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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1810

03/04/2021 Authored by Schultz
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to health; modifying provisions governing assisted living facilities; making
1.3 conforming changes; amending Minnesota Statutes 2020, sections 144.291,
1.4 subdivision 2; 144G.07, subdivision 2; 144G.08, subdivisions 15, 38; 144G.20,
1.5 subdivisions 1, 4, 12, 15; 144G.52, subdivisions 2, 8, 9; 144G.53; 144G.55,
1.6 subdivision 1; 144G.56, subdivisions 3, 5; 144G.57, subdivisions 3, 5; 144G.91,
1.7 subdivision 21; 144G.92, subdivision 1; 144G.93; 144G.95; 144G.9999, subdivision
1.8 2; 626.5572, subdivision 13; Laws 2020, Seventh Special Session chapter 1, article
1.9 6, section 12, subdivision 4.

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

1.11 Section 1. Minnesota Statutes 2020, section 144.291, subdivision 2, is amended to read:

1.12 Subd. 2. Definitions. For the purposes of sections 144.291 to 144.298, the following
1.13 terms have the meanings given.

1.14 (a) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

1.15 (b) "Health information exchange" means a legal arrangement between health care
1.16 providers and group purchasers to enable and oversee the business and legal issues involved
1.17 in the electronic exchange of health records between the entities for the delivery of patient
1.18 care.

1.19 (c) "Health record" means any information, whether oral or recorded in any form or
1.20 medium, that relates to the past, present, or future physical or mental health or condition of
1.21 a patient; the provision of health care to a patient; or the past, present, or future payment
1.22 for the provision of health care to a patient.

2.1 (d) "Identifying information" means the patient's name, address, date of birth, gender,
2.2 parent's or guardian's name regardless of the age of the patient, and other nonclinical data
2.3 which can be used to uniquely identify a patient.

2.4 (e) "Individually identifiable form" means a form in which the patient is or can be
2.5 identified as the subject of the health records.

2.6 (f) "Medical emergency" means medically necessary care which is immediately needed
2.7 to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent
2.8 placing the physical or mental health of the patient in serious jeopardy.

2.9 (g) "Patient" means a natural person who has received health care services from a provider
2.10 for treatment or examination of a medical, psychiatric, or mental condition, the surviving
2.11 spouse and parents of a deceased patient, or a person the patient appoints in writing as a
2.12 representative, including a health care agent acting according to chapter 145C, unless the
2.13 authority of the agent has been limited by the principal in the principal's health care directive.
2.14 Except for minors who have received health care services under sections 144.341 to 144.347,
2.15 in the case of a minor, patient includes a parent or guardian, or a person acting as a parent
2.16 or guardian in the absence of a parent or guardian.

2.17 (h) "Patient information service" means a service providing the following query options:
2.18 a record locator service as defined in paragraph (j) or a master patient index or clinical data
2.19 repository as defined in section 62J.498, subdivision 1.

2.20 (i) "Provider" means:

2.21 (1) any person who furnishes health care services and is regulated to furnish the services
2.22 under chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148D, 148F, 150A, 151, 153, or
2.23 153A;

2.24 (2) a home care provider licensed under section 144A.471;

2.25 (3) a health care facility licensed under this chapter or chapter 144A; and

2.26 (4) ~~a physician assistant registered under chapter 147A~~ an assisted living facility licensed
2.27 under chapter 144G.

2.28 (j) "Record locator service" means an electronic index of patient identifying information
2.29 that directs providers in a health information exchange to the location of patient health
2.30 records held by providers and group purchasers.

2.31 (k) "Related health care entity" means an affiliate, as defined in section 144.6521,
2.32 subdivision 3, paragraph (b), of the provider releasing the health records.

3.1 Sec. 2. Minnesota Statutes 2020, section 144G.07, subdivision 2, is amended to read:

3.2 Subd. 2. **Retaliation prohibited.** A facility or agent of a facility may not retaliate against
3.3 a resident or employee if the resident, employee, or any person on behalf of the resident:

3.4 (1) files a good faith complaint or grievance, makes a good faith inquiry, or asserts any
3.5 right;

3.6 (2) indicates a good faith intention to file a complaint or grievance, make an inquiry, or
3.7 assert any right;

3.8 (3) files, in good faith, or indicates an intention to file a maltreatment report, whether
3.9 mandatory or voluntary, under section 626.557;

3.10 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
3.11 problems or concerns to the administrator or manager of the facility, the Office of
3.12 Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and
3.13 Developmental Disabilities, a regulatory or other government agency, or a legal or advocacy
3.14 organization;

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

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

3.18 (7) participates or indicates an intention to participate in any investigation or
3.19 administrative or judicial proceeding;

3.20 (8) contracts or indicates an intention to contract to receive services from a service
3.21 provider of the resident's choice other than the facility; or

3.22 (9) places or indicates an intention to place a camera or electronic monitoring device in
3.23 the resident's private space as provided under section 144.6502.

3.24 Sec. 3. Minnesota Statutes 2020, section 144G.08, subdivision 15, is amended to read:

3.25 Subd. 15. **Controlling individual.** (a) "Controlling individual" means an owner and the
3.26 following individuals and entities, if applicable:

3.27 (1) each officer of the organization, including the chief executive officer and chief
3.28 financial officer;

3.29 (2) each managerial official; and

3.30 (3) any entity with at least a five percent mortgage, deed of trust, or other security interest
3.31 in the facility.

4.1 (b) Controlling individual does not include:

4.2 (1) a bank, savings bank, trust company, savings association, credit union, industrial
4.3 loan and thrift company, investment banking firm, or insurance company unless the entity
4.4 operates ~~a program~~ an assisted living facility directly or through a subsidiary;

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

4.9 (3) an individual who is a state or federal official, a state or federal employee, or a
4.10 member or employee of the governing body of a political subdivision of the state or federal
4.11 government that operates one or more facilities, unless the individual is also an officer,
4.12 owner, or managerial official of the facility, receives remuneration from the facility, or
4.13 owns any of the beneficial interests not excluded in this subdivision;

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

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

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

4.18 (5) an individual who is a member of an organization exempt from taxation under section
4.19 290.05, unless the individual is also an officer, owner, or managerial official of the license
4.20 or owns any of the beneficial interests not excluded in this subdivision. This clause does
4.21 not exclude from the definition of controlling individual an organization that is exempt from
4.22 taxation; or

4.23 (6) an employee stock ownership plan trust, or a participant or board member of an
4.24 employee stock ownership plan, unless the participant or board member is a controlling
4.25 individual.

4.26 Sec. 4. Minnesota Statutes 2020, section 144G.08, subdivision 38, is amended to read:

4.27 Subd. 38. **Medication administration.** "Medication administration" means performing
4.28 a set of tasks that includes the following:

4.29 (1) checking the resident's medication record;

4.30 (2) preparing the medication as necessary;

4.31 (3) administering the medication to the resident;

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

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

5.4 Sec. 5. Minnesota Statutes 2020, section 144G.20, subdivision 1, is amended to read:

5.5 Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional
5.6 license, refuse to grant a license as a result of a change in ownership, refuse to renew a
5.7 license, suspend or revoke a license, or impose a conditional license if the owner, controlling
5.8 individual, or employee of an assisted living facility:

5.9 (1) is in violation of, or during the term of the license has violated, any of the requirements
5.10 in this chapter or adopted rules;

5.11 (2) permits, aids, or abets the commission of any illegal act in the provision of assisted
5.12 living services;

5.13 (3) performs any act detrimental to the health, safety, and welfare of a resident;

5.14 (4) obtains the license by fraud or misrepresentation;

5.15 (5) knowingly makes a false statement of a material fact in the application for a license
5.16 or in any other record or report required by this chapter;

5.17 (6) denies representatives of the department access to any part of the facility's books,
5.18 records, files, or employees;

5.19 (7) interferes with or impedes a representative of the department in contacting the facility's
5.20 residents;

5.21 (8) interferes with or impedes ~~ombudsman~~ access by the ombudsman or a designee from
5.22 the Office of Ombudsman for Long-Term Care according to section 256.9742, subdivision
5.23 4;

5.24 (9) interferes with or impedes access by the ombudsman or a designee from the Office
5.25 of Ombudsman for Mental Health and Developmental Disabilities according to section
5.26 245.94, subdivision 1;

5.27 ~~(9)~~ (10) interferes with or impedes a representative of the department in the enforcement
5.28 of this chapter or fails to fully cooperate with an inspection, survey, or investigation by the
5.29 department;

5.30 ~~(10)~~ (11) destroys or makes unavailable any records or other evidence relating to the
5.31 assisted living facility's compliance with this chapter;

6.1 ~~(11)~~ (12) refuses to initiate a background study under section 144.057 or 245A.04;

6.2 ~~(12)~~ (13) fails to timely pay any fines assessed by the commissioner;

6.3 ~~(13)~~ (14) violates any local, city, or township ordinance relating to housing or assisted
6.4 living services;

6.5 ~~(14)~~ (15) has repeated incidents of personnel performing services beyond their
6.6 competency level; or

6.7 ~~(15)~~ (16) has operated beyond the scope of the assisted living facility's license category.

6.8 (b) A violation by a contractor providing the assisted living services of the facility is a
6.9 violation by the facility.

6.10 Sec. 6. Minnesota Statutes 2020, section 144G.20, subdivision 4, is amended to read:

6.11 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 13,
6.12 paragraph (a), the commissioner must revoke a license if a controlling individual of the
6.13 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility
6.14 or directly affects resident safety or care. The commissioner shall notify the facility ~~and~~₂
6.15 the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental
6.16 Health and Developmental Disabilities 30 calendar days in advance of the date of revocation.

6.17 Sec. 7. Minnesota Statutes 2020, section 144G.20, subdivision 12, is amended to read:

6.18 Subd. 12. **Notice to residents.** (a) Within five business days after proceedings are initiated
6.19 by the commissioner to revoke or suspend a facility's license, or a decision by the
6.20 commissioner not to renew a living facility's license, the controlling individual of the facility
6.21 or a designee must provide to the commissioner ~~and~~₂ the ombudsman for long-term care,
6.22 and the ombudsman for mental health and developmental disabilities the names of residents
6.23 and the names and addresses of the residents' designated representatives and legal
6.24 representatives, and family or other contacts listed in the assisted living contract.

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

6.29 (1) a correction order; and

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

7.1 (c) Notwithstanding subdivisions 21 and 22, any correction order issued under this
 7.2 subdivision must require that the facility immediately comply with the request for information
 7.3 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the
 7.4 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100
 7.5 increments for each day the noncompliance continues.

7.6 (d) Information provided under this subdivision may be used by the commissioner ~~or~~
 7.7 the ombudsman for long-term care, or the ombudsman for mental health and developmental
 7.8 disabilities only for the purpose of providing affected consumers information about the
 7.9 status of the proceedings.

7.10 (e) Within ten business days after the commissioner initiates proceedings to revoke,
 7.11 suspend, or not renew a facility license, the commissioner must send a written notice of the
 7.12 action and the process involved to each resident of the facility, legal representatives and
 7.13 designated representatives, and at the commissioner's discretion, additional resident contacts.

7.14 (f) The commissioner shall provide the ombudsman for long-term care and the
 7.15 ombudsman for mental health and developmental disabilities with monthly information on
 7.16 the department's actions and the status of the proceedings.

7.17 Sec. 8. Minnesota Statutes 2020, section 144G.20, subdivision 15, is amended to read:

7.18 Subd. 15. **Plan required.** (a) The process of suspending, revoking, or refusing to renew
 7.19 a license must include a plan for transferring affected residents' cares to other providers by
 7.20 the facility. The commissioner shall monitor the transfer plan. Within three calendar days
 7.21 of being notified of the final revocation, refusal to renew, or suspension, the licensee shall
 7.22 provide the commissioner, the lead agencies as defined in section 256B.0911, ~~county adult~~
 7.23 ~~protection and~~ case managers, ~~and~~ the ombudsman for long-term care, and the ombudsman
 7.24 for mental health and developmental disabilities with the following information:

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

7.26 (2) a list of the resident's legal representatives and designated representatives and family
 7.27 or other contacts listed in the assisted living contract, including full names and all contact
 7.28 information on file;

7.29 (3) the location or current residence of each resident;

7.30 (4) the payor sources for each resident, including payor source identification numbers;
 7.31 and

8.1 (5) for each resident, a copy of the resident's service plan and a list of the types of services
8.2 being provided.

8.3 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
8.4 by mailing the notice to the address in the license record. The licensee shall cooperate with
8.5 the commissioner and the lead agencies, ~~county adult protection and case managers, and~~
8.6 the ombudsman for long-term care, and the ombudsman for mental health and developmental
8.7 disabilities during the process of transferring care of residents to qualified providers. Within
8.8 three calendar days of being notified of the final revocation, refusal to renew, or suspension
8.9 action, the facility must notify and disclose to each of the residents, or the resident's legal
8.10 and designated representatives or emergency contact persons, that the commissioner is
8.11 taking action against the facility's license by providing a copy of the revocation, refusal to
8.12 renew, or suspension notice issued by the commissioner. If the facility does not comply
8.13 with the disclosure requirements in this section, the commissioner shall notify the residents,
8.14 legal and designated representatives, or emergency contact persons about the actions being
8.15 taken. Lead agencies, ~~county adult protection and case managers, and~~ the Office of
8.16 Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and
8.17 Developmental Disabilities may also provide this information. The revocation, refusal to
8.18 renew, or suspension notice is public data except for any private data contained therein.

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

8.21 Sec. 9. Minnesota Statutes 2020, section 144G.52, subdivision 2, is amended to read:

8.22 Subd. 2. **Prerequisite to termination of a contract.** (a) Before issuing a notice of
8.23 termination of an assisted living contract, a facility must schedule and participate in a meeting
8.24 with the resident and the resident's legal representative and designated representative. The
8.25 purposes of the meeting are to:

8.26 (1) explain in detail the reasons for the proposed termination; and

8.27 (2) identify and offer reasonable accommodations or modifications, interventions, or
8.28 alternatives to avoid the termination or enable the resident to remain in the facility, including
8.29 but not limited to securing services from another provider of the resident's choosing that
8.30 may allow the resident to avoid the termination. A facility is not required to offer
8.31 accommodations, modifications, interventions, or alternatives that fundamentally alter the
8.32 nature of the operation of the facility.

9.1 (b) The meeting must be scheduled to take place at least seven days before a notice of
9.2 termination is issued. The facility must make reasonable efforts to ensure that the resident,
9.3 legal representative, and designated representative are able to attend the meeting.

9.4 (c) The facility must notify the resident that the resident may invite family members,
9.5 relevant health professionals, a representative of the Office of Ombudsman for Long-Term
9.6 Care or the Office of Ombudsman for Mental Health and Developmental Disabilities, or
9.7 other persons of the resident's choosing to participate in the meeting. For residents who
9.8 receive home and community-based waiver services under chapter 256S and section 256B.49,
9.9 the facility must notify the resident's case manager of the meeting.

9.10 (d) In the event of an emergency relocation under subdivision 9, where the facility intends
9.11 to issue a notice of termination and an in-person meeting is impractical or impossible, the
9.12 facility may attempt to schedule and participate in a meeting under this subdivision via
9.13 telephone, video, or other means.

9.14 Sec. 10. Minnesota Statutes 2020, section 144G.52, subdivision 8, is amended to read:

9.15 Subd. 8. **Content of notice of termination.** The notice required under subdivision 7
9.16 must contain, at a minimum:

9.17 (1) the effective date of the termination of the assisted living contract;

9.18 (2) a detailed explanation of the basis for the termination, including the clinical or other
9.19 supporting rationale;

9.20 (3) a detailed explanation of the conditions under which a new or amended contract may
9.21 be executed;

9.22 (4) a statement that the resident has the right to appeal the termination by requesting a
9.23 hearing, and information concerning the time frame within which the request must be
9.24 submitted and the contact information for the agency to which the request must be submitted;

9.25 (5) a statement that the facility must participate in a coordinated move to another provider
9.26 or caregiver, as required under section 144G.55;

9.27 (6) the name and contact information of the person employed by the facility with whom
9.28 the resident may discuss the notice of termination;

9.29 (7) information on how to contact the Office of Ombudsman for Long-Term Care and
9.30 the Office of Ombudsman for Mental Health and Developmental Disabilities to request an
9.31 advocate to assist regarding the termination;

10.1 (8) information on how to contact the Senior LinkAge Line under section 256.975,
10.2 subdivision 7, and an explanation that the Senior LinkAge Line may provide information
10.3 about other available housing or service options; and

10.4 (9) if the termination is only for services, a statement that the resident may remain in
10.5 the facility and may secure any necessary services from another provider of the resident's
10.6 choosing.

10.7 Sec. 11. Minnesota Statutes 2020, section 144G.52, subdivision 9, is amended to read:

10.8 Subd. 9. **Emergency relocation.** (a) A facility may remove a resident from the facility
10.9 in an emergency if necessary due to a resident's urgent medical needs or an imminent risk
10.10 the resident poses to the health or safety of another facility resident or facility staff member.
10.11 An emergency relocation is not a termination.

10.12 (b) In the event of an emergency relocation, the facility must provide a written notice
10.13 that contains, at a minimum:

10.14 (1) the reason for the relocation;

10.15 (2) the name and contact information for the location to which the resident has been
10.16 relocated and any new service provider;

10.17 (3) contact information for the Office of Ombudsman for Long-Term Care and the Office
10.18 of Ombudsman for Mental Health and Developmental Disabilities;

10.19 (4) if known and applicable, the approximate date or range of dates within which the
10.20 resident is expected to return to the facility, or a statement that a return date is not currently
10.21 known; and

10.22 (5) a statement that, if the facility refuses to provide housing or services after a relocation,
10.23 the resident has the right to appeal under section 144G.54. The facility must provide contact
10.24 information for the agency to which the resident may submit an appeal.

10.25 (c) The notice required under paragraph (b) must be delivered as soon as practicable to:

10.26 (1) the resident, legal representative, and designated representative;

10.27 (2) for residents who receive home and community-based waiver services under chapter
10.28 256S and section 256B.49, the resident's case manager; and

10.29 (3) the Office of Ombudsman for Long-Term Care if the resident has been relocated
10.30 and has not returned to the facility within four days.

11.1 (d) Following an emergency relocation, a facility's refusal to provide housing or services
11.2 constitutes a termination and triggers the termination process in this section.

11.3 Sec. 12. Minnesota Statutes 2020, section 144G.53, is amended to read:

11.4 **144G.53 NONRENEWAL OF HOUSING.**

11.5 (a) If a facility decides to not renew a resident's housing under a contract, the facility
11.6 must either (1) provide the resident with 60 calendar days' notice of the nonrenewal and
11.7 assistance with relocation planning, or (2) follow the termination procedure under section
11.8 144G.52.

11.9 (b) The notice must include the reason for the nonrenewal and contact information of
11.10 the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental
11.11 Health and Developmental Disabilities.

11.12 (c) A facility must:

11.13 (1) provide notice of the nonrenewal to the Office of Ombudsman for Long-Term Care;

11.14 (2) for residents who receive home and community-based waiver services under chapter
11.15 256S and section 256B.49, provide notice to the resident's case manager;

11.16 (3) ensure a coordinated move to a safe location, as defined in section 144G.55,
11.17 subdivision 2, that is appropriate for the resident;

11.18 (4) ensure a coordinated move to an appropriate service provider identified by the facility,
11.19 if services are still needed and desired by the resident;

11.20 (5) consult and cooperate with the resident, legal representative, designated representative,
11.21 case manager for a resident who receives home and community-based waiver services under
11.22 chapter 256S and section 256B.49, relevant health professionals, and any other persons of
11.23 the resident's choosing to make arrangements to move the resident, including consideration
11.24 of the resident's goals; and

11.25 (6) prepare a written plan to prepare for the move.

11.26 (d) A resident may decline to move to the location the facility identifies or to accept
11.27 services from a service provider the facility identifies, and may instead choose to move to
11.28 a location of the resident's choosing or receive services from a service provider of the
11.29 resident's choosing within the timeline prescribed in the nonrenewal notice.

12.1 Sec. 13. Minnesota Statutes 2020, section 144G.55, subdivision 1, is amended to read:

12.2 Subdivision 1. **Duties of facility.** (a) If a facility terminates an assisted living contract,
12.3 reduces services to the extent that a resident needs to move, or conducts a planned closure
12.4 under section 144G.57, the facility:

12.5 (1) must ensure, subject to paragraph (c), a coordinated move to a safe location that is
12.6 appropriate for the resident and that is identified by the facility prior to any hearing under
12.7 section 144G.54;

12.8 (2) must ensure a coordinated move of the resident to an appropriate service provider
12.9 identified by the facility prior to any hearing under section 144G.54, provided services are
12.10 still needed and desired by the resident; and

12.11 (3) must consult and cooperate with the resident, legal representative, designated
12.12 representative, case manager for a resident who receives home and community-based waiver
12.13 services under chapter 256S and section 256B.49, relevant health professionals, and any
12.14 other persons of the resident's choosing to make arrangements to move the resident, including
12.15 consideration of the resident's goals.

12.16 (b) A facility may satisfy the requirements of paragraph (a), clauses (1) and (2), by
12.17 moving the resident to a different location within the same facility, if appropriate for the
12.18 resident.

12.19 (c) A resident may decline to move to the location the facility identifies or to accept
12.20 services from a service provider the facility identifies, and may choose instead to move to
12.21 a location of the resident's choosing or receive services from a service provider of the
12.22 resident's choosing within the timeline prescribed in the termination notice.

12.23 (d) Sixty days before the facility plans to reduce or eliminate one or more services for
12.24 a particular resident, the facility must provide written notice of the reduction that includes:

12.25 (1) a detailed explanation of the reasons for the reduction and the date of the reduction;

12.26 (2) the contact information for the Office of Ombudsman for Long-Term Care and the
12.27 Office of Ombudsman for Mental Health and Developmental Disabilities, and the name
12.28 and contact information of the person employed by the facility with whom the resident may
12.29 discuss the reduction of services;

12.30 (3) a statement that if the services being reduced are still needed by the resident, the
12.31 resident may remain in the facility and seek services from another provider; and

13.1 (4) a statement that if the reduction makes the resident need to move, the facility must
 13.2 participate in a coordinated move of the resident to another provider or caregiver, as required
 13.3 under this section.

13.4 (e) In the event of an unanticipated reduction in services caused by extraordinary
 13.5 circumstances, the facility must provide the notice required under paragraph (d) as soon as
 13.6 possible.

13.7 (f) If the facility, a resident, a legal representative, or a designated representative
 13.8 determines that a reduction in services will make a resident need to move to a new location,
 13.9 the facility must ensure a coordinated move in accordance with this section, and must provide
 13.10 notice to the Office of Ombudsman for Long-Term Care.

13.11 (g) Nothing in this section affects a resident's right to remain in the facility and seek
 13.12 services from another provider.

13.13 Sec. 14. Minnesota Statutes 2020, section 144G.56, subdivision 3, is amended to read:

13.14 Subd. 3. **Notice required.** (a) A facility must provide at least 30 calendar days' advance
 13.15 written notice to the resident and the resident's legal and designated representative of a
 13.16 facility-initiated transfer. The notice must include:

13.17 (1) the effective date of the proposed transfer;

13.18 (2) the proposed transfer location;

13.19 (3) a statement that the resident may refuse the proposed transfer, and may discuss any
 13.20 consequences of a refusal with staff of the facility;

13.21 (4) the name and contact information of a person employed by the facility with whom
 13.22 the resident may discuss the notice of transfer; and

13.23 (5) contact information for the Office of Ombudsman for Long-Term Care and the Office
 13.24 of Ombudsman for Mental Health and Developmental Disabilities.

13.25 (b) Notwithstanding paragraph (a), a facility may conduct a facility-initiated transfer of
 13.26 a resident with less than 30 days' written notice if the transfer is necessary due to:

13.27 (1) conditions that render the resident's room or private living unit uninhabitable;

13.28 (2) the resident's urgent medical needs; or

13.29 (3) a risk to the health or safety of another resident of the facility.

14.1 Sec. 15. Minnesota Statutes 2020, section 144G.56, subdivision 5, is amended to read:

14.2 Subd. 5. **Changes in facility operations.** (a) In situations where there is a curtailment,
14.3 reduction, or capital improvement within a facility necessitating transfers, the facility must:

14.4 (1) minimize the number of transfers it initiates to complete the project or change in
14.5 operations;

14.6 (2) consider individual resident needs and preferences;

14.7 (3) provide reasonable accommodations for individual resident requests regarding the
14.8 transfers; and

14.9 (4) in advance of any notice to any residents, legal representatives, or designated
14.10 representatives, provide notice to the Office of Ombudsman for Long-Term Care and, ~~when~~
14.11 ~~appropriate,~~ the Office of Ombudsman for Mental Health and Developmental Disabilities
14.12 of the curtailment, reduction, or capital improvement and the corresponding needed transfers.

14.13 Sec. 16. Minnesota Statutes 2020, section 144G.57, subdivision 3, is amended to read:

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

14.18 (b) The commissioner may require the facility to work with a transitional team comprised
14.19 of department staff, staff of the Office of Ombudsman for Long-Term Care, staff of the
14.20 Office of Ombudsman for Mental Health and Developmental Disabilities, and other
14.21 professionals the commissioner deems necessary to assist in the proper relocation of residents.

14.22 Sec. 17. Minnesota Statutes 2020, section 144G.57, subdivision 5, is amended to read:

14.23 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan
14.24 and at least 60 calendar days before closing, except as provided under subdivision 6, the
14.25 facility must notify residents, designated representatives, and legal representatives of the
14.26 closure, the proposed date of closure, the contact information of the ombudsman for long-term
14.27 care and the ombudsman for mental health and developmental disabilities, and that the
14.28 facility will follow the termination planning requirements under section 144G.55, and final
14.29 accounting and return requirements under section 144G.42, subdivision 5. For residents
14.30 who receive home and community-based waiver services under chapter 256S and section
14.31 256B.49, the facility must also provide this information to the resident's case manager.

15.1 Sec. 18. Minnesota Statutes 2020, section 144G.91, subdivision 21, is amended to read:

15.2 Subd. 21. **Access to counsel and advocacy services.** Residents have the right to the
15.3 immediate access by:

15.4 (1) the resident's legal counsel;

15.5 (2) any representative of the protection and advocacy system designated by the state
15.6 under Code of Federal Regulations, title 45, section 1326.21; or

15.7 (3) any representative of the Office of Ombudsman for Long-Term Care or the Office
15.8 of Ombudsman for Mental Health and Developmental Disabilities.

15.9 Sec. 19. Minnesota Statutes 2020, section 144G.92, subdivision 1, is amended to read:

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

15.13 (1) files a good faith complaint or grievance, makes a good faith inquiry, or asserts any
15.14 right;

15.15 (2) indicates a good faith intention to file a complaint or grievance, make an inquiry, or
15.16 assert any right;

15.17 (3) files, in good faith, or indicates an intention to file a maltreatment report, whether
15.18 mandatory or voluntary, under section 626.557;

15.19 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
15.20 problems or concerns to the director or manager of the facility, the Office of Ombudsman
15.21 for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental
15.22 Disabilities, a regulatory or other government agency, or a legal or advocacy organization;

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

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

15.26 (7) participates or indicates an intention to participate in any investigation or
15.27 administrative or judicial proceeding;

15.28 (8) contracts or indicates an intention to contract to receive services from a service
15.29 provider of the resident's choice other than the facility; or

15.30 (9) places or indicates an intention to place a camera or electronic monitoring device in
15.31 the resident's private space as provided under section 144.6502.

16.1 Sec. 20. Minnesota Statutes 2020, section 144G.93, is amended to read:

16.2 **144G.93 CONSUMER ADVOCACY AND LEGAL SERVICES.**

16.3 Upon execution of an assisted living contract, every facility must provide the resident
16.4 with the names and contact information, including telephone numbers and e-mail addresses,
16.5 of:

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

16.9 (2) the Office of Ombudsman for Long-Term Care, ~~including both the state and regional~~
16.10 ~~contact information;~~ and

16.11 (3) the Office of Ombudsman for Mental Health and Developmental Disabilities.

16.12 Sec. 21. Minnesota Statutes 2020, section 144G.95, is amended to read:

16.13 **144G.95 OFFICE OF OMBUDSMAN FOR LONG-TERM CARE; OFFICE OF**
16.14 **OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES.**

16.15 Subdivision 1. **Immunity from liability.** The Office of Ombudsman for Long-Term
16.16 Care and representatives of the office are immune from liability for conduct described in
16.17 section 256.9742, subdivision 2. The Office of Ombudsman for Mental Health and
16.18 Developmental Disabilities and representatives of the office are immune from liability for
16.19 conduct described in section 245.96.

16.20 Subd. 2. **Data classification.** All forms and notices received by the Office of Ombudsman
16.21 for Long-Term Care under this chapter are classified under section 256.9744. All data
16.22 collected or received by the Office of Ombudsman for Mental Health and Developmental
16.23 Disabilities are classified under section 245.94.

16.24 Sec. 22. Minnesota Statutes 2020, section 144G.9999, subdivision 2, is amended to read:

16.25 Subd. 2. **Membership.** The task force shall include representation from:

16.26 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation
16.27 in health care safety and quality;

16.28 (2) Department of Health staff with expertise in issues related to safety and adverse
16.29 health events;

16.30 (3) consumer organizations;

- 17.1 (4) direct care providers or their representatives;
- 17.2 (5) organizations representing long-term care providers and home care providers in
- 17.3 Minnesota;
- 17.4 (6) the ombudsman for long-term care or a designee;
- 17.5 (7) the ombudsman for mental health and developmental disabilities or a designee;
- 17.6 ~~(7)~~ (8) national patient safety experts; and
- 17.7 ~~(8)~~ (9) other experts in the safety and quality improvement field.

17.8 The task force shall have at least one public member who either is or has been a resident in

17.9 an assisted living setting and one public member who has or had a family member living

17.10 in an assisted living setting. The membership shall be voluntary except that public members

17.11 may be reimbursed under section 15.059, subdivision 3.

17.12 Sec. 23. Minnesota Statutes 2020, section 626.5572, subdivision 13, is amended to read:

17.13 Subd. 13. **Lead investigative agency.** "Lead investigative agency" is the primary

17.14 administrative agency responsible for investigating reports made under section 626.557.

17.15 (a) The Department of Health is the lead investigative agency for facilities or services

17.16 licensed or required to be licensed as hospitals, home care providers, nursing homes, boarding

17.17 care homes, assisted living facilities, hospice providers, residential facilities that are also

17.18 federally certified as intermediate care facilities that serve people with developmental

17.19 disabilities, or any other facility or service not listed in this subdivision that is licensed or

17.20 required to be licensed by the Department of Health for the care of vulnerable adults. "Home

17.21 care provider" has the meaning provided in section 144A.43, subdivision 4, and applies

17.22 when care or services are delivered in the vulnerable adult's home, whether a private home

17.23 or ~~a housing with services establishment registered under chapter 144D, including those~~

17.24 ~~that offer assisted living services under chapter 144G~~ an assisted living facility.

17.25 (b) The Department of Human Services is the lead investigative agency for facilities or

17.26 services licensed or required to be licensed as adult day care, adult foster care, community

17.27 residential settings, programs for people with disabilities, family adult day services, mental

17.28 health programs, mental health clinics, chemical dependency programs, the Minnesota Sex

17.29 Offender Program, or any other facility or service not listed in this subdivision that is licensed

17.30 or required to be licensed by the Department of Human Services.

18.1 (c) The county social service agency or its designee is the lead investigative agency for
18.2 all other reports, including, but not limited to, reports involving vulnerable adults receiving
18.3 services from a personal care provider organization under section 256B.0659.

18.4 Sec. 24. Laws 2020, Seventh Special Session chapter 1, article 6, section 12, subdivision
18.5 4, is amended to read:

18.6 Subd. 4. **Housing with services establishment registration; conversion to an assisted**
18.7 **living facility license.** (a) Housing with services establishments registered under chapter
18.8 144D, providing home care services according to chapter 144A to at least one resident, and
18.9 intending to provide assisted living services on or after August 1, 2021, must submit an
18.10 application for an assisted living facility license in accordance with section 144G.12 no
18.11 later than June 1, 2021. The commissioner shall consider the application in accordance with
18.12 section ~~144G.16~~ 144G.15.

18.13 (b) Notwithstanding the housing with services contract requirements identified in section
18.14 144D.04, any existing housing with services establishment registered under chapter 144D
18.15 that does not intend to convert its registration to an assisted living facility license under this
18.16 chapter must provide written notice to its residents at least 60 days before the expiration of
18.17 its registration, or no later than May 31, 2021, whichever is earlier. The notice must:

18.18 (1) state that the housing with services establishment does not intend to convert to an
18.19 assisted living facility;

18.20 (2) include the date when the housing with services establishment will no longer provide
18.21 housing with services;

18.22 (3) include the name, e-mail address, and phone number of the individual associated
18.23 with the housing with services establishment that the recipient of home care services may
18.24 contact to discuss the notice;

18.25 (4) include the contact information consisting of the phone number, e-mail address,
18.26 mailing address, and website for the Office of Ombudsman for Long-Term Care and the
18.27 Office of Ombudsman for Mental Health and Developmental Disabilities; and

18.28 (5) for residents who receive home and community-based waiver services under section
18.29 256B.49 and chapter 256S, also be provided to the resident's case manager at the same time
18.30 that it is provided to the resident.

18.31 (c) A housing with services registrant that obtains an assisted living facility license, but
18.32 does so under a different business name as a result of reincorporation, and continues to
18.33 provide services to the recipient, is not subject to the 60-day notice required under paragraph

19.1 (b). However, the provider must otherwise provide notice to the recipient as required under
19.2 sections 144D.04 and 144D.045, as applicable, and section 144D.09.

19.3 (d) All registered housing with services establishments providing assisted living under
19.4 sections 144G.01 to 144G.07 prior to August 1, 2021, must have an assisted living facility
19.5 license under this chapter.

19.6 (e) Effective August 1, 2021, any housing with services establishment registered under
19.7 chapter 144D that has not converted its registration to an assisted living facility license
19.8 under this chapter is prohibited from providing assisted living services.

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