner need not present a release, waiver, or  
 973.25 consent to the individual. The identities of residents must be kept private as defined in  
 973.26 section 13.02, subdivision 12.

973.27 Subd. 2. **Surveys.** The commissioner shall conduct surveys of each assisted living facility  
 973.28 and assisted living facility with dementia care. The commissioner shall conduct a survey  
 973.29 of each facility on a frequency of at least once each year. The commissioner may conduct  
 973.30 surveys more frequently than once a year based on the license level, the provider's compliance  
 973.31 history, the number of clients served, or other factors as determined by the department  
 974.1 deemed necessary to ensure the health, safety, and welfare of residents and compliance with  
 974.2 the law.

974.3 Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to  
 974.4 determine if the facility has corrected deficient issues and systems identified during a survey  
 974.5 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,  
 974.6 mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be  
 974.7 concluded with an exit conference and written information provided on the process for  
 974.8 requesting a reconsideration of the survey results.

974.9 Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without  
 974.10 advance notice to the facilities. Surveyors may contact the facility on the day of a survey  
 974.11 to arrange for someone to be available at the survey site. The contact does not constitute  
 974.12 advance notice. The surveyor must provide presurvey notification to the Office of  
 974.13 Ombudsman for Long-Term Care.

974.14 Subd. 5. **Information provided by facility.** The facility shall provide accurate and  
 974.15 truthful information to the department during a survey, investigation, or other licensing  
 974.16 activities.

974.17 Subd. 6. **Providing resident records.** Upon request of a surveyor, facilities shall provide  
 974.18 a list of current and past residents or designated representatives that includes addresses and

974.19 telephone numbers and any other information requested about the services to residents  
 974.20 within a reasonable period of time.

974.21 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the  
 974.22 commissioner finds upon survey or during a complaint investigation that a facility, a  
 974.23 managerial official, or an employee of the provider is not in compliance with this chapter.  
 974.24 The correction order shall cite the specific statute and document areas of noncompliance  
 974.25 and the time allowed for correction.

974.26 (b) The commissioner shall mail or e-mail copies of any correction order to the facility  
 974.27 within 30 calendar days after the survey exit date. A copy of each correction order and  
 974.28 copies of any documentation supplied to the commissioner shall be kept on file by the  
 974.29 facility and public documents shall be made available for viewing by any person upon  
 974.30 request. Copies may be kept electronically.

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

975.1 Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4  
 975.2 violations under section 144I.31, the department shall conduct a follow-up survey within  
 975.3 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall  
 975.4 focus on whether the previous violations have been corrected and may also address any  
 975.5 new violations that are observed while evaluating the corrections that have been made.

975.6 Sec. 31. **[144I.31] VIOLATIONS AND FINES.**

975.7 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision  
 975.8 may be assessed based on the level and scope of the violations described in subdivision 2  
 975.9 as follows and imposed immediately with no opportunity to correct the violation prior to  
 975.10 imposition:

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

975.12 (2) Level 2, a fine of \$500 per violation;

975.13 (3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected  
 975.14 by the violation;

975.15 (4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident; and

975.16 (5) for maltreatment violations as defined in the Minnesota Vulnerable Adults Act in  
 975.17 section 626.557 including abuse, neglect, financial exploitation, and drug diversion that are  
 975.18 determined against the facility, an immediate fine shall be imposed of \$5,000 per incident,  
 975.19 plus \$200 for each resident affected by the violation.

975.20 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized  
 975.21 by both level and scope, and fines shall be assessed as follows:

975.22 (1) level of violation:

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

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

975.28 (iii) Level 3 is a violation that harmed a resident's health or safety, not including serious  
 975.29 injury, impairment, or death, or a violation that has the potential to lead to serious injury,  
 975.30 impairment, or death; and

975.31 (iv) Level 4 is a violation that results in serious injury, impairment, or death; and

976.1 (2) scope of violation:

976.2 (i) isolated, when one or a limited number of residents are affected or one or a limited  
 976.3 number of staff are involved or the situation has occurred only occasionally;

976.4 (ii) pattern, when more than a limited number of residents are affected, more than a  
 976.5 limited number of staff are involved, or the situation has occurred repeatedly but is not  
 976.6 found to be pervasive; and

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

976.9 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a  
 976.10 facility has not corrected violations by the date specified in the correction order or conditional  
 976.11 license resulting from a survey or complaint investigation, the commissioner shall provide  
 976.12 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance  
 976.13 to the facility. The noncompliance notice must list the violations not corrected.

976.14 Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may  
 976.15 issue an immediate fine. The licensee must still correct the violation in the time specified.  
 976.16 The issuance of an immediate fine may occur in addition to any enforcement mechanism  
 976.17 authorized under section 144I.33. The immediate fine may be appealed as allowed under  
 976.18 this section.

976.19 (b) The licensee must pay the fines assessed on or before the payment date specified. If  
 976.20 the licensee fails to fully comply with the order, the commissioner may issue a second fine  
 976.21 or suspend the license until the licensee complies by paying the fine. A timely appeal shall  
 976.22 stay payment of the fine until the commissioner issues a final order.

976.23 (c) A licensee shall promptly notify the commissioner in writing when a violation  
 976.24 specified in the order is corrected. If upon reinspection the commissioner determines that



976.25 a violation has not been corrected as indicated by the order, the commissioner may issue  
 976.26 an additional fine. The commissioner shall notify the licensee by mail to the last known  
 976.27 address in the licensing record that a second fine has been assessed. The licensee may appeal  
 976.28 the second fine as provided under this subdivision.

976.29 (d) A facility that has been assessed a fine under this section has a right to a  
 976.30 reconsideration or hearing under this section and chapter 14.

976.31 Subd. 5. **Facility cannot avoid payment.** When a fine has been assessed, the licensee  
 976.32 may not avoid payment by closing, selling, or otherwise transferring the license to a third  
 976.33 party. In such an event, the licensee shall be liable for payment of the fine.

977.1 Subd. 6. **Additional penalties.** In addition to any fine imposed under this section, the  
 977.2 commissioner may assess a penalty amount based on costs related to an investigation that  
 977.3 results in a final order assessing a fine or other enforcement action authorized by this chapter.

977.4 Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in the  
 977.5 state government special revenue fund and credited to an account separate from the revenue  
 977.6 collected under section 144A.472. Subject to an appropriation by the legislature, the revenue  
 977.7 from the fines collected must be used by the commissioner for special projects to improve  
 977.8 home care in Minnesota as recommended by the advisory council established in section  
 977.9 144A.4799.

977.10 Sec. 32. [144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.

977.11 Subdivision 1. **Reconsideration process required.** The commissioner shall make  
 977.12 available to facilities a correction order reconsideration process. This process may be used  
 977.13 to challenge the correction order issued, including the level and scope described in section  
 977.14 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction  
 977.15 order, the correction order is not stayed while it is under reconsideration. The department  
 977.16 shall post information on its website that the licensee requested reconsideration of the  
 977.17 correction order and that the review is pending.

977.18 Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in  
 977.19 writing, a correction order reconsideration regarding any correction order issued to the  
 977.20 facility. The written request for reconsideration must be received by the commissioner  
 977.21 within 15 calendar days of the correction order receipt date. The correction order  
 977.22 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that  
 977.23 participated in writing or reviewing the correction order being disputed. The correction  
 977.24 order reconsiderations may be conducted in person, by telephone, by another electronic  
 977.25 form, or in writing, as determined by the commissioner. The commissioner shall respond  
 977.26 in writing to the request from a facility for a correction order reconsideration within 60 days  
 977.27 of the date the facility requests a reconsideration. The commissioner's response shall identify  
 977.28 the commissioner's decision regarding each citation challenged by the facility.



- 977.29 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be  
 977.30 one or more of the following:
- 977.31 (1) supported in full: the correction order is supported in full, with no deletion of findings  
 977.32 to the citation;
- 978.1 (2) supported in substance: the correction order is supported, but one or more findings  
 978.2 are deleted or modified without any change in the citation;
- 978.3 (3) correction order cited an incorrect licensing requirement: the correction order is  
 978.4 amended by changing the correction order to the appropriate statute and/or rule;
- 978.5 (4) correction order was issued under an incorrect citation: the correction order is amended  
 978.6 to be issued under the more appropriate correction order citation;
- 978.7 (5) the correction order is rescinded;
- 978.8 (6) fine is amended: it is determined that the fine assigned to the correction order was  
 978.9 applied incorrectly; or
- 978.10 (7) the level or scope of the citation is modified based on the reconsideration.
- 978.11 Subd. 4. **Updating the correction order website.** If the correction order findings are  
 978.12 changed by the commissioner, the commissioner shall update the correction order website.
- 978.13 Subd. 5. **Provisional licensees.** This section does not apply to provisional licensees.
- 978.14 Sec. 33. [1441.33] ENFORCEMENT.
- 978.15 Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional  
 978.16 license, refuse to grant a license as a result of a change in ownership, renew a license,  
 978.17 suspend or revoke a license, or impose a conditional license if the owner, controlling  
 978.18 individual, or employee of an assisted living facility or assisted living facility with dementia  
 978.19 care:
- 978.20 (1) is in violation of, or during the term of the license has violated, any of the requirements  
 978.21 in this chapter or adopted rules;
- 978.22 (2) permits, aids, or abets the commission of any illegal act in the provision of assisted  
 978.23 living services;
- 978.24 (3) performs any act detrimental to the health, safety, and welfare of a resident;
- 978.25 (4) obtains the license by fraud or misrepresentation;
- 978.26 (5) knowingly made or makes a false statement of a material fact in the application for  
 978.27 a license or in any other record or report required by this chapter;
- 978.28 (6) denies representatives of the department access to any part of the facility's books,  
 978.29 records, files, or employees;

- 979.1 (7) interferes with or impedes a representative of the department in contacting the facility's  
 979.2 residents;
- 979.3 (8) interferes with or impedes a representative of the department in the enforcement of  
 979.4 this chapter or has failed to fully cooperate with an inspection, survey, or investigation by  
 979.5 the department;
- 979.6 (9) destroys or makes unavailable any records or other evidence relating to the assisted  
 979.7 living facility's compliance with this chapter;
- 979.8 (10) refuses to initiate a background study under section 144.057 or 245A.04;
- 979.9 (11) fails to timely pay any fines assessed by the commissioner;
- 979.10 (12) violates any local, city, or township ordinance relating to housing or services;
- 979.11 (13) has repeated incidents of personnel performing services beyond their competency  
 979.12 level; or
- 979.13 (14) has operated beyond the scope of the facility's license category.
- 979.14 (b) A violation by a contractor providing the services of the facility is a violation by  
 979.15 facility.
- 979.16 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional  
 979.17 license designation may include terms that must be completed or met before a suspension  
 979.18 or conditional license designation is lifted. A conditional license designation may include  
 979.19 restrictions or conditions that are imposed on the facility. Terms for a suspension or  
 979.20 conditional license may include one or more of the following and the scope of each will be  
 979.21 determined by the commissioner:
- 979.22 (1) requiring a consultant to review, evaluate, and make recommended changes to the  
 979.23 facility's practices and submit reports to the commissioner at the cost of the facility;
- 979.24 (2) requiring supervision of the facility or staff practices at the cost of the facility by an  
 979.25 unrelated person who has sufficient knowledge and qualifications to oversee the practices  
 979.26 and who will submit reports to the commissioner;
- 979.27 (3) requiring the facility or employees to obtain training at the cost of the facility;
- 979.28 (4) requiring the facility to submit reports to the commissioner;
- 979.29 (5) prohibiting the facility from admitting any new residents for a specified period of  
 979.30 time; or
- 980.1 (6) any other action reasonably required to accomplish the purpose of this subdivision  
 980.2 and subdivision 1.

980.3 (b) A facility subject to this subdivision may continue operating during the period of  
 980.4 time residents are being transferred to another service provider.

980.5 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies  
 980.6 provided by law, the commissioner may, without a prior contested case hearing, immediately  
 980.7 temporarily suspend a license or prohibit delivery of housing or services by a facility for  
 980.8 not more than 90 calendar days or issue a conditional license, if the commissioner determines  
 980.9 that there are:

980.10 (1) Level 4 violations; or

980.11 (2) violations that pose an imminent risk of harm to the health or safety of residents.

980.12 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 1441.31.

980.13 (c) A notice stating the reasons for the immediate temporary suspension or conditional  
 980.14 license and informing the licensee of the right to an expedited hearing under subdivision  
 980.15 11 must be delivered by personal service to the address shown on the application or the last  
 980.16 known address of the licensee. The licensee may appeal an order immediately temporarily  
 980.17 suspending a license or issuing a conditional license. The appeal must be made in writing  
 980.18 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
 980.19 the commissioner within five calendar days after the licensee receives notice. If an appeal  
 980.20 is made by personal service, it must be received by the commissioner within five calendar  
 980.21 days after the licensee received the order.

980.22 (d) A licensee whose license is immediately temporarily suspended must comply with  
 980.23 the requirements for notification and transfer of residents in subdivision 9. The requirements  
 980.24 in subdivision 9 remain if an appeal is requested.

980.25 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,  
 980.26 paragraph (a), the commissioner must revoke a license if a controlling individual of the  
 980.27 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility  
 980.28 or directly affects resident safety or care. The commissioner shall notify the facility and the  
 980.29 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of  
 980.30 revocation.

980.31 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings  
 980.32 within 60 calendar days of notification to suspend or revoke a facility's license or must  
 981.1 refuse to renew a facility's license if within the preceding two years the facility has incurred  
 981.2 the following number of uncorrected or repeated violations:

981.3 (1) two or more uncorrected violations or one or more repeated violations that created  
 981.4 an imminent risk to direct resident care or safety; or

981.5 (2) four or more uncorrected violations or two or more repeated violations of any nature  
 981.6 for which the fines are in the four highest daily fine categories prescribed in rule.

981.7 (b) Notwithstanding paragraph (a), the commissioner is not required to revoke, suspend,  
 981.8 or refuse to renew a facility's license if the facility corrects the violation.

981.9 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated  
 981.10 by the commissioner to revoke or suspend a facility's license, or a decision by the  
 981.11 commissioner not to renew a living facility's license, the controlling individual of the facility  
 981.12 or a designee must provide to the commissioner and the ombudsman for long-term care the  
 981.13 names of residents and the names and addresses of the residents' guardians, designated  
 981.14 representatives, and family contacts.

981.15 (b) The controlling individual or designees of the facility must provide updated  
 981.16 information each month until the proceeding is concluded. If the controlling individual or  
 981.17 designee of the facility fails to provide the information within this time, the facility is subject  
 981.18 to the issuance of:

981.19 (1) a correction order; and

981.20 (2) a penalty assessment by the commissioner in rule.

981.21 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this  
 981.22 subdivision must require that the facility immediately comply with the request for information  
 981.23 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the  
 981.24 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100  
 981.25 increments for each day the noncompliance continues.

981.26 (d) Information provided under this subdivision may be used by the commissioner or  
 981.27 the ombudsman for long-term care only for the purpose of providing affected consumers  
 981.28 information about the status of the proceedings.

981.29 (e) Within ten business days after the commissioner initiates proceedings to revoke,  
 981.30 suspend, or not renew a facility license, the commissioner must send a written notice of the  
 981.31 action and the process involved to each resident of the facility and the resident's designated  
 981.32 representative or, if there is no designated representative and if known, a family member  
 981.33 or interested person.

982.1 (f) The commissioner shall provide the ombudsman for long-term care with monthly  
 982.2 information on the department's actions and the status of the proceedings.

982.3 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew  
 982.4 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57  
 982.5 to 14.69. The hearing must commence within 60 calendar days after the proceedings are  
 982.6 initiated. In addition to any other remedy provided by law, the commissioner may, without  
 982.7 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services  
 982.8 by a provider for not more than 90 calendar days, or issue a conditional license if the  
 982.9 commissioner determines that there are Level 3 violations that do not pose an imminent  
 982.10 risk of harm to the health or safety of the facility residents, provided:

- 982.11 (1) advance notice is given to the facility;
- 982.12 (2) after notice, the facility fails to correct the problem;
- 982.13 (3) the commissioner has reason to believe that other administrative remedies are not  
 982.14 likely to be effective; and
- 982.15 (4) there is an opportunity for a contested case hearing within 30 calendar days unless  
 982.16 there is an extension granted by an administrative law judge.
- 982.17 (b) If the commissioner determines there are Level 4 violations or violations that pose  
 982.18 an imminent risk of harm to the health or safety of the facility residents, the commissioner  
 982.19 may immediately temporarily suspend a license, prohibit delivery of services by a facility,  
 982.20 or issue a conditional license without meeting the requirements of paragraph (a), clauses  
 982.21 (1) to (4).
- 982.22 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in  
 982.23 section 144I.31.
- 982.24 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:
- 982.25 (1) be mailed or delivered to the commissioner or the commissioner's designee;
- 982.26 (2) contain a brief and plain statement describing every matter or issue contested; and
- 982.27 (3) contain a brief and plain statement of any new matter that the applicant or assisted  
 982.28 living facility believes constitutes a defense or mitigating factor.
- 982.29 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew  
 982.30 a license must include a plan for transferring affected residents' cares to other providers by  
 982.31 the facility that will be monitored by the commissioner. Within three calendar days of being  
 982.32 notified of the final revocation, refusal to renew, or suspension, the licensee shall provide  
 983.1 the commissioner, the lead agencies as defined in section 256B.0911, county adult protection  
 983.2 and case managers, and the ombudsman for long-term care with the following information:
- 983.3 (1) a list of all residents, including full names and all contact information on file;
- 983.4 (2) a list of each resident's representative or emergency contact person, including full  
 983.5 names and all contact information on file;
- 983.6 (3) the location or current residence of each resident;
- 983.7 (4) the payor sources for each resident, including payor source identification numbers;  
 983.8 and
- 983.9 (5) for each resident, a copy of the resident's service plan and a list of the types of services  
 983.10 being provided.
- 983.11 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied  
 983.12 by mailing the notice to the address in the license record. The licensee shall cooperate with

983.13 the commissioner and the lead agencies, county adult protection and county managers, and  
 983.14 the ombudsman for long-term care during the process of transferring care of residents to  
 983.15 qualified providers. Within three calendar days of being notified of the final revocation,  
 983.16 refusal to renew, or suspension action, the facility must notify and disclose to each of the  
 983.17 residents, or the resident's representative or emergency contact persons, that the commissioner  
 983.18 is taking action against the facility's license by providing a copy of the revocation or  
 983.19 suspension notice issued by the commissioner. If the facility does not comply with the  
 983.20 disclosure requirements in this section, the commissioner shall notify the residents, designated  
 983.21 representatives, or emergency contact persons about the actions being taken. Lead agencies,  
 983.22 county adult protection and county managers, and the Office of Ombudsman for Long-Term  
 983.23 Care may also provide this information. The revocation, refusal to renew, or suspension  
 983.24 notice is public data except for any private data contained therein.

983.25 (c) A facility subject to this subdivision may continue operating while residents are being  
 983.26 transferred to other service providers.

983.27 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal  
 983.28 of a sanction under this section, other than for a temporary suspension, the commissioner  
 983.29 shall request assignment of an administrative law judge. The commissioner's request must  
 983.30 include a proposed date, time, and place of hearing. A hearing must be conducted by an  
 983.31 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
 983.32 90 calendar days of the request for assignment, unless an extension is requested by either  
 983.33 party and granted by the administrative law judge for good cause or for purposes of discussing  
 984.1 settlement. In no case shall one or more extensions be granted for a total of more than 90  
 984.2 calendar days unless there is a criminal action pending against the licensee. If, while a  
 984.3 licensee continues to operate pending an appeal of an order for revocation, suspension, or  
 984.4 refusal to renew a license, the commissioner identifies one or more new violations of law  
 984.5 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,  
 984.6 the commissioner shall act immediately to temporarily suspend the license.

984.7 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's  
 984.8 timely appeal of a temporary suspension or issuance of a conditional license, the  
 984.9 commissioner shall request assignment of an administrative law judge. The request must  
 984.10 include a proposed date, time, and place of a hearing. A hearing must be conducted by an  
 984.11 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
 984.12 30 calendar days of the request for assignment, unless an extension is requested by either  
 984.13 party and granted by the administrative law judge for good cause. The commissioner shall  
 984.14 issue a notice of hearing by certified mail or personal service at least ten business days  
 984.15 before the hearing. Certified mail to the last known address is sufficient. The scope of the  
 984.16 hearing shall be limited solely to the issue of whether the temporary suspension or issuance  
 984.17 of a conditional license should remain in effect and whether there is sufficient evidence to  
 984.18 conclude that the licensee's actions or failure to comply with applicable laws are Level 3  
 984.19 or Level 4 violations as defined in section 144I.31, or that there were violations that posed  
 984.20 an imminent risk of harm to the resident's health and safety.

984.21 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
 984.22 recommendation within ten business days from the date of hearing. The parties shall have  
 984.23 ten calendar days to submit exceptions to the administrative law judge's report. The record  
 984.24 shall close at the end of the ten-day period for submission of exceptions. The commissioner's  
 984.25 final order shall be issued within ten business days from the close of the record. When an  
 984.26 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,  
 984.27 the commissioner shall issue a final order affirming the temporary immediate suspension  
 984.28 or conditional license within ten calendar days of the commissioner's receipt of the  
 984.29 withdrawal or dismissal. The licensee is prohibited from operation during the temporary  
 984.30 suspension period.

984.31 (c) When the final order under paragraph (b) affirms an immediate suspension, and a  
 984.32 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that  
 984.33 sanction, the licensee is prohibited from operation pending a final commissioner's order  
 984.34 after the contested case hearing conducted under chapter 14.

985.1 (d) A licensee whose license is temporarily suspended must comply with the requirements  
 985.2 for notification and transfer of residents under subdivision 9. These requirements remain if  
 985.3 an appeal is requested.

985.4 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under  
 985.5 section 144I.31, and an action against a license under this section, a licensee must request  
 985.6 a hearing no later than 15 business days after the licensee receives notice of the action.

985.7 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner  
 985.8 and managerial officials of a facility whose Minnesota license has not been renewed or that  
 985.9 has been revoked because of noncompliance with applicable laws or rules shall not be  
 985.10 eligible to apply for nor will be granted an assisted living facility license or an assisted  
 985.11 living facility with dementia care license, or be given status as an enrolled personal care  
 985.12 assistance provider agency or personal care assistant by the Department of Human Services  
 985.13 under section 256B.0659, for five years following the effective date of the nonrenewal or  
 985.14 revocation. If the owner and/or managerial officials already have enrollment status, the  
 985.15 enrollment will be terminated by the Department of Human Services.

985.16 (b) The commissioner shall not issue a license to a facility for five years following the  
 985.17 effective date of license nonrenewal or revocation if the owner or managerial official,  
 985.18 including any individual who was an owner or managerial official of another licensed  
 985.19 provider, had a Minnesota license that was not renewed or was revoked as described in  
 985.20 paragraph (a).

985.21 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend  
 985.22 or revoke, the license of a facility that includes any individual as an owner or managerial  
 985.23 official who was an owner or managerial official of a facility whose Minnesota license was  
 985.24 not renewed or was revoked as described in paragraph (a) for five years following the  
 985.25 effective date of the nonrenewal or revocation.



985.26 (d) The commissioner shall notify the facility 30 calendar days in advance of the date  
985.27 of nonrenewal, suspension, or revocation of the license. Within ten business days after the  
985.28 receipt of the notification, the facility may request, in writing, that the commissioner stay  
985.29 the nonrenewal, revocation, or suspension of the license. The facility shall specify the  
985.30 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance  
985.31 with the licensure laws and regulations; any limits on the authority or responsibility of the  
985.32 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,  
985.33 or suspension; and any other information to establish that the continuing affiliation with  
985.34 these individuals will not jeopardize resident health, safety, or well-being. The commissioner  
986.1 shall determine whether the stay will be granted within 30 calendar days of receiving the  
986.2 facility's request. The commissioner may propose additional restrictions or limitations on  
986.3 the facility's license and require that granting the stay be contingent upon compliance with  
986.4 those provisions. The commissioner shall take into consideration the following factors when  
986.5 determining whether the stay should be granted:

986.6 (1) the threat that continued involvement of the owners and managerial officials with  
986.7 the facility poses to resident health, safety, and well-being;

986.8 (2) the compliance history of the facility; and

986.9 (3) the appropriateness of any limits suggested by the facility.

986.10 If the commissioner grants the stay, the order shall include any restrictions or limitation on  
986.11 the provider's license. The failure of the facility to comply with any restrictions or limitations  
986.12 shall result in the immediate removal of the stay and the commissioner shall take immediate  
986.13 action to suspend, revoke, or not renew the license.

986.14 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may  
986.15 be considered by the commissioner when the conditions upon which the revocation was  
986.16 based have been corrected and satisfactory evidence of this fact has been furnished to the  
986.17 commissioner. A new license may be granted after an inspection has been made and the  
986.18 facility has complied with all provisions of this chapter and adopted rules.

986.19 Subd. 15. **Informal conference.** At any time, the applicant or facility and the  
986.20 commissioner may hold an informal conference to exchange information, clarify issues, or  
986.21 resolve issues.

986.22 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the  
986.23 commissioner may bring an action in district court to enjoin a person who is involved in  
986.24 the management, operation, or control of a facility or an employee of the facility from  
986.25 illegally engaging in activities regulated by sections under this chapter. The commissioner  
986.26 may bring an action under this subdivision in the district court in Ramsey County or in the  
986.27 district in which the facility is located. The court may grant a temporary restraining order  
986.28 in the proceeding if continued activity by the person who is involved in the management,



986.29 operation, or control of a facility, or by an employee of the facility, would create an imminent  
986.30 risk of harm to a resident.

986.31 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,  
986.32 the commissioner may issue subpoenas and compel the attendance of witnesses and the  
986.33 production of all necessary papers, books, records, documents, and other evidentiary material.  
987.1 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear  
987.2 or testify regarding any matter about which the person may be lawfully questioned or to  
987.3 produce any papers, books, records, documents, or evidentiary materials in the matter to be  
987.4 heard, the commissioner may apply to the district court in any district, and the court shall  
987.5 order the person to comply with the commissioner's order or subpoena. The commissioner  
987.6 of health may administer oaths to witnesses or take their affirmation. Depositions may be  
987.7 taken in or outside the state in the manner provided by law for taking depositions in civil  
987.8 actions. A subpoena or other process or paper may be served on a named person anywhere  
987.9 in the state by an officer authorized to serve subpoenas in civil actions, with the same fees  
987.10 and mileage and in the same manner as prescribed by law for a process issued out of a  
987.11 district court. A person subpoenaed under this subdivision shall receive the same fees,  
987.12 mileage, and other costs that are paid in proceedings in district court.

987.13 Sec. 34. [144I.34] INNOVATION VARIANCE.

987.14 Subdivision 1. **Definition; granting variances.** (a) For purposes of this section,  
987.15 "innovation variance" means a specified alternative to a requirement of this chapter.

987.16 (b) An innovation variance may be granted to allow a facility to offer services of a type  
987.17 or in a manner that is innovative, will not impair the services provided, will not adversely  
987.18 affect the health, safety, or welfare of the residents, and is likely to improve the services  
987.19 provided. The innovative variance cannot change any of the resident's rights under the  
987.20 assisted living bill of rights under section 144J.02.

987.21 Subd. 2. **Conditions.** The commissioner may impose conditions on granting an innovation  
987.22 variance that the commissioner considers necessary.

987.23 Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any  
987.24 innovation variance and may renew a limited innovation variance.

987.25 Subd. 4. **Applications; innovation variance.** An application for innovation variance  
987.26 from the requirements of this chapter may be made at any time, must be made in writing to  
987.27 the commissioner, and must specify the following:

987.28 (1) the statute or rule from which the innovation variance is requested;

987.29 (2) the time period for which the innovation variance is requested;

987.30 (3) the specific alternative action that the licensee proposes;

987.31 (4) the reasons for the request; and

- 988.1 (5) justification that an innovation variance will not impair the services provided, will  
 988.2 not adversely affect the health, safety, or welfare of residents, and is likely to improve the  
 988.3 services provided.
- 988.4 The commissioner may require additional information from the facility before acting on  
 988.5 the request.
- 988.6 Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for  
 988.7 an innovation variance in writing within 45 days of receipt of a complete request. Notice  
 988.8 of a denial shall contain the reasons for the denial. The terms of a requested innovation  
 988.9 variance may be modified upon agreement between the commissioner and the facility.
- 988.10 Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an  
 988.11 innovation variance shall be deemed to be a violation of this chapter.
- 988.12 Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny  
 988.13 renewal of an innovation variance if:
- 988.14 (1) it is determined that the innovation variance is adversely affecting the health, safety,  
 988.15 or welfare of the residents;
- 988.16 (2) the facility has failed to comply with the terms of the innovation variance;
- 988.17 (3) the facility notifies the commissioner in writing that it wishes to relinquish the  
 988.18 innovation variance and be subject to the statute previously varied; or
- 988.19 (4) the revocation or denial is required by a change in law.
- 988.20 Sec. 35. **[144I.35] RESIDENT QUALITY OF CARE AND OUTCOMES**  
 988.21 IMPROVEMENT TASK FORCE.
- 988.22 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of  
 988.23 care and outcomes improvement task force to examine and make recommendations, on an  
 988.24 ongoing basis, on how to apply proven safety and quality improvement practices and  
 988.25 infrastructure to settings and providers that provide long-term services and supports.
- 988.26 Subd. 2. **Membership.** The task force shall include representation from:
- 988.27 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation  
 988.28 in health care safety and quality;
- 988.29 (2) Department of Health staff with expertise in issues related to safety and adverse  
 988.30 health events;
- 988.31 (3) consumer organizations;
- 989.1 (4) direct care providers or their representatives;

- 989.2 (5) organizations representing long-term care providers and home care providers in  
 989.3 Minnesota;
- 989.4 (6) the ombudsman for long-term care or a designee;
- 989.5 (7) national patient safety experts; and
- 989.6 (8) other experts in the safety and quality improvement field.
- 989.7 The task force shall have at least one public member who either is or has been a resident in  
 989.8 an assisted living setting and one public member who has or had a family member living  
 989.9 in an assisted living setting. The membership shall be voluntary except that public members  
 989.10 may be reimbursed under section 15.059, subdivision 3.
- 989.11 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations  
 989.12 to the commissioner and the legislature on changes needed to promote safety and quality  
 989.13 improvement practices in long-term care settings and with long-term care providers. The  
 989.14 task force shall meet no fewer than four times per year. The task force shall be established  
 989.15 by July 1, 2020.
- 989.16 Sec. 36. [144I.36] EXPEDITED RULEMAKING AUTHORIZED.
- 989.17 (a) The commissioner shall adopt rules for all assisted living facilities that promote  
 989.18 person-centered planning and service and optimal quality of life, and that ensure resident  
 989.19 rights are protected, resident choice is allowed, and public health and safety is ensured.
- 989.20 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process  
 989.21 in section 14.389, except that the rulemaking process is exempt from section 14.389,  
 989.22 subdivision 5.
- 989.23 (c) The commissioner shall adopt rules that include but are not limited to the following:
- 989.24 (1) staffing minimums and ratios for each level of licensure to best protect the health  
 989.25 and safety of residents no matter their vulnerability;
- 989.26 (2) training prerequisites and ongoing training for administrators and caregiving staff;
- 989.27 (3) requirements for licensees to ensure minimum nutrition and dietary standards required  
 989.28 by section 144I.10 are provided;
- 989.29 (4) procedures for discharge planning and ensuring resident appeal rights;
- 989.30 (5) core dementia care requirements and training in all levels of licensure;
- 990.1 (6) requirements for assisted living facilities with dementia care in terms of training,  
 990.2 care standards, noticing changes of condition, assessments, and health care;
- 990.3 (7) preadmission criteria, initial assessments, and continuing assessments;
- 990.4 (8) emergency disaster and preparedness plans;

- 990.5 (9) uniform checklist disclosure of services;
- 990.6 (10) uniform consumer information guide elements and other data collected; and
- 990.7 (11) uniform assessment tool.
- 990.8 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall  
 990.9 publish final rules by December 31, 2020.
- 990.10 Sec. 37. **TRANSITION PERIOD.**
- 990.11 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited  
 990.12 rulemaking process.
- 990.13 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new  
 990.14 assisted living facility and assisted living facility with dementia care licensure by hiring  
 990.15 staff, developing forms, and communicating with stakeholders about the new facility  
 990.16 licensing.
- 990.17 (c) Effective August 1, 2021, all existing housing with services establishments providing  
 990.18 home care services under Minnesota Statutes, chapter 144A, must convert their registration  
 990.19 to licensure under Minnesota Statutes, chapter 144I.
- 990.20 (d) Effective August 1, 2021, all new assisted living facilities and assisted living facilities  
 990.21 with dementia care must be licensed by the commissioner.
- 990.22 (e) Effective August 1, 2021, all assisted living facilities and assisted living facilities  
 990.23 with dementia care must be licensed by the commissioner.
- 990.24 Sec. 38. **REPEALER.**
- 990.25 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;  
 990.26 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;  
 990.27 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are  
 990.28 repealed effective August 1, 2021.

991.1 **ARTICLE 17**

991.2 **DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH**  
 991.3 **DEMENTIA CARE**

991.4 Section 1. **[144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING**  
 991.5 **FACILITIES WITH DEMENTIA CARE.**

- 991.6 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with  
 991.7 dementia care.

991.8 Subd. 2. **Demonstrated capacity.** (a) The applicant must have the ability to provide  
991.9 services in a manner that is consistent with the requirements in this section. The commissioner  
991.10 shall consider the following criteria, including, but not limited to:

991.11 (1) the experience of the applicant in managing residents with dementia or previous  
991.12 long-term care experience; and

991.13 (2) the compliance history of the applicant in the operation of any care facility licensed,  
991.14 certified, or registered under federal or state law.

991.15 (b) If the applicant does not have experience in managing residents with dementia, the  
991.16 applicant must employ a consultant for at least the first six months of operation. The  
991.17 consultant must meet the requirements in paragraph (a), clause (1), and make  
991.18 recommendations on providing dementia care services consistent with the requirements of  
991.19 this chapter. The consultant must have experience in dementia care operations. The applicant  
991.20 must implement the recommendations of the consultant and document an acceptable plan  
991.21 which may be reviewed by the commissioner upon request to address the consultant's  
991.22 identified concerns. The commissioner may review and approve the selection of the  
991.23 consultant.

991.24 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an  
991.25 assisted living facility with dementia care license to ensure compliance with the physical  
991.26 environment requirements.

991.27 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the  
991.28 license.

991.29 Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing  
991.30 at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility  
991.31 with dementia care license. For voluntary relinquishment, the facility must:

991.32 (1) give all residents and their designated representatives 45 calendar days' notice. The  
991.33 notice must include:

992.1 (i) the proposed effective date of the relinquishment;

992.2 (ii) changes in staffing;

992.3 (iii) changes in services including the elimination or addition of services; and

992.4 (iv) staff training that shall occur when the relinquishment becomes effective;

992.5 (2) submit a transitional plan to the commissioner demonstrating how the current residents  
992.6 shall be evaluated and assessed to reside in other housing settings that are not an assisted  
992.7 living facility with dementia care, that are physically unsecured, or that would require  
992.8 move-out or transfer to other settings;

- 992.9 (3) change service or care plans as appropriate to address any needs the residents may  
 992.10 have with the transition;
- 992.11 (4) notify the commissioner when the relinquishment process has been completed; and
- 992.12 (5) revise advertising materials and disclosure information to remove any reference that  
 992.13 the facility is an assisted living facility with dementia care.
- 992.14 Sec. 2. [144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED  
 992.15 LIVING FACILITIES WITH DEMENTIA CARE.
- 992.16 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care  
 992.17 is responsible for the care and housing of the persons with dementia and the provision of  
 992.18 person-centered care that promotes each resident's dignity, independence, and comfort. This  
 992.19 includes the supervision, training, and overall conduct of the staff.
- 992.20 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living  
 992.21 license requirements and the criteria in this section.
- 992.22 (b) The administrator of an assisted living facility with dementia care license must  
 992.23 complete and document that at least ten hours of the required annual continuing educational  
 992.24 requirements relate to the care of individuals with dementia. Continuing education credits  
 992.25 must be obtained through commissioner-approved sources that may include college courses,  
 992.26 preceptor credits, self-directed activities, course instructor credits, corporate training,  
 992.27 in-service training, professional association training, web-based training, correspondence  
 992.28 courses, telecourses, seminars, and workshops.
- 992.29 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing  
 992.30 of assisted living facilities, the assisted living facility with dementia care licensee must  
 992.31 develop and implement policies and procedures that address the:
- 993.1 (1) philosophy of how services are provided based upon the assisted living facility  
 993.2 licensee's values, mission, and promotion of person-centered care and how the philosophy  
 993.3 shall be implemented;
- 993.4 (2) evaluation of behavioral symptoms and design of supports for intervention plans;
- 993.5 (3) wandering and egress prevention that provides detailed instructions to staff in the  
 993.6 event a resident elopes;
- 993.7 (4) assessment of residents for the use and effects of medications, including psychotropic  
 993.8 medications;
- 993.9 (5) staff training specific to dementia care;
- 993.10 (6) description of life enrichment programs and how activities are implemented;
- 993.11 (7) description of family support programs and efforts to keep the family engaged;

- 993.12 (8) limiting the use of public address and intercom systems for emergencies and  
993.13 evacuation drills only.
- 993.14 (9) transportation coordination and assistance to and from outside medical appointments;  
993.15 and
- 993.16 (10) safekeeping of resident's possessions.
- 993.17 (b) The policies and procedures must be provided to residents and the resident's  
993.18 representative at the time of move-in.
- 993.19 Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.
- 993.20 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide  
993.21 residents with dementia-trained staff who have been instructed in the person-centered care  
993.22 approach. All direct care and other community staff assigned to care for dementia residents  
993.23 must be specially trained to work with residents with Alzheimer's disease and other  
993.24 dementias.
- 993.25 (b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for  
993.26 dementia residents.
- 993.27 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of  
993.28 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and  
993.29 needs of residents.
- 994.1 (d) In an emergency situation when trained staff are not available to provide services,  
994.2 the facility may assign staff who have not completed the required training. The particular  
994.3 emergency situation must be documented and must address:
- 994.4 (1) the nature of the emergency;
- 994.5 (2) how long the emergency lasted; and
- 994.6 (3) the names and positions of staff that provided coverage.
- 994.7 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide  
994.8 support to residents with dementia have a basic understanding and fundamental knowledge  
994.9 of the residents' emotional and unique health care needs using person-centered planning  
994.10 delivery. Direct care dementia-trained staff and other staff must be trained on the topics  
994.11 identified during the expedited rulemaking process. These requirements are in addition to  
994.12 the licensing requirements for training.
- 994.13 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under  
994.14 section 144I.31.
- 994.15 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must  
994.16 have experience and knowledge in the care of individuals with dementia.

994.17 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may  
 994.18 include various methods of instruction, such as classroom style, web-based training, video,  
 994.19 or one-to-one training. The licensee must have a method for determining and documenting  
 994.20 each staff person's knowledge and understanding of the training provided. All training must  
 994.21 be documented.

994.22 Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

994.23 Subdivision 1. **Dementia care services.** (a) In addition to the minimum services required  
 994.24 of assisted living facilities, an assisted living facility with dementia care must also provide  
 994.25 the following services:

994.26 (1) assistance with activities of daily living that address the needs of each resident with  
 994.27 dementia due to cognitive or physical limitations. These services must meet or be in addition  
 994.28 to the requirements in the licensing rules for the facility. Services must be provided in a  
 994.29 person-centered manner that promotes resident choice, dignity, and sustains the resident's  
 994.30 abilities;

994.31 (2) health care services provided according to the licensing statutes and rules of the  
 994.32 facility;

995.1 (3) a daily meal program for nutrition and hydration must be provided and available  
 995.2 throughout each resident's waking hours. The individualized nutritional plan for each resident  
 995.3 must be documented in the resident's service or care plan. In addition, an assisted living  
 995.4 facility with dementia care must provide meaningful activities that promote or help sustain  
 995.5 the physical and emotional well-being of residents. The activities must be person-directed  
 995.6 and available during residents' waking hours.

995.7 (b) Each resident must be evaluated for activities according to the licensing rules of the  
 995.8 facility. In addition, the evaluation must address the following:

995.9 (1) past and current interests;

995.10 (2) current abilities and skills;

995.11 (3) emotional and social needs and patterns;

995.12 (4) physical abilities and limitations;

995.13 (5) adaptations necessary for the resident to participate; and

995.14 (6) identification of activities for behavioral interventions.

995.15 (c) An individualized activity plan must be developed for each resident based on their  
 995.16 activity evaluation. The plan must reflect the resident's activity preferences and needs.



- 995.17 (d) A selection of daily structured and non-structured activities must be provided and  
 995.18 included on the resident's activity service or care plan as appropriate. Daily activity options  
 995.19 based on resident evaluation may include but are not limited to:
- 995.20 (1) occupation or chore related tasks;  
 995.21 (2) scheduled and planned events such as entertainment or outings;  
 995.22 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;  
 995.23 (4) one-to-one activities that encourage positive relationships between residents and  
 995.24 staff such as telling a life story, reminiscing, or playing music;  
 995.25 (5) spiritual, creative, and intellectual activities;  
 995.26 (6) sensory stimulation activities;  
 995.27 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;  
 995.28 and
- 995.29 (8) outdoor activities.
- 996.1 (e) Behavioral symptoms that negatively impact the resident and others in the assisted  
 996.2 living facility must be evaluated and included on the service or care plan. The staff must  
 996.3 initiate and coordinate outside consultation or acute care when indicated.
- 996.4 (f) Support must be offered to family and other significant relationships on a regularly  
 996.5 scheduled basis but not less than quarterly.
- 996.6 (g) Access to secured outdoor space and walkways that allow residents to enter and  
 996.7 return without staff assistance must be provided.

996.8 **ARTICLE 18**

996.9 **ASSISTED LIVING LICENSURE CONFORMING CHANGES**

- 996.10 Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:
- 996.11 Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections  
 996.12 144A.43 to 144A.482 and chapter 1444I, the following data collected, created, or maintained  
 996.13 by the commissioner are classified as public data as defined in section 13.02, subdivision  
 996.14 15:
- 996.15 (1) all application data on licensees, license numbers, and license status;  
 996.16 (2) licensing information about licenses previously held under this chapter;  
 996.17 (3) correction orders, including information about compliance with the order and whether  
 996.18 the fine was paid;  
 996.19 (4) final enforcement actions pursuant to chapter 14;

996.20 (5) orders for hearing, findings of fact, and conclusions of law; and

996.21 (6) when the licensee and department agree to resolve the matter without a hearing, the  
996.22 agreement and specific reasons for the agreement are public data.

996.23 Sec. 2. Minnesota Statutes 2018, section 144.051, subdivision 5, is amended to read:

996.24 Subd. 5. **Data classification; confidential data.** For providers regulated pursuant to  
996.25 sections 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or  
996.26 maintained by the Department of Health are classified as confidential data on individuals  
996.27 as defined in section 13.02, subdivision 3: active investigative data relating to the  
996.28 investigation of potential violations of law by a licensee including data from the survey  
996.29 process before the correction order is issued by the department.

997.1 Sec. 3. Minnesota Statutes 2018, section 144.051, subdivision 6, is amended to read:

997.2 Subd. 6. **Release of private or confidential data.** For providers regulated pursuant to  
997.3 sections 144A.43 to 144A.482 and chapter 144I, the department may release private or  
997.4 confidential data, except Social Security numbers, to the appropriate state, federal, or local  
997.5 agency and law enforcement office to enhance investigative or enforcement efforts or further  
997.6 a public health protective process. Types of offices include Adult Protective Services, Office  
997.7 of the Ombudsman for Long-Term Care and Office of the Ombudsman for Mental Health  
997.8 and Developmental Disabilities, the health licensing boards, Department of Human Services,  
997.9 county or city attorney's offices, police, and local or county public health offices.

997.10 Sec. 4. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

997.11 Subdivision 1. **Background studies required.** The commissioner of health shall contract  
997.12 with the commissioner of human services to conduct background studies of:

997.13 (1) individuals providing services which that have direct contact, as defined under section  
997.14 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,  
997.15 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and  
997.16 home care agencies licensed under chapter 144A; ~~residential care homes licensed under~~  
997.17 ~~chapter 144B~~, assisted living facilities, and assisted living facilities with dementia care  
997.18 licensed under chapter 144I, and board and lodging establishments that are registered to  
997.19 provide supportive or health supervision services under section 157.17;

997.20 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact  
997.21 services in a nursing home, assisted living facilities, and assisted living facilities with  
997.22 dementia care licensed under chapter 144I, or a home care agency licensed under chapter  
997.23 144A or a boarding care home licensed under sections 144.50 to 144.58. If the individual  
997.24 under study resides outside Minnesota, the study must include a check for substantiated  
997.25 findings of maltreatment of adults and children in the individual's state of residence when  
997.26 the information is made available by that state, and must include a check of the National  
997.27 Crime Information Center database;

997.28 (3) ~~beginning July 1, 1999, all other employees in assisted living facilities licensed under~~  
 997.29 ~~chapter 144I, nursing homes licensed under chapter 144A, and boarding care homes licensed~~  
 997.30 ~~under sections 144.50 to 144.58. A disqualification of an individual in this section shall~~  
 997.31 ~~disqualify the individual from positions allowing direct contact or access to patients or~~  
 997.32 ~~residents receiving services. "Access" means physical access to a client or the client's~~  
 997.33 ~~personal property without continuous, direct supervision as defined in section 245C.02,~~  
 998.1 ~~subdivision 8, when the employee's employment responsibilities do not include providing~~  
 998.2 ~~direct contact services;~~

998.3 (4) individuals employed by a supplemental nursing services agency, as defined under  
 998.4 section 144A.70, who are providing services in health care facilities; and

998.5 (5) controlling persons of a supplemental nursing services agency, as defined under  
 998.6 section 144A.70.

998.7 If a facility or program is licensed by the Department of Human Services and subject to  
 998.8 the background study provisions of chapter 245C and is also licensed by the Department  
 998.9 of Health, the Department of Human Services is solely responsible for the background  
 998.10 studies of individuals in the jointly licensed programs.

998.11 Sec. 5. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

998.12 Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who  
 998.13 must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners~~  
 998.14 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The  
 998.15 nursing home may share the services of a licensed administrator. The administrator must  
 998.16 maintain ~~a sufficient~~ an on-site presence in the facility to effectively manage the facility in  
 998.17 compliance with applicable rules and regulations. The administrator must establish procedures  
 998.18 and delegate authority for on-site operations in the administrator's absence, but is ultimately  
 998.19 responsible for the management of the facility. Each nursing home must have posted at all  
 998.20 times the name of the administrator and the name of the person in charge on the premises  
 998.21 in the absence of the licensed administrator.

998.22 ~~(b) Notwithstanding sections 144A.18 to 144A.27, a nursing home with a director of~~  
 998.23 ~~nursing serving as an unlicensed nursing home administrator as of March 1, 2001, may~~  
 998.24 ~~continue to have a director of nursing serve in that capacity, provided the director of nursing~~  
 998.25 ~~has passed the state law and rules examination administered by the Board of Examiners for~~  
 998.26 ~~Nursing Home Administrators and maintains evidence of completion of 20 hours of~~  
 998.27 ~~continuing education each year on topics pertinent to nursing home administration.~~

998.28 Sec. 6. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

998.29 Subdivision 1. **Criteria.** The Board of ~~Examiners~~ Executives may issue licenses to  
 998.30 qualified persons as nursing home administrators, and shall establish qualification criteria  
 998.31 for nursing home administrators. No license shall be issued to a person as a nursing home  
 998.32 administrator unless that person:

- 999.1 (1) is at least 21 years of age and otherwise suitably qualified;
- 999.2 (2) has satisfactorily met standards set by the Board of ~~Examiners~~ Executives, which
- 999.3 standards shall be designed to assure that nursing home administrators will be individuals
- 999.4 who, by training or experience are qualified to serve as nursing home administrators; and
- 999.5 (3) has passed an examination approved by the board and designed to test for competence
- 999.6 in the ~~subject matters~~ standards referred to in clause (2), or has been approved by the Board
- 999.7 of ~~Examiners~~ Executives through the development and application of other appropriate
- 999.8 techniques.
- 999.9 Sec. 7. Minnesota Statutes 2018, section 144A.24, is amended to read:
- 999.10 144A.24 DUTIES OF THE BOARD.
- 999.11 The Board of ~~Examiners~~ Executives shall:
- 999.12 (1) develop and enforce standards for nursing home administrator licensing, which
- 999.13 standards shall be designed to assure that nursing home administrators will be individuals
- 999.14 of good character who, by training or experience, are suitably qualified to serve as nursing
- 999.15 home administrators;
- 999.16 (2) develop appropriate techniques, including examinations and investigations, for
- 999.17 determining whether applicants and licensees meet the board's standards;
- 999.18 (3) issue licenses and permits to those individuals who are found to meet the board's
- 999.19 standards;
- 999.20 (4) establish and implement procedures designed to assure that individuals licensed as
- 999.21 nursing home administrators will comply with the board's standards;
- 999.22 (5) receive and investigate complaints and take appropriate action consistent with chapter
- 999.23 214, to revoke or suspend the license or permit of a nursing home administrator or acting
- 999.24 administrator who fails to comply with sections 144A.18 to 144A.27 or the board's standards;
- 999.25 (6) conduct a continuing study and investigation of nursing homes, and the administrators
- 999.26 of nursing homes within the state, with a view to the improvement of the standards imposed
- 999.27 for the licensing of administrators and improvement of the procedures and methods used
- 999.28 for enforcement of the board's standards; and
- 999.29 (7) approve or conduct courses of instruction or training designed to prepare individuals
- 999.30 for licensing in accordance with the board's standards. ~~Courses designed to meet license~~
- 999.31 ~~renewal requirements shall be designed solely to improve professional skills and shall not~~
- 1000.1 ~~include classroom attendance requirements exceeding 50 hours per year.~~ The board may
- 1000.2 approve courses conducted within or without this state.
- 1000.3 Sec. 8. Minnesota Statutes 2018, section 144A.26, is amended to read:
- 1000.4 144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF
- 1000.5 HEALTH SERVICES EXECUTIVE.

1000.6 Subdivision 1. **Reciprocity.** The Board of ~~Examiners~~ Executives may issue a nursing  
 1000.7 home administrator's license, without examination, to any person who holds a current license  
 1000.8 as a nursing home administrator from another jurisdiction if the board finds that the standards  
 1000.9 for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing  
 1000.10 in this state and that the applicant is otherwise qualified.

1000.11 Subd. 2. **Health services executive license.** The Board of Executives may issue a health  
 1000.12 services executive license to any person who (1) has been validated by the National  
 1000.13 Association of Long Term Care Administrator Boards as a health services executive, and  
 1000.14 (2) has met the education and practice requirements for the minimum qualifications of a  
 1000.15 nursing home administrator, assisted living administrator, and home and community-based  
 1000.16 service provider. Licensure decisions made by the board under this subdivision are final.

1000.17 Sec. 9. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

1000.18 Subdivision 1. **Statement of rights.** (a) A ~~person~~ client who receives home care services  
 1000.19 in the community or in an assisted living facility licensed under chapter 144I has these  
 1000.20 rights:

1000.21 (1) ~~the right to receive written information, in plain language, about rights before~~  
 1000.22 receiving services, including what to do if rights are violated;

1000.23 (2) ~~the right to receive care and services according to a suitable and up-to-date plan, and~~  
 1000.24 subject to accepted health care, medical or nursing standards and person-centered care, to  
 1000.25 take an active part in developing, modifying, and evaluating the plan and services;

1000.26 (3) ~~the right to be told before receiving services the type and disciplines of staff who~~  
 1000.27 will be providing the services, the frequency of visits proposed to be furnished, other choices  
 1000.28 that are available for addressing home care needs, and the potential consequences of refusing  
 1000.29 these services;

1000.30 (4) ~~the right to be told in advance of any recommended changes by the provider in the~~  
 1000.31 service plan and to take an active part in any decisions about changes to the service plan;

1001.1 (5) ~~the right to refuse services or treatment;~~

1001.2 (6) ~~the right to know, before receiving services or during the initial visit, any limits to~~  
 1001.3 the services available from a home care provider;

1001.4 (7) ~~the right to be told before services are initiated what the provider charges for the~~  
 1001.5 services; to what extent payment may be expected from health insurance, public programs,  
 1001.6 or other sources, if known; and what charges the client may be responsible for paying;

1001.7 (8) ~~the right to know that there may be other services available in the community,~~  
 1001.8 including other home care services and providers, and to know where to find information  
 1001.9 about these services;

- 1001.10 (9) ~~the right to choose freely among available providers and to change providers after~~  
 1001.11 ~~services have begun, within the limits of health insurance, long-term care insurance, medical~~  
 1001.12 ~~assistance, or other health programs, or public programs;~~
- 1001.13 (10) ~~the right to have personal, financial, and medical information kept private, and to~~  
 1001.14 ~~be advised of the provider's policies and procedures regarding disclosure of such information;~~
- 1001.15 (11) ~~the right to access the client's own records and written information from those~~  
 1001.16 ~~records in accordance with sections 144.291 to 144.298;~~
- 1001.17 (12) ~~the right to be served by people who are properly trained and competent to perform~~  
 1001.18 ~~their duties;~~
- 1001.19 (13) ~~the right to be treated with courtesy and respect, and to have the client's property~~  
 1001.20 ~~treated with respect;~~
- 1001.21 (14) ~~the right to be free from physical and verbal abuse, neglect, financial exploitation,~~  
 1001.22 ~~and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment~~  
 1001.23 ~~of Minors Act;~~
- 1001.24 (15) ~~the right to reasonable, advance notice of changes in services or charges;~~
- 1001.25 (16) ~~the right to know the provider's reason for termination of services;~~
- 1001.26 (17) ~~the right to at least ten 30 calendar days' advance notice of the termination of a~~  
 1001.27 ~~service or housing by a provider, except in cases where:~~
- 1001.28 (i) ~~the client engages in conduct that significantly alters the terms of the service plan~~  
 1001.29 ~~with the home care provider;~~
- 1001.30 (ii) ~~the client, person who lives with the client, or others create an abusive or unsafe~~  
 1001.31 ~~work environment for the person providing home care services; or~~
- 1002.1 (iii) ~~an emergency or a significant change in the client's condition has resulted in service~~  
 1002.2 ~~needs that exceed the current service plan and that cannot be safely met by the home care~~  
 1002.3 ~~provider;~~
- 1002.4 (18) ~~the right to a coordinated transfer when there will be a change in the provider of~~  
 1002.5 ~~services;~~
- 1002.6 (19) ~~the right to complain to staff and others of the client's choice about services that~~  
 1002.7 ~~are provided, or fail to be provided, and the lack of courtesy or respect to the client or the~~  
 1002.8 ~~client's property and the right to recommend changes in policies and services, free from~~  
 1002.9 ~~retaliation including the threat of termination of services;~~
- 1002.10 (20) ~~the right to know how to contact an individual associated with the home care provider~~  
 1002.11 ~~who is responsible for handling problems and to have the home care provider investigate~~  
 1002.12 ~~and attempt to resolve the grievance or complaint;~~

- 1002.13 (21) the right to know the name and address of the state or county agency to contact for  
 1002.14 additional information or assistance; and
- 1002.15 (22) the right to assert these rights personally, or have them asserted by the client's  
 1002.16 representative or by anyone on behalf of the client, without retaliation; and
- 1002.17 (23) place an electronic monitoring device in the client's or resident's space in compliance  
 1002.18 with state requirements.
- 1002.19 (b) When providers violate the rights in this section, they are subject to the fines and  
 1002.20 license actions in sections 144A.474, subdivision 11, and 144A.475.
- 1002.21 (c) Providers must do all of the following:
- 1002.22 (1) encourage and assist in the fullest possible exercise of these rights;
- 1002.23 (2) provide the names and telephone numbers of individuals and organizations that  
 1002.24 provide advocacy and legal services for clients and residents seeking to assert their rights;
- 1002.25 (3) make every effort to assist clients or residents in obtaining information regarding  
 1002.26 whether Medicare, medical assistance, other health programs, or public programs will pay  
 1002.27 for services;
- 1002.28 (4) make reasonable accommodations for people who have communication disabilities,  
 1002.29 or those who speak a language other than English; and
- 1002.30 (5) provide all information and notices in plain language and in terms the client or  
 1002.31 resident can understand.
- 1003.1 (d) No provider may require or request a client or resident to waive any of the rights  
 1003.2 listed in this section at any time or for any reasons, including as a condition of initiating  
 1003.3 services or entering into an assisted living facility contract.
- 1003.4 Sec. 10. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:
- 1003.5 Subd. 7. **Comprehensive home care license provider.** Home care services that may  
 1003.6 be provided with a comprehensive home care license include any of the basic home care  
 1003.7 services listed in subdivision 6, and one or more of the following:
- 1003.8 (1) services of an advanced practice nurse, registered nurse, licensed practical nurse,  
 1003.9 physical therapist, respiratory therapist, occupational therapist, speech-language pathologist,  
 1003.10 dietitian or nutritionist, or social worker;
- 1003.11 (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed  
 1003.12 health professional within the person's scope of practice;
- 1003.13 (3) medication management services;
- 1003.14 (4) hands-on assistance with transfers and mobility;

- 1003.15 ~~(5) treatment and therapies;~~
- 1003.16 ~~(6) assisting clients with eating when the clients have complicating eating problems as~~  
1003.17 ~~identified in the client record or through an assessment such as difficulty swallowing,~~  
1003.18 ~~recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous~~  
1003.19 ~~instruments to be fed; or~~
- 1003.20 ~~(6) (7) providing other complex or specialty health care services.~~
- 1003.21 Sec. 11. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:
- 1003.22 Subd. 9. **Exclusions from home care licensure.** The following are excluded from home  
1003.23 care licensure and are not required to provide the home care bill of rights:
- 1003.24 (1) an individual or business entity providing only coordination of home care that includes  
1003.25 one or more of the following:
- 1003.26 (i) determination of whether a client needs home care services, or assisting a client in  
1003.27 determining what services are needed;
- 1003.28 (ii) referral of clients to a home care provider;
- 1003.29 (iii) administration of payments for home care services; or
- 1003.30 (iv) administration of a health care home established under section 256B.0751;
- 1004.1 (2) an individual who is not an employee of a licensed home care provider if the  
1004.2 individual:
- 1004.3 (i) only provides services as an independent contractor to one or more licensed home  
1004.4 care providers;
- 1004.5 (ii) provides no services under direct agreements or contracts with clients; and
- 1004.6 (iii) is contractually bound to perform services in compliance with the contracting home  
1004.7 care provider's policies and service plans;
- 1004.8 (3) a business that provides staff to home care providers, such as a temporary employment  
1004.9 agency, if the business:
- 1004.10 (i) only provides staff under contract to licensed or exempt providers;
- 1004.11 (ii) provides no services under direct agreements with clients; and
- 1004.12 (iii) is contractually bound to perform services under the contracting home care provider's  
1004.13 direction and supervision;
- 1004.14 (4) any home care services conducted by and for the adherents of any recognized church  
1004.15 or religious denomination for its members through spiritual means, or by prayer for healing;
- 1004.16 (5) an individual who only provides home care services to a relative;



- 1004.17 (6) an individual not connected with a home care provider that provides assistance with  
 1004.18 basic home care needs if the assistance is provided primarily as a contribution and not as a  
 1004.19 business;
- 1004.20 (7) an individual not connected with a home care provider that shares housing with and  
 1004.21 provides primarily housekeeping or homemaking services to an elderly or disabled person  
 1004.22 in return for free or reduced-cost housing;
- 1004.23 (8) an individual or provider providing home-delivered meal services;
- 1004.24 (9) an individual providing senior companion services and other older American volunteer  
 1004.25 programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United  
 1004.26 States Code, title 42, chapter 66;
- 1004.27 (10) an employee of a nursing home or home care provider licensed under this chapter  
 1004.28 or an employee of a boarding care home licensed under sections 144.50 to 144.56 when  
 1004.29 responding to occasional emergency calls from individuals residing in a residential setting  
 1004.30 that is attached to or located on property contiguous to the nursing home, boarding care  
 1004.31 home, or location where home care services are also provided;
- 1005.1 (11) an employee of a nursing home or home care provider licensed under this chapter  
 1005.2 or an employee of a boarding care home licensed under sections 144.50 to 144.56 when  
 1005.3 providing occasional minor services free of charge to individuals residing in a residential  
 1005.4 setting that is attached to or located on property contiguous to the nursing home, boarding  
 1005.5 care home, or location where home care services are also provided;
- 1005.6 (12) a member of a professional corporation organized under chapter 319B that does  
 1005.7 not regularly offer or provide home care services as defined in section 144A.43, subdivision  
 1005.8 3;
- 1005.9 (13) the following organizations established to provide medical or surgical services that  
 1005.10 do not regularly offer or provide home care services as defined in section 144A.43,  
 1005.11 subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit  
 1005.12 corporation organized under chapter 317A, a partnership organized under chapter 323, or  
 1005.13 any other entity determined by the commissioner;
- 1005.14 (14) an individual or agency that provides medical supplies or durable medical equipment,  
 1005.15 except when the provision of supplies or equipment is accompanied by a home care service;
- 1005.16 (15) a physician licensed under chapter 147;
- 1005.17 (16) an individual who provides home care services to a person with a developmental  
 1005.18 disability who lives in a place of residence with a family, foster family, or primary caregiver;
- 1005.19 (17) a business that only provides services that are primarily instructional and not medical  
 1005.20 services or health-related support services;

- 1005.21 (18) an individual who performs basic home care services for no more than 14 hours
- 1005.22 each calendar week to no more than one client;
- 1005.23 (19) an individual or business licensed as hospice as defined in sections 144A.75 to
- 1005.24 144A.755 who is not providing home care services independent of hospice service;
- 1005.25 (20) activities conducted by the commissioner of health or a community health board
- 1005.26 as defined in section 145A.02, subdivision 5, including communicable disease investigations
- 1005.27 or testing; or
- 1005.28 (21) administering or monitoring a prescribed therapy necessary to control or prevent a
- 1005.29 communicable disease, or the monitoring of an individual's compliance with a health directive
- 1005.30 as defined in section 144.4172, subdivision 6.

1005.31 **EFFECTIVE DATE.** The amendments to clauses (10) and (11) are effective July 1,

1005.32 2021.

1006.1 Sec. 12. Minnesota Statutes 2018, section 144A.472, subdivision 7, is amended to read:

1006.2 Subd. 7. **Fees; application, change of ownership, ~~and~~ renewal, and failure to**

1006.3 **notify.** (a) An initial applicant seeking temporary home care licensure must submit the

1006.4 following application fee to the commissioner along with a completed application:

1006.5 (1) for a basic home care provider, \$2,100; or

1006.6 (2) for a comprehensive home care provider, \$4,200.

1006.7 (b) A home care provider who is filing a change of ownership as required under

1006.8 subdivision 5 must submit the following application fee to the commissioner, along with

1006.9 the documentation required for the change of ownership:

1006.10 (1) for a basic home care provider, \$2,100; or

1006.11 (2) for a comprehensive home care provider, \$4,200.

1006.12 (c) For the period ending June 30, 2018, a home care provider who is seeking to renew

1006.13 the provider's license shall pay a fee to the commissioner based on revenues derived from

1006.14 the provision of home care services during the calendar year prior to the year in which the

1006.15 application is submitted, according to the following schedule:

1006.16 **License Renewal Fee**

1006.17 <b>Provider Annual Revenue</b>	<b>Fee</b>
1006.18 greater than \$1,500,000	\$6,625
1006.19 greater than \$1,275,000 and no more than	
1006.20 \$1,500,000	\$5,797

1006.21	greater than \$1,100,000 and no more than	
1006.22	\$1,275,000	\$4,969
1006.23	greater than \$950,000 and no more than	
1006.24	\$1,100,000	\$4,141
1006.25	greater than \$850,000 and no more than \$950,000	\$3,727
1006.26	greater than \$750,000 and no more than \$850,000	\$3,313
1006.27	greater than \$650,000 and no more than \$750,000	\$2,898
1006.28	greater than \$550,000 and no more than \$650,000	\$2,485
1006.29	greater than \$450,000 and no more than \$550,000	\$2,070
1006.30	greater than \$350,000 and no more than \$450,000	\$1,656
1006.31	greater than \$250,000 and no more than \$350,000	\$1,242
1006.32	greater than \$100,000 and no more than \$250,000	\$828
1006.33	greater than \$50,000 and no more than \$100,000	\$500
1006.34	greater than \$25,000 and no more than \$50,000	\$400
1006.35	no more than \$25,000	\$200
1007.1	(d) For the period between July 1, 2018, and June 30, 2020, a home care provider who	
1007.2	is seeking to renew the provider's license shall pay a fee to the commissioner in an amount	
1007.3	that is ten percent higher than the applicable fee in paragraph (c). A home care provider's	
1007.4	fee shall be based on revenues derived from the provision of home care services during the	
1007.5	calendar year prior to the year in which the application is submitted.	
1007.6	(e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's	
1007.7	license shall pay a fee to the commissioner based on revenues derived from the provision	
1007.8	of home care services during the calendar year prior to the year in which the application is	
1007.9	submitted, according to the following schedule:	
1007.10	<b>License Renewal Fee</b>	
1007.11	<b>Provider Annual Revenue</b>	<b>Fee</b>
1007.12	greater than \$1,500,000	\$7,651
1007.13	greater than \$1,275,000 and no more than	
1007.14	\$1,500,000	\$6,695

1007.15	greater than \$1,100,000 and no more than	
1007.16	\$1,275,000	\$5,739
1007.17	greater than \$950,000 and no more than	
1007.18	\$1,100,000	\$4,783
1007.19	greater than \$850,000 and no more than \$950,000	\$4,304
1007.20	greater than \$750,000 and no more than \$850,000	\$3,826
1007.21	greater than \$650,000 and no more than \$750,000	\$3,347
1007.22	greater than \$550,000 and no more than \$650,000	\$2,870
1007.23	greater than \$450,000 and no more than \$550,000	\$2,391
1007.24	greater than \$350,000 and no more than \$450,000	\$1,913
1007.25	greater than \$250,000 and no more than \$350,000	\$1,434
1007.26	greater than \$100,000 and no more than \$250,000	\$957
1007.27	greater than \$50,000 and no more than \$100,000	\$577
1007.28	greater than \$25,000 and no more than \$50,000	\$462
1007.29	no more than \$25,000	\$231
1007.30	(f) If requested, the home care provider shall provide the commissioner information to	
1007.31	verify the provider's annual revenues or other information as needed, including copies of	
1007.32	documents submitted to the Department of Revenue.	
1007.33	(g) At each annual renewal, a home care provider may elect to pay the highest renewal	
1007.34	fee for its license category, and not provide annual revenue information to the commissioner.	
1007.35	(h) A temporary license or license applicant, or temporary licensee or licensee that	
1007.36	knowingly provides the commissioner incorrect revenue amounts for the purpose of paying	
1008.1	a lower license fee, shall be subject to a civil penalty in the amount of double the fee the	
1008.2	provider should have paid.	
1008.3	(i) The fee for failure to comply with the notification requirements in section 144A.473,	
1008.4	subdivision 2, paragraph (c), is \$1,000.	
1008.5	(†) (j) Fees and penalties collected under this section shall be deposited in the state	
1008.6	treasury and credited to the state government special revenue fund. All fees are	
1008.7	nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if	

- 1008.8 received before July 1, 2017, for temporary licenses or licenses being issued effective July  
 1008.9 1, 2017, or later.
- 1008.10 (k) Fines collected under this subdivision shall be deposited in a dedicated special revenue  
 1008.11 account. On an annual basis, the balance in the special revenue account will be appropriated  
 1008.12 to the commissioner to implement the recommendations of the advisory council established  
 1008.13 in section 144A.4799. Fines collected in state fiscal years 2018 and 2019 shall be deposited  
 1008.14 in the dedicated special revenue account as described in this section.
- 1008.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 1008.16 Sec. 13. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:
- 1008.17 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under  
 1008.18 subdivision 11, or any violations determined to be widespread, the department shall conduct  
 1008.19 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up  
 1008.20 survey, the surveyor will focus on whether the previous violations have been corrected and  
 1008.21 may also address any new violations that are observed while evaluating the corrections that  
 1008.22 have been made. If a new violation is identified on a follow-up survey, no fine will be  
 1008.23 imposed unless it is not corrected on the next follow-up survey.
- 1008.24 Sec. 14. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:
- 1008.25 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed  
 1008.26 based on the level and scope of the violations described in paragraph (e) (b) and imposed  
 1008.27 immediately with no opportunity to correct the violation first as follows:
- 1008.28 (1) Level 1, no fines or enforcement;
- 1008.29 (2) Level 2, fines ranging from \$0 to a fine of \$500 per violation, in addition to any of  
 1008.30 the enforcement mechanisms authorized in section 144A.475 for widespread violations;
- 1009.1 (3) Level 3, fines ranging from \$500 to \$1,000 a fine of \$3,000 per incident plus \$100  
 1009.2 for each resident affected by the violation, in addition to any of the enforcement mechanisms  
 1009.3 authorized in section 144A.475; and
- 1009.4 (4) Level 4, fines ranging from \$1,000 to a fine of \$5,000 per incident plus \$200 for  
 1009.5 each resident affected by the violation, in addition to any of the enforcement mechanisms  
 1009.6 authorized in section 144A.475;
- 1009.7 (5) for maltreatment violations as defined in section 626.557 including abuse, neglect,  
 1009.8 financial exploitation, and drug diversion, that are determined against the provider, an  
 1009.9 immediate fine shall be imposed of \$5,000 per incident plus \$200 for each resident affected  
 1009.10 by the violation; and
- 1009.11 (6) the fines in clauses (1) to (4) are increased and immediate fine imposition is authorized  
 1009.12 for both surveys and investigations conducted.

- 1009.13 (b) Correction orders for violations are categorized by both level and scope and fines  
 1009.14 shall be assessed as follows:
- 1009.15 (1) level of violation:
- 1009.16 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on  
 1009.17 the client and does not affect health or safety;
- 1009.18 (ii) Level 2 is a violation that did not harm a client's health or safety but had the potential  
 1009.19 to have harmed a client's health or safety, but was not likely to cause serious injury,  
 1009.20 impairment, or death;
- 1009.21 (iii) Level 3 is a violation that harmed a client's health or safety, not including serious  
 1009.22 injury, impairment, or death, or a violation that has the potential to lead to serious injury,  
 1009.23 impairment, or death; and
- 1009.24 (iv) Level 4 is a violation that results in serious injury, impairment, or death;
- 1009.25 (2) scope of violation:
- 1009.26 (i) isolated, when one or a limited number of clients are affected or one or a limited  
 1009.27 number of staff are involved or the situation has occurred only occasionally;
- 1009.28 (ii) pattern, when more than a limited number of clients are affected, more than a limited  
 1009.29 number of staff are involved, or the situation has occurred repeatedly but is not found to be  
 1009.30 pervasive; and
- 1009.31 (iii) widespread, when problems are pervasive or represent a systemic failure that has  
 1009.32 affected or has the potential to affect a large portion or all of the clients.
- 1010.1 (c) If the commissioner finds that the applicant or a home care provider ~~required to be~~  
 1010.2 ~~licensed under sections 144A.43 to 144A.482~~ has not corrected violations by the date  
 1010.3 specified in the correction order or conditional license resulting from a survey or complaint  
 1010.4 investigation, the commissioner ~~may impose a fine.~~ A shall provide a notice of  
 1010.5 noncompliance with a correction order ~~must be mailed~~ by e-mail to the applicant's or  
 1010.6 provider's last known e-mail address. The noncompliance notice must list the violations not  
 1010.7 corrected.
- 1010.8 (d) For every violation identified by the commissioner, the commissioner shall issue an  
 1010.9 immediate fine pursuant to paragraph (a), clause (6). The license holder must still correct  
 1010.10 the violation in the time specified. The issuance of an immediate fine can occur in addition  
 1010.11 to any enforcement mechanism authorized under section 144A.475. The immediate fine  
 1010.12 may be appealed as allowed under this subdivision.
- 1010.13 ~~(d)~~ (e) The license holder must pay the fines assessed on or before the payment date  
 1010.14 specified. If the license holder fails to fully comply with the order, the commissioner may  
 1010.15 issue a second fine or suspend the license until the license holder complies by paying the

1010.16 fine. A timely appeal shall stay payment of the fine until the commissioner issues a final  
1010.17 order.

1010.18 ~~(e)~~ (f) A license holder shall promptly notify the commissioner in writing when a violation  
1010.19 specified in the order is corrected. If upon reinspection the commissioner determines that  
1010.20 a violation has not been corrected as indicated by the order, the commissioner may issue a  
1010.21 second fine. The commissioner shall notify the license holder by mail to the last known  
1010.22 address in the licensing record that a second fine has been assessed. The license holder may  
1010.23 appeal the second fine as provided under this subdivision.

1010.24 ~~(f)~~ (g) A home care provider that has been assessed a fine under this subdivision has a  
1010.25 right to a reconsideration or a hearing under this section and chapter 14.

1010.26 ~~(g)~~ (h) When a fine has been assessed, the license holder may not avoid payment by  
1010.27 closing, selling, or otherwise transferring the licensed program to a third party. In such an  
1010.28 event, the license holder shall be liable for payment of the fine.

1010.29 ~~(h)~~ (i) In addition to any fine imposed under this section, the commissioner may assess  
1010.30 a penalty amount based on costs related to an investigation that results in a final order  
1010.31 assessing a fine or other enforcement action authorized by this chapter.

1010.32 ~~(i)~~ (j) Fines collected under this subdivision shall be deposited in the state government  
1010.33 a dedicated special revenue fund and credited to an account separate from the revenue  
1010.34 collected under section 144A.472. Subject to an appropriation by the legislature, the revenue  
1011.1 from the fines collected must be used by the commissioner for special projects to improve  
1011.2 home care in Minnesota as recommended by account. On an annual basis, the balance in  
1011.3 the special revenue account shall be appropriated to the commissioner to implement the  
1011.4 recommendations of the advisory council established in section 144A.4799. Fines collected  
1011.5 in state fiscal years 2018 and 2019 shall be deposited in the dedicated special revenue  
1011.6 account as described in this section.

1011.7 Sec. 15. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

1011.8 Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license  
1011.9 holder's timely appeal of a temporary suspension or issuance of a conditional license, the  
1011.10 commissioner shall request assignment of an administrative law judge. The request must  
1011.11 include a proposed date, time, and place of a hearing. A hearing must be conducted by an  
1011.12 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
1011.13 30 calendar days of the request for assignment, unless an extension is requested by either  
1011.14 party and granted by the administrative law judge for good cause. The commissioner shall  
1011.15 issue a notice of hearing by certified mail or personal service at least ten business days  
1011.16 before the hearing. Certified mail to the last known address is sufficient. The scope of the  
1011.17 hearing shall be limited solely to the issue of whether the temporary suspension or issuance  
1011.18 of a conditional license should remain in effect and whether there is sufficient evidence to  
1011.19 conclude that the licensee's actions or failure to comply with applicable laws are level 3 or  
1011.20 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there

1011.21 were violations that posed an imminent risk of harm to the health and safety of persons in  
1011.22 the provider's care.

1011.23 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
1011.24 recommendation within ten business days from the date of hearing. The parties shall have  
1011.25 ten calendar days to submit exceptions to the administrative law judge's report. The record  
1011.26 shall close at the end of the ten-day period for submission of exceptions. The commissioner's  
1011.27 final order shall be issued within ten business days from the close of the record. When an  
1011.28 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,  
1011.29 the commissioner shall issue a final order affirming the temporary immediate suspension  
1011.30 or conditional license within ten calendar days of the commissioner's receipt of the  
1011.31 withdrawal or dismissal. The license holder is prohibited from operation during the temporary  
1011.32 suspension period.

1011.33 (c) When the final order under paragraph (b) affirms an immediate suspension, and a  
1011.34 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that  
1012.1 sanction, the licensee is prohibited from operation pending a final commissioner's order  
1012.2 after the contested case hearing conducted under chapter 14.

1012.3 (d) A licensee whose license is temporarily suspended must comply with the requirements  
1012.4 for notification and transfer of clients in subdivision 5. These requirements remain if an  
1012.5 appeal is requested.

1012.6 Sec. 16. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

1012.7 Subd. 5. **Plan required.** (a) The process of suspending ~~or~~, revoking, or refusing to renew  
1012.8 a license must include a plan for transferring affected ~~clients~~ clients' care to other providers  
1012.9 by the home care provider, which will be monitored by the commissioner. Within three  
1012.10 business calendar days of being notified of the ~~final~~ revocation, refusal to renew, or  
1012.11 suspension ~~action~~, the home care provider shall provide the commissioner, the lead agencies  
1012.12 as defined in section 256B.0911, county adult protection and case managers, and the  
1012.13 ombudsman for long-term care with the following information:

1012.14 (1) a list of all clients, including full names and all contact information on file;

1012.15 (2) a list of each client's representative or emergency contact person, including full names  
1012.16 and all contact information on file;

1012.17 (3) the location or current residence of each client;

1012.18 (4) the payor sources for each client, including payor source identification numbers; and

1012.19 (5) for each client, a copy of the client's service plan, and a list of the types of services  
1012.20 being provided.

1012.21 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied  
1012.22 by mailing the notice to the address in the license record. The home care provider shall  
1012.23 cooperate with the commissioner and the lead agencies, county adult protection and county



1012.24 managers, and the ombudsman for long term care during the process of transferring care of  
 1012.25 clients to qualified providers. Within three business calendar days of being notified of the  
 1012.26 final revocation, refusal to renew, or suspension action, the home care provider must notify  
 1012.27 and disclose to each of the home care provider's clients, or the client's representative or  
 1012.28 emergency contact persons, that the commissioner is taking action against the home care  
 1012.29 provider's license by providing a copy of the revocation, refusal to renew, or suspension  
 1012.30 notice issued by the commissioner. If the provider does not comply with the disclosure  
 1012.31 requirements in this section, the commissioner shall notify the clients, client representatives,  
 1012.32 or emergency contact persons about the action being taken. Lead agencies, county adult  
 1012.33 protection and county managers, and the Office of Ombudsman for Long-Term Care may  
 1013.1 also provide this information. The revocation, refusal to renew, or suspension notice is  
 1013.2 public data except for any private data contained therein.

1013.3 (c) A home care provider subject to this subdivision may continue operating during the  
 1013.4 period of time home care clients are being transferred to other providers.

1013.5 Sec. 17. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

1013.6 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before  
 1013.7 the commissioner issues a temporary license, issues a license as a result of an approved  
 1013.8 change in ownership, or renews a license, an owner or managerial official is required to  
 1013.9 complete a background study under section 144.057. No person may be involved in the  
 1013.10 management, operation, or control of a home care provider if the person has been disqualified  
 1013.11 under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C,  
 1013.12 the individual may request reconsideration of the disqualification. If the individual requests  
 1013.13 reconsideration and the commissioner sets aside or rescinds the disqualification, the individual  
 1013.14 is eligible to be involved in the management, operation, or control of the provider. If an  
 1013.15 individual has a disqualification under section 245C.15, subdivision 1, and the disqualification  
 1013.16 is affirmed, the individual's disqualification is barred from a set aside, and the individual  
 1013.17 must not be involved in the management, operation, or control of the provider.

1013.18 (b) For purposes of this section, owners of a home care provider subject to the background  
 1013.19 check requirement are those individuals whose ownership interest provides sufficient  
 1013.20 authority or control to affect or change decisions related to the operation of the home care  
 1013.21 provider. An owner includes a sole proprietor, a general partner, or any other individual  
 1013.22 whose individual ownership interest can affect the management and direction of the policies  
 1013.23 of the home care provider.

1013.24 (c) For the purposes of this section, managerial officials subject to the background check  
 1013.25 requirement are individuals who provide direct contact as defined in section 245C.02,  
 1013.26 subdivision 11, or individuals who have the responsibility for the ongoing management or  
 1013.27 direction of the policies, services, or employees of the home care provider. Data collected  
 1013.28 under this subdivision shall be classified as private data on individuals under section 13.02,  
 1013.29 subdivision 12.

1013.30 (d) The department shall not issue any license if the applicant or owner or managerial  
 1013.31 official has been unsuccessful in having a background study disqualification set aside under  
 1013.32 section 144.057 and chapter 245C; if the owner or managerial official, as an owner or  
 1013.33 managerial official of another home care provider, was substantially responsible for the  
 1013.34 other home care provider's failure to substantially comply with sections 144A.43 to  
 1014.1 144A.482; or if an owner that has ceased doing business, either individually or as an owner  
 1014.2 of a home care provider, was issued a correction order for failing to assist clients in violation  
 1014.3 of this chapter.

1014.4 Sec. 18. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

1014.5 Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service  
 1014.6 plan with a client, and the client continues to need home care services, the home care provider  
 1014.7 shall provide the client and the client's representative, if any, with a 30-day written notice  
 1014.8 of termination which includes the following information:

1014.9 (1) the effective date of termination;

1014.10 (2) the reason for termination;

1014.11 (3) a list of known licensed home care providers in the client's immediate geographic  
 1014.12 area;

1014.13 (4) a statement that the home care provider will participate in a coordinated transfer of  
 1014.14 care of the client to another home care provider, health care provider, or caregiver, as  
 1014.15 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

1014.16 (5) the name and contact information of a person employed by the home care provider  
 1014.17 with whom the client may discuss the notice of termination; and

1014.18 (6) if applicable, a statement that the notice of termination of home care services does  
 1014.19 not constitute notice of termination of the housing with services contract with a housing  
 1014.20 with services establishment.

1014.21 (b) When the home care provider voluntarily discontinues services to all clients, the  
 1014.22 home care provider must notify the commissioner, lead agencies, and ombudsman for  
 1014.23 long-term care about its clients and comply with the requirements in this subdivision.

1014.24 Sec. 19. Minnesota Statutes 2018, section 144A.4799, is amended to read:

1014.25 144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER  
 1014.26 ADVISORY COUNCIL.

1014.27 Subdivision 1. **Membership.** The commissioner of health shall appoint eight persons  
 1014.28 to a home care and assisted living program advisory council consisting of the following:

1014.29 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who  
 1014.30 are currently receiving home care services ~~or~~ persons who have received home care services  
 1014.31 within five years of the application date, persons who have family members receiving home

- 1015.1 care services, or persons who have family members who have received home care services  
1015.2 within five years of the application date;
- 1015.3 (2) three Minnesota home care licensees representing basic and comprehensive levels  
1015.4 of licensure who may be a managerial official, an administrator, a supervising registered  
1015.5 nurse, or an unlicensed personnel performing home care tasks;
- 1015.6 (3) one member representing the Minnesota Board of Nursing; ~~and~~  
1015.7 (4) one member representing the office of ombudsman for long-term care; ~~and~~
- 1015.8 (5) beginning July 1, 2021, one member of a county health and human services or county  
1015.9 adult protection office.
- 1015.10 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and  
1015.11 administered under section 15.059 with per diems and costs paid within the limits of available  
1015.12 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees  
1015.13 may be developed as necessary by the commissioner. Advisory council meetings are subject  
1015.14 to the Open Meeting Law under chapter 13D.
- 1015.15 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide  
1015.16 advice regarding regulations of Department of Health licensed home care providers in this  
1015.17 chapter, including advice on the following:
- 1015.18 (1) community standards for home care practices;  
1015.19 (2) enforcement of licensing standards and whether certain disciplinary actions are  
1015.20 appropriate;
- 1015.21 (3) ways of distributing information to licensees and consumers of home care;  
1015.22 (4) training standards;  
1015.23 (5) identifying emerging issues and opportunities in the home care field, including;  
1015.24 (6) identifying the use of technology in home and telehealth capabilities;
- 1015.25 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method  
1015.26 for an integrated license with an existing license for rural licensed nursing homes to provide  
1015.27 limited home care services in an adjacent independent living apartment building owned by  
1015.28 the licensed nursing home; and
- 1015.29 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,  
1015.30 including but not limited to studies concerning costs related to dementia and chronic disease  
1016.1 among an elderly population over 60 and additional long-term care costs, as described in  
1016.2 section 62U.10, subdivision 6.
- 1016.3 (b) The advisory council shall perform other duties as directed by the commissioner.

1016.4 (c) The advisory council shall annually review the balance of the account in the state  
 1016.5 government special revenue fund described in section 144A.474, subdivision 11, paragraph  
 1016.6 (i), and make annual recommendations by January 15 directly to the chairs and ranking  
 1016.7 minority members of the legislative committees with jurisdiction over health and human  
 1016.8 services regarding appropriations to the commissioner for the purposes in section 144A.474,  
 1016.9 subdivision 11, paragraph (i). The recommendations shall address ways the commissioner  
 1016.10 may improve protection of the public under existing statutes and laws and include but are  
 1016.11 not limited to projects that create and administer training of licensees and their employees  
 1016.12 to improve residents lives, supporting ways that licensees can improve and enhance quality  
 1016.13 care, ways to provide technical assistance to licensees to improve compliance; information  
 1016.14 technology and data projects that analyze and communicate information about trends of  
 1016.15 violations or lead to ways of improving client care; communications strategies to licensees  
 1016.16 and the public; and other projects or pilots that benefit clients, families, and the public.

1016.17 Sec. 20. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

1016.18 Subd. 15. **Supportive housing.** "Supportive housing" means housing with support  
 1016.19 services according to the continuum of care coordinated assessment system established  
 1016.20 under Code of Federal Regulations, title 24, section 578.3 that is not time-limited and  
 1016.21 provides or coordinates services necessary for a resident to maintain housing stability.

1016.22 Sec. 21. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

1016.23 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph  
 1016.24 (b), an agency may not enter into an agreement with an establishment to provide housing  
 1016.25 support unless:

1016.26 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;  
 1016.27 a board and lodging establishment; a boarding care home before March 1, 1985; or a  
 1016.28 supervised living facility, and the service provider for residents of the facility is licensed  
 1016.29 under chapter 245A. However, an establishment licensed by the Department of Health to  
 1016.30 provide lodging need not also be licensed to provide board if meals are being supplied to  
 1016.31 residents under a contract with a food vendor who is licensed by the Department of Health;

1017.1 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota  
 1017.2 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior  
 1017.3 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;  
 1017.4 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,  
 1017.5 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,  
 1017.6 subdivision 4a, as a community residential setting by the commissioner of human services;  
 1017.7 or

1017.8 (3) the establishment facility is registered licensed under ~~chapter 144D~~ chapter 144I and  
 1017.9 provides three meals a day.

1017.10 (b) The requirements under paragraph (a) do not apply to establishments exempt from  
 1017.11 state licensure because they are:

- 1017.12 (1) located on Indian reservations and subject to tribal health and safety requirements;  
 1017.13 or
- 1017.14 (2) a supportive housing establishment that has an approved habitability inspection and  
 1017.15 an individual lease agreement and that serves people who have experienced long-term  
 1017.16 homelessness and were referred through a coordinated assessment in section 256I.03;  
 1017.17 subdivision 15 supportive housing establishments where an individual has an approved  
 1017.18 habitability inspection and an individual lease agreement.
- 1017.19 (c) Supportive housing establishments that serve individuals who have experienced  
 1017.20 long-term homelessness and emergency shelters must participate in the homeless management  
 1017.21 information system and a coordinated assessment system as defined by the commissioner.
- 1017.22 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of  
 1017.23 housing support unless all staff members who have direct contact with recipients:
- 1017.24 (1) have skills and knowledge acquired through one or more of the following:
- 1017.25 (i) a course of study in a health- or human services-related field leading to a bachelor  
 1017.26 of arts, bachelor of science, or associate's degree;
- 1017.27 (ii) one year of experience with the target population served;
- 1017.28 (iii) experience as a mental health certified peer specialist according to section 256B.0615;  
 1017.29 or
- 1017.30 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to  
 1017.31 144A.483;
- 1018.1 (2) hold a current driver's license appropriate to the vehicle driven if transporting  
 1018.2 recipients;
- 1018.3 (3) complete training on vulnerable adults mandated reporting and child maltreatment  
 1018.4 mandated reporting, where applicable; and
- 1018.5 (4) complete housing support orientation training offered by the commissioner.
- 1018.6 Sec. 22. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:
- 1018.7 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~  
 1018.8 ~~establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide~~  
 1018.9 ~~a special program or special unit for residents with a diagnosis of probable Alzheimer's~~  
 1018.10 ~~disease or a related disorder or that advertise, market, or otherwise promote the establishment~~  
 1018.11 ~~as providing specialized care for Alzheimer's disease or a related disorder are considered a~~  
 1018.12 ~~"special care unit." All special care units assisted living facilities with dementia care, as~~  
 1018.13 ~~defined in section 144I.01, shall provide a written disclosure to the following:~~
- 1018.14 (1) the commissioner of health, if requested;
- 1018.15 (2) the Office of Ombudsman for Long-Term Care; and

- 1018.16 (3) each person seeking placement within a residence, or the person's authorized  
 1018.17 representative, before an agreement to provide the care is entered into.
- 1018.18 Sec. 23. Minnesota Statutes 2018, section 325F.72, subdivision 2, is amended to read:
- 1018.19 Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:
- 1018.20 (1) a statement of the overall philosophy and how it reflects the special needs of residents  
 1018.21 with Alzheimer's disease or other dementias;
- 1018.22 (2) the criteria for determining who may reside in the ~~special dementia~~ care unit;
- 1018.23 (3) the process used for assessment and establishment of the service plan or agreement,  
 1018.24 including how the plan is responsive to changes in the resident's condition;
- 1018.25 (4) staffing credentials, job descriptions, and staff duties and availability, including any  
 1018.26 training specific to dementia;
- 1018.27 (5) physical environment as well as design and security features that specifically address  
 1018.28 the needs of residents with Alzheimer's disease or other dementias;
- 1018.29 (6) frequency and type of programs and activities for residents of the ~~special care unit~~;
- 1018.30 (7) involvement of families in resident care and availability of family support programs;
- 1019.1 (8) fee schedules for additional services to the residents of the ~~special care unit~~; and
- 1019.2 (9) a statement that residents will be given a written notice 30 calendar days prior to  
 1019.3 changes in the fee schedule.
- 1019.4 Sec. 24. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:
- 1019.5 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed  
 1019.6 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults  
 1019.7 under section 144A.02; a facility or service required to be licensed under chapter 245A; an  
 1019.8 assisted living facility required to be licensed under chapter 144I; a home care provider  
 1019.9 licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider  
 1019.10 licensed under sections 144A.75 to 144A.755; or a person or organization that offers,  
 1019.11 provides, or arranges for personal care assistance services under the medical assistance  
 1019.12 program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654,  
 1019.13 256B.0659, or 256B.85.
- 1019.14 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's  
 1019.15 own home or in another unlicensed location, the term "facility" refers to the provider, person,  
 1019.16 or organization that offers, provides, or arranges for personal care services, and does not  
 1019.17 refer to the vulnerable adult's home or other location at which services are rendered.
- 1019.18 Sec. 25. **REVISOR INSTRUCTION.**

1019.19 The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home  
1019.20 Administrators" to "Board of Executives for Long Term Services and Supports" and "Board  
1019.21 of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes  
1019.22 and apply to the board established in Minnesota Statutes, section 144A.19.

1019.23 Sec. 26. **REPEALER.**

1019.24 (a) Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed July 1, 2019.

1019.25 (b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1,

1019.26 2021.