

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **2604**

- 03/20/2019 Authored by Liebling
The bill was read for the first time and referred to the Committee on Ways and Means
- 05/14/2019 Adoption of Report: Placed on the General Register
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration
- 05/16/2019 Adoption of Report: Placed on the General Register
Read for the Second Time
- 05/20/2019 Pursuant to Rule 4.20, returned to the Committee on Ways and Means
- 05/13/2020 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act

1.2 relating to health; changing provisions for nursing homes, home care, assisted

1.3 living, and consumer protections; appropriating money; amending Minnesota

1.4 Statutes 2019 Supplement, sections 144.6502, subdivision 1; 144.6512, by adding

1.5 a subdivision; 144A.20, subdivision 4; 144A.291, subdivision 2; 144A.474,

1.6 subdivisions 11, 14; 144A.4799, subdivision 1; 144G.07, by adding a subdivision;

1.7 144G.08, subdivisions 7, 9, 23, by adding a subdivision; 144G.09, subdivision 3;

1.8 144G.10, subdivision 1, by adding a subdivision; 144G.16, subdivision 1;

1.9 144G.401; 144G.42, subdivision 9, by adding a subdivision; 144G.45, subdivisions

1.10 2, 5, 6; 144G.92, subdivision 5; 144G.9999, subdivision 3; Laws 2019, chapter

1.11 60, article 1, sections 45; 46; 48; article 4, section 35; article 5, section 2; proposing

1.12 coding for new law in Minnesota Statutes, chapter 144G.

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

1.14 Section 1. Minnesota Statutes 2019 Supplement, section 144.6502, subdivision 1, is

1.15 amended to read:

1.16 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this

1.17 subdivision have the meanings given.

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

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

1.20 (d) "Electronic monitoring" means the placement and use of an electronic monitoring

1.21 device by a resident in the resident's room or private living unit in accordance with this

1.22 section.

1.23 (e) "Electronic monitoring device" means a camera or other device that captures, records,

1.24 or broadcasts audio, video, or both, that is placed in a resident's room or private living unit

1.25 and is used to monitor the resident or activities in the room or private living unit.

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

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

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

2.4 (3) until August 1, ~~2021~~ 2022, a housing with services establishment registered under
2.5 chapter 144D that is either subject to chapter 144G or has a disclosed special unit under
2.6 section 325F.72; or

2.7 (4) on or after August 1, ~~2021~~ 2022, an assisted living facility.

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

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

2.11 (1) a court-appointed guardian;

2.12 (2) a health care agent as defined in section 145C.01, subdivision 2; or

2.13 (3) a person who is not an agent of a facility or of a home care provider designated in
2.14 writing by the resident and maintained in the resident's records on file with the facility.

2.15 Sec. 2. Minnesota Statutes 2019 Supplement, section 144.6512, is amended by adding a
2.16 subdivision to read:

2.17 Subd. 6. **Other laws.** Nothing in this section affects the rights and remedies available
2.18 under section 626.557, subdivisions 10, 17, and 20.

2.19 **EFFECTIVE DATE.** This section is effective August 1, 2020.

2.20 Sec. 3. Minnesota Statutes 2019 Supplement, section 144A.20, subdivision 4, is amended
2.21 to read:

2.22 **Subd. 4. Assisted living director qualifications; ongoing training.** (a) The Board of
2.23 Executives may issue licenses to qualified persons as an assisted living director and shall
2.24 approve training and examinations. No license shall be issued to a person as an assisted
2.25 living director unless that person:

2.26 (1) is eligible for licensure;

2.27 (2) has applied for licensure under this subdivision within six months of hire; and

2.28 (3) has satisfactorily met standards set by the board or is scheduled to complete the
2.29 training in paragraph (b) within one year of hire. The standards shall be designed to assure

3.1 that assisted living directors are individuals who, by training or experience, are qualified to
3.2 serve as assisted living directors.

3.3 (b) In order to be qualified to serve as an assisted living director, an individual must:

3.4 (1) have completed an approved training course and passed an examination approved
3.5 by the board that is designed to test for competence and that includes assisted living facility
3.6 laws in Minnesota;

3.7 (2)(i) currently be licensed as a nursing home administrator or have been validated as a
3.8 qualified health services executive by the National Association of Long Term Care
3.9 Administrator Boards; and

3.10 (ii) have core knowledge of assisted living facility laws; or

3.11 (3) apply for licensure by July 1, ~~2021~~ 2022, and satisfy one of the following:

3.12 (i) have a higher education degree in nursing, social services, or mental health, or another
3.13 professional degree with training specific to management and regulatory compliance;

3.14 (ii) have at least three years of supervisory, management, or operational experience and
3.15 higher education training applicable to an assisted living facility;

3.16 (iii) have completed at least 1,000 hours of an executive in training program provided
3.17 by an assisted living director licensed under this subdivision; or

3.18 (iv) have managed a housing with services establishment operating under assisted living
3.19 title protection for at least three years.

3.20 (c) An assisted living director must receive at least 30 hours of training every two years
3.21 on topics relevant to the operation of an assisted living facility and the needs of its residents.
3.22 An assisted living director must maintain records of the training required by this paragraph
3.23 for at least the most recent three-year period and must provide these records to Department
3.24 of Health surveyors upon request. Continuing education earned to maintain another
3.25 professional license, such as a nursing home administrator license, nursing license, social
3.26 worker license, mental health professional license, or real estate license, may be used to
3.27 satisfy this requirement when the continuing education is relevant to the assisted living
3.28 services offered and residents served at the assisted living facility.

3.29 **EFFECTIVE DATE.** This section is effective July 1, 2021.

4.1 Sec. 4. Minnesota Statutes 2019 Supplement, section 144A.291, subdivision 2, is amended
4.2 to read:

4.3 Subd. 2. **Amounts.** (a) Fees may not exceed the following amounts but may be adjusted
4.4 lower by board direction and are for the exclusive use of the board as required to sustain
4.5 board operations. The maximum amounts of fees are:

4.6 (1) application for licensure, \$200;

4.7 (2) for a prospective applicant for a review of education and experience advisory to the
4.8 license application, \$100, to be applied to the fee for application for licensure if the latter
4.9 is submitted within one year of the request for review of education and experience;

4.10 (3) state examination, \$125;

4.11 (4) initial license, \$250 if issued between July 1 and December 31, \$100 if issued between
4.12 January 1 and June 30;

4.13 (5) acting ~~administrator~~ permit, \$400;

4.14 (6) renewal license, \$250;

4.15 (7) duplicate license, \$50;

4.16 (8) reinstatement fee, \$250;

4.17 ~~(9) health services executive initial license, \$200;~~

4.18 ~~(10) health services executive renewal license, \$200;~~

4.19 ~~(11)~~ (9) reciprocity verification fee, \$50;

4.20 ~~(12)~~ (10) second shared ~~administrator~~ assignment, \$250;

4.21 ~~(13)~~ (11) continuing education fees:

4.22 (i) greater than six hours, \$50; and

4.23 (ii) seven hours or more, \$75;

4.24 ~~(14)~~ (12) education review, \$100;

4.25 ~~(15)~~ (13) fee to a sponsor for review of individual continuing education seminars,
4.26 institutes, workshops, or home study courses:

4.27 (i) for less than seven clock hours, \$30; and

4.28 (ii) for seven or more clock hours, \$50;

5.1 ~~(16)~~ (14) fee to a licensee for review of continuing education seminars, institutes,
5.2 workshops, or home study courses not previously approved for a sponsor and submitted
5.3 with an application for license renewal:

5.4 (i) for less than seven clock hours total, \$30; and

5.5 (ii) for seven or more clock hours total, \$50;

5.6 ~~(17)~~ (15) late renewal fee, \$75;

5.7 ~~(18)~~ (16) fee to a licensee for verification of licensure status and examination scores,
5.8 \$30;

5.9 ~~(19)~~ (17) registration as a registered continuing education sponsor, \$1,000; and

5.10 ~~(20)~~ (18) mail labels, \$75.

5.11 (b) The revenue generated from the fees must be deposited in an account in the state
5.12 government special revenue fund.

5.13 Sec. 5. Minnesota Statutes 2019 Supplement, section 144A.474, subdivision 11, is amended
5.14 to read:

5.15 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed
5.16 based on the level and scope of the violations described in paragraph (b) and imposed
5.17 immediately with no opportunity to correct the violation first as follows:

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

5.19 (2) Level 2, a fine of \$500 per violation, in addition to any of the enforcement
5.20 mechanisms authorized in section 144A.475 for widespread violations;

5.21 (3) Level 3, a fine of \$3,000 per incident, in addition to any of the enforcement
5.22 mechanisms authorized in section 144A.475;

5.23 (4) Level 4, a fine of \$5,000 per incident, in addition to any of the enforcement
5.24 mechanisms authorized in section 144A.475;

5.25 (5) for maltreatment violations for which the licensee was determined to be responsible
5.26 for the maltreatment under section 626.557, subdivision 9c, paragraph (c), a fine of \$1,000.
5.27 A fine of \$5,000 may be imposed if the commissioner determines the licensee is responsible
5.28 for maltreatment consisting of sexual assault, death, or abuse resulting in serious injury;
5.29 and

5.30 (6) the fines in clauses (1) to (4) are increased and immediate fine imposition is authorized
5.31 for both surveys and investigations conducted.

6.1 When a fine is assessed against a facility for substantiated maltreatment, the commissioner
6.2 shall not also impose an immediate fine under this chapter for the same circumstance.

6.3 (b) Correction orders for violations are categorized by both level and scope and fines
6.4 shall be assessed as follows:

6.5 (1) level of violation:

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

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

6.11 (iii) Level 3 is a violation that harmed a client's health or safety, not including serious
6.12 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
6.13 impairment, or death; and

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

6.15 (2) scope of violation:

6.16 (i) isolated, when one or a limited number of clients are affected or one or a limited
6.17 number of staff are involved or the situation has occurred only occasionally;

6.18 (ii) pattern, when more than a limited number of clients are affected, more than a limited
6.19 number of staff are involved, or the situation has occurred repeatedly but is not found to be
6.20 pervasive; and

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

6.23 (c) If the commissioner finds that the applicant or a home care provider has not corrected
6.24 violations by the date specified in the correction order or conditional license resulting from
6.25 a survey or complaint investigation, the commissioner shall provide a notice of
6.26 noncompliance with a correction order by e-mail to the applicant's or provider's last known
6.27 e-mail address. The noncompliance notice must list the violations not corrected.

6.28 (d) For every violation identified by the commissioner, the commissioner shall issue an
6.29 immediate fine pursuant to paragraph (a), clause (6). The license holder must still correct
6.30 the violation in the time specified. The issuance of an immediate fine can occur in addition
6.31 to any enforcement mechanism authorized under section 144A.475. The immediate fine
6.32 may be appealed as allowed under this subdivision.

7.1 (e) The license holder must pay the fines assessed on or before the payment date specified.
7.2 If the license holder fails to fully comply with the order, the commissioner may issue a
7.3 second fine or suspend the license until the license holder complies by paying the fine. A
7.4 timely appeal shall stay payment of the fine until the commissioner issues a final order.

7.5 (f) A license holder shall promptly notify the commissioner in writing when a violation
7.6 specified in the order is corrected. If upon reinspection the commissioner determines that
7.7 a violation has not been corrected as indicated by the order, the commissioner may issue a
7.8 second fine. The commissioner shall notify the license holder by mail to the last known
7.9 address in the licensing record that a second fine has been assessed. The license holder may
7.10 appeal the second fine as provided under this subdivision.

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

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

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

7.19 (j) Fines collected under paragraph (a), clauses (1) to (4), shall be deposited in a dedicated
7.20 special revenue account. On an annual basis, the balance in the special revenue account
7.21 shall be appropriated to the commissioner to implement the recommendations of the advisory
7.22 council established in section 144A.4799.

7.23 (k) Fines collected under paragraph (a), clause (5), shall be deposited in a dedicated
7.24 special revenue account and appropriated to the commissioner to provide compensation
7.25 according to subdivision 14 to clients subject to maltreatment. A client may choose to receive
7.26 compensation from this fund, not to exceed \$5,000 for each substantiated finding of
7.27 maltreatment, or take civil action. This paragraph expires July 31, ~~2021~~ 2022.

7.28 Sec. 6. Minnesota Statutes 2019 Supplement, section 144A.474, subdivision 14, is amended
7.29 to read:

7.30 Subd. 14. **Maltreatment compensation fund.** (a) Once a finding of maltreatment for
7.31 which the licensee is determined to be responsible is substantiated and any request for
7.32 reconsideration, if applicable, is completed, the commissioner shall pay the fine assessed

8.1 under subdivision 11, paragraph (a), clause (5), as compensation to the client who was
8.2 subject to the maltreatment, if:

8.3 (1) the client chooses to receive a compensation payment of either \$1,000 or \$5,000 as
8.4 determined by the fine assessed under subdivision 11, paragraph (a), clause (5), depending
8.5 on the level of maltreatment; and

8.6 (2) the client accepts payment of compensation under this subdivision as payment in
8.7 full and agrees to waive any civil claims, including claims under section 626.557, subdivision
8.8 20, arising from the specific maltreatment incident that resulted in the fine.

8.9 (b) The commissioner shall notify the client that the client may reject a compensation
8.10 payment under this subdivision and instead pursue any civil claims.

8.11 (c) Except as provided in paragraph (a), nothing in this subdivision affects the rights
8.12 available to clients under section 626.557 or prevents a client from filing a maltreatment
8.13 report in the future.

8.14 (d) This subdivision expires July 31, ~~2021~~ 2022.

8.15 Sec. 7. Minnesota Statutes 2019 Supplement, section 144A.4799, subdivision 1, is amended
8.16 to read:

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

8.19 (1) three public members as defined in section 214.02 who shall be persons who are
8.20 currently receiving home care services, persons who have received home care services
8.21 within five years of the application date, persons who have family members receiving home
8.22 care services, or persons who have family members who have received home care services
8.23 within five years of the application date;

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

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

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

8.29 (5) beginning July 1, ~~2021~~ 2022, one member of a county health and human services or
8.30 county adult protection office.

9.1 Sec. 8. Minnesota Statutes 2019 Supplement, section 144G.07, is amended by adding a
9.2 subdivision to read:

9.3 Subd. 6. **Other laws.** Nothing in this section affects the rights and remedies available
9.4 under section 626.557, subdivisions 10, 17, and 20.

9.5 **EFFECTIVE DATE.** This section is effective August 1, 2020.

9.6 Sec. 9. Minnesota Statutes 2019 Supplement, section 144G.08, subdivision 7, is amended
9.7 to read:

9.8 Subd. 7. **Assisted living facility.** "Assisted living facility" means a ~~licensed~~ facility that
9.9 provides sleeping accommodations and assisted living services to one or more adults.
9.10 Assisted living facility includes assisted living facility with dementia care, and does not
9.11 include:

9.12 (1) emergency shelter, transitional housing, or any other residential units serving
9.13 exclusively or primarily homeless individuals, as defined under section 116L.361;

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

9.15 (3) a hospital, certified boarding care, or supervised living facility licensed under sections
9.16 144.50 to 144.56;

9.17 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
9.18 9520.0500 to 9520.0670, or under chapter 245D or 245G;

9.19 (5) services and residential settings licensed under chapter 245A, including adult foster
9.20 care and services and settings governed under the standards in chapter 245D;

9.21 (6) a private home in which the residents are related by kinship, law, or affinity with the
9.22 provider of services;

9.23 (7) a duly organized condominium, cooperative, and common interest community, or
9.24 owners' association of the condominium, cooperative, and common interest community
9.25 where at least 80 percent of the units that comprise the condominium, cooperative, or
9.26 common interest community are occupied by individuals who are the owners, members, or
9.27 shareholders of the units;

9.28 (8) a temporary family health care dwelling as defined in sections 394.307 and 462.3593;

9.29 (9) a setting offering services conducted by and for the adherents of any recognized
9.30 church or religious denomination for its members exclusively through spiritual means or
9.31 by prayer for healing;

10.1 (10) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
10.2 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
10.3 units financed by the Minnesota Housing Finance Agency that are intended to serve
10.4 individuals with disabilities or individuals who are homeless, except for those developments
10.5 that market or hold themselves out as assisted living facilities and provide assisted living
10.6 services;

10.7 (11) rental housing developed under United States Code, title 42, section 1437, or United
10.8 States Code, title 12, section 1701q;

10.9 (12) rental housing designated for occupancy by only elderly or elderly and disabled
10.10 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
10.11 families under Code of Federal Regulations, title 24, section 983.56;

10.12 (13) rental housing funded under United States Code, title 42, chapter 89, or United
10.13 States Code, title 42, section 8011; ~~or~~

10.14 (14) a covered setting as defined in section 325F.721, subdivision 1, paragraph (b); or

10.15 (15) any establishment that exclusively or primarily serves as a shelter or temporary
10.16 shelter for victims of domestic or any other form of violence.

10.17 **EFFECTIVE DATE.** This section is effective August 1, 2022.

10.18 Sec. 10. Minnesota Statutes 2019 Supplement, section 144G.08, is amended by adding a
10.19 subdivision to read:

10.20 **Subd. 7a. Assisted living facility license.** "Assisted living facility license" means a
10.21 certificate issued by the commissioner under section 144G.10 that authorizes the licensee
10.22 to manage, control, and operate an assisted living facility for a specified period of time and
10.23 in accordance with the terms of the license and the rules of the commissioner.

10.24 **EFFECTIVE DATE.** This section is effective August 1, 2022.

10.25 Sec. 11. Minnesota Statutes 2019 Supplement, section 144G.08, subdivision 9, is amended
10.26 to read:

10.27 **Subd. 9. Assisted living services.** "Assisted living services" includes one or more of
10.28 the following:

10.29 (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and
10.30 bathing;

10.31 (2) providing standby assistance;

- 11.1 (3) providing verbal or visual reminders to the resident to take regularly scheduled
11.2 medication, which includes bringing the resident previously set up medication, medication
11.3 in original containers, or liquid or food to accompany the medication;
- 11.4 (4) providing verbal or visual reminders to the resident to perform regularly scheduled
11.5 treatments and exercises;
- 11.6 (5) preparing ~~modified~~ specialized diets ordered by a licensed health professional;
- 11.7 (6) services of an advanced practice registered nurse, registered nurse, licensed practical
11.8 nurse, physical therapist, respiratory therapist, occupational therapist, speech-language
11.9 pathologist, dietitian or nutritionist, or social worker;
- 11.10 (7) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed
11.11 health professional within the person's scope of practice;
- 11.12 (8) medication management services;
- 11.13 (9) hands-on assistance with transfers and mobility;
- 11.14 (10) treatment and therapies;
- 11.15 (11) assisting residents with eating when the residents have complicated eating problems
11.16 as identified in the resident record or through an assessment such as difficulty swallowing,
11.17 recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous
11.18 instruments to be fed;
- 11.19 (12) providing other complex or specialty health care services; and
- 11.20 (13) supportive services in addition to the provision of at least one of the services listed
11.21 in clauses (1) to (12).

11.22 **EFFECTIVE DATE.** This section is effective August 1, 2022.

11.23 Sec. 12. Minnesota Statutes 2019 Supplement, section 144G.08, subdivision 23, is amended
11.24 to read:

11.25 Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual
11.26 or ~~organization~~ legal entity with the possession of at least five percent equity in capital,
11.27 stock, or profits of the licensee, or who is a member of a limited liability company of the
11.28 licensee.

11.29 **EFFECTIVE DATE.** This section is effective August 1, 2022.

12.1 Sec. 13. Minnesota Statutes 2019 Supplement, section 144G.09, subdivision 3, is amended
12.2 to read:

12.3 Subd. 3. **Rulemaking authorized.** (a) The commissioner shall adopt rules for all assisted
12.4 living facilities that promote person-centered planning and service delivery and optimal
12.5 quality of life, and that ensure resident rights are protected, resident choice is allowed, and
12.6 public health and safety is ensured.

12.7 (b) On July 1, 2019, the commissioner shall begin rulemaking.

12.8 (c) The commissioner shall adopt rules that include but are not limited to the following:

12.9 (1) staffing appropriate for each licensure category to best protect the health and safety
12.10 of residents no matter their vulnerability;

12.11 (2) training prerequisites and ongoing training, including dementia care training and
12.12 standards for demonstrating competency;

12.13 (3) procedures for discharge planning and ensuring resident appeal rights;

12.14 (4) initial assessments, continuing assessments, and a uniform assessment tool;

12.15 (5) emergency disaster and preparedness plans;

12.16 (6) uniform checklist disclosure of services;

12.17 (7) a definition of serious injury that results from maltreatment;

12.18 (8) conditions and fine amounts for planned closures;

12.19 (9) procedures and timelines for the commissioner regarding termination appeals between
12.20 facilities and the Office of Administrative Hearings;

12.21 (10) establishing base fees and per-resident fees for each category of licensure;

12.22 (11) considering the establishment of a maximum amount for any one fee;

12.23 (12) procedures for relinquishing an assisted living facility with dementia care license
12.24 and fine amounts for noncompliance; and

12.25 (13) procedures to efficiently transfer existing housing with services registrants and
12.26 home care licensees to the new assisted living facility licensure structure.

12.27 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall
12.28 publish ~~final rules~~ the notice of adoption by December 31, ~~2020~~ 2021.

13.1 Sec. 14. Minnesota Statutes 2019 Supplement, section 144G.10, subdivision 1, is amended
13.2 to read:

13.3 Subdivision 1. **License required.** ~~(a) Beginning August 1, 2021, no assisted living~~
13.4 ~~facility may operate in Minnesota unless it is licensed under this chapter.~~

13.5 ~~The licensee is legally responsible for the management, control, and operation of the~~
13.6 ~~facility, regardless of the existence of a management agreement or subcontract. Nothing in~~
13.7 ~~this chapter shall in any way affect the rights and remedies available under other law. August~~
13.8 ~~1, 2022, unless licensed under this chapter, no individual, organization, or government entity~~
13.9 ~~may:~~

13.10 (1) manage, control, or operate an assisted living facility in Minnesota; or

13.11 (2) advertise, market, or otherwise promote its facility as providing assisted living
13.12 services or specialized care for individuals with Alzheimer's disease or other dementias.

13.13 (b) The licensee is legally responsible for the management, control, and operation of the
13.14 facility, regardless of the existence of a management agreement or subcontract. Nothing in
13.15 this chapter shall in any way affect the rights and remedies available under other law.

13.16 (c) Upon approving an application for an assisted living facility license, the commissioner
13.17 shall issue a single assisted living facility license for each facility located at a separate
13.18 address, except as provided in paragraph (d).

13.19 (d) Upon approving an application for an assisted living facility located on a campus
13.20 and at the request of the applicant, the commissioner may issue an assisted living facility
13.21 license for the campus at the address of the campus' main building. An assisted living facility
13.22 license for a campus shall identify the address and licensed resident capacity of each building
13.23 located on the campus in which assisted living services are provided.

13.24 (e) Before any building to be included on a campus advertises, markets, or promotes
13.25 itself as providing specialized care for individuals with Alzheimer's disease or other dementias
13.26 or a secured dementia care unit, the individual, organization, or government entity must
13.27 apply for the assisted living with dementia care level of licensure for that campus license
13.28 or apply for a separate assisted living facility with dementia care level of licensure. These
13.29 services may not be provided at the building until the license is issued by the commissioner.

13.30 **EFFECTIVE DATE.** This section is effective August 1, 2022.

14.1 Sec. 15. Minnesota Statutes 2019 Supplement, section 144G.10, is amended by adding a
14.2 subdivision to read:

14.3 Subd. 1a. **Definitions.** (a) For the purposes of this section, the terms defined in this
14.4 subdivision have the meanings given them.

14.5 (b) "Adjacent" means sharing a portion of a legal boundary.

14.6 (c) "Campus" means an assisted living facility that provides sleeping accommodations
14.7 and assisted living services operated by the same licensee in:

14.8 (1) two or more buildings, each with a separate address, located on the same property
14.9 identified by a single property identification number;

14.10 (2) a single building having two or more addresses, located on the same property,
14.11 identified by a single property identification number; or

14.12 (3) two or more buildings at different addresses, identified by different property
14.13 identification numbers, when the buildings are located on adjacent properties.

14.14 (d) "Campus' main building" means a building designated by the commissioner as the
14.15 main building of a campus and to which the commissioner may issue an assisted living
14.16 facility license for a campus.

14.17 **EFFECTIVE DATE.** This section is effective August 1, 2022.

14.18 Sec. 16. Minnesota Statutes 2019 Supplement, section 144G.16, subdivision 1, is amended
14.19 to read:

14.20 Subdivision 1. **Provisional license.** Beginning August 1, ~~2021~~ 2022, for new assisted
14.21 living facility license applicants, the commissioner shall issue a provisional license from
14.22 one of the licensure categories specified in section 144G.10, subdivision 2. A provisional
14.23 license is effective for up to one year from the initial effective date of the license, except
14.24 that a provisional license may be extended according to subdivisions 2, paragraph (d), and
14.25 3.

14.26 **EFFECTIVE DATE.** This section is effective August 1, 2022.

14.27 Sec. 17. **[144G.191] ASSISTED LIVING FACILITY LICENSING**
14.28 **IMPLEMENTATION; PROVISIONAL LICENSES; TRANSITION PERIOD FOR**
14.29 **CURRENT PROVIDERS.**

14.30 Subdivision 1. **Provisional licenses.** (a) Beginning March 1, 2022, applications for
14.31 provisional assisted living facility licenses under section 144G.16 may be submitted. No

15.1 provisional assisted living facility licenses under this chapter shall be effective prior to
15.2 August 1, 2022.

15.3 (b) Beginning June 1, 2022, no initial housing with services establishment registration
15.4 applications shall be accepted under chapter 144D.

15.5 (c) Beginning June 1, 2022, no temporary comprehensive home care provider license
15.6 applications shall be accepted for providers that do not intend to provide home care services
15.7 under sections 144A.43 to 144A.484 on or after August 1, 2022.

15.8 Subd. 2. **New construction; building permit.** (a) All prospective assisted living facility
15.9 license applicants seeking a license for new construction who have submitted a complete
15.10 building permit application to the appropriate building code jurisdiction on or before July
15.11 31, 2022, may meet construction requirements in effect when the application was submitted.

15.12 (b) All prospective assisted living facility license applicants seeking a license for new
15.13 construction who have submitted a complete building permit application to the appropriate
15.14 building code jurisdiction on or after August 1, 2022, must meet the construction
15.15 requirements under section 144G.45.

15.16 (c) For the purposes of paragraph (a), in areas of jurisdiction where there is no building
15.17 code authority, a complete application for an electrical or plumbing permit is acceptable in
15.18 lieu of the building permit application.

15.19 (d) For the purposes of paragraph (a), in jurisdictions where building plan review
15.20 applications are separated from building permit applications, a complete application for
15.21 plan review is acceptable in lieu of the building permit application.

15.22 Subd. 3. **New construction; plan review.** Beginning March 1, 2022, prospective assisted
15.23 living facility license applicants under new construction may submit to the commissioner
15.24 plans and specifications described in section 144G.45, subdivision 6, for plan review of the
15.25 new construction requirements under section 144G.45.

15.26 Subd. 4. **Current comprehensive home care providers; provision of assisted living**
15.27 **services.** (a) Comprehensive home care providers that do not intend to provide home care
15.28 services under chapter 144A on or after August 1, 2022, shall be issued a prorated license
15.29 period upon renewal, effective for license renewals beginning on or after September 1,
15.30 2021. The prorated license period shall be effective from the provider's current comprehensive
15.31 home care license renewal date through July 31, 2022.

15.32 (b) Comprehensive home care providers with prorated license periods shall pay a prorated
15.33 fee based on the number of months the comprehensive home care license is in effect.

16.1 (c) A comprehensive home care provider using the prorated license period in paragraph
16.2 (a), or who otherwise does not intend to provide home care services under chapter 144A
16.3 on or after August 1, 2022, must notify the recipients of changes to their home care services
16.4 in writing at least 60 days before the expiration of its license, or no later than May 31, 2022,
16.5 whichever is earlier. The notice must:

16.6 (1) state that the provider will no longer be providing home care services under chapter
16.7 144A;

16.8 (2) include the date when the provider will no longer be providing these services;

16.9 (3) include the name, e-mail address, and phone number of the individual associated
16.10 with the comprehensive home care provider that the recipient of home care services may
16.11 contact to discuss the notice;

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

16.15 (5) for recipients of home care services who receive home and community-based waiver
16.16 services under section 256B.49 and chapter 256S, this written notice must also be provided
16.17 to the resident's case manager at the same time that it is provided to the resident.

16.18 A comprehensive home care provider that obtains an assisted living facility license but does
16.19 so under a different business name as a result of reincorporation, and continues to provide
16.20 services to the recipient, is not subject to the 60-day notice required under this paragraph.
16.21 However, the provider must otherwise provide notice to the recipient as required under
16.22 sections 144A.44, 144A.441, and 144A.442, as applicable, and section 144A.4791.

16.23 Subd. 5. **Current housing with services establishment registration to an assisted**
16.24 **living facility license; conversion to licensure.** (a) Beginning January 1, 2022, all current
16.25 housing with services establishments registered under chapter 144D and intending to provide
16.26 assisted living services on or after August 1, 2022, must apply for an assisted living facility
16.27 license under this chapter. The applicant on the assisted living facility license application
16.28 may, but need not, be the same as the current housing with services establishment registrant.

16.29 (b) Notwithstanding the housing with services contract requirements identified in section
16.30 144D.04, any existing housing with services establishment registered under chapter 144D
16.31 that does not intend to convert its registration to an assisted living facility license under this
16.32 chapter must provide written notice to its residents at least 60 days before the expiration of
16.33 its registration, or no later than May 31, 2022, whichever is earlier. The notice must:

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

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

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

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

17.11 (5) for residents who receive home and community-based waiver services under section
17.12 256B.49 and chapter 256S, the written notice must also be provided to the resident's case
17.13 manager at the same time that it is provided to the resident.

17.14 A housing with services provider that obtains an assisted living facility license, but does so
17.15 under a different business name as a result of reincorporation, and continues to provide
17.16 services to the recipient, is not subject to the 60-day notice required under this paragraph.
17.17 However, the provider must otherwise provide notice to the recipient as required under
17.18 sections 144D.04 and 144D.045, as applicable, and section 144D.09.

17.19 (c) By August 1, 2022, all registered housing with services establishments providing
17.20 assisted living as defined in section 144G.01, subdivision 2, prior to August 1, 2022, must
17.21 have an assisted living facility license under this chapter.

17.22 (d) Effective August 1, 2022, any housing with services establishment registered under
17.23 chapter 144D that has not converted its registration to an assisted living facility license
17.24 under this chapter is prohibited from providing assisted living services.

17.25 **Subd. 6. Conversion to assisted living licensure; renewal periods; prorated**
17.26 **licenses.** (a) Applicants converting from a housing with services establishment registration
17.27 under chapter 144D to an assisted living facility license under this chapter must be provided
17.28 a new renewal date upon application for an assisted living facility license. The commissioner
17.29 shall assign a new, randomly generated renewal date to evenly disperse assisted living
17.30 facility license renewal dates throughout a calendar year.

17.31 (b) Applicants converting from a housing with services establishment registration to an
17.32 assisted living facility license that receive new license renewal dates occurring in September

18.1 or October shall receive one assisted living facility license upon conversion that is effective
18.2 from August 1, 2022, and prorated for 13- or 14-month periods, respectively.

18.3 (c) Applicants converting from a housing with services establishment registration to an
18.4 assisted living facility license that receive new license renewal dates occurring in November
18.5 or December must choose one of two options:

18.6 (1) receive one assisted living facility license upon conversion effective August 1, 2022,
18.7 and prorated for 15- or 16-month periods, respectively; or

18.8 (2) receive one assisted living facility license upon conversion, effective August 1, 2022,
18.9 prorated for three- or four-month periods, respectively.

18.10 (d) Applicants converting from a housing with services establishment registration to an
18.11 assisted living facility license that receive new license renewal dates occurring in January
18.12 through July shall receive one assisted living facility license upon conversion effective
18.13 August 1, 2022, and prorated for five- to 11-month periods, respectively.

18.14 (e) Applicants converting from a housing with services establishment registration to an
18.15 assisted living facility license that receive a new license renewal date occurring in August
18.16 shall receive one assisted living facility license upon conversation effective for a full
18.17 12-month period.

18.18 (f) An assisted living facility shall receive its first assisted living facility license renewal
18.19 application for a full 12-month effective period approximately 90 days prior to the expiration
18.20 of the facility's prorated license.

18.21 (g) Applicants with a current housing with services establishment registration who intend
18.22 to obtain more than one assisted living facility license under this chapter may request that
18.23 the commissioner allow all applicable renewal dates to occur on the same date or may
18.24 request all applicable renewal dates to occur at different points throughout a calendar year.

18.25 (h) All prorated licensing fee amounts for applicants converting from a housing with
18.26 services establishment to an assisted living facility license must be determined by calculating
18.27 the appropriate annual fee based on section 144.122, paragraph (d), and dividing the total
18.28 annual fee amount by the number of months the prorated license is effective.

18.29 Subd. 7. **Conversion to assisted living licensure; background studies.** (a) Any
18.30 individual listed on an application of a registered housing with services establishment
18.31 converting to an assisted living facility license who is not on the existing housing with
18.32 services registration and either has a direct ownership interest or is a managerial official is
18.33 subject to the background study requirements of section 144.057. No individual may be

19.1 involved in the management, operation, or control of an assisted living facility if the
19.2 individual has been disqualified under chapter 245C.

19.3 (b) The commissioner shall not issue a license if any controlling individual, including
19.4 a managerial official, has been unsuccessful in having a background study disqualification
19.5 set aside under section 144.057 and chapter 245C.

19.6 (c) If the individual requests reconsideration of a disqualification under section 144.057
19.7 or chapter 245C and the commissioner sets aside or rescinds the disqualification, the
19.8 individual is eligible to be involved in the management, operation, or control of the assisted
19.9 living facility.

19.10 (d) If an individual has a disqualification under section 245C.15, subdivision 1, and the
19.11 disqualification is affirmed, the individual's disqualification is barred from a set aside and
19.12 the individual must not be involved in the management, operation, or control of the assisted
19.13 living facility.

19.14 (e) Data collected under this subdivision shall be classified as private data on individuals
19.15 under section 13.02, subdivision 12.

19.16 **Subd. 8. Changes of ownership; current housing with services establishment**
19.17 **registrations.** (a) If an applicant converting from a housing with services establishment
19.18 registration to an assisted living facility license anticipates a change of ownership transaction
19.19 effective on or after August 1, 2022, the applicant must submit an assisted living facility
19.20 change of ownership application with the assisted living facility license application and the
19.21 assisted living licensure fees in section 144.122, paragraph (d).

19.22 (b) Applications for changes of ownership under paragraph (a) must be submitted to the
19.23 commissioner at least 60 calendar days prior to the anticipated effective date of the sale or
19.24 transaction.

19.25 **Subd. 9. Expiration.** This section expires August 1, 2023.

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

19.27 Sec. 18. Minnesota Statutes 2019 Supplement, section 144G.401, is amended to read:

19.28 **144G.401 PAYMENT FOR SERVICES UNDER DISABILITY WAIVERS.**

19.29 For new assisted living facilities that did not operate as registered housing with services
19.30 establishments prior to August 1, ~~2021~~ 2022, home and community-based services under
19.31 section 256B.49 are not available when the new facility setting is adjoined to, or on the

20.1 same property as, an institution as defined in Code of Federal Regulations, title 42, section
20.2 441.301(c).

20.3 **EFFECTIVE DATE.** This section is effective August 1, 2022.

20.4 Sec. 19. Minnesota Statutes 2019 Supplement, section 144G.42, subdivision 9, is amended
20.5 to read:

20.6 Subd. 9. **Tuberculosis prevention and control.** (a) The facility must establish and
20.7 maintain a comprehensive tuberculosis infection control program according to the most
20.8 current tuberculosis infection control guidelines issued by the United States Centers for
20.9 Disease Control and Prevention (CDC), Division of Tuberculosis Elimination, as published
20.10 in the CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include
20.11 a tuberculosis infection control plan that covers all paid and unpaid ~~employees~~ staff,
20.12 contractors, students, and regularly scheduled volunteers. The commissioner shall provide
20.13 technical assistance regarding implementation of the guidelines.

20.14 (b) The facility must maintain written evidence of compliance with this subdivision.

20.15 **EFFECTIVE DATE.** This section is effective August 1, 2022.

20.16 Sec. 20. Minnesota Statutes 2019 Supplement, section 144G.42, is amended by adding a
20.17 subdivision to read:

20.18 Subd. 9a. **Communicable diseases.** A facility must follow current state requirements
20.19 for prevention, control, and reporting of communicable diseases as defined in Minnesota
20.20 Rules, parts 4605.7040, 4605.7044, 4605.7050, 4605.7075, 4605.7080, and 4605.7090.

20.21 **EFFECTIVE DATE.** This section is effective August 1, 2022.

20.22 Sec. 21. Minnesota Statutes 2019 Supplement, section 144G.45, subdivision 2, is amended
20.23 to read:

20.24 Subd. 2. **Fire protection and physical environment.** (a) Each assisted living facility
20.25 must ~~have a comprehensive fire protection system that includes~~ comply with the State Fire
20.26 Code in Minnesota Rules, chapter 7511, and:

20.27 ~~(1) protection throughout by an approved supervised automatic sprinkler system according~~
20.28 ~~to building code requirements established in Minnesota Rules, part 1305.0903, or smoke~~
20.29 ~~detectors in each occupied room installed and maintained in accordance with the National~~
20.30 ~~Fire Protection Association (NFPA) Standard 72~~ for dwellings or sleeping units, as defined
20.31 in the Minnesota State Fire Code: (i) provide smoke alarms in each room used for sleeping

21.1 purposes; (ii) provide smoke alarms outside of each separate sleeping area in the immediate
 21.2 vicinity of bedrooms; (iii) provide smoke alarms on each story within a dwelling unit,
 21.3 including basements, but not including crawl spaces and unoccupied attics; (iv) where more
 21.4 than one smoke alarm is required within an individual dwelling unit or sleeping unit,
 21.5 interconnect all smoke alarms so that actuation of one alarm causes all alarms in the
 21.6 individual dwelling unit or sleeping unit to operate; and (v) ensure the power supply for
 21.7 existing smoke alarms complies with the State Fire Code, except that newly introduced
 21.8 smoke alarms in existing buildings may be battery operated;

21.9 (2) install portable fire extinguishers ~~installed and~~ tested in accordance with the NFPA
 21.10 Standard 10; and

21.11 (3) keep the physical environment, including walls, floors, ceiling, all furnishings,
 21.12 grounds, systems, and equipment ~~that is kept~~ in a continuous state of good repair and
 21.13 operation with regard to the health, safety, comfort, and well-being of the residents in
 21.14 accordance with a maintenance and repair program.

21.15 (b) Fire drills in assisted living facilities shall be conducted in accordance with the
 21.16 residential board and care requirements in the Life Safety Code, except that fire drills in
 21.17 secured dementia care units shall be conducted in accordance with section 144G.81,
 21.18 subdivision 2.

21.19 (c) Existing construction or elements, including assisted living facilities that were
 21.20 registered as housing with services establishments under chapter 144D prior to August 1,
 21.21 ~~2021~~ 2022, shall be permitted to ~~be continued~~ continue in use provided such use does not
 21.22 constitute a distinct hazard to life. Any existing elements that an authority having jurisdiction
 21.23 deems a distinct hazard to life must be corrected. The facility must document in the facility's
 21.24 records any actions taken to comply with a correction order, and must submit to the
 21.25 commissioner for review and approval prior to correction.

21.26 **EFFECTIVE DATE.** This section is effective August 1, 2022.

21.27 Sec. 22. Minnesota Statutes 2019 Supplement, section 144G.45, subdivision 5, is amended
 21.28 to read:

21.29 Subd. 5. **Assisted living facilities; Life Safety Code.** (a) All assisted living facilities
 21.30 with six or more residents must meet the applicable provisions of the ~~most current~~ 2018
 21.31 edition of the NFPA Standard 101, Life Safety Code, Residential Board and Care
 21.32 Occupancies chapter. The minimum design standard shall be met for all new licenses, new
 21.33 construction, modifications, renovations, alterations, changes of use, or additions.

22.1 (b) If the commissioner decides to update the Life Safety Code for purposes of this
22.2 subdivision, the commissioner must notify the chairs and ranking minority members of the
22.3 legislative committees and divisions with jurisdiction over health care and public safety of
22.4 the planned update by January 15 of the year in which the new Life Safety Code will become
22.5 effective. Following notice from the commissioner, the new edition shall become effective
22.6 for assisted living facilities beginning August 1 of that year, unless provided otherwise in
22.7 law. The commissioner shall, by publication in the State Register, specify a date by which
22.8 facilities must comply with the updated Life Safety Code. The date by which facilities must
22.9 comply shall not be sooner than six months after publication of the commissioner's notice
22.10 in the State Register.

22.11 **EFFECTIVE DATE.** This section is effective August 1, 2022.

22.12 Sec. 23. Minnesota Statutes 2019 Supplement, section 144G.45, subdivision 6, is amended
22.13 to read:

22.14 Subd. 6. **New construction; plans.** (a) For all new licensure and construction beginning
22.15 on or after August 1, ~~2021~~ 2022, the following must be provided to the commissioner:

22.16 (1) architectural and engineering plans and specifications for new construction must be
22.17 prepared and signed by architects and engineers who are registered in Minnesota. Final
22.18 working drawings and specifications for proposed construction must be submitted to the
22.19 commissioner for review and approval;

22.20 (2) final architectural plans and specifications must include elevations and sections
22.21 through the building showing types of construction, and must indicate dimensions and
22.22 assignments of rooms and areas, room finishes, door types and hardware, elevations and
22.23 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts
22.24 of dietary and laundry areas. Plans must show the location of fixed equipment and sections
22.25 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions
22.26 must be indicated. The roof plan must show all mechanical installations. The site plan must
22.27 indicate the proposed and existing buildings, topography, roadways, walks and utility service
22.28 lines; and

22.29 (3) final mechanical and electrical plans and specifications must address the complete
22.30 layout and type of all installations, systems, and equipment to be provided. Heating plans
22.31 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,
22.32 boilers, breeching, and accessories. Ventilation plans must include room air quantities,
22.33 ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing
22.34 plans must include the fixtures and equipment fixture schedule; water supply and circulating

23.1 piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation
23.2 of water and sewer services; and the building fire protection systems. Electrical plans must
23.3 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and
23.4 light panels, transformers, and service feeders. Plans must show location of nurse call signals,
23.5 cable lines, fire alarm stations, and fire detectors and emergency lighting.

23.6 (b) Unless construction is begun within one year after approval of the final working
23.7 drawing and specifications, the drawings must be resubmitted for review and approval.

23.8 (c) The commissioner must be notified within 30 days before completion of construction
23.9 so that the commissioner can make arrangements for a final inspection by the commissioner.

23.10 (d) At least one set of complete life safety plans, including changes resulting from
23.11 remodeling or alterations, must be kept on file in the facility.

23.12 **EFFECTIVE DATE.** This section is effective August 1, 2022.

23.13 Sec. 24. Minnesota Statutes 2019 Supplement, section 144G.92, subdivision 5, is amended
23.14 to read:

23.15 Subd. 5. **Other laws.** Nothing in this section affects the rights and remedies available
23.16 ~~to a resident~~ under section 626.557, subdivisions 10, 17, and 20.

23.17 **EFFECTIVE DATE.** This section is effective August 1, 2022.

23.18 Sec. 25. Minnesota Statutes 2019 Supplement, section 144G.9999, subdivision 3, is
23.19 amended to read:

23.20 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations
23.21 to the commissioner and the legislature on changes needed to promote safety and quality
23.22 improvement practices in long-term care settings and with long-term care providers. The
23.23 task force shall meet no fewer than four times per year. The task force shall be established
23.24 by July 1, ~~2020~~ 2021.

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

23.26 Sec. 26. Laws 2019, chapter 60, article 1, section 45, is amended to read:

23.27 Sec. 45. **TRANSITION PERIOD.**

23.28 (a) The commissioner shall begin rulemaking on July 1, 2019.

24.1 (b) From July 1, 2020, to July 31, ~~2021~~ 2022, the commissioner shall prepare for the
24.2 new assisted living facility and assisted living facility with dementia care licensure by hiring
24.3 staff, developing forms, and communicating with stakeholders about the new facility
24.4 licensing.

24.5 (c) Effective August 1, ~~2021~~ 2022, all existing housing with services establishments
24.6 providing home care services under Minnesota Statutes, chapter 144A, must convert their
24.7 registration to licensure under Minnesota Statutes, chapter ~~144H~~ 144G.

24.8 (d) Effective August 1, ~~2021~~ 2022, all new assisted living facilities and assisted living
24.9 facilities with dementia care must be licensed by the commissioner.

24.10 Sec. 27. Laws 2019, chapter 60, article 1, section 46, is amended to read:

24.11 Sec. 46. **PRIORITIZATION OF ENFORCEMENT ACTIVITIES.**

24.12 Within available appropriations to the commissioner of health for enforcement activities
24.13 for fiscal years 2020 ~~and~~, 2021, and 2022, the commissioner of health shall prioritize
24.14 enforcement activities taken under Minnesota Statutes, section 144A.442.

24.15 Sec. 28. Laws 2019, chapter 60, article 1, section 48, is amended to read:

24.16 Sec. 48. **REPEALER.**

24.17 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;
24.18 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;
24.19 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are
24.20 repealed effective August 1, ~~2021~~ 2022.

24.21 Sec. 29. Laws 2019, chapter 60, article 4, section 35, is amended to read:

24.22 Sec. 35. **REPEALER.**

24.23 (a) Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed July 1, 2019.

24.24 (b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1,
24.25 ~~2021~~ 2022.

25.1 Sec. 30. Laws 2019, chapter 60, article 5, section 2, is amended to read:

25.2 **Sec. 2. COMMISSIONER OF HEALTH.**

25.3 Subdivision 1. **General fund appropriation.** (a) \$9,656,000 in fiscal year 2020 and
25.4 \$9,416,000 in fiscal year 2021 are appropriated from the general fund to the commissioner
25.5 of health to implement regulatory activities relating to vulnerable adults and assisted living
25.6 licensure.

25.7 (b) Of the amount in paragraph (a), \$7,438,000 in fiscal year 2020 and \$4,302,000 in
25.8 fiscal year 2021 are for improvements to the current regulatory activities, systems, analysis,
25.9 reporting, and communications relating to regulation of vulnerable adults. The base for this
25.10 appropriation is \$5,800,000 in fiscal year 2022 and \$5,369,000 in fiscal year 2023.

25.11 (c) Of the amount in paragraph (a), \$2,218,000 in fiscal year 2020 and \$5,114,000 in
25.12 fiscal year 2021 are to establish assisted living licensure under Minnesota Statutes, ~~section~~
25.13 ~~144H.01~~ sections 144G.08 to 144G.9999. The fiscal year 2021 appropriation is available
25.14 until June 30, 2023. This is a onetime appropriation.

25.15 Subd. 2. **State government special revenue fund appropriation.** \$1,103,000 in fiscal
25.16 year 2020 and \$1,103,000 in fiscal year 2021 are appropriated from the state government
25.17 special revenue fund to improve the frequency of home care provider inspections and to
25.18 implement assisted living licensure activities under Minnesota Statutes, ~~section 144I.01~~
25.19 sections 144G.08 to 144G.9999. The base for this appropriation is ~~\$8,131,000~~ \$1,103,000
25.20 in fiscal year 2022 and \$8,339,000, \$8,131,000 in fiscal year 2023, \$8,339,000 in fiscal
25.21 year 2024, and \$8,339,000 in fiscal year 2025.

25.22 Subd. 3. **Transfer.** The commissioner shall transfer fine revenue previously deposited
25.23 to the state government special revenue fund under Minnesota Statutes, section 144A.474,
25.24 subdivision 11, estimated to be \$632,000 to a dedicated special revenue account in the state
25.25 treasury established for the purposes of implementing the recommendations of the Home
25.26 Care Advisory Council under Minnesota Statutes, section 144A.4799.

25.27 **Sec. 31. AMENDMENTS TO EFFECTIVE DATES FOR CERTAIN SECTIONS**
25.28 **IN LAWS 2019, CHAPTER 60.**

25.29 (a) Notwithstanding any law to the contrary, the following sections enacted in Laws
25.30 2019, chapter 60, and recodified in Minnesota Statutes, chapter 144G, shall be effective
25.31 August 1, 2022: article 1, sections 2 to 30, 32 to 39, and 42 to 44; and article 2, sections 1
25.32 to 4.

26.1 (b) Notwithstanding any law to the contrary, the following sections enacted in Laws
26.2 2019, chapter 60, shall be effective August 1, 2022: article 1, section 1; and article 4, sections
26.3 1 to 4, 13, 14, 31, and 32.

26.4 (c) Notwithstanding any law to the contrary, Laws 2019, chapter 60, article 1, section
26.5 31, shall be effective August 1, 2022, for contracts entered into on or after that date.

26.6 (d) Notwithstanding any law to the contrary, Laws 2019, chapter 60, article 3, section
26.7 3, shall expire July 31, 2022.

26.8 (e) Notwithstanding any law to the contrary, Laws 2019, chapter 60, article 3, section
26.9 4, shall be effective for contracts entered into on or after August 1, 2022.

26.10 (f) Notwithstanding any law to the contrary, the following sections enacted in Laws
26.11 2019, chapter 60, shall be effective July 1, 2021: article 4, sections 6 to 12.

26.12 (g) Notwithstanding any law to the contrary, Laws 2019, chapter 60, article 4, section
26.13 18, shall be effective July 1, 2022.

26.14 **EFFECTIVE DATE.** Paragraph (f) is effective the day following final enactment.

26.15 Sec. 32. **CONSUMER PROTECTIONS FOR ASSISTED LIVING CLIENTS.**

26.16 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

26.17 (b) "Arranged home care provider" has the meaning given in Minnesota Statutes, section
26.18 144D.01, subdivision 2a.

26.19 (c) "Client" has the meaning given in Minnesota Statutes, section 144G.01, subdivision
26.20 3.

26.21 (d) "Client representative" means one of the following in the order of priority listed, to
26.22 the extent the person may reasonably be identified and located:

26.23 (1) a court-appointed guardian acting in accordance with the powers granted to the
26.24 guardian under Minnesota Statutes, chapter 524;

26.25 (2) a conservator acting in accordance with the powers granted to the conservator under
26.26 Minnesota Statutes, chapter 524;

26.27 (3) a health care agent acting in accordance with the powers granted to the health care
26.28 agent under Minnesota Statutes, chapter 145C;

26.29 (4) an attorney-in-fact acting in accordance with the powers granted to the attorney-in-fact
26.30 by a written power of attorney under Minnesota Statutes, chapter 523; or

- 27.1 (5) a person who:
- 27.2 (i) is not an agent of a facility or an agent of a home care provider; and
- 27.3 (ii) is designated by the client orally or in writing to act on the client's behalf.
- 27.4 (e) "Facility" means:
- 27.5 (1) a housing with services establishment registered under Minnesota Statutes, section
- 27.6 144D.02, and operating under title protection under Minnesota Statutes, sections 144G.01
- 27.7 to 144G.07; or
- 27.8 (2) a housing with services establishment registered under Minnesota Statutes, section
- 27.9 144D.02, and required to disclose special care status under Minnesota Statutes, section
- 27.10 325F.72.
- 27.11 (f) "Home care provider" has the meaning given in Minnesota Statutes, section 144A.43,
- 27.12 subdivision 4.
- 27.13 (g) "Safe location" means a location that does not place a client's health or safety at risk.
- 27.14 A safe location is not a private home where the occupant is unwilling or unable to care for
- 27.15 the client, a homeless shelter, a hotel, or a motel.
- 27.16 (h) "Service plan" has the meaning given in Minnesota Statutes, section 144A.43,
- 27.17 subdivision 27.
- 27.18 (i) "Services" means services provided to a client by a home care provider according to
- 27.19 a service plan.
- 27.20 **Subd. 2. Prerequisite to termination or nonrenewal of lease, services, or service**
- 27.21 **plan. (a) A facility must schedule and participate in a meeting with the client and the client**
- 27.22 **representative before:**
- 27.23 (1) the facility issues a notice of termination of a lease;
- 27.24 (2) the facility issues a notice of termination or nonrenewal of all services; or
- 27.25 (3) an arranged home care provider issues a notice of termination or nonrenewal of a
- 27.26 service plan.
- 27.27 (b) The purposes of the meeting required under paragraph (a) are to:
- 27.28 (1) explain in detail the reasons for the proposed termination or nonrenewal; and
- 27.29 (2) identify and offer reasonable accommodations or modifications, interventions, or
- 27.30 alternatives to avoid the termination or nonrenewal and enable the client to remain in the
- 27.31 facility, including but not limited to securing services from another home care provider of

28.1 the client's choosing. A facility is not required to offer accommodations, modifications,
28.2 interventions, or alternatives that fundamentally alter the nature of the operation of the
28.3 facility.

28.4 (c) The meeting required under paragraph (a) must be scheduled to take place at least
28.5 seven days before a notice of termination or nonrenewal is issued. The facility must make
28.6 reasonable efforts to ensure that the client and the client representative are able to attend
28.7 the meeting.

28.8 (d) The facility must notify the client that the client may invite family members, relevant
28.9 health professionals, a representative of the Office of Ombudsman for Long-Term Care, or
28.10 other persons of the client's choosing to attend the meeting. For clients who receive home
28.11 and community-based waiver services under Minnesota Statutes, section 256B.49, and
28.12 Minnesota Statutes, chapter 256S, the facility must notify the client's case manager of the
28.13 meeting.

28.14 Subd. 3. **Restrictions on lease terminations.** (a) A facility may not terminate a lease
28.15 except as provided in this subdivision.

28.16 (b) Upon 30 days' prior written notice, a facility may initiate a termination of a lease
28.17 only for:

28.18 (1) nonpayment of rent, provided the facility informs the client that public benefits may
28.19 be available and provides contact information for the Senior LinkAge Line under Minnesota
28.20 Statutes, section 256.975, subdivision 7. An interruption to a client's public benefits that
28.21 lasts for no more than 60 days does not constitute nonpayment; or

28.22 (2) a violation of a lawful provision of the lease if the client does not cure the violation
28.23 within a reasonable amount of time after the facility provides written notice to the client of
28.24 the ability to cure. Written notice of the ability to cure may be provided in person or by first
28.25 class mail. A facility is not required to provide a client with written notice of the ability to
28.26 cure for a violation that threatens the health or safety of the client or another individual in
28.27 the facility, or for a violation that constitutes illegal conduct.

28.28 (c) Upon 15 days' prior written notice, a facility may terminate a lease only if the client
28.29 has:

28.30 (1) engaged in conduct that substantially interferes with the rights, health, or safety of
28.31 other clients;

28.32 (2) engaged in conduct that substantially and intentionally interferes with the safety or
28.33 physical health of facility staff; or

29.1 (3) committed an act listed in Minnesota Statutes, section 504B.171, that substantially
29.2 interferes with the rights, health, or safety of other clients.

29.3 (d) Nothing in this subdivision affects the rights and remedies available to facilities and
29.4 clients under Minnesota Statutes, chapter 504B.

29.5 **Subd. 4. Restrictions on terminations and nonrenewals of services and service**
29.6 **plans.** (a) An arranged home care provider may not terminate or fail to renew a service plan
29.7 of a client in a facility except as provided in this subdivision.

29.8 (b) Upon 30 days' prior written notice, an arranged home care provider may initiate a
29.9 termination of services for nonpayment if the client does not cure the violation within a
29.10 reasonable amount of time after the facility provides written notice to the client of the ability
29.11 to cure. An interruption to a client's public benefits that lasts for no more than 60 days does
29.12 not constitute nonpayment.

29.13 (c) Upon 15 days' prior written notice, an arranged home care provider may terminate
29.14 or fail to renew a service plan only if:

29.15 (1) the client has engaged in conduct that substantially interferes with the client's health
29.16 or safety;

29.17 (2) the client's assessed needs exceed the scope of services agreed upon in the service
29.18 plan and are not otherwise offered by the arranged home care provider; or

29.19 (3) extraordinary circumstances exist, causing the arranged home care provider to be
29.20 unable to provide the client with the services agreed to in the service plan that are necessary
29.21 to meet the client's needs.

29.22 (d) A violation of paragraph (b) that would make it necessary for the client to move out
29.23 of the facility in which the arranged home care provider is providing the services, constitutes
29.24 a constructive eviction. A client alleging that an arranged home care provider is terminating
29.25 services in violation of paragraph (b) may seek a temporary injunction against the termination
29.26 under Minnesota Statutes, section 504B.381. The court may grant a temporary injunction
29.27 upon a showing by the client that: (1) there is a genuine issue of material fact as to whether
29.28 the arranged home care provider is terminating services in violation of paragraph (b); and
29.29 (2) the termination would cause irreparable harm to the client. Upon a grant of a temporary
29.30 injunction, the termination shall be automatically stayed while the underlying dispute is
29.31 adjudicated in a court of competent jurisdiction. If a client prevails in an action brought
29.32 under this paragraph, the client is entitled to reasonable attorney fees and court costs. During
29.33 the period of time between the issuance of a temporary injunction and final adjudication of

30.1 the underlying dispute, the client is responsible for contracting for those additional services
30.2 the client needs from the arranged home care provider or another home care provider, and
30.3 for ensuring that the costs for those additional services are covered.

30.4 Subd. 5. **Restriction on lease nonrenewals.** If a facility decides to not renew a client's
30.5 lease, the facility must:

30.6 (1) provide the client with 60 calendar days' notice of the nonrenewal;

30.7 (2) ensure a coordinated move as provided under subdivision 7;

30.8 (3) consult and cooperate with the client; the client representative; the case manager of
30.9 a client who receives home and community-based waiver services under Minnesota Statutes,
30.10 section 256B.49, and Minnesota Statutes, chapter 256S; relevant health professionals; and
30.11 any other person of the client's choosing, to make arrangements to move the client; and

30.12 (4) prepare a written plan to prepare for the move.

30.13 Subd. 6. **Right to return.** If a client is absent from a facility for any reason, the facility
30.14 shall not refuse to allow a client to return if a lease termination has not been effectuated.

30.15 Subd. 7. **Coordinated moves.** (a) A facility or arranged home care provider, as applicable,
30.16 must arrange a coordinated move for a client according to this subdivision if:

30.17 (1) a facility terminates a lease or closes the facility;

30.18 (2) an arranged home care provider terminates or does not renew a service plan; or

30.19 (3) an arranged home care provider reduces or eliminates services to the extent that the
30.20 client needs to move.

30.21 (b) If an event listed in paragraph (a) occurs, the facility or arranged home care provider,
30.22 as applicable, must:

30.23 (1) ensure a coordinated move to a safe location that is appropriate for the client and
30.24 that is identified by the facility;

30.25 (2) ensure a coordinated move to an appropriate service provider identified by the facility,
30.26 provided services are still needed and desired by the client; and

30.27 (3) consult and cooperate with the client; the client representative; the case manager for
30.28 a client who receives home and community-based waiver services under Minnesota Statutes,
30.29 section 256B.49, and Minnesota Statutes, chapter 256S; relevant health professionals; and
30.30 any other person of the client's choosing, to make arrangements to move the client.

31.1 (c) A facility may satisfy the requirements in paragraph (b), clauses (1) and (2), by
31.2 moving the client to a different location within the same facility, if appropriate for the client.

31.3 (d) A client may decline to move to the location the facility identifies or to accept services
31.4 from a service provider the facility identifies, and may choose instead to move to a location
31.5 of the client's choosing or receive services from a service provider of the client's choosing.

31.6 (e) Sixty days before the facility or arranged home care provider reduces or eliminates
31.7 one or more services for a particular client, the facility must provide written notice of the
31.8 reduction or elimination. If the facility, arranged home care provider, client, or client
31.9 representative determines that the reduction or elimination of services will force the client
31.10 to move to a new location, the facility must ensure a coordinated move in accordance with
31.11 this subdivision, and must provide notice to the Office of Ombudsman for Long-Term Care.

31.12 (f) The facility or arranged home care provider, as applicable, must prepare a relocation
31.13 plan to prepare for the move to the new location or service provider.

31.14 (g) With the client's knowledge and consent, if the client is relocated to another facility
31.15 or to a nursing home, or if care is transferred to another service provider, the facility must
31.16 timely convey to the new facility, nursing home, or service provider:

31.17 (1) the client's full name, date of birth, and insurance information;

31.18 (2) the name, telephone number, and address of the client representative, if any;

31.19 (3) the client's current, documented diagnoses that are relevant to the services being
31.20 provided;

31.21 (4) the client's known allergies that are relevant to the services being provided;

31.22 (5) the name and telephone number of the client's physician, if known, and the current
31.23 physician orders that are relevant to the services being provided;

31.24 (6) all medication administration records that are relevant to the services being provided;

31.25 (7) the most recent client assessment, if relevant to the services being provided; and

31.26 (8) copies of health care directives, "do not resuscitate" orders, and any guardianship
31.27 orders or powers of attorney.

31.28 Subd. 8. **No waiver.** No facility or arranged home care provider may request or require
31.29 that a client waive the client's rights or requirements under this section at any time or for
31.30 any reason, including as a condition of admission to the facility.

32.1 **EFFECTIVE DATE.** This section is effective for contracts entered into on or after
32.2 August 1, 2021, and expires July 31, 2022.

32.3 Sec. 33. **APPROPRIATION; BOARD OF EXECUTIVES FOR LONG TERM**
32.4 **SERVICES AND SUPPORTS.**

32.5 \$467,000 in fiscal year 2021 is appropriated from the state government special revenue
32.6 fund to the Board of Executives for Long Term Services and Supports for operations. The
32.7 base for this appropriation is \$722,000 in fiscal year 2022 and \$742,000 in fiscal year 2023.