

CHAPTER 144D

HOUSING WITH SERVICES ESTABLISHMENT

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144D.001 MS 2006 [Renumbered 15.001]

144D.01 DEFINITIONS.

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

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

Subd. 2a. **Arranged home care provider.** "Arranged home care provider" means a home care provider licensed under chapter 144A that provides services to some or all of the residents of a housing with services establishment and that is either the establishment itself or another entity with which the establishment has an arrangement.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 3a. **Direct-care staff.** "Direct-care staff" means staff and employees who provide home care services listed in section 144A.471, subdivisions 6 and 7.

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

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

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

(b) Housing with services establishment does not include:

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

(2) a hospital, certified boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;

(3) a board and lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670 or 9530.6405 to 9530.6505, or under chapter 245D;

- (4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;
- (5) a family adult foster care home licensed by the Department of Human Services;
- (6) private homes in which the residents are related by kinship, law, or affinity with the providers of services;
- (7) residential settings for persons with developmental disabilities in which the services are licensed under chapter 245D;
- (8) a home-sharing arrangement such as when an elderly or disabled person or single-parent family makes lodging in a private residence available to another person in exchange for services or rent, or both;
- (9) a duly organized condominium, cooperative, common interest community, or owners' association of the foregoing where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;
- (10) services for persons with developmental disabilities that are provided under a license under chapter 245D; or
- (11) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.

Subd. 5. **Supportive services.** "Supportive services" means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, and home care aide tasks identified in Minnesota Rules, parts 4668.0100, subparts 1 and 2; and 4668.0110, subpart 1; or the central storage of medication for residents.

Subd. 7. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home that is licensed by the Department of Human Services, that is the primary residence of the license holder, and in which the license holder is the primary caregiver.

History: 1995 c 207 art 9 s 29; 1997 c 107 s 1; 1997 c 113 s 7-10; 3Sp1997 c 3 s 6; 1999 c 245 art 3 s 8; 2002 c 375 art 2 s 3; 2005 c 56 s 1; 2006 c 282 art 19 s 4; 2013 c 108 art 9 s 3; 2015 c 71 art 8 s 41; 2016 c 111 s 1; 2016 c 158 art 1 s 62; 2016 c 179 s 16

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

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

History: 2004 c 185 s 1; 2006 c 282 art 19 s 5

144D.02 REGISTRATION REQUIRED.

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

History: 1995 c 207 art 9 s 30; 2006 c 282 art 19 s 6

144D.025 OPTIONAL REGISTRATION.

An establishment that meets all the requirements of this chapter except that fewer than 80 percent of the adult residents are age 55 or older, or a supportive housing establishment developed and funded in whole or in part with funds provided specifically as part of the plan to end long-term homelessness required under Laws 2003, chapter 128, article 15, section 9, may, at its option, register as a housing with services establishment.

History: 2002 c 375 art 2 s 4; 2005 c 159 art 5 s 2

144D.03 REGISTRATION.

Subdivision 1. **Registration procedures.** The commissioner shall establish forms and procedures for annual registration of housing with services establishments. The commissioner shall charge an annual registration fee of \$155. No fee shall be refunded. A registered establishment shall notify the commissioner within 30 days of the date it is no longer required to be registered under this chapter or of any change in the business name or address of the establishment, the name or mailing address of the owner or owners, or the name or mailing address of the managing agent. There shall be no fee for submission of the notice.

Subd. 1a. **Surcharge for injunctive relief actions.** The commissioner shall assess each housing with services establishment that offers or provides assisted living under chapter 144G a surcharge on the annual registration fee paid under subdivision 1, to pay for the commissioner's costs related to bringing actions for injunctive relief under section 144G.02, subdivision 2, paragraph (b), on or after July 1, 2007. The commissioner shall assess surcharges using a sliding scale under which the surcharge amount increases with the client capacity of an establishment. The commissioner shall adjust the surcharge as necessary to recover the projected costs of bringing actions for injunctive relief. The commissioner shall adjust the surcharge in accordance with section 16A.1285.

Subd. 2. **Registration information.** The establishment shall provide the following information to the commissioner in order to be registered:

- (1) the business name, street address, and mailing address of the establishment;
- (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;
- (3) the name and mailing address of the managing agent, whether through management agreement or lease agreement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any;
- (4) verification that the establishment has entered into a housing with services contract, as required in section 144D.04, with each resident or resident's representative;
- (5) verification that the establishment is complying with the requirements of section 325F.72, if applicable;

(6) the name and address of at least one natural person who shall be responsible for dealing with the commissioner on all matters provided for in sections 144D.01 to 144D.06, and on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent, if any;

(7) the signature of the authorized representative of the owner or owners or, if the owner or owners are not natural persons, signatures of at least two authorized representatives of each owner, one of which shall be an officer of the owner; and

(8) whether services are included in the base rate to be paid by the resident.

Personal service on the person identified under clause (6) by the owner or owners in the registration shall be considered service on the owner or owners, and it shall not be a defense to any action that personal service was not made on each individual or entity. The designation of one or more individuals under this subdivision shall not affect the legal responsibility of the owner or owners under sections 144D.01 to 144D.06.

History: 1995 c 207 art 9 s 31; 1997 c 113 s 11; 1Sp2001 c 9 art 1 s 41; 2002 c 379 art 1 s 113; 2006 c 282 art 19 s 7,8; 2007 c 147 art 10 s 11; 1Sp2010 c 1 art 17 s 1

144D.04 HOUSING WITH SERVICES CONTRACTS.

Subdivision 1. **Contract required.** No housing with services establishment may operate in this state unless a written housing with services contract, as defined in subdivision 2, is executed between the establishment and each resident or resident's representative and unless the establishment operates in accordance with the terms of the contract. The resident or the resident's representative shall be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

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

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

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

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

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

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

(6) the term of the contract;

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

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

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

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

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

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

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

(14) billing and payment procedures and requirements;

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

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

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

Subd. 3. Contracts in permanent files. Housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts and the written disclosures required under section 325F.72, if applicable, shall be made available for on-site inspection by the commissioner upon request at any time.

History: 1995 c 207 art 9 s 32; 1Sp2001 c 9 art 1 s 42,43; 2002 c 379 art 1 s 113; 2006 c 282 art 19 s 9; 2007 c 147 art 7 s 75; 1Sp2010 c 1 art 17 s 2; 2012 c 247 art 4 s 4

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

If a housing with services establishment has one or more arranged home care providers, the establishment shall arrange to have that arranged home care provider deliver the following information in writing to a prospective resident, prior to the date on which the prospective resident executes a contract with the establishment or the prospective resident's move-in date, whichever is earlier:

(1) the name, mailing address, and telephone number of the arranged home care provider;

(2) the name and mailing address of at least one natural person who is authorized to accept service of process on behalf of the entity described in clause (1);

(3) a description of the process through which a home care service agreement or service plan between a resident and the arranged home care provider, if any, may be modified, amended, or terminated;

(4) the arranged home care provider's billing and payment procedures and requirements; and

(5) any limits to the services available from the arranged provider.

History: 2006 c 282 art 19 s 10

144D.05 AUTHORITY OF COMMISSIONER.

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

The commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which an establishment is located to compel the housing with services establishment to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

History: 1995 c 207 art 9 s 33; 2006 c 282 art 19 s 11

144D.06 OTHER LAWS.

A housing with services establishment shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it in addition to registration under this chapter. A housing with services establishment is subject to the provisions of section 325F.72 and chapter 504B.

History: 1995 c 207 art 9 s 34; 1996 c 305 art 1 s 36; 1997 c 113 s 13; 1999 c 199 art 2 s 5; 1Sp2001 c 9 art 1 s 44; 2002 c 379 art 1 s 113

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

(a) If a housing with services establishment registered under this chapter has a special program or special care unit for residents with Alzheimer's disease or other dementias or advertises, markets, or otherwise promotes the establishment as providing services for persons with Alzheimer's disease or other dementias, whether in a segregated or general unit, employees of the establishment and of the establishment's arranged home care provider must meet the following training requirements:

(1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least eight hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial eight hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b), or a supervisor meeting the requirements in clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

(b) Areas of required training include:

(1) an explanation of Alzheimer's disease and related disorders;

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The establishment shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered. This information satisfies the disclosure requirements of section 325F.72, subdivision 2, clause (4).

(d) Housing with services establishments not included in paragraph (a) that provide assisted living services under chapter 144G must meet the following training requirements:

(1) supervisors of direct-care staff must have at least four hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

(2) direct-care employees must have completed at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date. Until this initial training is complete, an employee must not provide direct care unless there is another employee on site who has completed the initial four hours of training on topics related to dementia care and who can act as a resource and assist if issues arise. A trainer of the requirements under paragraph (b) or supervisor meeting the requirements under paragraph (a), clause (1), must be available for consultation with the new employee until the training requirement is complete. Direct-care employees must have at least two hours of training on topics related to dementia for each 12 months of employment thereafter;

(3) staff who do not provide direct care, including maintenance, housekeeping, and food service staff, must have at least four hours of initial training on topics specified under paragraph (b) within 160 working hours of the employment start date, and must have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter; and

(4) new employees may satisfy the initial training requirements by producing written proof of previously completed required training within the past 18 months.

History: 2003 c 37 s 3; 2006 c 282 art 19 s 12; 2014 c 291 art 6 s 19

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

Subdivision 1. **Enforcement.** (a) The commissioner shall enforce the dementia care training standards for staff working in housing with services settings and for housing managers according to clauses (1) to (3):

(1) for dementia care training requirements in section 144D.065, the commissioner shall review training records as part of the home care provider survey process for direct care staff and supervisors of direct care staff, in accordance with section 144A.474. The commissioner may also request and review training records at any time during the year;

(2) for dementia care training standards in section 144D.065, the commissioner shall review training records for maintenance, housekeeping, and food service staff and other staff not providing direct care working in housing with services settings as part of the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year; and

(3) for housing managers, the commissioner shall review the statement verifying compliance with the required training described in section 144D.10, paragraph (d), through the housing with services registration application and renewal application process in accordance with section 144D.03. The commissioner may also request and review training records at any time during the year.

(b) The commissioner shall specify the required forms and what constitutes sufficient training records for the items listed in paragraph (a), clauses (1) to (3).

Subd. 2. **Fines for noncompliance.** (a) Beginning January 1, 2017, the commissioner may impose a \$200 fine for every staff person required to obtain dementia care training who does not have training records to show compliance. For violations of subdivision 1, paragraph (a), clause (1), the fine will be imposed upon the home care provider, and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. For violations of subdivision 1, paragraph (a), clauses (2) and (3), the fine will be imposed on the housing with services registrant and may be appealed under the contested case procedure in section 144A.475, subdivisions 3a, 4, and 7. Prior to imposing the fine, the commissioner must allow two weeks for staff to complete the required training. Fines collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund.

(b) The housing with services registrant and home care provider must allow for the required training as part of employee and staff duties. Imposition of a fine by the commissioner does not negate the need for the required training. Continued noncompliance with the requirements of sections 144D.065 and 144D.10 may result in revocation or nonrenewal of the housing with services registration or home care license. The commissioner shall make public the list of all housing with services establishments that have complied with the training requirements.

Subd. 3. **Technical assistance.** From January 1, 2016, to December 31, 2016, the commissioner shall provide technical assistance instead of imposing fines for noncompliance with the training requirements. During the year of technical assistance, the commissioner shall review the training records to determine if the records meet the requirements and inform the home care provider. The commissioner shall also provide information about available training resources.

History: 2015 c 71 art 8 s 42

144D.07 RESTRAINTS.

Residents must be free from any physical or chemical restraints imposed for purposes of discipline or convenience.

History: 1997 c 113 s 12

144D.08 UNIFORM CONSUMER INFORMATION GUIDE.

All housing with services establishments shall make available to all prospective and current residents information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This section does not apply to an establishment registered under section 144D.025 serving the homeless.

History: *1Sp2010 c 1 art 17 s 3; 2013 c 43 s 19*

144D.09 TERMINATION OF LEASE.

The housing with services establishment shall include with notice of termination of lease information about how to contact the ombudsman for long-term care, including the address and telephone number along with a statement of how to request problem-solving assistance.

History: *1Sp2010 c 1 art 17 s 4*

144D.10 MANAGER REQUIREMENTS.

(a) The person primarily responsible for oversight and management of a housing with services establishment, as designated by the owner of the housing with services establishment, must obtain at least 30 hours of continuing education every two years of employment as the manager in topics relevant to the operations of the housing with services establishment and the needs of its tenants. Continuing education earned to maintain a professional license, such as nursing home administrator license, nursing license, social worker license, and real estate license, can be used to complete this requirement.

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

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

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

(e) New managers may satisfy the initial dementia training requirements by producing written proof of previously completed required training within the past 18 months.

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

History: *2014 c 291 art 6 s 20*

144D.11 EMERGENCY PLANNING.

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

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

(2) post an emergency disaster plan prominently;

(3) provide building emergency exit diagrams to all tenants upon signing a lease;

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

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

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

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

History: *2014 c 291 art 6 s 21*