SENATE
STATE OF MINNESOTA
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S.F. No. 8

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01/10/2019	46	Introduction and first reading Referred to Family Care and Aging
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A bill for an act

relating to health; establishing an assisted living license and license requirements; establishing fees and fines; modifying the health care bill of rights and the home care bill of rights; modifying home care licensing provisions; modifying the powers and duties of the director of the Office of Health Facility Complaints; modifying consumer protection for vulnerable adults; modifying the Vulnerable Adults Act; establishing task forces; requiring reports; authorizing rulemaking; appropriating money; amending Minnesota Statutes 2018, sections 144.051, subdivisions 4, 5, 6; 144.057, subdivision 1; 144.122; 144.1503; 144A.04, subdivision 5; 144A.10, subdivision 1; 144A.20, subdivision 1; 144A.24; 144A.26; 144A.43, subdivision 6; 144A.44, subdivision 1; 144A.441; 144A.442; 144A.45, subdivisions 1, 2; 144A.471, subdivisions 7, 9; 144A.472, subdivision 7; 144A.474, subdivisions 8, 9, 11; 144A.475, subdivisions 3b, 5; 144A.476, subdivision 1; 144A.4791, subdivision 10; 144A.4799; 144A.53, subdivision 1, by adding subdivisions; 256I.03, subdivision 15; 256I.04, subdivision 2a; 611A.033; 626.557, subdivisions 4, 9c, 12b; 626.5572, subdivisions 6, 21; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 144G; 630; repealing Minnesota Statutes 2018, sections 144A.472, subdivision 4; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06; 325F.72; Minnesota Rules, part 6400.6970.

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

ARTICLE 1

ASSISTED LIVING LICENSURE

Section 1. **[144G.10] DEFINITIONS.**

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

Subd. 2. **Activities of daily living.** "Activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (b).

Subd. 3. **Adult.** "Adult" means a natural person who has attained the age of 18 years.

Subd. 4. **Agent.** "Agent" means the person upon whom all notices and orders shall be served and who is authorized to accept service of notices and orders on behalf of the facility.

Subd. 5. **Alzheimer's disease.** "Alzheimer's disease" means a type of dementia that gradually destroys an individual's memory and ability to learn, reason, make judgments, communicate, and carry out daily activities.

Subd. 6. **Applicant.** "Applicant" means an individual, legal entity, controlling individual, or other organization that has applied for licensure under this chapter.

Subd. 7. **Assisted living administrator.** "Assisted living administrator" means a person who administers, manages, supervises, or is in general administrative charge of a basic care facility or assisted living facility, whether or not the individual has an ownership interest in the facility, and whether or not the person's functions or duties are shared with one or more individuals and who is licensed by the Board of Executives for Long Term Services and Supports pursuant to section 144A.26.

Subd. 8. **Assisted living facility.** "Assisted living facility" means a licensed facility that: (1) provides sleeping accommodations to one or more adults; and (2) provides assisted living services. For purposes of this chapter, assisted living facility does not include:

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

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

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

(iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments that provide dementia care services;

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

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

(vii) private homes where the residents own or rent the home and control all aspects of the property and building;

(viii) a duly organized condominium, cooperative, and common interest community, or owners' association of the condominium, cooperative, and common interest community

where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;

(ix) temporary family health care dwellings as defined in sections 394.307 and 462.3593;

(x) settings offering services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means or by prayer for healing;

(xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless;

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

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

(xiv) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011; or

(xv) a basic care facility licensed under this chapter.

Subd. 9. **Assisted living facility and base care facility contract.** "Assisted living facility and basic care facility contract" means the legal agreement between an assisted living facility or a basic care facility, whichever is applicable, and a resident for the provision of housing and services.

Subd. 10. **Assisted living resident or resident.** "Assisted living resident" or "resident" means a person who resides in a licensed assisted living that is subject to the requirements of this chapter.

Subd. 11. **Assisted living services.** "Assisted living services" means basic care services and comprehensive assisted living services.

Subd. 12. **Basic care facility.** "Basic care facility" means a licensed facility that: (1) provides sleeping accommodations to one or more adults; and (2) may only provide basic care services. For purposes of this chapter, basic care facility does not include:

(i) emergency shelter, transitional housing, or any other residential units serving exclusively or primarily homeless individuals, as that term is defined in section 116L.361;

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

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

(iv) a lodging establishment licensed under chapter 157, except lodging establishments that provide dementia care services;

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

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

(vii) private homes where the residents own or rent the home and control all aspects of the property and building;

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

(ix) temporary family health care dwelling as defined in sections 394.307 and 462.3593;

(x) settings offering services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means or by prayer for healing;

(xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with low-income housing tax credits pursuant to United States Code, title 26, section 42, and units financed by the Minnesota Housing Finance Agency that are intended to serve individuals with disabilities or individuals who are homeless;

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

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

(xiv) rental housing funded under United States Code, title 42, chapter 89, or United States Code, title 42, section 8011; or

(xv) an assisted living facility licensed under this chapter.

Subd. 13. **Basic care services.** "Basic care services" means assistive tasks provided by licensed or unlicensed personnel that include:

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

(2) providing standby assistance;

(3) providing verbal or visual reminders to the resident to take regularly scheduled medication, which includes bringing the client previously set-up medication, medication in original containers, or liquid or food to accompany the medication;

(4) providing verbal or visual reminders to the client to perform regularly scheduled treatments and exercises;

(5) preparing modified diets ordered by a licensed health professional;

(6) having, maintaining, and documenting a system to visually check on each resident a minimum of once daily or more than once daily depending on the person-centered care plan; and

(7) supportive services in addition to the provision of at least one of the activities in clauses (1) to (5).

Subd. 14. **Change of ownership.** "Change of ownership" means a change in the individual or legal entity that is responsible for the operation of a facility.

Subd. 15. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 16. **Compliance officer.** "Compliance officer" means a designated individual who is qualified by knowledge, training, and experience in health care or risk management to promote, implement, and oversee the facility's compliance program. The compliance officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance processes; and address fraud, abuse, and waste under this chapter and state and federal law.

Subd. 17. **Comprehensive assisted living services.** "Comprehensive assisted living services" include any of the basic care services and one or more of the following:

(1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;

(2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) treatment and therapies;

(6) assisting residents with eating when the clients have complicated eating problems as identified in the resident record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or

(7) providing other complex or specialty health care services.

Subd. 18. **Control.** "Control" means the possession, directly or indirectly, of the power to direct the management, operation, and policies of the licensee or facility, whether through ownership, voting control, by agreement, by contract, or otherwise.

Subd. 19. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 20. **Controlling individual.** (a) "Controlling individual" means an owner of a facility licensed under this chapter and the following individuals, if applicable:

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

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (b); and

(4) each managerial official whose responsibilities include the direction of the management or policies of the facility.

(b) Controlling individual also means any owner who directly or indirectly owns five percent or more interest in:

(1) the land on which the facility is located, including a real estate investment trust (REIT);

(2) the structure in which a facility is located;

(3) any mortgage, contract for deed, or other obligation secured in whole or part by the land or structure comprising the facility; or

(4) any lease or sublease of the land, structure, or facilities comprising the facility.

(c) Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

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

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

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

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

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

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

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

Subd. 21. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 22. **Dementia.** "Dementia" means the loss of intellectual function of sufficient severity that interferes with an individual's daily functioning. Dementia affects an individual's

memory and ability to think, reason, speak, and move. Symptoms may also include changes in personality, mood, and behavior. Irreversible dementias include but are not limited to:

(1) Alzheimer's disease;

(2) vascular dementia;

(3) Lewy body dementia;

(4) frontal-temporal lobe dementia;

(5) alcohol dementia;

(6) Huntington's disease; and

(7) Creutzfeldt-Jakob disease.

Subd. 23. **Dementia care unit.** "Dementia care unit" means a special care unit in a designated, separate area for individuals with Alzheimer's disease or other dementia that is locked, segregated, or secured to prevent or limit access by a resident outside the designated or separated area.

Subd. 24. **Dementia-trained staff.** "Dementia-trained staff" means any employee that has completed the minimum training requirements and has demonstrated knowledge and understanding in supporting individuals with dementia.

Subd. 25. **Designated representative.** "Designated representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

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

(2) a conservator acting in accordance with the powers granted to the conservator under chapter 524;

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

(4) a power of attorney acting in accordance with the powers granted to the attorney-in-fact under chapter 523; or

(5) the resident representative.

Subd. 26. **Dietary supplement.** "Dietary supplement" means a product taken by mouth that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may

include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissue, glandulars, or metabolites.

Subd. 27. **Direct contact.** "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to residents of a facility.

Subd. 28. **Direct ownership interest.** "Direct ownership interest" means an individual or organization with the possession of at least five percent equity in capital, stock, or profits of an organization, or who is a member of a limited liability company. An individual with a five percent or more direct ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 29. **Facility.** "Facility" means an assisted living facility and a basic care facility.

Subd. 30. **Hands-on assistance.** "Hands-on assistance" means physical help by another person without which the resident is not able to perform the activity.

Subd. 31. **Indirect ownership interest.** "Indirect ownership interest" means an individual or organization with a direct ownership interest in an entity that has a direct or indirect ownership interest in a facility of at least five percent or more. An individual with a five percent or more indirect ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 32. **Licensed health professional.** "Licensed health professional" means a person licensed in Minnesota to practice the professions described in section 214.01, subdivision 2.

Subd. 33. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the resident occupancy level requested by a licensee and approved by the commissioner.

Subd. 34. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner issues an assisted living license and who is responsible for the management, control, and operation of a facility. A facility must be managed, controlled, and operated in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Subd. 35. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or any persistent course of conduct intended to produce mental or emotional distress.

Subd. 36. **Management agreement.** "Management agreement" means a written, executed agreement between a licensee and manager regarding the provision of certain services on behalf of the licensee.

Subd. 37. **Managerial official.** "Managerial official" means an individual who has the decision-making authority related to the operation of the facility and the responsibility for the ongoing management or direction of the policies, services, or employees of the facility.

Subd. 38. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 39. **Medication administration.** "Medication administration" means performing a set of tasks that includes the following:

(1) checking the client's medication record;

(2) preparing the medication as necessary;

(3) administering the medication to the client;

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

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

Subd. 40. **Medication management.** "Medication management" means the provision of any of the following medication-related services to a resident:

(1) performing medication setup;

(2) administering medications;

(3) storing and securing medications;

(4) documenting medication activities;

(5) verifying and monitoring the effectiveness of systems to ensure safe handling and administration;

(6) coordinating refills;

(7) handling and implementing changes to prescriptions;

(8) communicating with the pharmacy about the client's medications; and

(9) coordinating and communicating with the prescriber.

Subd. 41. **Medication reconciliation.** "Medication reconciliation" means the process of identifying the most accurate list of all medications the resident is taking, including the name, dosage, frequency, and route by comparing the resident record to an external list of medications obtained from the resident, hospital, prescriber or other provider.

Subd. 42. **Medication setup.** "Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the resident or by facility staff.

Subd. 43. **New construction.** "New construction" means a new building, renovation, modification, reconstruction, physical changes altering the use of occupancy, or an addition to a building.

Subd. 44. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to 148.285.

Subd. 45. **Occupational therapist.** "Occupational therapist" means a person who is licensed under sections 148.6401 to 148.6449.

Subd. 46. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

Subd. 47. **Owner.** "Owner" means an individual or organization that has a direct or indirect ownership interest of five percent or more in a facility. For purposes of this chapter, "owner of a nonprofit corporation" means the president and treasurer of the board of directors or, for an entity owned by an employee stock ownership plan, means the president and treasurer of the entity. A government entity that is issued a license under this chapter shall be designated the owner. An individual with a five percent or more direct or indirect ownership is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided.

Subd. 48. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the symbol "Rx only."

Subd. 49. **Person-centered planning and service delivery.** "Person-centered planning and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph (b).

Subd. 50. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision 3.

Subd. 51. **Physical therapist.** "Physical therapist" means a person who is licensed under sections 148.65 to 148.78.

Subd. 52. **Physician.** "Physician" means a person who is licensed under chapter 147.

Subd. 53. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235; 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

Subd. 54. **Prescription.** "Prescription" has the meaning given in section 151.01, subdivision 16a.

Subd. 55. **Provisional license.** "Provisional license" means the initial license the department issues after approval of a complete written application and before the department completes the provisional license and determines that the provisional licensee is in substantial compliance.

Subd. 56. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be completed at predetermined times or according to a predetermined routine.

Subd. 57. **Reminder.** "Reminder" means providing a verbal or visual reminder to a resident.

Subd. 58. **Resident.** "Resident" means a person living in an assisted living facility or a basic care facility.

Subd. 59. **Resident record.** "Resident record" means all records that document information about the services provided to the resident.

Subd. 60. **Resident representative.** "Resident representative" means a person designated in writing by the resident and identified in the resident's records on file with the facility.

Subd. 61. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed under chapter 147C.

Subd. 62. **Revenues.** "Revenues" means all money received by a licensee derived from the provision of home care services, including fees for services and appropriations of public money for home care services.

Subd. 63. **Service agreement.** "Service agreement" means the written agreement between the resident or the resident's representative and the provisional licensee or licensee about the services that will be provided to the resident.

Subd. 64. **Standby assistance.** "Standby assistance" means the presence of another person within arm's reach to minimize the risk of injury while performing daily activities through physical intervention or cueing to assist a resident with an assistive task by providing cues, oversight, and minimal physical assistance.

Subd. 65. **Social worker.** "Social worker" means a person who is licensed under chapter 148D or 148E.

Subd. 66. **Speech-language pathologist.** "Speech-language pathologist" has the meaning given in section 148.512.

Subd. 67. **Substantial compliance.** "Substantial compliance" means the commissioner has found no Level 4 violations, nor any pattern of or widespread Level 3 violations as described under section 144G.35, subdivisions 1 and 2.

Subd. 68. **Supportive services.** "Supportive services" means services that may be offered or provided in a basic care facility or an assisted living facility and means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, housekeeping, central dining, recreation, or transportation. Arranging for services does not include making referrals, or contacting a service provider in an emergency.

Subd. 69. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter.

Subd. 70. **Surveyor.** "Surveyor" means a staff person of the department who is authorized to conduct surveys of basic care facilities and assisted living facilities and applicants.

Subd. 71. **Termination of housing or services.** "Termination of housing or services" means a discharge, eviction, transfer, or service termination initiated by the facility. A facility-initiated termination is one which the resident objects to and did not originate through a resident's verbal or written request. A resident-initiated termination is one where a resident or, if appropriate, a designated representative provided a verbal or written notice of intent to leave the facility. A resident-initiated termination does not include the general expression of a desire to return home or the elopement of residents with cognitive impairment.

Subd. 72. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care, other than medications, ordered or prescribed by a licensed health professional and provided to a resident to cure, rehabilitate, or ease symptoms.

Subd. 73. **Unit of government.** "Unit of government" means a city, county, town, school district, other political subdivision of the state, or an agency of the state or federal government, that includes any instrumentality of a unit of government.

Subd. 74. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise licensed or certified by a governmental health board or agency who provide services to a resident.

Subd. 75. **Verbal.** "Verbal" means oral and not in writing.

Sec. 2. **[144G.11] LICENSURE REQUIRED.**

Subdivision 1. **License required.** Beginning August 1, 2021, an entity may not operate a basic care facility or an assisted living facility in Minnesota unless it is licensed under this chapter.

Subd. 2. **Licensure levels.** (a) The levels in this subdivision are established for a basic care facility and an assisted living facility licensure.

(b) Tier One is a basic care facility that provides basic care services. A Tier One facility shall not provide comprehensive assisted living services.

(c) Tier Two is an assisted living facility that provides basic care services and comprehensive assisted living services.

(d) Tier Three is an assisted living facility that provides basic and comprehensive assisted living services, and provides services in a secure dementia care unit or wing.

Subd. 3. **Violations; penalty.** (a) Operating a facility without a valid license is a misdemeanor punishable by a fine imposed by the commissioner.

(b) A controlling individual of the facility in violation of this section is guilty of a misdemeanor. The provisions of this subdivision shall not apply to any controlling individual who had no legal authority to affect or change decisions related to the operation of the facility.

(c) The sanctions in this section do not restrict other available sanctions in law.

Sec. 3. **[144G.12] REGULATORY AUTHORITY OF COMMISSIONER.**

Subdivision 1. **Regulations.** The commissioner shall regulate facilities pursuant to this chapter. The regulations shall include the following:

(1) provisions to assure, to the extent possible, the health, safety, well-being, and appropriate treatment of residents while respecting individual autonomy and choice;

(2) requirements that facilities furnish the commissioner with specified information necessary to implement this chapter;

(3) standards of training of facility personnel;

(4) standards for provision of services;

(5) standards for medication management;

(6) standards for supervision of services;

(7) standards for resident evaluation or assessment;

(8) standards for treatments and therapies;

(9) requirements for the involvement of a resident's health care provider, the documentation of the health care provider's orders, if required, and the resident's service agreement;

(10) the maintenance of accurate, current resident records;

(11) the establishment of levels of licenses based on services provided; and

(12) provisions to enforce these regulations and the basic care and assisted living bill of rights.

Subd. 2. **Regulatory functions.** (a) The commissioner shall:

(1) license, survey, and monitor without advance notice facilities in accordance with this chapter;

(2) survey every provisional licensee within one year of the provisional license issuance date subject to the provisional licensee providing licensed services to residents;

(3) survey facility licensees annually;

(4) investigate complaints of facilities;

(5) issue correction orders and assess civil penalties;

(6) take action as authorized in sections 144G.21 to 144G.33; and

(7) take other action reasonably required to accomplish the purposes of this chapter.

(b) After July 1, 2021, the commissioner shall review blueprints for all new facility construction and must approve the plans before construction may be commenced.

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

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

(b) On July 1, 2019, the commissioner shall begin rulemaking using the process in section 14.389, subdivision 5.

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

(1) building design, physical plant standards, environmental health and safety minimum standards from the most recent version of the Facility Guide Institute's Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, including appendices;

(2) staffing minimums and ratios for each level of licensure to best protect the health and safety of residents no matter their vulnerability;

(3) require provider notices and disclosures to residents and their families;

(4) training prerequisites and ongoing training for administrators and caregiving staff;

(5) minimum requirements for move-in assessments and ongoing assessments and practice standards in sections 144A.43 to 144A.47;

(6) requirements for licensees to ensure minimum nutrition and dietary standards required by section 144G.38, subdivision 1, clause (1), item (i), are provided;

(7) requirements for supportive services provided by assisted living licensees;

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

(9) content requirements for all license or provisional license applications;

(10) requirements that support facilities to comply with home and community-based requirements in Code of Federal Regulations, title 42, section 441.301(c);

(11) core dementia care requirements and training in all levels of licensure;

(12) requirements for Tier Three assisted living facilities in terms of training, care standards, noticing changes of condition, assessments, and health care;

(13) preadmission criteria, initial assessments, and continuing assessments;

(14) emergency disaster and preparedness plans;

(15) capitalization requirements for facilities;

(16) uniform checklist disclosure of services;

(17) uniform consumer information guide elements and other data collected; and

(18) uniform assessment tool.

(d) The commissioner shall publish the proposed rules by December 31, 2019.

Sec. 4. **[144G.13] APPLICATION FOR LICENSURE.**

Subdivision 1. **License application; required information.** Each application for a facility license, including a provisional license, must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the business name and legal entity name of the operating entity; street address and mailing address of the facility; and the names, e-mail addresses, telephone numbers, and mailing addresses of all owners, controlling individuals, managerial officials, and the assisted living administrator;

(2) the name and e-mail address of the managing agent, if applicable;

(3) the licensed bed capacity and the license tier;

(4) the license fee in the amount specified in subdivision 3;

(5) any judgments, private or public litigation, tax liens, written complaints, administrative actions, or investigations by any government agency against the applicant, owner, controlling individual, managerial official, or assisted living administrator that are unresolved or otherwise filed or commenced within the preceding ten years;

(6) documentation of compliance with the background study requirements of section 144A.476 for the owner, controlling individuals, and managerial officials. Each application for a new license must include documentation for the applicant and for each individual with five percent or more direct or indirect ownership in the applicant;

(7) documentation of a background study as required by section 144.057 for any individual seeking employment, paid or volunteer, with the assisted living establishment;

(8) evidence of workers' compensation coverage as required by sections 176.181 and 176.182;

(9) disclosure that the provider has no liability coverage or, if the provider has coverage, documentation of coverage;

(10) a copy of the executed lease agreement if applicable;

(11) a copy of the management agreement if applicable;

(12) a copy of the operations transfer agreement or similar agreement if applicable;

(13) a copy of the executed agreement if the facility has contracted services with another organization or individual for services such as managerial, billing, consultative, or medical personnel staffing;

(14) a copy of the organizational chart that identifies all organizations and individuals with any ownership interests in the facility;

(15) whether any applicant, owner, controlling individual, managerial official, or assisted living administrator of the facility has ever been convicted of a crime or found civilly liable for an offense involving moral turpitude, including forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or violation, or any violation of section 626.557 or any other similar law in any other state, or any violation of a federal or state law or regulation in connection with activities involving any consumer fraud, false advertising, deceptive trade practices, or similar consumer protection law;

(16) whether the applicant or any person employed by the applicant has a record of defaulting in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings;

(17) documentation that the applicant has designated one or more owners, controlling individuals, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or controlling person under this chapter;

(18) the signature of the owner or owners, or an authorized agent of the owner or owners of the facility applicant. An application submitted on behalf of a business entity must be signed by at least two owners or controlling individuals;

(19) identification of all states where the applicant, or individual having a five percent or more ownership, currently or previously has been licensed as owner or operator of a long-term care, community-based, or health care facility or agency where its license or federal certification has been denied, suspended, restricted, conditioned, or revoked under a private or state-controlled receivership, or where these same actions are pending under the laws of any state or federal authority; and

(20) any other information required by the commissioner.

Subd. 2. **Designated agent and personal service.** (a) An application for a facility or for renewal of a facility must specify one or more owners, controlling individuals, or employees as agents:

(1) who shall be responsible for dealing with the commissioner on all requirements of this chapter; and

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

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

Subd. 3. **Application fees.** (a) An initial applicant or applicant filing a change of ownership for a basic care or assisted living facility licensure must submit the following application fee to the commissioner, along with a completed application:

(1) Tier One, $.....;

(2) Tier Two, $.....; and

(3) Tier Three, $.....

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

Subd. 4. **Fines.** (a) The penalty for late submission of the renewal application after expiration of the license is $200. The penalty for practicing after expiration of the license and before a renewal license is issued is $250 per each day after expiration of the license until the renewal license issuance date. The facility is still subject to the criminal gross misdemeanor penalties for operating after license expiration.

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

Sec. 5. **[144G.14] BACKGROUND STUDIES.**

Subdivision 1. **Background studies required.** Before the commissioner issues a provisional license, issues a license as a result of an approved change of ownership, or renews a license, a controlling individual or managerial official is required to complete a background study under section 144.057. For the purposes of this section, managerial

officials subject to the background check requirement are individuals who provide direct contact as defined in section 245C.02, subdivision 11. No person may be involved in the management, operation, or control of a facility if the person has been disqualified under chapter 245C.

Subd. 2. **Reconsideration.** (a) If an individual is disqualified under section 144.057 or chapter 245C, the individual may request reconsideration of the disqualification. If the individual requests reconsideration and the commissioner sets aside or rescinds the disqualification, the individual is eligible to be involved in the management, operation, or control of the facility. If an individual has a disqualification under section 245C.15, subdivision 1, and the disqualification is affirmed, the individual's disqualification is barred from a set aside, and the individual must not be involved in the management, operation, or control of the facility.

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

Subd. 3. **Data classification.** Data collected under this section shall be classified as private data on individuals under section 13.02, subdivision 12.

Sec. 6. **[144G.15] INELIGIBLE APPLICANTS.**

Subdivision 1. **Owners and managerial officials; refusal to grant license.** (a) The owner and managerial officials of a facility whose Minnesota license has not been renewed or that has been revoked because of noncompliance with applicable laws or rules shall not be eligible to apply for nor will be granted a basic care facility license or an assisted living facility license, or be given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659, for five years following the effective date of the nonrenewal or revocation. If the owner and/or managerial officials already have enrollment status, the enrollment will be terminated by the Department of Human Services.

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

(c) Notwithstanding section 144G.21, subdivision 1, the commissioner shall not renew, or shall suspend or revoke, the license of a facility that includes any individual as an owner or managerial official who was an owner or managerial official of a facility whose Minnesota license was not renewed or was revoked as described in paragraph (a) for five years following the effective date of the nonrenewal or revocation.

(d) The commissioner shall notify the facility 30 days in advance of the date of nonrenewal, suspension, or revocation of the license.

Subd. 2. **Requesting a stay.** Within ten days after the receipt of the notification, the facility may request, in writing, that the commissioner stay the nonrenewal, revocation, or suspension of the license. The facility shall specify the reasons for requesting the stay; the steps that will be taken to attain or maintain compliance with the licensure laws and regulations; any limits on the authority or responsibility of the owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation, or suspension; and any other information to establish that the continuing affiliation with these individuals will not jeopardize resident health, safety, or well-being.

Subd. 3. **Granting a stay.** The commissioner shall determine whether the stay will be granted within 30 days of receiving the facility's request. The commissioner may propose additional restrictions or limitations on the facility's license and require that granting the stay be contingent upon compliance with those provisions. The commissioner shall take into consideration the following factors when determining whether the stay should be granted:

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

(2) the compliance history of the facility; and

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

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

Subd. 4. **Controlling individual restrictions.** The controlling individual of a facility may not include any person who was a controlling individual of any other nursing home, basic care facility, or assisted living facility during any period of time in the previous two-year period:

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

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

(ii) four or more uncorrected violations or two or more repeated violations of any nature, including Level 2, Level 3, and Level 4 violations as defined in section 144G.35, subdivision 1; or

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

Subd. 5. **Exception.** The provisions of subdivision 4 do not apply to any controlling individual of the facility who had no legal authority to affect or change decisions related to the operation of the nursing home or other basic care facility or assisted living facility that incurred the uncorrected violations.

Subd. 6. **Stay of adverse action required by controlling individual restrictions.** (a) In lieu of revoking, suspending, or refusing to renew the license of a facility where a controlling individual was disqualified by subdivision 4, clause (1), the commissioner may issue an order staying the revocation, suspension, or nonrenewal of the facility's license. The order may but need not be contingent upon the facility's compliance with restrictions and conditions imposed on the license to ensure the proper operation of the facility and to protect the health, safety, comfort, treatment, and well-being of the residents in the facility. The decision to issue an order for a stay must be made within 90 days of the commissioner's determination that a controlling individual of the facility is disqualified by subdivision 4, clause (1), from operating a facility.

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

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

(2) the conditions in the nursing home, basic care facility, or assisted living facility that received the number and type of uncorrected or repeated violations described in subdivision 4, clause (1); and

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

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

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

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

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

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

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

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

Sec. 7. **[144G.16] CONSIDERATION OF APPLICATIONS.**

(a) The commissioner shall consider an applicant's performance history, in Minnesota and in other states, including repeat violations or rule violations, before issuing a provisional license, license, or renewal license.

(b) An applicant must not have a history within the last five years in Minnesota or in any other state of a license or certification involuntarily suspended or voluntarily terminated during any enforcement process in a facility that provides care to children, the elderly or ill individuals, or individuals with disabilities.

(c) Failure to provide accurate information or demonstrate required performance history may result in the denial of a license.

(d) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license or impose conditions if:

(1) the applicant fails to provide complete and accurate information on the application and the commissioner concludes that the missing or corrected information is needed to determine if a license shall be granted;

(2) the applicant, knowingly or with reason to know, made a false statement of a material fact in an application for the license or any data attached to the application, or in any matter under investigation by the department;

(3) the applicant refused to allow representatives or agents of the department to inspect its books, records, and files, or any portion of the premises;

(4) willfully prevented, interfered with, or attempted to impede in any way: (i) the work of any authorized representative of the department, the ombudsman for long-term care or the ombudsman for mental health and developmental disabilities; or (ii) the duties of the commissioner, local law enforcement, city or county attorneys, adult protection, county case managers, or other local government personnel;

(5) the applicant has a history of noncompliance with federal or state regulations that was detrimental to the health, welfare, or safety of a resident or a client; and

(6) the applicant violates any requirement in this chapter.

(e) For all new licensees after a change in ownership, the commissioner shall complete a survey within six months after the new license is issued.

Sec. 8. **[144G.17] PROVISIONAL LICENSE.**

Subdivision 1. **Provisional license.** (a) Beginning July 1, 2021, for new applicants, the commissioner shall issue a provisional license to each of the licensure levels specified in section 144G.11, subdivision 2, which is effective for up to one year from the license effective date, except that a provisional license may be extended according to subdivision 2, paragraph (c).

(b) Basic care facilities and assisted living facilities are subject to evaluation and approval by the commissioner of the facility's physical environment and its operational aspects before a change in ownership or capacity, or an addition of services which necessitates a change in the facility's physical environment.

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

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

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

(d) If the provisional licensee is in substantial compliance with the survey, the commissioner shall issue a facility license.

Subd. 3. **Terminated or extended provisional licenses.** If the provisional licensee is not in substantial compliance with the survey, the commissioner shall either: (1) not issue the facility license and terminate the provisional license; or (2) extend the provisional license for a period not to exceed 90 days and apply conditions to the extension of the provisional license. If the provisional licensee is not in substantial compliance with the survey within the time period of the extension or if the provisional licensee does not satisfy the license conditions, the commissioner may deny the license.

Subd. 4. **Reconsideration.** (a) If a provisional licensee whose facility license has been denied or extended with conditions disagrees with the conclusions of the commissioner, then the provisional licensee may request a reconsideration by the commissioner or commissioner's designee. The reconsideration request process must be conducted internally by the commissioner or designee, and chapter 14 does not apply.

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

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

Subd. 5. **Continued operation.** A provisional licensee whose license is denied is permitted to continue operating during the period of time when:

(1) a reconsideration is in process;

(2) an extension of the provisional license and terms associated with it is in active negotiation between the commissioner and the licensee and the commissioner confirms the negotiation is active; or

(3) a transfer of residents to a new facility is underway and not all the residents have relocated.

Subd. 6. **Requirements for notice and transfer of residents.** A provisional licensee whose license is denied must comply with the requirements for notification and transfer of residents in sections 144G.47 and 144G.48.

Subd. 7. **Fines.** The fee for failure to comply with the notification requirements in section 144G.47, subdivision 5, is $1,000.

Sec. 9. **[144G.18] LICENSE RENEWAL.**

Except as provided in section ....., a license that is not a provisional license may be renewed for a period of up to one year if the licensee satisfies the following:

(1) submits an application for renewal in the format provided by the commissioner at least 60 days before expiration of the license;

(2) submits the renewal fee under section 144.122;

(3) submits the late fee as provided in section 144G.13, subdivision 4, if the renewal application is received less than 30 days before the expiration date of the license;

(4) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under section 144G.13, subdivision 1; and

(5) provides any other information deemed necessary by the commissioner.

Sec. 10. **[144G.19] NOTIFICATION OF CHANGES OF INFORMATION.**

The provisional licensee or licensee shall notify the commissioner in writing prior to any financial or contractual change and within 60 calendar days after any change in the information required in section 144G.13, subdivision 1.

Sec. 11. **[144G.20] TRANSFER OF LICENSE PROHIBITED.**

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

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

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

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

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

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

(i) a different person; or

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

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

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

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

ARTICLE 2
SURVEYS AND ENFORCEMENT

Section 1. **[144G.21] GROUNDS FOR ENFORCEMENT.**

(a) The commissioner may refuse to grant a provisional license, refuse to grant a license as a result of a change in ownership, renew a license, suspend or revoke a license, or impose a conditional license if the owner, controlling individual, or employee of a basic care facility, assisted living facility, or assisted living facility with dementia care:

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

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

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

(4) obtains the license by fraud or misrepresentation;

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

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

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

(8) interferes with or impedes a representative of the department in the enforcement of this chapter or has failed to fully cooperate with an inspection, survey, or investigation by the department;

(9) destroys or makes unavailable any records or other evidence relating to the assisted living facility's compliance with this chapter;

(10) refuses to initiate a background study under section 144.057 or 245A.04;

(11) fails to timely pay any fines assessed by the commissioner;

(12) violates any local, city, or township ordinance relating to housing or services;

(13) has repeated incidents of personnel performing services beyond their competency level; or

(14) has operated beyond the scope of the facility's license category.

(b) A violation by a contractor providing the services of the facility is a violation by facility.

Sec. 2. **[144G.22] SUSPENDED OR CONDITIONAL LICENSE.**

Subdivision 1. **Terms to suspension or conditional license.** A suspension or conditional license designation may include terms that must be completed or met before a suspension or conditional license designation is lifted. A conditional license designation may include restrictions or conditions that are imposed on the facility. Terms for a suspension or conditional license may include one or more of the following and the scope of each will be determined by the commissioner:

(1) requiring a consultant to review, evaluate, and make recommended changes to the facility's practices and submit reports to the commissioner at the cost of the facility;

(2) requiring supervision of the facility or staff practices at the cost of the facility by an unrelated person who has sufficient knowledge and qualifications to oversee the practices and who will submit reports to the commissioner;

(3) requiring the facility or employees to obtain training at the cost of the facility;

(4) requiring the facility to submit reports to the commissioner;

(5) prohibiting the facility from admitting any new residents for a specified period of time; or

(6) any other action reasonably required to accomplish the purpose of section 144G.21.

Subd. 2. **Continued operation.** A facility subject to this section may continue operating during the period of time residents are being transferred to another service provider.

Sec. 3. **[144G.23] IMMEDIATE TEMPORARY SUSPENSION.**

Subdivision 1. **Immediate temporary suspension for Level 4 violations.** (a) In addition to any other remedies provided by law, the commissioner may, without a prior contested case hearing, immediately temporarily suspend a license or prohibit delivery of housing or

services by a facility for not more than 90 days or issue a conditional license, if the commissioner determines that there are:

(1) Level 4 violations; or

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

(b) For purposes of this subdivision, "Level 4" has the meaning given in section 144G.35, subdivision 1.

Subd. 2. **Notice to facility required.** A notice stating the reasons for the immediate temporary suspension or conditional license and informing the licensee of the right to an expedited hearing under section 144G.28, subdivision 3, must be delivered by personal service to the address shown on the application or the last known address of the licensee.

Subd. 3. **Right to appeal.** The licensee may appeal an order immediately temporarily suspending a license or issuing a conditional license. The appeal must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the licensee receives notice. If an appeal is made by personal service, it must be received by the commissioner within five calendar days after the licensee received the order.

Subd. 4. **Requirements for notice and transfer of residents.** A licensee whose license is immediately temporarily suspended must comply with the requirements for notification and transfer of residents in section 144G.33. The requirements in section 144G.33 remain if an appeal is requested.

Subd. 5. **Immediately temporarily suspended license for uncorrected Level 3 violations.** (a) In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 days, or issue a conditional license if the commissioner determines that there are Level 3 violations that do not pose an imminent risk of harm to the health or safety of the facility residents, provided:

(1) advance notice is given to the facility;

(2) after notice, the facility fails to correct the problem;

(3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and

(4) there is an opportunity for a contested case hearing within 30 days unless there is an extension granted by an administrative law judge.

(b) If the commissioner determines there are Level 4 violations or violations that pose an imminent risk of harm to the health or safety of the facility residents, the commissioner may immediately temporarily suspend a license, prohibit delivery of services by a facility, or issue a conditional license without meeting the requirements of paragraph (a), clauses (1) to (4).

For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in section 144G.35, subdivision 1.

Sec. 4. **[144G.24] MANDATORY REVOCATION.**

Notwithstanding the provisions of section 144G.27, the commissioner must revoke a license if a controlling individual of the facility is convicted of a felony or gross misdemeanor that relates to operation of the facility or directly affects resident safety or care. The commissioner shall notify the facility and the Office of Ombudsman for Long-Term Care 30 days in advance of the date of revocation.

Sec. 5. **[144G.25] MANDATORY PROCEEDINGS.**

(a) The commissioner must initiate proceedings within 60 days of notification to suspend or revoke a facility's license or must refuse to renew a facility's license if within the preceding two years the facility has incurred the following number of uncorrected or repeated violations:

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

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

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

Sec. 6. **[144G.26] NOTICE TO RESIDENTS.**

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

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

(1) a correction order; and

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

(c) Notwithstanding sections 144G.31 and 144G.32, any correction order issued under this section must require that the facility immediately comply with the request for information and that, as of the date of the issuance of the correction order, the facility shall forfeit to the state a $500 fine the first day of noncompliance and an increase in the $500 fine by $100 increments for each day the noncompliance continues.

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

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

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

Sec. 7. **[144G.27] NOTICE TO FACILITY.**

Prior to any suspension, revocation, or refusal to renew a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. The hearing must commence within 60 days after the proceedings are initiated.

Sec. 8. **[144G.28] HEARINGS.**

Subdivision 1. **Requesting a hearing.** A request for hearing must be in writing and must:

(1) be mailed or delivered to the commissioner or the commissioner's designee;

(2) contain a brief and plain statement describing every matter or issue contested; and

(3) contain a brief and plain statement of any new matter that the applicant or assisted living facility believes constitutes a defense or mitigating factor.

Subd. 2. **Hearings.** Within 15 business days of receipt of the licensee's timely appeal of a sanction under this section, other than for a temporary suspension, the commissioner shall request assignment of an administrative law judge. The commissioner's request must include a proposed date, time, and place of hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 90 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause or for purposes of discussing settlement. In no case shall one or more extensions be granted for a total of more than 90 calendar days unless there is a criminal action pending against the licensee. If, while a licensee continues to operate pending an appeal of an order for revocation, suspension, or refusal to renew a license, the commissioner identifies one or more new violations of law that meet the requirements of Level 3 or Level 4 violations as defined in section 144G.35, subdivision 1, the commissioner shall act immediately to temporarily suspend the license.

Subd. 3. **Expedited hearings.** (a) Within five business days of receipt of the licensee's timely appeal of a temporary suspension or issuance of a conditional license, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten business days before the hearing. Certified mail to the last known address is sufficient. The scope of the hearing shall be limited solely to the issue of whether the temporary suspension or issuance of a conditional license should remain in effect and whether there is sufficient evidence to conclude that the licensee's actions or failure to comply with applicable laws are Level 3 or Level 4 violations as defined in section 144G.35, subdivision 1, or that there were violations that posed an imminent risk of harm to the resident's health and safety.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,

the commissioner shall issue a final order affirming the temporary immediate suspension or conditional license within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The licensee is prohibited from operation during the temporary suspension period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under sections 144G.21 and 144G.22 and the licensee appeals that sanction, the licensee is prohibited from operation pending a final commissioner's order after the contested case hearing conducted under chapter 14.

(d) A licensee whose license is temporarily suspended must comply with the requirements for notification and transfer of residents under section 144G.33. These requirements remain if an appeal is requested.

Subd. 4. **Time limits for appeals.** To appeal the assessment of civil penalties under section 144G.13, subdivision 4, and an action against a license under sections 144G.21 to 144G.33, a licensee must request a hearing no later than 15 days after the licensee receives notice of the action.

Sec. 9. **[144G.29] INFORMAL CONFERENCE.**

At any time, the applicant or facility and the commissioner may hold an informal conference to exchange information, clarify issues, or resolve issues.

Sec. 10. **[144G.30] RELICENSURE.**

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

Sec. 11. **[144G.31] INJUNCTIVE RELIEF.**

In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a facility or an employee of the facility from illegally engaging in activities regulated by sections under this chapter. The commissioner may bring an action under this section in the district court in Ramsey County or in the district in which the facility is located. The court may grant a temporary restraining order in the proceeding if continued activity by the person

who is involved in the management, operation, or control of a facility, or by an employee of the facility, would create an imminent risk of harm to a resident.

Sec. 12. **[144G.32] SUBPOENA.**

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

Sec. 13. **[144G.33] PLAN FOR TRANSFER OF RESIDENTS REQUIRED.**

(a) The process of suspending, revoking, or refusing to renew a license must include a plan for transferring affected residents' cares to other providers by the facility that will be monitored by the commissioner. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension, the licensee shall provide the commissioner, the lead agencies as defined in section 256B.0911, county adult protection and case managers, and the ombudsman for long-term care with the following information:

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

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

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

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

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

(b) The revocation, refusal to renew, or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The licensee shall cooperate with the commissioner and the lead agencies, county adult protection and county managers, and the ombudsman for long-term care during the process of transferring care of residents to qualified providers. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension action, the facility must notify and disclose to each of the residents, or the resident's representative or emergency contact persons, that the commissioner is taking action against the facility's license by providing a copy of the revocation or suspension notice issued by the commissioner. If the facility does not comply with the disclosure requirements in this section, the commissioner, lead agencies, county adult protection and county managers, and ombudsman for long-term care shall notify the residents, designated representatives, or emergency contact persons about the actions being taken. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

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

Sec. 14. **[144G.34] SURVEYS AND INVESTIGATIONS.**

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

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

Subd. 2. **Surveys.** The commissioner shall conduct surveys of each basic care facility and assisted living facility. The commissioner shall conduct a survey of each facility on a frequency of at least once every three years. Survey frequency may be based on the license level, the provider's compliance history, the number of clients served, or other factors as determined by the department deemed necessary to ensure the health, safety, and welfare

of residents and compliance with the law. Each assisted living facility subject to a follow-up survey required under subdivision 7 must be surveyed annually by the commissioner for three years following a required follow-up survey.

Subd. 3. **Scheduling surveys.** Surveys and investigations shall be conducted without advance notice to the facilities. Surveyors may contact the facility on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

Subd. 4. **Information provided by facility; providing resident records.** (a) The facility shall provide accurate and truthful information to the department during a survey, investigation, or other licensing activities.

(b) Upon request of a surveyor, facilities shall provide a list of current and past residents or designated representatives that includes addresses and telephone numbers and any other information requested about the services to residents within a reasonable period of time.

Subd. 5. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a facility, a managerial official, or an employee of the provider is not in compliance with this chapter. The correction order shall cite the specific statute and document areas of noncompliance and the time allowed for correction.

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

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

Subd. 6. **Follow-up surveys.** The commissioner may conduct follow-up surveys to determine if the facility has corrected deficient issues and systems identified during a survey or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax, mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be concluded with an exit conference and written information provided on the process for requesting a reconsideration of the survey results.

Subd. 7. **Required follow-up surveys.** For facilities that have Level 3 or Level 4 violations under section 144G.35, subdivision 1, the department shall conduct a follow-up survey within 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall focus on whether the previous violations have been corrected and may also address any new violations that are observed while evaluating the corrections that have been made.

Subd. 8. **Notice of noncompliance.** If the commissioner finds that the applicant or a facility has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner shall provide a notice of noncompliance with a correction order by e-mailing the notice of noncompliance to the facility. The noncompliance notice must list the violations not corrected.

Sec. 15. **[144G.35] VIOLATIONS AND FINES.**

Subdivision 1. **Levels of violations.** Correction orders for violations are categorized by level as follows:

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

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

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

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

Subd. 2. **Scope of violations.** Levels of violations are categorized by scope as follows:

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

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

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

Subd. 3. **Fines.** Fines and enforcement actions under this section may be assessed based on the level and scope of the violations described in subdivisions 1 and 2 as follows, and for Level 3 and Level 4 violations shall be imposed immediately with no opportunity to correct the violation prior to imposition:

(1) Level 1, no fines or enforcement;

(2) Level 2, fines ranging from $0 to $500, in addition to any of the enforcement mechanisms authorized in sections 144G.21 to 144G.33 for widespread violations;

(3) Level 3, a fine of $3,000 per violation per incident plus $100 for each resident affected by the violation, in addition to any of the enforcement mechanisms authorized in sections 144G.21 to 144G.33;

(4) Level 4, a fine of $5,000 per incident plus $200 for each resident, in addition to any of the enforcement mechanisms authorized in sections 144G.21 to 144G.33; and

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

Subd. 4. **Payment of fines.** (a) For every violation except Level 1 and Level 2 violations, the commissioner shall issue an immediate fine. The licensee must still correct the violation in the time specified. The issuance of an immediate fine may occur in addition to any enforcement mechanism authorized under sections 144G.21 to 144G.33. The immediate fine may be appealed as allowed under section 144G.36.

(b) For Level 1 and Level 2 violations, the commissioner shall provide the licensee an opportunity to correct the violations by a date specified in the correction order. If the commissioner finds that the licensee has not corrected the violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigations, the commissioner may issue a fine. The commissioner shall issue a notice of noncompliance with a correction order, which must list the violations not corrected, by e-mailing notice of noncompliance to the facility.

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

(d) A licensee shall promptly notify the commissioner in writing when a violation specified in the order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order, the commissioner may issue an additional fine. The commissioner shall notify the licensee by mail to the last known address in the licensing record that a second fine has been assessed. The licensee may appeal the second fine as provided under section 144G.36.

(e) A facility that has been assessed a fine under this section has a right to a reconsideration or hearing under section 144G.36 and chapter 14.

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

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

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

Sec. 16. **[144G.36] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

Subdivision 1. **Reconsideration process required.** The commissioner shall make available to facilities a correction order reconsideration process. This process may be used to challenge the correction order issued, including the level and scope described in section 144G.35, subdivisions 1 and 2, and any fine assessed.

Subd. 2. **No reconsideration for provisional licensees.** This section does not apply to provisional licensees.

Subd. 3. **Reconsideration process.** (b) A facility may request from the commissioner, in writing, a correction order reconsideration regarding any correction order issued to the facility. The written request for reconsideration must be received by the commissioner within 15 calendar days of the correction order receipt date. The correction order reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that participated in writing or reviewing the correction order being disputed. The correction

order reconsiderations may be conducted in person, by telephone, by another electronic form, or in writing, as determined by the commissioner. The commissioner shall respond in writing to the request from a facility for a correction order reconsideration within 60 days of the date the facility requests a reconsideration. The commissioner's response shall identify the commissioner's decision regarding each citation challenged by the facility.

Subd. 4. **Reconsideration findings.** The findings of a correction order reconsideration process shall be one or more of the following:

(1) supported in full: the correction order is supported in full, with no deletion of findings to the citation;

(2) supported in substance: the correction order is supported, but one or more findings are deleted or modified without any change in the citation;

(3) correction order cited an incorrect licensing requirement: the correction order is amended by changing the correction order to the appropriate statute and/or rule;

(4) correction order was issued under an incorrect citation: the correction order is amended to be issued under the more appropriate correction order citation;

(5) the correction order is rescinded;

(6) fine is amended: it is determined that the fine assigned to the correction order was applied incorrectly; or

(7) the level or scope of the citation is modified based on the reconsideration.

Subd. 5. **Updating the correction order website.** (a) During the correction order reconsideration request, the issuance of the correction orders under reconsideration are not stayed, but the department shall post information on the website with the correction order that the licensee has requested a reconsideration and that the review is pending.

(b) If the correction order findings are changed by the commissioner, the commissioner shall update the correction order website.

Sec. 17. **[144G.37] INNOVATION VARIANCES.**

Subdivision 1. **Definition.** For purposes of this section, "innovation variance" means a specified alternative to a requirement of this chapter. An innovation variance may be granted to allow a facility to offer services of a type or in a manner that is innovative, will not impair the services provided, will not adversely affect the health, safety, or welfare of the residents, and is likely to improve the services provided. The innovative variance cannot change any of the resident's rights under sections 144G.70 to 144G.79.

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

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

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

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

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

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

(4) the reasons for the request; and

(5) justification that an innovation variance will not impair the services provided, will not adversely affect the health, safety, or welfare of residents, and is likely to improve the services provided.

The commissioner may require additional information from the facility before acting on the request.

Subd. 5. **Grants and denials.** The commissioner shall grant or deny each request for an innovation variance in writing within 45 days of receipt of a complete request. Notice of a denial shall contain the reasons for the denial. The terms of a requested innovation variance may be modified upon agreement between the commissioner and the facility.

Subd. 6. **Violation of innovation variances.** A failure to comply with the terms of an innovation variance shall be deemed to be a violation of this chapter.

Subd. 7. **Revocation or denial of renewal.** The commissioner shall revoke or deny renewal of an innovation variance if:

(1) it is determined that the innovation variance is adversely affecting the health, safety, or welfare of the residents;

(2) the facility has failed to comply with the terms of the innovation variance;

(3) the facility notifies the commissioner in writing that it wishes to relinquish the innovation variance and be subject to the statute previously varied; or

(4) the revocation or denial is required by a change in law.

ARTICLE 3
FACILITY RESPONSIBILITIES

Section 1. **[144G.38] MINIMUM FACILITY REQUIREMENTS.**

Subdivision 1. **Minimum requirements.** All licensed facilities shall:

(1) distribute to residents, families, and resident representatives the basic care and assisted living bill of rights in section 144G.76;

(2) provide health-related services in a manner that complies with applicable home care licensure requirements in chapter 144A and the Nurse Practice Act in sections 148.171 to 148.285;

(3) utilize person-centered planning and service delivery process as defined in section 245D.07;

(4) have and maintain a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by applicable home care licensure requirements in chapter 144A and the Nurse Practice Act in sections 148.171 to 148.285;

(5) provide a means for residents to request assistance for health and safety needs 24 hours per day, seven days per week;

(6) allow residents the ability to furnish and decorate the resident's unit within the terms of the lease;

(7) permit residents access to food at any time;

(8) allow residents to choose the resident's visitors and times of visits;

(9) allow the resident the right to choose a roommate if sharing a unit;

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

(11) have a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of residents for assistance with health or safety needs, who shall be:

(i) awake;

(ii) located in the same building, in an attached building, or on a contiguous campus with the facility in order to respond within a reasonable amount of time;

(iii) capable of communicating with residents;

(iv) capable of providing or summoning the appropriate assistance; and

(v) capable of following directions;

(12) offer to provide or make available at least the following services to residents:

(i) at least three daily nutritious meals with snacks available seven days per week, according to the recommended dietary allowances in the United States Department of Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The following apply:

(A) modified special diets that are appropriate to residents' needs and choices;

(B) menus prepared at least one week in advance, and made available to all residents. The facility must encourage residents' involvement in menu planning. Meal substitutions must be of similar nutritional value if a resident refuses a food that is served. Residents must be informed in advance of menu changes;

(C) food must be prepared and served according to the Minnesota Food Code, Minnesota Rules, chapter 4626; and

(D) the facility cannot require a resident to include and pay for meals in their residency contract;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the resident, provide direct or reasonable assistance with arranging for transportation to medical and social services appointments, shopping, and other recreation, and provide the name of or other identifying information about the person or persons responsible for providing this assistance;

(v) upon the request of the resident, provide reasonable assistance with accessing community resources and social services available in the community, and provide the name of or other identifying information about the person or persons responsible for providing this assistance; and

(vi) have a daily program of social and recreational activities that are based upon individual and group interests, physical, mental, and psychosocial needs, and that creates opportunities for active participation in the community at large.

Subd. 2. **Clinical nurse supervision.** All assisted living facilities must have a clinical nurse supervisor who is a registered nurse licensed in Minnesota.

Subd. 3. **Infection control program required.** The facility shall establish and maintain an infection control program.

Sec. 2. **[144G.39] HOUSING AND SERVICES.**

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

Subd. 2. **Uniform checklist disclosure of services.** (a) On and after July 1, 2020, a facility must provide to prospective residents, the prospective resident's designated representative, and any other person or persons the resident chooses:

(1) a written checklist listing all services permitted under the facility's license and identifying all services the facility offers to provide under the assisted living facility and basic care facility contract; and

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

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

(c) The commissioner must, in consultation with all interested stakeholders, design the uniform checklist disclosure form for use as provided under paragraph (a).

Subd. 3. **Uniform consumer information guide.** The facility must make available to all prospective and current residents a copy of the uniform consumer information guide.

Subd. 4. **Reservation of rights.** Nothing in this chapter:

(1) requires a resident to utilize any service provided by or through, or made available in, a facility;

(2) prevents a facility from requiring, as a condition of the contract, that the resident pay for a package of services even if the resident does not choose to use all or some of the services in the package;

(3) requires a facility to fundamentally alter the nature of the operations of the facility in order to accommodate a resident's request; or

(4) affects the duty of a facility to grant a resident's request for reasonable accommodations.

Sec. 3. **[144G.40] BUSINESS OPERATION.**

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

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

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

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

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

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

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

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

Subd. 5. **Employee records.** (a) The facility must maintain current records of each paid employee, regularly scheduled volunteers providing services, and each individual contractor providing services. The records must include the following information:

(1) evidence of current professional licensure, registration, or certification if licensure, registration, or certification is required by this statute or other rules;

(2) records of orientation, required annual training and infection control training, and competency evaluations;

(3) current job description, including qualifications, responsibilities, and identification of staff persons providing supervision;

(4) documentation of annual performance reviews that identify areas of improvement needed and training needs;

(5) for individuals providing facility services, verification that required health screenings under section 144A.4798 have taken place and the dates of those screenings; and

(6) documentation of the background study as required under section 144.057.

(b) Each employee record must be retained for at least three years after a paid employee, volunteer, or contractor ceases to be employed by or under contract with the facility. If a facility ceases operation, employee records must be maintained for three years.

Subd. 6. **Resident records.** (a) The facility must maintain records for each resident for whom it is providing services. Entries in the resident records must be current, legible, permanently recorded, dated, and authenticated with the name and title of the person making the entry.

(b) Resident records, whether written or electronic, must be protected against loss, tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable relevant federal and state laws. The facility shall establish and implement written procedures to control use, storage, and security of resident's records and establish criteria for release of resident information.

(c) The facility may not disclose to any other person any personal, financial, medical, or other information about the resident, except:

(1) as may be required by law;

(2) to employees or contractors of the facility, another facility, other health care practitioner or provider, or inpatient facility needing information in order to provide services to the resident, but only the information that is necessary for the provision of services;

(3) to persons authorized in writing by the resident or the resident's representative to receive the information, including third-party payers; and

(4) to representatives of the commissioner authorized to survey or investigate facilities under this chapter or federal laws.

Subd. 7. **Access to resident records.** The facility must ensure that the appropriate records are readily available to employees and contractors authorized to access the records. Resident records must be maintained in a manner that allows for timely access, printing, or transmission of the records. The records must be made readily available to the commissioner upon request.

Subd. 8. **Contents of resident records.** Contents of a resident record include the following for each resident:

(1) identifying information, including the resident's name, date of birth, address, and telephone number;

(2) the name, address, and telephone number of an emergency contact, family members, designated representative, if any, or others as identified;

(3) names, addresses, and telephone numbers of the resident's health and medical service providers, if known;

(4) health information, including medical history, allergies, and when the provider is managing medications, treatments or therapies that require documentation, and other relevant health records;

(5) the resident's advance directives, if any;

(6) the facility's current and previous assessments and service agreements;

(7) all records of communications pertinent to the resident's services;

(8) documentation of significant changes in the resident's status and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care professional;

(9) documentation of incidents involving the resident and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care professional;

(10) documentation that services have been provided as identified in the service agreement;

(11) documentation that the resident has received and reviewed the basic care and assisted living bill of rights;

(12) documentation of complaints received and any resolution;

(13) a discharge summary, including service termination notice and related documentation, when applicable; and

(14) other documentation required under this chapter and relevant to the resident's services or status.

Subd. 9. **Transfer of resident records.** If a resident transfers to another facility or another health care practitioner or provider, or is admitted to an inpatient facility, the facility, upon request of the resident or the resident's representative, shall take steps to ensure a coordinated transfer including sending a copy or summary of the resident's record to the new facility or the resident, as appropriate.

Subd. 10. **Record record retention.** Following the resident's discharge or termination of services, a facility must retain a resident's record for at least five years or as otherwise required by state or federal regulations. Arrangements must be made for secure storage and retrieval of resident records if the facility ceases business.

Subd. 11. **Notice to residents of changes.** A facility must provide prompt written notice to the resident or designated representative of any change of legal name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the licensee of the facility;

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

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

Subd. 12. **Compliance officer.** Every assisted living facility shall have a compliance officer who is a licensed assisted living administrator under chapter 144A.

Sec. 4. **[144G.41] MANAGEMENT AGREEMENTS.**

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

(b) The proposed or current licensee must notify the commissioner of its use of a manager upon:

(1) initial application for a license;

(2) retention of a manager following initial application;

(3) change of managers; and

(4) modification of an existing management agreement.

(c) The proposed or current licensee must provide to the commissioner a written management agreement, including an organizational chart showing the relationship between the proposed or current licensee, management company, and all related organizations.

(d) The written management agreement must be submitted:

(1) 60 days before:

(i) the initial licensure date;

(ii) the proposed change of ownership date; or

(iii) the effective date of the management agreement; or

(2) 30 days before the effective date of any amendment to an existing management agreement.

(e) The proposed licensee or the current licensee must notify the residents and their representatives 60 days before entering into a new management agreement.

(f) A proposed licensee must submit a management agreement attestation form, as required by the license application.

Subd. 2. **Management agreement; licensee.** (a) The licensee is responsible for:

(1) the daily operations and provisions of services in the facility;

(2) ensuring the facility is operated in a manner consistent with all applicable laws and rules;

(3) ensuring the manager acts in conformance with the management agreement; and

(4) ensuring the manager does not present as, or give the appearance that the manager is the licensee.

(b) The licensee must not give the manager responsibilities that are so extensive that the licensee is relieved of daily responsibility for the daily operations and provision of services in the assisted living facility. If the licensee does so, the commissioner must determine that a change of ownership has occurred.

(c) The licensee and manager must act in accordance with the terms of the management agreement. If the commissioner determines they are not, then the department may impose enforcement remedies.

(d) The licensee may enter into a management agreement only if the management agreement creates a principal/agent relationship between the licensee and manager.

(e) The manager shall not subcontract the manager's responsibilities to a third party.

Subd. 3. **Terms of agreement.** A management agreement at a minimum must:

(1) describe the responsibilities of the licensee and manager, including items, services, and activities to be provided;

(2) require the licensee's governing body, board of directors, or similar authority to appoint the administrator;

(3) provide for the maintenance and retention of all records in accordance with this chapter and other applicable laws;

(4) allow unlimited access by the commissioner to documentation and records according to applicable laws or regulations;

(5) require the manager to immediately send copies of inspections and notices of noncompliance to the licensee;

(6) state that the licensee is responsible for reviewing, acknowledging, and signing all facility initial and renewal license applications;

(7) state that the manager and licensee shall review the management agreement annually and notify the commissioner of any change according to applicable regulations;

(8) acknowledge that the licensee is the party responsible for complying with all laws and rules applicable to the facility;

(9) require the licensee to maintain ultimate responsibility over personnel issues relating to the operation of the facility and care of the residents including but not limited to staffing plans, hiring, and performance management of employees, orientation, and training;

(10) state the manager will not present as, or give the appearance that the manager is the licensee; and

(11) state that a duly authorized manager may execute resident leases or agreements on behalf of the licensee, but all such resident leases or agreements must be between the licensee and the resident.

Subd. 4. **Commissioner review.** The commissioner may review a management agreement at any time. Following the review, the department may require:

(1) the proposed or current licensee or manager to provide additional information or clarification;

(2) any changes necessary to:

(i) bring the management agreement into compliance with this chapter; and

(ii) ensure that the licensee has not been relieved of the responsibility for the daily operations of the facility; and

(3) the licensee to participate in monthly meetings and quarterly on-site visits to the facility.

Subd. 5. **Resident funds.** (a) If the management agreement delegates day-to-day management of resident funds to the manager, the licensee:

(1) retains all fiduciary and custodial responsibility for funds that have been deposited with the facility by the resident;

(2) is directly accountable to the resident for such funds; and

(3) must ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds and provides proof of bond or insurance.

(b) If responsibilities for the day-to-day management of the resident funds are delegated to the manager, the manager must:

(1) provide the licensee with a monthly accounting of the resident funds; and

(2) meet all legal requirements related to holding and accounting for resident funds.

Sec. 5. **[144G.42] RESIDENT COMPLAINT AND INVESTIGATIVE PROCESS.**

(a) The facility must have a written policy and system for receiving, investigating, reporting, and attempting to resolve complaints from its residents and designated representatives. The policy should clearly identify the process by which residents may file a complaint or concern about the services and an explicit statement that the facility will not discriminate or retaliate against a resident for expressing concerns or complaints. A facility must have a process in place to conduct investigations of complaints made by the resident and the designated representative about the services in the resident's plan that are or are not being provided or other items covered in the basic care and assisted living bill of rights. This complaint system must provide reasonable accommodations for any special needs of the resident, if requested.

(b) The facility must document the complaint, name of the resident, investigation, and resolution of each complaint filed. The facility must maintain a record of all activities regarding complaints received, including the date the complaint was received, and the facility's investigation and resolution of the complaint. This complaint record must be kept for each event for at least two years after the date of entry and must be available to the commissioner for review.

(c) The required complaint system must provide for written notice to each resident and designated representative that includes:

(1) the resident's right to complain to the facility about the services received;

(2) the name or title of the person or persons with the facility to contact with complaints;

(3) the method of submitting a complaint to the facility; and

(4) a statement that the provider is prohibited against retaliation according to paragraph (d).

(d) A facility must not take any action that negatively affects a resident in retaliation for a complaint made or a concern expressed by the resident and the designated representative.

Sec. 6. **[144G.43] MALTREATMENT.**

Subdivision 1. **Reporting maltreatment.** All facilities must comply with the requirements for the reporting of maltreatment of vulnerable adults in section 626.557. Each facility must establish and implement a written procedure to ensure that all cases of suspected maltreatment are reported.

Subd. 2. **Abuse prevention plans.** Each facility must develop and implement an individual abuse prevention plan for each vulnerable adult. The plan shall contain an individualized review or assessment of the person's susceptibility to abuse by another individual, including other vulnerable adults; the person's risk of abusing other vulnerable adults; and statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes of the abuse prevention plan, abuse includes self-abuse.

Subd. 3. **Posting information about reporting crimes and maltreatment.** A facility shall support protection and safety through access to the state's systems for reporting suspected criminal activity and suspected vulnerable adult maltreatment by:

(1) posting the 911 emergency number in common areas and near telephones provided by the assisted living facility;

(2) posting information and the reporting number for the common entry point under section 626.557 to report suspected maltreatment of a vulnerable adult; and

(3) providing reasonable accommodations with information and notices in plain language.

Sec. 7. **[144G.44] INFECTION CONTROL AND PREVENTION.**

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

Sec. 8. **[144G.45] DISASTER PLANNING AND EMERGENCY PREPAREDNESS.**

(a) Each facility must meet the following requirements:

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

(2) post an emergency disaster plan prominently;

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

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

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

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

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

ARTICLE 4
CONTRACTS, TERMINATIONS, AND RELOCATIONS

Section 1. **[144G.46] RESIDENCY CONTRACT REQUIREMENTS.**

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

Subd. 2. **Requirements of contract.** The contract must be signed by both the resident or the designated representative and the licensee or an agent of the facility, and contain all the terms concerning the provision of housing and services, whether provided directly by the facility or by management agreement.

Subd. 3. **Provision of blank contracts.** A facility must:

(1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term Care a complete unsigned copy of its contract; and

(2) give a complete copy of any signed contract and any addendums, and all supporting documents and attachments, to the resident or the designated representative promptly after a contract and any addendum has been signed by the resident or the designated representative.

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

Subd. 5. **Choice of designated representative.** Before or at the time of execution of the contract, the facility must offer the resident the opportunity to identify a designated or resident representative or both in writing in the contract. The contract must contain a page or space for the name and contact information of the designated or resident representative or both and a box the resident must initial if the resident declines to name a designated or resident representative. Notwithstanding subdivision 6, the resident has the right at any time to rescind the declination or add or change the name and contact information of the designated or resident representative.

Subd. 6. **Additions and amendments to contract .** The resident must agree in writing to any additions or amendments to the contract. Upon agreement between the resident or resident's designated representative and the facility, a new contract or an addendum to the existing contract must be executed and signed.

Subd. 7. **Contract contents; contact information.** (a) The contract must include in a conspicuous place and manner on the contract the legal name and the license number of the facility.

(b) The contract must include the name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the facility and service provider when applicable;

(2) the licensee of the facility;

(3) the managing agent of the facility, if applicable; and

(4) at least one natural person who is authorized to accept service of process on behalf of the facility.

Subd. 8. **Contract contents; terms and conditions.** The contract must include:

(1) a description of all the terms and conditions of the contract, including a description of and any limitations to the housing and/or services to be provided for the contracted amount;

(2) a delineation of the cost and nature of any other services to be provided for an additional fee;

(3) a delineation and description of any additional fees the resident may be required to pay if the resident's condition changes during the term of the contract;

(4) a delineation of the grounds under which the resident may be discharged, evicted, or transferred or have services terminated; and

(5) billing and payment procedures and requirements.

Subd. 9. **Contract contents; complaint resolution procedure.** The contract must include a description of the facility's complaint resolution process available to residents, including the name and contact information of the person representing the facility who is designated to handle and resolve complaints.

Subd. 10. **Contract contents; required disclosures and notices.** The contract must include a clear and conspicuous notice of:

(1) the right under section 144G.48 to challenge a discharge, eviction, or transfer or service termination;

(2) the facility's policy regarding transfer of residents within the facility, under what circumstances a transfer may occur, and whether or not consent of the resident being asked to transfer is required;

(3) the toll-free complaint line for the MAARC, the Office of Ombudsman for Long-Term Care, and the Office of Health Facility Complaints;

(4) the resident's right to obtain services from an unaffiliated service provider;

(5) the availability of public funds for eligible residents to pay for housing or services, or both; and

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

Subd. 11. **Additional contract requirements for assisted living facilities.** (a) Assisted living facility contracts must include the requirements in paragraph (b). A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by the facility's registered nurse in an initial assessment or reassessment, as defined under section 144G.63, and documented in the written service agreement under section 144G.64. Any restrictions of those rights for individuals served under sections 256B.0915 and 256B.49 must be documented in the resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

(b) The contract must include a statement:

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

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

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

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

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

Subd. 12. **Waivers of liability prohibited.** The contract must not include a waiver of facility liability for the health and safety or personal property of a resident. The contract must not include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law.

Subd. 13. **Contract in permanent file.** The contract and related documents executed by each resident or the designated representative must be maintained by the facility in files from the date of execution until three years after the contract is terminated or expires. The contracts and all associated documents will be available for on-site inspection by the commissioner at any time. The documents shall be available for viewing or copies shall be made available to the resident and the resident's representative at any time.

Sec. 2. **[144G.47] INVOLUNTARY DISCHARGES AND SERVICE TERMINATIONS.**

Subdivision 1. **Prerequisite to termination of housing or services.** Before terminating a resident's housing or services, an assisted living establishment must explain in detail the reasons for the termination and work with the resident and the resident's designated representative to avoid the termination by identifying and offering reasonable accommodations, interventions, or alternatives within the scope of services provided by the assisted living establishment.

Subd. 2. **Notice of contract termination required.** If the assisted living establishment and the resident or resident's designated representative cannot identify a mutually agreeable method of avoiding a termination of an assisted living contract, the assisted living establishment must issue to the resident or the resident's designated representative a notice of contract termination.

Subd. 3. **Required content of a notice of contract termination.** The notice required under subdivision 2 must contain, at a minimum:

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

(2) a detailed explanation of the basis for the termination, including, but not limited to, clinical or other supporting rationale;

(3) a detailed explanation of the conditions under which a new or amended assisted living contract may be executed between the assisted living establishment and the resident or the resident's designated representative;

(4) a list of known providers in the immediate geographic area;

(5) a statement that the resident has the right to appeal the termination of an assisted living contract that contained as a term of the contract the provision by the establishment of services, an explanation of how and to whom to appeal, and contact information for the Office of Administrative Hearings;

(6) a statement that the termination of an assisted living contract that does not contain as a term of the contract the provision by the establishment of services is governed exclusively by the terms of the lease contained in the assisted living contract and the resident has the rights and protections available under chapter 504B;

(7) information on how to contact the ombudsman for long-term care;

(8) an offer to meet with the individual within five days of receiving notice for assistance with transition planning;

(9) a statement that the assisted living establishment must participate in a coordinated transfer of care of the resident to another provider or caregiver, as required under section 144G.49; and

(10) the name and contact information of a person employed by the assisted living establishment with whom the resident may discuss the notice of termination.

Subd. 4. **Notice period for nonemergency assisted living contract terminations.** A licensed assisted living establishment may terminate an assisted living contract 30 calendar days after issuing the notice of contract termination required under subdivision 2, unless the conditions of subdivision 5 are met.

Subd. 5. **Notice period for emergency assisted living contract terminations.** A licensed assisted living establishment may terminate an assisted living contract ten calendar days after issuing the notice of contract termination if:

(1) the resident engages in conduct that alters the terms of the assisted living contract or creates an abusive or unsafe work environment for the employees of the assisted living establishment, or creates an abusive or unsafe environment for other residents;

(2) a significant change in the resident's condition has resulted in service needs that are beyond the scope of services the assisted living establishment has indicated in its assisted living contract that it will provide or that cannot be safely met without additional services provided by the establishment for which the resident is either unwilling or unable to pay, or without additional services being provided directly to the resident by another licensed provider that are either unavailable or for which the resident is unable or unwilling to pay; or

(3) the establishment has not received payment for services.

Sec. 3. **[144G.48] APPEAL OF TERMINATION OF HOUSING SERVICES.**

Subdivision 1. **Right to appeal.** Residents of assisted living establishments have the right to appeal the termination of an assisted living contract that contained as a term of the contract the provision of services by the assisted living establishment.

Subd. 2. **Permissible grounds for appeal.** Permissible grounds for an appeal of an assisted living contract that contained as a term of the contract the provision of services by the assisted living establishment are limited to the following:

(1) the assisted living establishment was motivated to terminate the contract as retaliation against the resident for exercising the resident's rights;

(2) a factual dispute between the assisted living establishment and the resident concerning the underlying reason for an emergency termination of the assisted living contract; or

(3) termination would result in great harm or potential great harm to the resident as determined by a totality of the circumstances. A contract termination cannot be overturned under this clause if the establishment has alleged and demonstrated nonpayment. If an administrative law judge finds sufficient evidence to overturn a contract termination under this clause, the resident will be given an additional 30 days' notice, after which the case will be reviewed to determine whether there is a sufficient alternative.

Subd. 3. **Appeals process.** (a) Any appeal of a termination of an assisted living contract under this section must be filed with the Office of Administrative Hearings within five business days of receipt of a notice of contract termination.

(b) An appeal hearing must occur within ten business days of filing of appeal.

(c) An administrative law judge must issue a decision within ten business days of the appeal hearing.

Subd. 4. **Service provision while appeal pending.** Pending the outcome of an appeal of the termination of an assisted living contract, if additional services are needed to meet the health or safety needs of the resident, the resident or designated resident representative is responsible for arranging and covering the costs for those additional services.

Sec. 4. **[144G.49] HOUSING AND SERVICE TERMINATION PLANNING.**

Subdivision 1. **Duties of facility.** If a facility terminates housing or services, the facility:

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

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

(3) must consult and cooperate with the resident, the resident's designated representatives, resident representatives, family members, any interested professionals, including case managers, and applicable agencies to make arrangements to relocate the resident, including consideration of the resident's goals.

Subd. 2. **Safe location.** A safe location is not a private home where the occupant is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility may not terminate a resident's housing or services if the resident will, as a result of the termination, become homeless, as that term is defined in section 116L.361, subdivision 5, or if an adequate and safe discharge location or adequate and needed service provider has not been identified.

Subd. 3. **Written relocation plan required.** The facility must prepare a written relocation plan. The plan must:

(1) contain all the necessary steps to be taken to reduce transfer trauma; and

(2) specify the measures needed until relocation that protect the resident and meet the resident's health and safety needs.

Subd. 4. **No relocation without receiving setting accepting.** A facility may not relocate the resident unless the place to which the resident will be relocated indicates acceptance of the resident.

Subd. 5. **No termination of services without another provider.** If a resident continues to need and desire the services provided by the facility, the facility may not terminate services unless another service provider has indicated that it will provide those services.

Subd. 6. **Information that must be conveyed.** If a resident is relocated to another facility or a nursing home provider, the facility must timely convey to that provider:

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

(2) the name, telephone number, and address of the resident's representatives and resident representatives, if any;

(3) the resident's current documented diagnoses that are relevant to the services being provided;

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

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

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

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

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

Sec. 5. **[144G.50] PLANNED CLOSURES.**

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

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

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

(2) the procedures and actions the facility will implement to ensure all residents receive appropriate termination planning in accordance with section 144G.49;

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

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

Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan shall be subject to the commissioner's approval and, subject to section 144G.51, the facility shall take no action to close the residence prior to the commissioner's approval of the plan. The commissioner shall approve or otherwise respond to the plan as soon as practicable.

(b) The commissioner of health may require the facility to work with a transitional team comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, and

other professionals the commissioner deems necessary to assist in the proper relocation of residents.

Subd. 4. **Termination planning and final accounting requirements.** Prior to termination, the facility must follow the termination planning requirements under section 144G.49 for residents. The facility must implement the plan approved by the commissioner and ensure that arrangements for relocation and continued care that meet each resident's social, emotional, and health needs are effectuated prior to closure.

Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan and at least 60 days before closing, except as provided under section 144G.51, the facility must notify residents, designated representatives, and resident representatives or, if a resident has no designated representative or resident representative, a family member, if known, of the closure, the proposed date of closure, the contact information of the ombudsman for long-term care, and that the facility will follow the termination planning requirements under section 144G.49.

Sec. 6. **[144G.51] EMERGENCY CLOSURES.**

(a) In the event the facility must close because the commissioner deems the facility can no longer remain open, the facility must meet all requirements in section 144G.50, except for any requirements the commissioner finds would endanger the health and safety of residents. In the event the commissioner determines a closure must occur with less than 60 days' notice, the facility shall provide notice to residents as soon as practicable or as directed by the commissioner.

(b) Upon request from the commissioner, a facility must provide the commissioner with any documentation related to the appropriateness of its relocation plan or to any assertion that the facility lacks the funds to comply with section 144G.50, or that remaining open would otherwise endanger the health and safety of residents pursuant to paragraph (a).

Sec. 7. **[144G.511] RIGHTS UNDER LANDLORD TENANT LAW.**

Nothing in sections 144G.46 to 144G.51 affects the rights and remedies available under chapter 504B, except to the extent those rights or remedies are inconsistent with these sections.

Sec. 8. **[144G.52] TRANSFER OF RESIDENTS WITHIN FACILITY.**

Subdivision 1. **Relocation.** (a) A facility must provide for the safe, orderly, and appropriate transfer of residents within the facility.

(b) If a basic care and assisted living contract permits resident transfers within the facility, the facility must provide at least 30 days' advance notice of the transfer to the resident and the resident's designated representative.

(c) In situations where there is a curtailment, reduction, capital improvement, or change in operations within a facility, the facility must minimize the number of transfers needed to complete the project or change in operations, consider individual resident needs and preferences, and provide reasonable accommodation for individual resident requests regarding the room transfer. The facility must provide notice to the Office of Ombudsman for Long-Term Care and, when appropriate, the Office of Ombudsman for Mental Health and Developmental Disabilities in advance of any notice to residents, residents' designated representatives, and families when all of the following circumstances apply:

(1) the transfers of residents within the facility are being proposed due to curtailment, reduction, capital improvements, or change in operations;

(2) the transfers of residents within the facility are not temporary moves to accommodate physical plan upgrades or renovation; and

(3) the transfers involve multiple residents being moved simultaneously.

Subd. 2. **Notice required before relocation within location.** (a) A facility must:

(1) notify a resident and the resident's representative, if any, at least 14 days prior to a proposed nonemergency relocation to a different room at the same location; and

(2) obtain consent from the resident and the resident's representative, if any.

(b) A resident must be allowed to stay in the resident's room. If a resident consents to a move, any needed reasonable modifications must be made to the new room to accommodate the resident's disabilities.

Subd. 3. **Evaluation.** A facility shall evaluate the resident's individual needs before deciding whether the room the resident will be moved to fits the resident's psychological, cognitive, and health care needs, including the accessibility of the bathroom.

Subd. 4. **Restriction on relocation.** A person who has been a private-pay resident for at least one year and resides in a private room, and whose payments subsequently will be made under the medical assistance program under chapter 256B, may not be relocated to a shared room without the consent of the resident or the resident's representative, if any.

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

ARTICLE 5
STAFFING REQUIREMENTS

Section 1. **[144G.53] STAFF REQUIREMENTS.**

Subdivision 1. **Background studies required.** (a) Employees, contractors, and volunteers of the facility are subject to the background study required by section 144.057, and may be disqualified under chapter 245C. Nothing in this subdivision shall be construed to prohibit the facility from requiring self-disclosure of criminal conviction information.

(b) Termination of an employee in good faith reliance on information or records obtained under this subdivision regarding a confirmed conviction does not subject the assisted living facility to civil liability or liability for unemployment benefits.

Subd. 2. **Qualifications, training, and competency.** All staff persons providing services must be trained and competent in the provision of services consistent with current practice standards appropriate to the resident's needs and be informed of the basic care and assisted living bill of rights under section 144G.76.

Subd. 3. **Licensed health professionals and nurses.** (a) Licensed health professionals and nurses providing services as employees of a licensed facility must possess a current Minnesota license or registration to practice.

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

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

Subd. 4. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

(1) successfully completed a training and competency evaluation appropriate to the services provided by the facility and the topics listed in section 144G.54, subdivision 2, paragraph (a); or

(2) demonstrated competency by satisfactorily completing a written or oral test on the tasks the unlicensed personnel will perform and on the topics listed in section 144G.54, subdivision 2, paragraph (a); and successfully demonstrated competency of topics in section 144G.54, subdivision 2, paragraph (a), clauses (5), (7), and (8), by a practical skills test.

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

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

(1) have successfully completed training and demonstrated competency by successfully completing a written or oral test of the topics in section 144G.54, subdivision 2, paragraphs (a) and (b), and a practical skills test on tasks listed in section 144G.54, subdivision 2, paragraphs (a) , clauses (5) and (7), and (b), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

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

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

(c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned by a licensed health professional must meet the requirements for delegated tasks in section 144G.55, subdivision 2, and any other training or competency requirements within the licensed health professional's scope of practice relating to delegation or assignment of tasks to unlicensed personnel.

Subd. 5. **Temporary staff.** When a facility contracts with a temporary staffing agency, those individuals must meet the same requirements required by this section for personnel employed by the facility and shall be treated as if they are staff of the facility.

Sec. 2. **[144G.54] COMPETENCY EVALUATIONS.**

Subdivision 1. **Requirements for instructors and competency evaluations.** Instructors and competency evaluators must meet the following requirements:

(1) training and competency evaluations of unlicensed personnel providing basic care services must be conducted by individuals with work experience and training in providing basic care services; and

(2) training and competency evaluations of unlicensed personnel providing comprehensive assisted living services must be conducted by a registered nurse, or another instructor may provide training in conjunction with the registered nurse.

Subd. 2. **Required elements of competency evaluations.** (a) Training and competency evaluations for all unlicensed personnel must include the following:

(1) documentation requirements for all services provided;

(2) reports of changes in the resident's condition to the supervisor designated by the facility;

(3) basic infection control, including blood-borne pathogens;

(4) maintenance of a clean and safe environment;

(5) appropriate and safe techniques in personal hygiene and grooming, including:

(i) hair care and bathing;

(ii) care of teeth, gums, and oral prosthetic devices;

(iii) care and use of hearing aids; and

(iv) dressing and assisting with toileting;

(6) training on the prevention of falls;

(7) standby assistance techniques and how to perform them;

(8) medication, exercise, and treatment reminders;

(9) basic nutrition, meal preparation, food safety, and assistance with eating;

(10) preparation of modified diets as ordered by a licensed health professional;

(11) communication skills that include preserving the dignity of the resident and showing respect for the resident and the resident's preferences, cultural background, and family;

(12) awareness of confidentiality and privacy;

(13) understanding appropriate boundaries between staff and residents and the resident's family;

(14) procedures to use in handling various emergency situations; and

(15) awareness of commonly used health technology equipment and assistive devices.

(b) In addition to paragraph (a), training and competency evaluation for unlicensed personnel providing comprehensive assisted living services must include:

(1) observing, reporting, and documenting resident status;

(2) basic knowledge of body functioning and changes in body functioning, injuries, or other observed changes that must be reported to appropriate personnel;

(3) reading and recording temperature, pulse, and respirations of the resident;

(4) recognizing physical, emotional, cognitive, and developmental needs of the resident;

(5) safe transfer techniques and ambulation;

(6) range of motioning and positioning; and

(7) administering medications or treatments as required.

Sec. 3. **[144G.55] DELEGATION AND SUPERVISION.**

Subdivision 1. **Availability of contact staff.** (a) A basic care facility must have a person available to staff for consultation on items relating to the provision of services or about the resident.

(b) Assisted living facilities must have a registered nurse available for consultation to staff performing delegated nursing tasks and must have an appropriate licensed health professional available if performing other delegated services such as therapies.

(c) The appropriate contact person must be readily available either in person, by telephone, or by other means to the staff at times when the staff is providing services.

Subd. 2. **Delegation.** (a) A registered nurse or licensed health professional may delegate tasks only to staff who are competent and possess the knowledge and skills consistent with the complexity of the tasks and according to the appropriate Minnesota practice act. The assisted living facility must establish and implement a system to communicate up-to-date information to the registered nurse or licensed health professional regarding the current available staff and their competency so the registered nurse or licensed health professional has sufficient information to determine the appropriateness of delegating tasks to meet individual resident needs and preferences.

(b) When the registered nurse or licensed health professional delegates tasks, that person must ensure that prior to the delegation the unlicensed personnel is trained in the proper methods to perform the tasks or procedures for each resident and are able to demonstrate the ability to competently follow the procedures and perform the tasks. If an unlicensed personnel has not regularly performed the delegated assisted living task for a period of 24 consecutive months, the unlicensed personnel must demonstrate competency in the task to the registered nurse or appropriate licensed health professional. The registered nurse or licensed health professional must document instructions for the delegated tasks in the resident's record.

Subd. 3. **Supervision of basic care staff.** (a) Staff who perform basic care services must be supervised periodically where the services are being provided to verify that the work is being performed competently and to identify problems and solutions to address issues relating to the staff's ability to provide the services. The supervision of the unlicensed personnel must be done by staff of the facility having the authority, skills, and ability to provide the supervision of unlicensed personnel and who can implement changes as needed, and train staff.

(b) Supervision includes direct observation of unlicensed personnel while the unlicensed personnel are providing the services and may also include indirect methods of gaining input such as gathering feedback from the resident. Supervisory review of staff must be provided at a frequency based on the staff person's competency and performance.

Subd. 4. **Supervision of delegated tasks and therapy.** (a) Staff who perform delegated nursing or therapy tasks must be supervised by an appropriate licensed health professional or a registered nurse per the assisted living facility's policy where the services are being provided to verify that the work is being performed competently and to identify problems and solutions related to the staff person's ability to perform the tasks. Supervision of staff performing medication or treatment administration shall be provided by a registered nurse or appropriate licensed health professional and must include observation of the staff administering the medication or treatment and the interaction with the resident.

(b) The direct supervision of staff performing delegated tasks must be provided within 30 days after the date on which the individual begins working for the facility and first performs the delegated tasks for residents and thereafter as needed based on performance. This requirement also applies to staff who have not performed delegated tasks for one year or longer.

Subd. 5. **Documentation of supervision.** A facility must retain documentation of supervision activities in the personnel records.

Sec. 4. **[144G.56] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

Subdivision 1. **Orientation of staff and supervisors.** All staff providing and supervising direct services must complete an orientation to facility licensing requirements and regulations before providing services to residents. The orientation may be incorporated into the training required under subdivision 6. The orientation need only be completed once for each staff person and is not transferable to another facility.

Subd. 2. **Content.** (a) The orientation must contain the following topics:

(1) an overview of this chapter;

(2) an introduction and review of the facility's policies and procedures related to the provision of assisted living services by the individual staff person;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of vulnerable adults under section 626.557;

(5) basic care and assisted living bill of rights under section 144G.76;

(6) protection-related rights under section 144G.77;

(7) handling of residents' complaints, reporting of complaints, and where to report complaints, including information on the Minnesota Adult Abuse Reporting Center and the Office of Health Facility Complaints;

(8) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Minnesota Adult Abuse Reporting Center (MAARC), Managed Care Ombudsman at the Department of Human Services, county-managed care advocates, or other relevant advocacy services; and

(9) a review of the types of assisted living services the employee will be providing and the facility's tier of licensure.

(b) In addition to the topics in paragraph (a), orientation may also contain training on providing services to residents with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and the challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Subd. 3. **Verification and documentation of orientation.** Each facility shall retain evidence in the employee record of each staff person having completed the orientation required by this section.

Subd. 4. **Orientation to resident.** Staff providing services must be oriented specifically to each individual resident and the services to be provided. This orientation may be provided in person, orally, in writing, or electronically.

Subd. 5. **Training required relating to Alzheimer's disease and related disorders.** All direct care staff and supervisors providing direct services must receive training that includes a current explanation of Alzheimer's disease and related disorders, effective approaches to use to problem solve when working with a resident's challenging behaviors, and how to communicate with residents who have Alzheimer's or related disorders.

Subd. 6. **Required annual training.** (a) All staff that perform direct services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the facility or another source and must include topics relevant to the provision of assisted living services. The annual training must include:

(1) training on reporting of maltreatment of vulnerable adults under section 626.557;

(2) review of the basic care and assisted living bill of rights in section 144G.76;

(3) review of infection control techniques used in the home and implementation of infection control standards including a review of hand washing techniques; the need for and use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting reusable equipment; disinfecting environmental surfaces; and reporting communicable diseases;

(4) effective approaches to use to problem solve when working with a resident's challenging behaviors, and how to communicate with residents who have Alzheimer's disease or related disorders;

(5) review of the facility's policies and procedures relating to the provision of assisted living services and how to implement those policies and procedures; and

(6) review of protection-related rights as stated in section 144G.77.

(b) In addition to the topics in paragraph (a), annual training may also contain training on providing services to residents with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) the health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Subd. 7. **Documentation.** A facility must retain documentation in the employee records of staff who have satisfied the orientation and training requirements of this section.

Subd. 8. **Implementation.** A facility must implement all orientation and training topics covered in this section.

Sec. 5. **[144G.57] TRAINING IN DEMENTIA CARE REQUIRED.**

Subdivision 1. **Assisted living facility dementia training requirements.** (a) Assisted living facilities must meet the following training requirements:

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

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

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

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

(b) Areas of required training include:

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

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The facility shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Subd. 2. **Basic care facility dementia training requirements.** (a) Basic care facilities must meet the following training requirements:

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

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

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

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

(b) Areas of required training include:

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

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The facility shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

ARTICLE 6
SERVICES

Section 1. **[144G.60] ACCEPTANCE OF RESIDENTS.**

A facility may not accept a person as a resident unless the facility has staff, sufficient in qualifications, competency, and numbers, to adequately provide the services agreed to in the service agreement and that are within the facility's scope of practice.

Sec. 2. **[144G.61] REFERRALS TO ANOTHER PROVIDER.**

If a facility reasonably believes that a resident is in need of another medical or health service, including a licensed health professional, or social service provider, the facility shall:

(1) determine the resident's preferences with respect to obtaining the service; and

(2) inform the resident of the resources available, if known, to assist the resident in obtaining services.

Sec. 3. **[144G.62] INITIATION OF SERVICES.**

When a facility initiates services and the individualized review or assessment required under section 144G.63 has not been completed, the facility must complete a temporary plan and agreement with the resident for services.

Sec. 4. **[144G.63] INITIAL REVIEWS; ASSESSMENTS; MONITORING.**

(a) A basic care facility shall complete an individualized initial review of the resident's needs and preferences. The initial review must be completed within 30 days of the start of services. Resident monitoring and review must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 days from the date of the last review.

(b) An assisted living facility shall conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a temporary

service agreement prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. If necessitated by either the geographic distance between the prospective resident and the facility, or urgent or unexpected circumstances, the assessment may be conducted using telecommunication methods based on practice standards that meet the resident's needs and reflect person-centered planning and care delivery. The nursing assessment must be completed within five days of the start of services.

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

(d) Residents who are not receiving any services shall not be required to undergo an initial review or nursing assessment.

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

Sec. 5. **[144G.64] SERVICE AGREEMENTS.**

(a) No later than 14 days after the date that services are first provided, a facility shall finalize a current written service agreement.

(b) The service agreement and any revisions must include a signature or other authentication by the facility and by the resident or the designated representative documenting agreement on the services to be provided. The service agreement must be revised, if needed, based on resident review or reassessment under section 144G.63. The facility must provide information to the resident about changes to the facility's fee for services and how to contact the Office of Ombudsman for Long-Term Care.

(c) The facility must implement and provide all services required by the current service agreement.

(d) The service agreement and the revised service agreement must be entered into the resident's record, including notice of a change in a resident's fees when applicable.

(e) Staff providing services must be informed of the current written service agreement.

(f) The service agreement must include:

(1) a description of the services to be provided, the fees for services, and the frequency of each service, according to the resident's current review or assessment and resident preferences;

(2) the identification of staff or categories of staff who will provide the services;

(3) the schedule and methods of monitoring reviews or assessments of the resident;

(4) the schedule and methods of monitoring staff providing services; and

(5) a contingency plan that includes:

(i) the action to be taken by the facility and by the resident and the designated representative if the scheduled service cannot be provided;

(ii) information and a method for a resident and the designated representative to contact the facility;

(iii) the names and contact information of persons the resident wishes to have notified in an emergency or if there is a significant adverse change in the resident's condition, including identification of and information as to who has authority to sign for the resident in an emergency; and

(iv) the circumstances in which emergency medical services are not to be summoned consistent with chapters 145B and 145C, and declarations made by the resident under those chapters.

Sec. 6. **[144G.65] MEDICATION MANAGEMENT.**

Subdivision 1. **Medication management services.** (a) This section applies only to assisted living facilities that provide comprehensive assisted living services. Medication management services shall not be provided by a basic care facility.

(b) An assisted living facility that provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and resident and

designated representative, if any; disposing of unused medications; and educating residents and designated representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 23.

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

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

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

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

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

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

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

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

(4) identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;

(5) identification of medication management tasks that may be delegated to unlicensed personnel;

(6) procedures for staff notifying a registered nurse or appropriate licensed health professional when a problem arises with medication management services; and

(7) any resident-specific requirements relating to documenting medication administration, verifications that all medications are administered as prescribed, and monitoring of medication use to prevent possible complications or adverse reactions.

(b) The medication management record must be current and updated when there are any changes.

(c) Medication reconciliation must be completed when a licensed nurse, licensed health professional, or authorized prescriber is providing medication management.

Subd. 6. **Administration of medication.** Medications may be administered by a nurse, physician, or other licensed health practitioner authorized to administer medications or by unlicensed personnel who have been delegated medication administration tasks by a registered nurse.

Subd. 7. **Delegation of medication administration.** When administration of medications is delegated to unlicensed personnel, the assisted living facility must ensure that the registered nurse has:

(1) instructed the unlicensed personnel in the proper methods to administer the medications, and the unlicensed personnel has demonstrated the ability to competently follow the procedures;

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

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

Subd. 8. **Documentation of administration of medications.** Each medication administered by the assisted living facility staff must be documented in the resident's record. The documentation must include the signature and title of the person who administered the medication. The documentation must include the medication name, dosage, date and time administered, and method and route of administration. The staff must document the reason why medication administration was not completed as prescribed and document any follow-up procedures that were provided to meet the resident's needs when medication was not administered as prescribed and in compliance with the resident's medication management plan.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) written information about the medications to be given to the resident or designated representative;

(iv) how the unlicensed staff must document in the resident's record that medications have been given to the resident and the designated representative, including documenting the date the medications were given to the resident or the designated representative and who received the medications, the person who gave the medications to the resident, the number of medications that were given to the resident, and other required information;

(v) how the registered nurse shall be notified that medications have been given to the resident or designated representative and whether the registered nurse needs to be contacted before the medications are given to the resident or the designated representative;

(vi) a review by the registered nurse of the completion of this task to verify that this task was completed accurately by the unlicensed personnel; and

(vii) how the unlicensed personnel must document in the resident's record any unused medications that are returned to the facility, including the name of each medication and the doses of each returned medication.

Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must determine whether the facility shall require a prescription for all medications the provider manages. The assisted living facility must inform the resident or the designated representative whether the facility requires a prescription for all over-the-counter and dietary supplements before the facility agrees to manage those medications.

Subd. 12. **Medications; over-the-counter; dietary supplements not prescribed.** An assisted living facility providing medication management services for over-the-counter

drugs or dietary supplements must retain those items in the original labeled container with directions for use prior to setting up for immediate or later administration. The facility must verify that the medications are up to date and stored as appropriate.

Subd. 13. **Prescriptions.** There must be a current written or electronically recorded prescription as defined in section 151.01, subdivision 16a, for all prescribed medications that the assisted living facility is managing for the resident.

Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions for controlled substances must comply with chapter 152.

Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized prescriber must be received by a nurse or pharmacist. The order must be handled according to Minnesota Rules, part 6800.6200.

Subd. 16. **Written or electronic prescription.** When a written or electronic prescription is received, it must be communicated to the registered nurse in charge and recorded or placed in the resident's record.

Subd. 17. **Records confidential.** A prescription or order received verbally, in writing, or electronically must be kept confidential according to sections 144.291 to 144.298 and 144A.44.

Subd. 18. **Medications provided by resident or family members.** When the assisted living facility is aware of any medications or dietary supplements that are being used by the resident and are not included in the assessment for medication management services, the staff must advise the registered nurse and document that in the resident's record.

Subd. 19. **Storage of medications.** An assisted living facility must store all prescription medications in securely locked and substantially constructed compartments according to the manufacturer's directions and permit only authorized personnel to have access.

Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate or later administration, must be kept in the original container in which it was dispensed by the pharmacy bearing the original prescription label with legible information including the expiration or beyond-use date of a time-dated drug.

Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or saved for use by anyone other than the resident.

Subd. 22. **Disposition of medications.** (a) Any current medications being managed by the assisted living facility must be given to the resident or the designated representative

when the resident's service agreement ends or medication management services are no longer part of the service agreement. Medications that have been stored in the resident's home for a resident who is deceased or that have been discontinued or have expired may be given to the resident or the designated representative for disposal.

(b) The assisted living facility shall dispose of any medications remaining with the facility that are discontinued or expired or upon the termination of the service contract or the resident's death according to state and federal regulations for disposition of medications and controlled substances.

(c) Upon disposition, the facility must document in the resident's record the disposition of the medication including the medication's name, strength, prescription number as applicable, quantity, to whom the medications were given, date of disposition, and names of staff and other individuals involved in the disposition.

Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication management must develop and implement procedures for loss or spillage of all controlled substances defined in Minnesota Rules, part 6800.4220. These procedures must require that when a spillage of a controlled substance occurs, a notation must be made in the resident's record explaining the spillage and the actions taken. The notation must be signed by the person responsible for the spillage and include verification that any contaminated substance was disposed of according to state or federal regulations.

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

Sec. 7. **[144G.66] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

Subdivision 1. **Treatment and therapy management services.** This section applies only to assisted living facilities that provide comprehensive assisted living services. Treatment and therapy management services shall not be provided by a basic care facility.

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

(b) The written policies and procedures must address requesting and receiving orders or prescriptions for treatments or therapies, providing the treatment or therapy, documenting

treatment or therapy activities, educating and communicating with residents about treatments or therapies they are receiving, monitoring and evaluating the treatment or therapy, and communicating with the prescriber.

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

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

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

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

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

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

Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments or therapies must be administered by a nurse, physician, or other licensed health professional authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed personnel by the licensed health professional according to the appropriate practice standards for delegation or assignment. When administration of a treatment or therapy is delegated or assigned to unlicensed personnel, the facility must ensure that the registered nurse or authorized licensed health professional has:

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

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

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

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

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

Subd. 7. **Right to outside service provider; other payors.** Under section 144G.76, a resident is free to retain therapy and treatment services from an off-site service provider. Assisted living facilities must make every effort to assist residents in obtaining information regarding whether the Medicare, medical assistance under chapter 256B, or another public program will pay for any or all of the services.

ARTICLE 7
RESIDENT RIGHTS AND PROTECTIONS

Section 1. **[144G.70] REQUIRED NOTICES.**

Subdivision 1. **Notices in plain language; language accommodations.** The facility must provide all notices in plain language that residents can understand and make reasonable accommodations for residents who have communication disabilities and those whose primary language is a language other than English.

Subd. 2. **Notice to residents; change in ownership or management.** A facility must provide prompt written notice to the resident or designated representative of any change of legal name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

(1) the licensee of the facility;

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

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

Subd. 3. **Notice of services for dementia.** The facility that provides services to residents with dementia shall provide in written or electronic form, to residents and families or other persons who request it, a description of the training program and related training it provides, including the categories of employees trained, the frequency of training, and the basic topics covered.

Subd. 4. **Notice of bill of rights.** (a) The facility shall provide the resident and the designated representative a written notice of the rights under section 144G.76 before the initiation of services to that resident. The facility shall make all reasonable efforts to provide notice of the rights to the resident and the designated representative in a language the resident and designated representative can understand.

(b) In addition to the text of the bill of rights in section 144G.76, the notice shall also contain the following statement describing how to file a complaint.

"If you have a complaint about the facility or the person providing your services, you may call the Minnesota Adult Abuse Reporting Center at 1-844-880-1574, or you may contact the Office of Health Facility Complaints, Minnesota Department of Health. You may also contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities."

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

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

Subd. 5. **Notice of available assistance .** The facility shall provide each resident with identifying and contact information about the persons who can assist with health care or

supportive services being provided. The facility shall keep each resident informed of changes in the personnel referenced in this subdivision.

Subd. 6. **Notice of complaint and investigation procedures.** The facility shall provide each resident a written notice that includes:

(1) the resident's right to complain to the facility about the services received;

(2) the name or title of the person or persons with the facility to contact with complaints;

(3) the method of submitting a complaint to the facility; and

(4) a statement that the provider is prohibited against retaliation according to section 144G.72.

Sec. 2. **[144G.71] RESIDENT AND FAMILY OR RESIDENT REPRESENTATIVE COUNCILS.**

(a) If a resident, family, or designated representative chooses to establish a council, the licensee shall support the council's establishment. The facility must provide assistance and space for meetings and afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A staff person must be designated the responsibility of providing this assistance and responding to written requests that result from council meetings. Resident council minutes are public data and shall be available to all residents in the facility. Family or resident representatives may attend resident councils upon invitation by a resident on the council.

(b) All assisted living facilities shall engage their residents and families or designated representatives in the operation of their community and document the methods and results of this engagement.

Sec. 3. **[144G.713] RESIDENT GRIEVANCES.**

All facilities must post in a conspicuous place information about the facilities' grievance procedure, and the name, telephone number, and e-mail contact information for the individuals who are responsible for handling resident grievances. The notice must also have the contact information for the Minnesota Adult Abuse Reporting Center, the common entry point, and the state and applicable regional Office of Ombudsman for Long-Term Care.

Sec. 4. **[144G.716] CONSUMER ADVOCACY AND LEGAL SERVICES.**

A facility shall ensure that every resident has access to consumer advocacy or legal services by:

(1) providing names and contact information, including telephone numbers and e-mail addresses of at least three individuals or organizations that provide advocacy or legal services to residents;

(2) providing the name and contact information for the Minnesota Office of Ombudsman for Long-Term Care, including both the state and regional contact information;

(3) assisting residents in obtaining information on whether Medicare or medical assistance will pay for services;

(4) making reasonable accommodations for people who have communication disabilities and those who speak a language other than English; and

(5) providing all information and notices in plain language and in terms the residents can understand.

Sec. 5. **[144G.72] RETALIATION PROHIBITED.**

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

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

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

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

(4) seeks assistance from or reports a reasonable suspicion of a crime or systemic problems or concerns to the administrator or manager of the facility, the long-term care ombudsman, a regulatory or other government agency, or a legal or advocacy organization;

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

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

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

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

Subd. 2. **Retaliation against a resident.** For purposes of this section, to retaliate against a resident includes but is not limited to any of the following actions taken or threatened by a facility or an agent of the facility against a resident, or any person with a familial, personal, legal, or professional relationship with the resident:

(1) the discharge, eviction, transfer, or termination of services;

(2) the imposition of discipline, punishment, or a sanction or penalty;

(3) any form of discrimination;

(4) restriction or prohibition of access:

(i) of the resident to the facility or visitors; or

(ii) to the resident of a family member or a person with a personal, legal, or professional relationship with the resident;

(5) the imposition of involuntary seclusion or withholding food, care, or services;

(6) restriction of any of the rights granted to residents under state or federal law;

(7) restriction or reduction of access to or use of amenities, care, services, privileges, or living arrangements;

(8) an arbitrary increase in charges or fees;

(9) removing, tampering with, or deprivation of technology, communication, or electronic monitoring devices; or

(10) any oral or written communication of false information about a person advocating on behalf of the resident.

Subd. 3. **Retaliation against an employee.** For purposes of this section, to retaliate against an employee includes but is not limited to any of the following actions taken or threatened by the assisted living facility or an agent of the facility against an employee:

(1) discharge or transfer;

(2) demotion or refusal to promote;

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

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

(5) any form of discrimination.

Subd. 4. **Rebuttable presumptions of retaliation.** There is a rebuttable presumption that any action described in subdivision 2 or 3 and taken within 90 days of an initial action

described in subdivision 1 is retaliatory. This presumption does not apply to a discharge, eviction, transfer, or termination of services provided the facility complied with the applicable requirements in section 144G.47 and allowed the resident and a designated representative to exercise any rights in section 144G.48 for the discharge, eviction, transfer, or termination of services. This presumption does not apply to actions described in subdivision 2, clause (4), if a good faith report of maltreatment pursuant to section 626.557 is made by the facility or agent of the facility against the visitor, family member, or other person with a personal, legal, or professional relationship that is subject to the restrictions or prohibitions. This presumption does not apply to any oral or written communication described in subdivision 2, clause (10), that is associated with a good faith report of maltreatment pursuant to section 626.557 made by the facility or agent of the facility against the person advocating on behalf of the resident.

Subd. 5. **Rights under the vulnerable adults act.** Nothing in this section affects rights available under section 626.557.

Sec. 6. **[144G.73] DECEPTIVE MARKETING AND BUSINESS PRACTICES PROHIBITED.**

Subdivision 1. **Deceptive marketing and business practices by facilities are prohibited.** No employee or agent of any facility may:

(1) make any false, fraudulent, deceptive, or misleading statements or representations or material omissions in marketing, advertising, or any other description or representation of care or services;

(2) fail to inform a resident in writing of any limitations to care services available prior to executing a contract or service agreement; or

(3) advertise as having a Tier Three assisted living license until the applicant has obtained a Tier Three assisted living license from the commissioner. A prospective applicant seeking a Tier Three assisted living license may advertise that the applicant has submitted an application for a license to the commissioner.

Subd. 2. **Penalty.** After August 1, 2021, it shall be a criminal gross misdemeanor to open, operate, maintain, advertise, or hold oneself out as either a basic care facility or an assisted living facility without the appropriate license. Failure to comply may result in a civil penalty as outlined in section 609.0341, subdivision 1.

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

Sec. 7. **[144G.74] DISCRIMINATION BASED ON SOURCE OF PAYMENT PROHIBITED.**

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

(1) provide equal access to quality care; and

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

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

Sec. 8. **[144G.75] USE OF RESTRAINTS PROHIBITED.**

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

Sec. 9. **[144G.76] BASIC CARE FACILITY AND ASSISTED LIVING FACILITY BILL OF RIGHTS.**

Subdivision 1. **Applicability.** All basic care facilities and assisted living facilities licensed under this chapter must comply with this section and the commissioner shall enforce this section against all facilities. A resident has these rights and no facility may require or request a resident to waive any of the rights listed in this section at any time or for any reason, including as a condition of initiating services or entering into a basic care facility and assisted living facility contract.

Subd. 2. **Legislative intent.** It is the intent of the legislature to promote the interests and well-being of residents. It is the intent of this section that every resident's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility must encourage and assist in the fullest possible exercise of these rights. The rights established under this section for the benefit of residents do not limit the rights residents have under other applicable law.

Subd. 3. **Right to information about rights.** (a) Before receiving services, residents have the right to receive from the facility written information about rights under this section in plain language and in terms residents can understand. The provider must make reasonable accommodations for residents who have communication disabilities and those who speak a language other than English. The information must include:

(1) what recourse residents have if their rights are violated;

(2) the name, address, telephone number, and e-mail contact information of organizations that provide advocacy and legal services for residents to enforce their rights, including but not limited to the designated protection and advocacy organization in Minnesota that provides advice and representation to individuals with disabilities; and

(3) the name, address, telephone number, and e-mail contact information for government agencies where the resident or private client may file a maltreatment report, complain, or seek assistance, including the Office of Health Facility Complaints, the Minnesota Adult Abuse Reporting Center (MAARC), the long-term care ombudsman, and state and county agencies that regulate basic care facilities and assisted living facilities.

(b) Upon request, residents and their designated and resident representatives have the right to current facility policies, inspection findings of state and local health authorities, and further explanation of the rights provided under this section, consistent with chapter 13 and section 626.557.

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

Subd. 5. **Right to appropriate care and services.** (a) Residents have the right to receive care and services that are according to a suitable and up-to-date plan, and subject to accepted health care, medical or nursing standards, and person-centered care to take an active part in developing, modifying, and evaluating the plan and services. All plans for care and services must be designed to enable residents to achieve their highest level of emotional, psychological, physical, medical, and functional well-being and safety.

(b) Residents have the right to receive medical and personal care and services with continuity by people who are properly trained and competent to perform their duties and in sufficient numbers to adequately provide the services agreed to in the assisted living facility or basic care facility contract, whichever is applicable.

Subd. 6. **Right to information about individuals providing services.** Residents have the right to be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, and other choices that are available for addressing the resident's needs.

Subd. 7. **Freedom from maltreatment.** Residents have the right to be free from maltreatment.

Subd. 8. **Right to participate in care and service agreement; notice of change.** Residents have the right to actively participate in the planning, modification, and evaluation of their care and services. This right includes:

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

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

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

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

Subd. 9. **Right to disclosure of contract services and right to purchase outside services.** (a) Residents have the right to be informed, prior to receiving care or services from a facility, of:

(1) care and services that are included under the terms of the contract;

(2) information about care and other public services or private services that may be available in the community at additional charges; and

(3) any limits to the services available from the facility.

(b) If the assisted living facility or basic care facility contract permits changes in services, residents have the right to reasonable advance notice of any change.

(c) Residents have the right to purchase or rent goods or services not included in the contract rate from a supplier of their choice unless otherwise provided by law. The supplier must ensure that these purchases are sufficient to meet the medical or treatment needs of the residents.

(d) Residents have the right to change services after services have begun, within the limits of health insurance, long-term care insurance, medical assistance under chapter 256B, and other health programs.

(e) Facilities must make every effort to assist residents in obtaining information regarding whether the Medicare, medical assistance under chapter 256B, or other public program will pay for any or all of the services.

Subd. 10. **Right to information about charges.** (a) Before services are initiated, residents have the right to be notified:

(1) of charges for the services;

(2) as to what extent payment may be expected from health insurance, public programs, or other sources, if known; and

(3) what charges the resident may be responsible for paying.

(b) If a contract permits changes in charges, residents have the right to reasonable advance notice of any change.

Subd. 11. **Right to information about health care treatment.** Where applicable, residents have the right to be given by their physicians complete and current information concerning their diagnosis, cognitive functioning level, treatment, alternatives, risks, and prognosis as required by the physician's legal duty to disclose. This information must be in terms and language the residents can reasonably be expected to understand. This information shall include the likely medical or major psychological results of the treatment and its alternatives. Residents receiving services may be accompanied by a family member or other designated representative, or both.

Subd. 12. **Right to refuse services or care.** (a) Residents have the right to refuse services or care.

(b) The facility must document in the resident's record that the facility informed residents who refuse care, services, treatment, medication, or dietary restrictions of the likely medical, health-related, or psychological consequences of the refusal.

(c) In cases where a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or when legal requirements limit the right to refuse medical treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's record.

Subd. 13. **Right to personal, treatment, and communication policy.** (a) Residents have the right to:

(1) every consideration of their privacy, individuality, and cultural identity as related to their social, religious, and psychological well-being. Staff must respect the privacy of a resident's space by knocking on the door and seeking consent before entering, except in an emergency or where doing so is contrary to the resident's person-centered care plan;

(2) respectfulness and privacy as they relate to the resident's medical and personal care program. Case discussion, consultation, examination, and treatment are confidential and must be conducted discreetly. Privacy must be respected during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

(3) communicate privately with persons of their choice;

(4) enter and, unless residing in a secured assisted living facility and restrictions on the ability to leave are indicated in the resident's person-centered care plan, leave the facility as they choose;

(5) private communication with a representative of a protection and advocacy services agency; and

(6) access Internet service at their expense, unless offered by the facility.

(b) Personal mail must be sent by the facility without interference and received unopened unless medically or programmatically contraindicated and documented by the physician or advanced practice registered nurse in the resident's record. Residents must be provided access to a telephone to make and receive calls as well as speak privately. Facilities that are unable to provide a private area must make reasonable arrangements to accommodate the privacy of residents' calls.

Subd. 14. **Right to confidentiality of records.** Residents have the right to have personal, financial, and medical information kept private, to approve or refuse release of information to any outside party, and to be advised of the facility's policies and procedures regarding disclosure of the information. Residents must be notified when personal records are requested by any outside party.

Subd. 15. **Right to visitors and social participation.** (a) Residents have the right of reasonable access at reasonable times, or any time when the resident's welfare is in immediate jeopardy, to any available rights protection services and advocacy services.

(b) Residents have the right to meet with or receive visits at any time by the resident's guardian, conservator, health care agent, family, attorney, advocate, religious or social work counselor, or any person of the resident's choosing.

(c) Residents have the right to participate in commercial, religious, social, community, and political activities without interference and at their discretion if the activities do not infringe on the right to privacy of other residents.

Subd. 16. **Right to designate representative.** Residents have the right to name a designated representative. Before or at the time of execution of an assisted living facility or basic care facility contract, the facility must offer the resident the opportunity to identify a designated representative in writing in the contract. Residents have the right at any time at or after they enter into an assisted living contract to name a designated representative.

Subd. 17. **Right to form family and advisory councils.** Residents and their families have the right to organize, maintain, and participate in resident family and advisory councils. Facilities must provide assistance and space for meetings and afford privacy. Staff or visitors may attend only upon the council's invitation. A staff person must be designated the responsibility of providing this assistance and responding to written requests that result from council meetings. Resident and family councils must be encouraged to make recommendations regarding facility policies.

Subd. 18. **Right to complain.** Residents have the right to:

(1) complain or inquire about either care or services that are provided or not provided;

(2) complain about the lack of courtesy or respect to the resident or the resident's property;

(3) know how to contact the agent of the facility who is responsible for handling complaints and inquiries;

(4) have the facility conduct an investigation, attempt to resolve, and provide a timely response to the complaint or inquiry;

(5) recommend changes in policies and services to staff and others of their choice; and

(6) complain about any violation of the resident's rights.

Subd. 19. **Right to assert rights.** Residents, their designated representatives, or any person or persons on behalf of the resident have the right to assert the rights granted to residents under this section or any other section.

Subd. 20. **Right to choose service provider.** Residents are free to choose who provides the services they receive and where they receive those services. Residents shall not be coerced or forced to obtain services in a particular setting and may instead choose to go out into the community for the same services within the limits of health insurance, long-term care insurance, medical assistance, or other health programs or public programs.

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

Sec. 10. **[144G.77] PROTECTION-RELATED RIGHTS.**

(a) In addition to the rights required in the basic care and assisted living bill of rights under section 144G.76, the following rights must be provided to all residents. The facility must promote and protect these rights for each resident by making residents aware of these rights and ensuring staff are trained to support these rights:

(1) the right to furnish and decorate the resident's unit within the terms of the lease;

(2) the right to access food at any time;

(3) the right to choose visitors and the times of visits;

(4) the right to choose a roommate if sharing a unit;

(5) the right to personal privacy including the right to have and use a lockable door on the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible;

(6) the right to engage in chosen activities;

(7) the right to engage in community life;

(8) the right to control personal resources; and

(9) the right to individual autonomy, initiative, and independence in making life choices including a daily schedule and with whom to interact.

(b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for an individual resident only if determined necessary for health and safety reasons identified by the facility through an initial assessment or reassessment, as defined under section 144G.63 and documented in the written service agreement under section 144G.64. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented by the case manager in the resident's coordinated service and support plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

Sec. 11. **[144G.78] REQUEST FOR DISCONTINUATION OF LIFE-SUSTAINING TREATMENT.**

(a) If a resident, family member, or other caregiver of the resident requests that an employee or other agent of the facility discontinue a life-sustaining treatment, the employee or agent receiving the request:

(1) shall take no action to discontinue the treatment; and

(2) shall promptly inform the supervisor or other agent of the facility of the resident's request.

(b) Upon being informed of a request for termination of treatment, the facility shall promptly:

(1) inform the resident that the request will be made known to the physician or advanced practice registered nurse who ordered the resident's treatment;

(2) inform the physician or advanced practice registered nurse of the resident's request; and

(3) work with the resident and the resident's physician or advanced practice registered nurse to comply with the provisions of the Health Care Directive Act in chapter 145C.

(c) This section does not require the facility to discontinue treatment, except as may be required by law or court order.

(d) This section does not diminish the rights of residents to control their treatments, refuse services, or terminate their relationships with the facility.

(e) This section shall be construed in a manner consistent with chapter 145B or 145C, whichever applies, and declarations made by residents under those chapters.

Sec. 12. **[144G.79] FORCED ARBITRATION; WAIVER OF RIGHTS.**

Subdivision 1. **Forced arbitration.** A facility must affirmatively disclose to the resident any forced arbitration provisions in any basic care facility or assisted living facility contract that precludes, limits, or delays the ability of a resident to begin a civil action. For contracts entered into on or after July 1, 2020, forced arbitration provisions must be conspicuously disclosed in a contract.

Subd. 2. **Waiver of rights is void.** Any waiver by the resident of the rights in this chapter is void.

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

ARTICLE 8
PHYSICAL PLANT REQUIREMENTS

Section 1. **[144G.80] MINIMUM SITE, PHYSICAL ENVIRONMENT AND FIRE SAFETY REQUIREMENTS.**

Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required for all basic care facilities and assisted living facilities:

(1) public utilities must be available, and working or inspected and approved water and septic systems are in place;

(2) the location is publicly accessible to fire department services and emergency medical services;

(3) the location's topography provides sufficient natural drainage and is not subject to flooding;

(4) all-weather roads and walks must be provided within the lot lines to the primary entrance and the service entrance, including employees' and visitors' parking at the site; and

(5) the location must include space for outdoor activities for residents.

(b) A Tier Three assisted living facility must also meet the following requirements:

(1) a hazard vulnerability assessment or safety risk assessment shall be performed on and around the property. The hazards indicated on the assessment must be assessed and mitigated to protect the residents from harm; and

(2) the facility shall be protected throughout by an approved supervised automatic sprinkler system by August 1, 2029.

Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2029, each basic care facility and assisted living facility must have a comprehensive fire protection system that includes:

(1) protection throughout by an approved supervised automatic sprinkler system according to building code requirements established in Minnesota Rules, part 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance with the National Fire Protection Association (NFPA) Standard 72;

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

(3) beginning August 1, 2021, fire drills shall be conducted in accordance with the residential board and care requirements in the Life Safety Code; and

(4) the physical environment, including walls, floors, ceiling, all furnishings, grounds, systems, and equipment must be kept in a continuous state of good repair and operation with regard to the health, safety, comfort, and well-being of the residents in accordance with a maintenance and repair program.

Subd. 3. **Local laws apply.** Basic care facilities and assisted living facilities shall be in compliance with all applicable state and local governing laws, regulations, standards, ordinances, and codes for fire safety, building, and zoning requirements.

Subd. 4. **Basic care facilities and assisted living facilities; design.** (a) After July 31, 2021, all basic care facilities and assisted living facilities with six or more residents must meet the provisions relevant to assisted living facilities of the most current edition of the

Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health, Care and Support Facilities" and of adopted rules. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use, or additions. In addition to the guidelines, assisted living facilities shall provide the option of a bath in addition to a shower for all residents.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the latest published guidelines. However, the commissioner shall not enforce the latest published guidelines before six months after the date of publication.

Subd. 5. **Basic care facilities and assisted living facilities; life safety code.** (a) After July 31, 2021, all basic care facilities and Tier Two assisted living facilities with six or more residents shall meet the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use, or additions.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the latest published Life Safety Code. However, the commissioner shall not enforce the latest published guidelines before six months after the date of publication.

Subd. 6. **Tier Three assisted living facilities; life safety code.** (a) After July 31, 2021, all Tier Three assisted living facilities shall meet the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all new licenses, new construction, modifications, renovations, alterations, change of use or additions.

(b) The commissioner shall establish an implementation timeline for mandatory usage of the newest-published Life Safety Code. However, the commissioner shall not enforce the newly-published guidelines before 6 months after the date of publication.

Subd. 7. **New construction; plans.** (a) For all new licensure and construction beginning August 1, 2021, the following must be provided to the commissioner:

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

(2) final architectural plans and specifications must include elevations and sections through the building showing types of construction, and must indicate dimensions and

assignments of rooms and areas, room finishes, door types and hardware, elevations and details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts of dietary and laundry areas. Plans must show the location of fixed equipment and sections and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions must be indicated. The roof plan must show all mechanical installations. The site plan must indicate the proposed and existing buildings, topography, roadways, walks and utility service lines;

(3) final mechanical and electrical plans and specifications must address the complete layout and type of all installations, systems, and equipment to be provided. Heating plans must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers, boilers, breeching and accessories. Ventilation plans must include room air quantities, ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing plans must include the fixtures and equipment fixture schedule; water supply and circulating piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation of water and sewer services; and the building fire protection systems. Electrical plans must include fixtures and equipment, receptacles, switches, power outlets, circuits, power and light panels, transformers, and service feeders. Plans must show location of nurse call signals, cable lines, fire alarm stations, and fire detectors and emergency lighting.

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

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

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

Subd. 8. **Variances or waivers.** (a) A facility may request that the commissioner grant a variance or waiver from the provisions of this section. A request for a waiver must be submitted to the commissioner in writing. Each request must contain:

(1) the specific requirement for which the variance or waiver is requested;

(2) the reasons for the request;

(3) the alternative measures that will be taken if a variance or waiver is granted;

(4) the length of time for which the variance or waiver is requested; and

(5) other relevant information deemed necessary by the commissioner to properly evaluate the request for the waiver.

(b) The decision to grant or deny a variance or waiver must be based on the commissioner's evaluation of the following criteria:

(1) whether the waiver will adversely affect the health, treatment, comfort, safety, or well-being of a patient;

(2) whether the alternative measures to be taken, if any, are equivalent to or superior to those prescribed in this section; and

(3) whether compliance with the requirements would impose an undue burden on the applicant.

(c) The commissioner must notify the applicant in writing of the decision. If a variance or waiver is granted, the notification must specify the period of time for which the variance or waiver is effective and the alternative measures or conditions, if any, to be met by the applicant.

(d) Alternative measures or conditions attached to a variance or waiver have the force and effect of this chapter and are subject to the issuance of correction orders and fines in accordance with sections 144G.34, subdivision 5, and 144G.35, subdivision 3. The amount of fines for a violation of this section is that specified for the specific requirement for which the variance or waiver was requested.

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

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

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

ARTICLE 9

TIER THREE ASSISTED LIVING LICENSURE

Section 1. **[144G.85] ADDITIONAL REQUIREMENTS FOR TIER THREE ASSISTED LIVING LICENSURE.**

Subdivision 1. **Applicability.** This section applies only to Tier Three assisted living facilities.

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

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

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

(b) If the applicant does not have experience in managing residents with dementia, the applicant must employ a consultant or management company for at least the first year of operation. The consultant or management company must have experience in dementia care operations and must be approved by the commissioner. The applicant must implement the recommendations of the consultant or management company or present an acceptable plan to the commissioner to address the consultant's identified concerns.

(c) The commissioner shall conduct an on-site inspection prior to the issuance of a Tier Three assisted living facility license to ensure compliance with the physical environment requirements.

(d) The label "Tier Three Assisted Living Facility" must be identified on the license.

Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing at least 60 days prior to the voluntary relinquishment of a Tier Three assisted living facility license. For voluntary relinquishment, the facility must:

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

(i) the proposed effective date of the relinquishment;

(ii) changes in staffing;

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

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

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

(3) change service or care plans as appropriate to address any needs the residents may have with the transition;

(4) notify the commissioner when the relinquishment process has been completed; and

(5) revise advertising materials and disclosure information to remove any reference that the facility is a Tier Three assisted living facility

Sec. 2. **[144G.86] RESPONSIBILITIES OF ADMINISTRATION FOR COMPREHENSIVE PLUS LICENSEES.**

Subdivision 1. **General.** The licensee of a Tier Three assisted living facility is responsible for the care and housing of the persons with dementia and the provision of person-centered care that promotes each resident's dignity, independence, and comfort. This includes the supervision, training, and overall conduct of the staff.

Subd. 2. **Additional requirements.** (a) The Tier Three licensee must follow the assisted living license requirements and the criteria in this section.

(b) The administrator of a facility with a Tier Three assisted living facility license must complete and document that at least ten hours of the required annual continuing educational requirements relate to the care of individuals with dementia. Continuing education credits must be obtained through commissioner-approved sources that may include college courses, preceptor credits, self-directed activities, course instructor credits, corporate training, in-service training, professional association training, web-based training, correspondence courses, telecourses, seminars, and workshops.

Subd. 3. **Policies.** In addition to the policies and procedures required in the licensing of assisted living facilities, the Tier Three assisted living facility licensee must develop and implement policies and procedures that address the:

(1) philosophy of how services are provided based upon the assisted living licensee's values, mission, and promotion of person-centered care and how the philosophy shall be implemented;

(2) evaluation of behavioral symptoms and design of supports for intervention plans;

(3) wandering and egress prevention that provides detailed instructions to staff in the event a resident elopes;

(4) assessment of residents for the use and effects of medications, including psychotropic medications;

(5) use of supportive devices with restraining qualities;

(6) staffing plan to ensure that residents' needs are met including a quality control system that periodically reviews how well the staffing plan is working;

(7) staff training specific to dementia care;

(8) description of life enrichment programs and how activities are implemented;

(9) description of family support programs and efforts to keep the family engaged;

(10) limiting the use of public address and intercom systems for emergencies and evacuation drills only;

(11) transportation coordination and assistance to and from outside medical appointments; and

(12) safekeeping of resident's possessions.

The policies and procedures must be provided to residents and the resident's representative at the time of move-in.

Sec. 3. **[144G.87] STAFFING AND STAFF TRAINING.**

Subdivision 1. **General.** (a) A Tier Three assisted living facility must provide residents with dementia-trained staff who have been instructed in the person-centered care approach. All direct care and other community staff assigned to care for dementia residents must be specially trained to work with residents with Alzheimer's disease and other dementias.

(b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for dementia residents.

(c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of residents. Staffing levels during nighttime hours shall be based on the sleep patterns and needs of residents.

(d) In an emergency situation when trained staff are not available to provide services, the facility may assign staff who have not completed the required training. The particular emergency situation must be documented and must address:

(1) the nature of the emergency;

(2) how long the emergency lasted; and

(3) the names and positions of staff that provided coverage.

Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide support to residents with dementia have a basic understanding and fundamental knowledge of the residents' emotional and unique health care needs using person-centered planning delivery. Direct care dementia-trained staff and other staff must be trained on the topics identified during the expedited rulemaking process. These requirements are in addition to the licensing requirements for training.

(b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine as defined in section 144G.35, subdivision 3.

Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must have experience and knowledge in the care of individuals with dementia.

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

Sec. 4. **[144G.88] SERVICES FOR RESIDENTS WITH DEMENTIA.**

Subdivision 1. **Move-in assessment.** (a) In addition to the minimum services required of assisted living facilities, a Tier Three assisted living facility must also provide the following services:

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

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

(3) a daily meal program for nutrition and hydration must be provided and available throughout each resident's waking hours. The individualized nutritional plan for each resident

must be documented in the resident's service or care plan. In addition, a Tier Three assisted living facility must:

(i) provide visual contrast between plates, eating utensils, and the table to maximize the independence of each resident; and

(ii) provide adaptive eating utensils for those residents who have been evaluated as needing them to maintain their eating skills; and

(4) meaningful activities that promote or help sustain the physical and emotional well-being of residents. The activities must be person-directed and available during residents' waking hours.

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

(1) past and current interests;

(2) current abilities and skills;

(3) emotional and social needs and patterns;

(4) physical abilities and limitations;

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

(6) identification of activities for behavioral interventions.

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

(d) A selection of daily structured and non-structured activities must be provided and included on the resident's activity service or care plan as appropriate. Daily activity options based on resident evaluation may include but are not limited to:

(1) occupation or chore related tasks;

(2) scheduled and planned events such as entertainment or outings;

(3) spontaneous activities for enjoyment or those that may help defuse a behavior;

(4) one-to-one activities that encourage positive relationships between residents and staff such as telling a life story, reminiscing, or playing music;

(5) spiritual, creative, and intellectual activities;

(6) sensory stimulation activities;

(7) physical activities that enhance or maintain a resident's ability to ambulate or move; and

(8) outdoor activities.

(e) Behavioral symptoms that negatively impact the resident and others in the assisted living facility must be evaluated and included on the service or care plan. The staff must initiate and coordinate outside consultation or acute care when indicated.

(f) Support must be offered to family and other significant relationships on a regularly scheduled basis but not less than quarterly. Examples in which support may be provided include support groups, community gatherings, social events, or meetings that address the needs of individual residents or their family or significant relationships.

(g) Access to secured outdoor space and walkways that allow residents to enter and return without staff assistance must be provided.

Sec. 5. **[144G.991] RESIDENT QUALITY OF CARE AND OUTCOMES IMPROVEMENT TASK FORCE.**

Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of care and outcomes improvement task force to examine and make recommendations, on an ongoing basis, on how to apply proven safety and quality improvement practices and infrastructure to settings and providers that provide long-term services and supports.

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

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

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

(3) consumer organizations;

(4) direct care providers or their representatives;

(5) organizations representing long-term care providers and home care providers in Minnesota;

(6) national patient safety experts; and

(7) other experts in the safety and quality improvement field.

The task force shall have at least one public member who is or has been a resident in an assisted living setting and one public member who has or had a family member living in

assisted living setting. The membership will be voluntary except that public members can be reimbursed under the provisions of section 15.059, subdivision 3.

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

Sec. 6. **TRANSITION PERIOD.**

(a) From July 1, 2019, to June 30, 2021, the commissioner shall engage in the rulemaking process.

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

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

(d) Effective August 1, 2021, all new basic care facilities and assisted living facilities must be licensed by the commissioner.

(e) Effective August 1, 2021, all basic care facilities and assisted living facilities must be licensed by the commissioner.

Sec. 7. **REPEALER.**

Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06; and 325F.72, are repealed effective August 1, 2021.

ARTICLE 10
BOARD OF EXECUTIVES FOR LONG TERM SERVICES AND SUPPORTS

Section 1. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners~~

~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The nursing home may share the services of a licensed administrator. The administrator must maintain ~~a sufficient~~ an on-site presence in the facility to effectively manage the facility in compliance with applicable rules and regulations. The administrator must establish procedures and delegate authority for on-site operations in the administrator's absence, but is ultimately responsible for the management of the facility. Each nursing home must have posted at all times the name of the administrator and the name of the person in charge on the premises in the absence of the licensed administrator.

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

Sec. 2. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

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

(1) is at least 21 years of age ~~and otherwise suitably qualified~~;

(2) has satisfactorily met standards set by the Board of ~~Examiners~~ Executives, which standards shall be designed to assure that nursing home administrators will be individuals who, by training or experience are qualified to serve as nursing home administrators; and

(3) has passed an examination approved by the board and designed to test for competence in the ~~subject matters~~ standards referred to in clause (2), or has been approved by the Board of ~~Examiners~~ Executives through the development and application of other appropriate techniques.

Sec. 3. Minnesota Statutes 2018, section 144A.24, is amended to read:

144A.24 DUTIES OF THE BOARD.

The Board of ~~Examiners~~ Executives shall:

(1) develop and enforce standards for nursing home administrator licensing, which standards shall be designed to assure that nursing home administrators will be individuals

of good character who, by training or experience, are suitably qualified to serve as nursing home administrators;

(2) develop appropriate techniques, including examinations and investigations, for determining whether applicants and licensees meet the board's standards;

(3) issue licenses and permits to those individuals who are found to meet the board's standards;

(4) establish and implement procedures designed to assure that individuals licensed as nursing home administrators will comply with the board's standards;

(5) receive and investigate complaints and take appropriate action consistent with chapter 214, to revoke or suspend the license or permit of a nursing home administrator or acting administrator who fails to comply with sections 144A.18 to 144A.27 or the board's standards;

(6) conduct a continuing study and investigation of nursing homes, and the administrators of nursing homes within the state, with a view to the improvement of the standards imposed for the licensing of administrators and improvement of the procedures and methods used for enforcement of the board's standards; and

(7) approve or conduct courses of instruction or training designed to prepare individuals for licensing in accordance with the board's standards. ~~Courses designed to meet license renewal requirements shall be designed solely to improve professional skills and shall not include classroom attendance requirements exceeding 50 hours per year.~~ The board may approve courses conducted within or without this state.

Sec. 4. Minnesota Statutes 2018, section 144A.26, is amended to read:

144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF HEALTH SERVICES EXECUTIVE.

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

Subd. 2. **Health services executive license.** The Board of Examiners may issue a health services executive license to any person who (1) has been validated by the National Association of Long Term Care Administrator Boards as a health services executive, and (2) has met the education and practice requirements for the minimum qualifications of a

nursing home administrator, assisted living administrator, and home and community-based service provider. Licensure decisions made by the board under this subdivision are final.

Sec. 5. **[144A.291] FEES.**

Subdivision 1. **Payment types and nonrefundability.** The fees imposed in this section shall be paid by cash, personal check, bank draft, cashier's check, or money order made payable to the Board of Executives for Long Term Services and Supports. All fees are nonrefundable.

Subd. 2. **Amount.** The amount of fees may be set by the Board of Executives with the approval of Minnesota Management and Budget up to the limits provided in this section depending upon the total amount required to sustain board operations under section 16A.1285, subdivision 2. Information about fees in effect at any time is available from the board office. The maximum amounts of fees are:

(1) application for licensure, $150;

(2) for a prospective applicant for a review of education and experience advisory to the license application, $50, to be applied to the fee for application for licensure if the latter is submitted within one year of the request for review of education and experience;

(3) state examination, $75;

(4) licensed nursing home administrator initial license, $200 if issued between July 1 and December 31, $100 if issued between January 1 and June 30;

(5) acting administrator permit, $250;

(6) renewal license, $200;

(7) duplicate license, $10;

(8) fee to a sponsor for review of individual continuing education seminars, institutes, workshops, or home study courses:

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

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

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

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

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

(10) late renewal fee, $50;

(11) fee to a licensee for verification of licensure status and examination scores, $30;

(12) registration as a registered continuing education sponsor, $1,000; and

(13) health services executive initial license, $200 if issued between July 1 and December 31, $100 if issued between January 1 and June 30.

Sec. 6. **REVISOR INSTRUCTION.**

The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home Administrators" to "Board of Executives for Long Term Services and Supports" and "Board of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes and apply to the board established in Minnesota Statutes, section 144A.19.

Sec. 7. **REPEALER.**

Minnesota Rules, part 6400.6970, is repealed.

ARTICLE 11
ASSISTED LIVING LICENSURE CONFORMING CHANGES

Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections 144A.43 to 144A.482 and chapter 144G, the following data collected, created, or maintained by the commissioner are classified as public data as defined in section 13.02, subdivision 15:

(1) all application data on licensees, license numbers, and license status;

(2) licensing information about licenses previously held under this chapter;

(3) correction orders, including information about compliance with the order and whether the fine was paid;

(4) final enforcement actions pursuant to chapter 14;

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

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

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

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

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

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

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

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

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

(2) individuals specified in section 245C.03, subdivision 1, who perform direct contact services in a nursing home, basic care facilities and assisted living facilities licensed under chapter 144G, or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58. If the individual under study resides outside Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the information is made

available by that state, and must include a check of the National Crime Information Center database;

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

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

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

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

Sec. 5. Minnesota Statutes 2018, section 144.122, is amended to read:

144.122 LICENSE, PERMIT, AND SURVEY FEES.

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Management and Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical,

approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

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

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

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

Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	$7,655 plus $16 per bed
Non-JCAHO and non-AOA hospitals	$5,280 plus $250 per bed
Nursing home	$183 plus $91 per bed until June 30, 2018. $183 plus $100 per bed between July 1, 2018, and June 30, 2020. $183 plus $105 per bed beginning July 1, 2020.

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, ~~and~~ supervised living facilities, assisted living facilities, and basic care facilities at the following levels:

Outpatient surgical centers	$3,712
Boarding care homes	$183 plus $91 per bed
Supervised living facilities	$183 plus $91 per bed.
Assisted living facilities - Tier Three	$..... plus $..... per bed.
Assisted living facilities - Tier Two	$..... plus $..... per bed.
Basic care facilities	$..... plus $..... per bed.

Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017, or later.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	$	900
Swing bed surveys for nursing homes	$	1,200
Psychiatric hospitals	$	1,400
Rural health facilities	$	1,100
Portable x-ray providers	$	500
Home health agencies	$	1,800
Outpatient therapy agencies	$	800
End stage renal dialysis providers	$	2,100
Independent therapists	$	800
Comprehensive rehabilitation outpatient facilities	$	1,200
Hospice providers	$	1,700
Ambulatory surgical providers	$	1,800
Hospitals	$	4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.	

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

Sec. 6. Minnesota Statutes 2018, section 144A.43, subdivision 6, is amended to read:

Subd. 6. **License.** "License" means a basic or comprehensive home care license issued by the commissioner to a home care provider and effective July 1, 2021, providing services outside of assisted living settings licensed under chapter 144G.

Sec. 7. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

(9) ~~the right to~~ choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, ~~or~~ other health programs, or public programs;

(10) ~~the right to~~ have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information;

(11) ~~the right to~~ access the client's own records and written information from those records in accordance with sections 144.291 to 144.298;

(12) ~~the right to~~ be served by people who are properly trained and competent to perform their duties;

(13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property treated with respect;

(14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act;

(15) ~~the right to~~ reasonable, advance notice of changes in services or charges;

(16) ~~the right to~~ know the provider's reason for termination of services;

(17) ~~the right to~~ at least ~~ten~~ 30 days' advance notice of the termination of a service or housing by a provider, except in cases where:

(i) the client engages in conduct that significantly alters the terms of the service ~~plan~~ agreement with the home care provider;

(ii) the client, person who lives with the client, or others create an abusive or unsafe work environment for the person providing home care services; or

(iii) an emergency or a significant change in the client's condition has resulted in service needs that exceed the current service ~~plan~~ agreement and that cannot be safely met by the home care provider;

(18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of services;

(19) ~~the right to~~ complain to staff and others of the client's choice about services that are provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's property and the right to recommend changes in policies and services, free from retaliation including the threat of termination of services;

(20) ~~the right to~~ know how to contact an individual associated with the home care provider who is responsible for handling problems and to have the home care provider investigate and attempt to resolve the grievance or complaint;

(21) ~~the right to~~ know the name and address of the state or county agency to contact for additional information or assistance; ~~and~~

(22) ~~the right to~~ assert these rights personally, or have them asserted by the client's representative or by anyone on behalf of the client, without retaliation~~.~~; and

(23) place an electronic monitoring device in the client's or resident's space in compliance with state requirements.

(b) When providers violate the rights in this section, they are subject to the fines and license actions in sections 144A.474, subdivision 11, and 144A.475.

(c) Providers must do all of the following:

(1) encourage and assist in the fullest possible exercise of these rights;

(2) provide the names and telephone numbers of individuals and organizations that provide advocacy and legal services for clients and residents seeking to assert their rights;

(3) make every effort to assist clients or residents in obtaining information regarding whether Medicare, medical assistance, other health programs, or public programs will pay for services;

(4) make reasonable accommodations for people who have communication disabilities, or those who speak a language other than English; and

(5) provide all information and notices in plain language and in terms the client or resident can understand.

(d) No provider may require or request a client or resident to waive any of the rights listed in this section at any time or for any reasons, including as a condition of initiating services or entering into an assisted living facility and basic care facility contract.

Sec. 8. Minnesota Statutes 2018, section 144A.441, is amended to read:

144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

Assisted living ~~clients~~ residents, as defined in section ~~144G.01, subdivision 3~~ 144G.01, subdivision 10, shall be provided with the home care bill of rights required by section 144A.44, except that the home care bill of rights provided to these ~~clients~~ residents must include the following provision in place of the provision in section 144A.44, subdivision 1, paragraph (a), clause (17):

"(17) the right to reasonable, advance notice of changes in services or charges, including at least 30 days' advance notice of the termination of a service or housing by a provider, except in cases where:

(i) the recipient of services engages in conduct that alters the conditions of employment as specified in the employment contract between the home care provider and the individual providing home care services, or creates an abusive or unsafe work environment for the individual providing home care services;

(ii) an emergency for the informal caregiver or a significant change in the recipient's condition has resulted in service needs that exceed the current service provider agreement and that cannot be safely met by the home care provider; or

(iii) the provider has not received payment for services~~, for which at least ten days' advance notice of the termination of a service shall be provided~~."

Sec. 9. Minnesota Statutes 2018, section 144A.442, is amended to read:

144A.442 ASSISTED LIVING ~~CLIENTS~~ RESIDENTS; SERVICE TERMINATION.

(a) If an arranged home care provider, as defined in section 144D.01, subdivision 2a, who is not also Medicare certified terminates a service agreement or service plan with an assisted living client, as defined in section 144G.01, subdivision 3, the home care provider shall provide the assisted living client and the legal or designated representatives of the client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living ~~client~~ resident or ~~client~~ resident representatives within no more than five business days of the date of the termination notice to discuss the termination;

(4) contact information for a reasonable number of other home care providers in the geographic area of the assisted living client, as required by section 144A.4791, subdivision 10;

(5) a statement that the provider will participate in a coordinated transfer of the care of the ~~client~~ resident to another provider or caregiver, as required by section 144A.44, subdivision 1, clause (18);

(6) the name and contact information of a representative of the home care provider with whom the client may discuss the notice of termination;

(7) a copy of the home care bill of rights; and

(8) a statement that the notice of termination of home care services by the home care provider does not constitute notice of termination of the housing with services contract with a housing with services establishment.

(b) Effective August 1, 2021, all assisted living settings must comply with the provisions in chapter 144G relating to termination of services and housing.

Sec. 10. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:

Subd. 7. **Comprehensive home care license provider.** Home care services that may be provided with a comprehensive home care license include any of the basic home care services listed in subdivision 6, and one or more of the following:

(1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;

(2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) treatment and therapies;

(6) assisting clients with eating when the clients have complicating eating problems as identified in the client record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or

~~(6)~~ (7) providing other complex or specialty health care services.

Sec. 11. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:

Subd. 9. **Exclusions from home care licensure.** The following are excluded from home care licensure and are not required to provide the home care bill of rights:

(1) an individual or business entity providing only coordination of home care that includes one or more of the following:

(i) determination of whether a client needs home care services, or assisting a client in determining what services are needed;

(ii) referral of clients to a home care provider;

(iii) administration of payments for home care services; or

(iv) administration of a health care home established under section 256B.0751;

(2) an individual who is not an employee of a licensed home care provider if the individual:

(i) only provides services as an independent contractor to one or more licensed home care providers;

(ii) provides no services under direct agreements or contracts with clients; and

(iii) is contractually bound to perform services in compliance with the contracting home care provider's policies and service ~~plans~~ agreements;

(3) a business that provides staff to home care providers, such as a temporary employment agency, if the business:

(i) only provides staff under contract to licensed or exempt providers;

(ii) provides no services under direct agreements with clients; and

(iii) is contractually bound to perform services under the contracting home care provider's direction and supervision;

(4) any home care services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means, or by prayer for healing;

(5) an individual who only provides home care services to a relative;

(6) an individual not connected with a home care provider that provides assistance with basic home care needs if the assistance is provided primarily as a contribution and not as a business;

(7) an individual not connected with a home care provider that shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;

(8) an individual or provider providing home-delivered meal services;

(9) an individual providing senior companion services and other older American volunteer programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United States Code, title 42, chapter 66;

~~(10) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when responding to occasional emergency calls from individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;~~

~~(11) an employee of a nursing home or home care provider licensed under this chapter or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~

~~providing occasional minor services free of charge to individuals residing in a residential setting that is attached to or located on property contiguous to the nursing home, boarding care home, or location where home care services are also provided;~~

(12) a member of a professional corporation organized under chapter 319B that does not regularly offer or provide home care services as defined in section 144A.43, subdivision 3;

(13) the following organizations established to provide medical or surgical services that do not regularly offer or provide home care services as defined in section 144A.43, subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under chapter 317A, a partnership organized under chapter 323, or any other entity determined by the commissioner;

(14) an individual or agency that provides medical supplies or durable medical equipment, except when the provision of supplies or equipment is accompanied by a home care service;

(15) a physician licensed under chapter 147;

(16) an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family, foster family, or primary caregiver;

(17) a business that only provides services that are primarily instructional and not medical services or health-related support services;

(18) an individual who performs basic home care services for no more than 14 hours each calendar week to no more than one client;

(19) an individual or business licensed as hospice as defined in sections 144A.75 to 144A.755 who is not providing home care services independent of hospice service;

(20) activities conducted by the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, including communicable disease investigations or testing; or

(21) administering or monitoring a prescribed therapy necessary to control or prevent a communicable disease, or the monitoring of an individual's compliance with a health directive as defined in section 144.4172, subdivision 6.

EFFECTIVE DATE. The amendments to clauses (10) and (11) are effective July 1, 2021.

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

Subd. 7. **Fees; application, change of ownership, ~~and~~ renewal, and failure to notify.** (a) An initial applicant seeking temporary home care licensure must submit the following application fee to the commissioner along with a completed application:

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

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

(b) A home care provider who is filing a change of ownership as required under subdivision 5 must submit the following application fee to the commissioner, along with the documentation required for the change of ownership:

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

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

(c) For the period ending June 30, 2018, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee

Provider Annual Revenue	**Fee**
greater than $1,500,000	$6,625
greater than $1,275,000 and no more than $1,500,000	$5,797
greater than $1,100,000 and no more than $1,275,000	$4,969
greater than $950,000 and no more than $1,100,000	$4,141
greater than $850,000 and no more than $950,000	$3,727
greater than $750,000 and no more than $850,000	$3,313
greater than $650,000 and no more than $750,000	$2,898
greater than $550,000 and no more than $650,000	$2,485
greater than $450,000 and no more than $550,000	$2,070
greater than $350,000 and no more than $450,000	$1,656
greater than $250,000 and no more than $350,000	$1,242
greater than $100,000 and no more than $250,000	$828
greater than $50,000 and no more than $100,000	$500
greater than $25,000 and no more than $50,000	$400
no more than $25,000	$200

(d) For the period between July 1, 2018, and June 30, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner in an amount that is ten percent higher than the applicable fee in paragraph (c). A home care provider's fee shall be based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted.

(e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee

Provider Annual Revenue	**Fee**
greater than $1,500,000	$7,651
greater than $1,275,000 and no more than $1,500,000	$6,695
greater than $1,100,000 and no more than $1,275,000	$5,739
greater than $950,000 and no more than $1,100,000	$4,783
greater than $850,000 and no more than $950,000	$4,304
greater than $750,000 and no more than $850,000	$3,826
greater than $650,000 and no more than $750,000	$3,347
greater than $550,000 and no more than $650,000	$2,870
greater than $450,000 and no more than $550,000	$2,391
greater than $350,000 and no more than $450,000	$1,913
greater than $250,000 and no more than $350,000	$1,434
greater than $100,000 and no more than $250,000	$957
greater than $50,000 and no more than $100,000	$577
greater than $25,000 and no more than $50,000	$462
no more than $25,000	$231

(f) If requested, the home care provider shall provide the commissioner information to verify the provider's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(g) At each annual renewal, a home care provider may elect to pay the highest renewal fee for its license category, and not provide annual revenue information to the commissioner.

(h) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying

a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(i) The fee for failure to comply with the notification requirements in section 144A.473, subdivision 2, paragraph (c), is $1,000.

~~(i)~~ (j) Fees ~~and penalties~~ collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund. All fees are nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if received before July 1, 2017, for temporary licenses or licenses being issued effective July 1, 2017, or later.

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

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

Sec. 13. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

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

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record

shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension or conditional license within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The license holder is prohibited from operation during the temporary suspension period.

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

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

Sec. 14. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

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

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

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

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

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

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

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

managers, and the ombudsman for long term care during the process of transferring care of clients to qualified providers. Within three ~~business~~ calendar days of being notified of the final revocation, refusal to renew, or suspension action, the home care provider must notify and disclose to each of the home care provider's clients, or the client's representative or emergency contact persons, that the commissioner is taking action against the home care provider's license by providing a copy of the revocation, refusal to renew, or suspension notice issued by the commissioner. If the provider does not comply with the disclosure requirements in this section, the commissioner, lead agencies, county adult protection and county managers and ombudsman for long-term care shall notify the clients, client representatives, or emergency contact persons, about the action being taken. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

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

Sec. 15. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

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

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

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

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

Sec. 16. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

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

(1) the effective date of termination;

(2) the reason for termination;

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

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

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

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

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

Sec. 17. Minnesota Statutes 2018, section 144A.4799, is amended to read:

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

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

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

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

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

(4) one member representing the office of ombudsman for long-term care~~.~~; and

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

Subd. 2. **Organizations and meetings.** The advisory council shall be organized and administered under section 15.059 with per diems and costs paid within the limits of available appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees may be developed as necessary by the commissioner. Advisory council meetings are subject to the Open Meeting Law under chapter 13D.

Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed home care providers in this chapter, including advice on the following:

(1) community standards for home care practices;

(2) enforcement of licensing standards and whether certain disciplinary actions are appropriate;

(3) ways of distributing information to licensees and consumers of home care;

(4) training standards;

(5) identifying emerging issues and opportunities in ~~the~~ home care ~~field, including~~;

(6) identifying the use of technology in home and telehealth capabilities;

~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method for an integrated license with an existing license for rural licensed nursing homes to provide limited home care services in an adjacent independent living apartment building owned by the licensed nursing home; and

~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4, including but not limited to studies concerning costs related to dementia and chronic disease among an elderly population over 60 and additional long-term care costs, as described in section 62U.10, subdivision 6.

(b) The advisory council shall perform other duties as directed by the commissioner.

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

Sec. 18. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

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

Sec. 19. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

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

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

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

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

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

(1) located on Indian reservations and subject to tribal health and safety requirements; or

(2) ~~a supportive housing establishment that has an approved habitability inspection and an individual lease agreement and that serves people who have experienced long-term homelessness and were referred through a coordinated assessment in section 256I.03, subdivision 15~~ supportive housing establishments where an individual has an approved habitability inspection and an individual lease agreement.

(c) Supportive housing establishments that serve individuals who have experienced long-term homelessness and emergency shelters must participate in the homeless management information system and a coordinated assessment system as defined by the commissioner.

(d) Effective July 1, 2016, an agency shall not have an agreement with a provider of housing support unless all staff members who have direct contact with recipients:

(1) have skills and knowledge acquired through one or more of the following:

(i) a course of study in a health- or human services-related field leading to a bachelor of arts, bachelor of science, or associate's degree;

(ii) one year of experience with the target population served;

(iii) experience as a mental health certified peer specialist according to section 256B.0615; or

(iv) meeting the requirements for unlicensed personnel under sections 144A.43 to 144A.483;

(2) hold a current driver's license appropriate to the vehicle driven if transporting recipients;

(3) complete training on vulnerable adults mandated reporting and child maltreatment mandated reporting, where applicable; and

(4) complete housing support orientation training offered by the commissioner.

Sec. 20. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a facility or service required to be licensed under chapter 245A; an assisted living facility or basic care facility required to be licensed under chapter 144G; a home care provider licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654, 256B.0659, or 256B.85.

(b) For services identified in paragraph (a) that are provided in the vulnerable adult's own home or in another unlicensed location, the term "facility" refers to the provider, person, or organization that offers, provides, or arranges for personal care services, and does not refer to the vulnerable adult's home or other location at which services are rendered.

Sec. 21. Minnesota Statutes 2018, section 626.5572, subdivision 21, is amended to read:

Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services required to be licensed under chapter 245A, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) is a resident of an assisted living facility or basic care facility required to be licensed under chapter 144G;

~~(3)~~ (4) receives services from a home care provider required to be licensed under sections 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, 256B.0659, or 256B.85; or

~~(4)~~ (5) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for care or services, the individual has an impaired ability to protect the individual's self from maltreatment.

(b) For purposes of this subdivision, "care or services" means care or services for the health, safety, welfare, or maintenance of an individual.

Sec. 22. **REPEALER.**

Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed.

ARTICLE 12
ELECTRONIC MONITORING

Section 1. **[144.6502] ELECTRONIC MONITORING IN CERTAIN HEALTH CARE FACILITIES.**

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

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

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

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

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

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

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

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

(1) a court-appointed guardian;

(2) a health care agent under section 145C.01, subdivision 2; or

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

Subd. 2. **Electronic monitoring.** (a) A resident or a resident representative may conduct electronic monitoring of the resident's room or private living unit through the use of electronic monitoring devices placed in the resident's room or private living unit as provided in this section.

(b) Nothing in this section precludes the use of electronic monitoring of health care allowed under other law.

(c) Electronic monitoring authorized under this section is not a covered service under home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and 256B.49.

(d) This section does not apply to monitoring technology authorized as a home and community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.

Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this subdivision, a resident must consent to electronic monitoring in the resident's room or private living unit in writing on a notification and consent form. If the resident has not affirmatively objected to electronic monitoring and the resident's medical professional determines that the resident currently lacks the ability to understand and appreciate the nature and consequences of electronic monitoring, the resident representative may consent on behalf of the resident. For purposes of this subdivision, a resident affirmatively objects when the resident orally, visually, or through the use of auxiliary aids or services declines electronic monitoring. The resident's response must be documented on the notification and consent form.

(b) Prior to a resident representative consenting on behalf of a resident, the resident must be asked if the resident wants electronic monitoring to be conducted. The resident representative must explain to the resident:

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

(2) the standard conditions that may be placed on the electronic monitoring device's use, including those listed in subdivision 6;

(3) with whom the recording may be shared under subdivision 10 or 11; and

(4) the resident's ability to decline all recording.

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

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

(e) Any resident conducting electronic monitoring must immediately remove or disable an electronic monitoring device prior to a new roommate moving into a shared room or

shared private living unit, unless the resident obtains the roommate's or roommate's resident representative's written consent as provided under paragraph (d) prior to the roommate moving into the shared room or shared private living unit. Upon obtaining the new roommate's signed notification and consent form and submitting the form to the facility as required under subdivision 5, the resident may resume electronic monitoring.

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

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

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

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

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

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

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

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

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

(2) the resident does not have a roommate;

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

(4) the resident or resident representative submits the notification and consent form to the facility within 14 calendar days of placing the electronic monitoring device; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) prohibiting audio recording;

(ii) prohibiting video recording;

(iii) prohibiting broadcasting of audio or video;

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

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

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

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

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

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

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

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

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

(iii) the type of electronic monitoring device placed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. **TRANSITION TO AUTHORIZED ELECTRONIC MONITORING IN CERTAIN HEALTH CARE FACILITIES.**

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

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

Sec. 3. **DIRECTION TO THE COMMISSIONER OF HEALTH.**

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

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

ARTICLE 13

OFFICE OF HEALTH FACILITY COMPLAINTS; MINNESOTA VULNERABLE ADULTS ACT

Section 1. Minnesota Statutes 2018, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. **Powers.** The director may:

(1) promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, home care providers, ~~or residential care homes,~~ or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not be charged for filing a complaint;

(2) recommend legislation and changes in rules to the state commissioner of health, governor, administrative agencies or the federal government;

(3) investigate, upon a complaint or upon initiative of the director, any action or failure to act by a health care provider, home care provider, ~~residential care home,~~ or a health facility;

(4) request and receive access to relevant information, records, incident reports, or documents in the possession of an administrative agency, a health care provider, a home care provider, ~~a residential care home,~~ or a health facility, and issue investigative subpoenas to individuals and facilities for oral information and written information, including privileged information which the director deems necessary for the discharge of responsibilities. For

purposes of investigation and securing information to determine violations, the director need not present a release, waiver, or consent of an individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12;

(5) enter and inspect, at any time, a health facility ~~or residential care home~~ and be permitted to interview staff; provided that the director shall not unduly interfere with or disturb the provision of care and services within the facility ~~or home~~ or the activities of a patient or resident unless the patient or resident consents;

(6) issue correction orders and assess civil fines ~~pursuant to section~~ for violations of sections 144.651, 144.653, 144A.10, 144A.45, and 626.557, Minnesota Rules, chapters 4655, 4658, 4664, and 4665, or any other law ~~which~~ that provides for the issuance of correction orders to health facilities or home care provider, or under section 144A.45. The director may use the authority in section 144A.474, subdivision 11, to calculate the fine amount. A facility's or home's refusal to cooperate in providing lawfully requested information within the requested time period may also be grounds for a correction order or fine at a Level 2 fine pursuant to section 144A.474, subdivision 11;

(7) recommend the certification or decertification of health facilities pursuant to Title XVIII or XIX of the United States Social Security Act;

(8) assist patients or residents of health facilities ~~or residential care homes~~ in the enforcement of their rights under Minnesota law; and

(9) work with administrative agencies, health facilities, home care providers, residential care homes, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 2. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to read:

Subd. 5. **Safety and quality improvement technical panel.** The director shall establish an expert technical panel to examine and make recommendations, on an ongoing basis, on how to apply proven safety and quality improvement practices and infrastructure to settings and providers that provide long-term services and supports. The technical panel must include representation from nonprofit Minnesota-based organizations dedicated to patient safety or innovation in health care safety and quality, Department of Health staff with expertise in issues related to adverse health events, the University of Minnesota, organizations representing long-term care providers and home care providers in Minnesota, national patient

safety experts, and other experts in the safety and quality improvement field. The technical panel shall periodically provide recommendations to the legislature on legislative changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers.

Sec. 3. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to read:

Subd. 6. **Training and operations panel.** (a) The director shall establish a training and operations panel within the Office of Health Facility Complaints to examine and make recommendations, on an ongoing basis, on continual improvements to the operation of the office. The training and operations panel shall be composed of office staff, including investigators and intake and triage staff; one or more representatives of the commissioner's office; and employees from any other divisions in the Department of Health with relevant knowledge or expertise. The training and operations panel may also consult with employees from other agencies in state government with relevant knowledge or expertise.

(b) The training and operations panel shall examine and make recommendations to the director and the commissioner regarding introducing or refining office systems, procedures, and staff training in order to improve office and staff efficiency; enhance communications between the office, health care facilities, home care providers, and residents or clients; and provide for appropriate, effective protection for vulnerable adults through rigorous investigations and enforcement of laws. Panel duties include but are not limited to:

(1) developing the office's training processes to adequately prepare and support investigators in performing their duties;

(2) developing clear, consistent internal policies for conducting investigations as required by federal law, including policies to ensure staff meet the deadlines in state and federal laws for triaging, investigating, and making final dispositions of cases involving maltreatment, and procedures for notifying the vulnerable adult, reporter, and facility of any delays in investigations; communicating these policies to staff in a clear, timely manner; and developing procedures to evaluate and modify these internal policies on an ongoing basis;

(3) developing and refining quality control measures for the intake and triage processes, through such practices as reviewing a random sample of the triage decisions made in case reports or auditing a random sample of the case files to ensure the proper information is being collected, the files are being properly maintained, and consistent triage and investigations determinations are being made;

(4) developing and maintaining systems and procedures to accurately determine the situations in which the office has jurisdiction over a maltreatment allegation;

(5) developing and maintaining audit procedures for investigations to ensure investigators obtain and document information necessary to support decisions;

(6) following a maltreatment determination, developing and maintaining procedures to clearly communicate the appeal or review rights of all parties upon final disposition; and

(7) continuously upgrading the information on and utility of the office's website through such steps as providing clear, detailed information about the appeal or review rights of vulnerable adults, alleged perpetrators, and providers and facilities.

Sec. 4. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to read:

Subd. 7. **Posting maltreatment reports.** (a) The director shall post on the Department of Health website the following information for the most recent five-year period:

(1) the public portions of all substantiated reports of maltreatment of a vulnerable adult at a facility or by a provider for which the Department of Health is the lead investigative agency under section 626.557; and

(2) whether the facility or provider has requested reconsideration or initiated any type of dispute resolution or appeal of a substantiated maltreatment report.

(b) Following a reconsideration, dispute resolution, or appeal, the director must update the information posted under this subdivision to reflect the results of the reconsideration, dispute resolution, or appeal.

(c) The information posted under this subdivision must be posted in coordination with other divisions or sections at the Department of Health and in a manner that does not duplicate information already published by the Department of Health, and must be posted in a format that allows consumers to search the information by facility or provider name and by the physical address of the facility or the local business address of the provider.

Sec. 5. Minnesota Statutes 2018, section 626.557, subdivision 4, is amended to read:

Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall immediately make an oral report to the common entry point. The common entry point may accept electronic reports submitted through a web-based reporting system established by the commissioner. Use of a telecommunications device for the deaf or other similar device

shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. The common entry point must provide a way to record that the reporter has electronic evidence to submit. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

(b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code of Federal Regulations, title 42, section 482.66, may submit a report electronically to the common entry point instead of submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the commissioner of health to comply with the reporting requirements under Code of Federal Regulations, title 42, section 483.13. The commissioner of health may modify these reporting requirements to include items required under paragraph (a) that are not currently included in the electronic reporting form.

Sec. 6. Minnesota Statutes 2018, section 626.557, subdivision 9c, is amended to read:

Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a) ~~Upon request of the reporter,~~ The lead investigative agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Except to the extent prohibited by federal law, when the Department of Health is the lead investigative agency, the agency must provide the following information to the vulnerable adult or the vulnerable adult's guardian or health care agent, if known, within five days after the initiation of an investigation, provided that the provision of the information will not hamper the investigation or harm the vulnerable adult:

(1) the maltreatment allegations by types: abuse, neglect, financial exploitation, and drug diversion;

(2) the name of the facility or other location at which alleged maltreatment occurred;

(3) the dates of the alleged maltreatment if identified in the report at the time of the lead investigative agency disclosure;

(4) the name and contact information for the investigator or other information as requested and allowed under law; and

(5) confirmation of whether the lead investigative agency is investigating the matter and, if so:

(i) an explanation of the process;

(ii) an estimated timeline for the investigation;

(iii) a notification that the vulnerable adult or the vulnerable adult's guardian or health care agent may electronically submit evidence to support the maltreatment report, including but not limited to photographs, videos, and documents; and

(iv) a statement that the lead investigative agency will provide an update on the investigation upon request by the vulnerable adult or the vulnerable adult's guardian or health care agent and a report when the investigation is concluded.

(c) If the Department of Health is the lead investigative agency, the Department of Health shall provide maltreatment information, to the extent allowed under state and federal law, including any reports, upon request of the vulnerable adult that is the subject of a maltreatment report or upon request of that vulnerable adult's guardian or health care agent.

(d) If the common entry point data indicates that the reporter has electronic evidence, the lead investigative agency shall seek to receive such evidence prior to making a determination that the lead investigative agency will not investigate the matter. Nothing in this paragraph requires the lead investigative agency to stop investigating prior to receipt of the electronic evidence nor prevents the lead investigative agency from closing the investigation prior to receipt of the electronic evidence if, in the opinion of the investigator, the evidence is not necessary to the determination.

(e) The lead investigative agency may assign multiple reports of maltreatment for the same or separate incidences related to the same vulnerable adult to the same investigator, as deemed appropriate.

(f) Reports related to the same vulnerable adult, the same incident, or the same alleged perpetrator, facility, or licensee must be cross-referenced.

(g) Upon conclusion of every investigation it conducts, the lead investigative agency shall make a final disposition as defined in section 626.5572, subdivision 8.

~~(c)~~ (h) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead investigative agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

~~(d)~~ (i) When substantiated maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under section 245A.06 or 245A.07 apply.

~~(e)~~ (j) The lead investigative agency shall complete its final disposition within 60 calendar days. If the lead investigative agency is unable to complete its final disposition within 60 calendar days, the lead investigative agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's guardian or health care agent, when known, if the lead investigative agency knows them to be aware of the investigation; and (2) the facility, where applicable. The notice shall contain the reason for the delay and the projected completion date. If the lead investigative agency is unable to complete its final disposition by a subsequent projected completion date, the lead investigative agency shall again notify the vulnerable adult or the vulnerable adult's guardian or health care agent, when known if the lead investigative agency knows them to be aware of the investigation, and the facility,

where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. The lead investigative agency must notify the health care agent of the vulnerable adult only if the health care agent's authority to make health care decisions for the vulnerable adult is currently effective ~~under section 145C.06~~ and not suspended under section 524.5-310 ~~and the investigation relates to a duty assigned to the health care agent by the principal~~. A lead investigative agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

~~(f)~~ (k) Within ten calendar days of completing the final disposition, the lead investigative agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph ~~(b), clause (1)~~ (d), when required to be completed under this section, to the following persons:

(1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known, unless the lead investigative agency knows that the notification would endanger the well-being of the vulnerable adult;

(2) the reporter, ~~if~~ unless the reporter requested ~~notification~~ otherwise when making the report, provided this notification would not endanger the well-being of the vulnerable adult;

(3) the alleged perpetrator, if known;

(4) the facility; ~~and~~

(5) the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, as appropriate;

(6) law enforcement; and

(7) the county attorney, as appropriate.

~~(g)~~ (l) If, as a result of a reconsideration, review, or hearing, the lead investigative agency changes the final disposition, or if a final disposition is changed on appeal, the lead investigative agency shall notify the parties specified in paragraph ~~(f)~~ (k).

~~(h)~~ (m) The lead investigative agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's guardian or health care agent, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal or review rights under this section or section 256.021.

~~(i)~~ (n) The lead investigative agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead investigative agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead investigative agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

~~(j)~~ (o) In order to avoid duplication, licensing boards shall consider the findings of the lead investigative agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

~~(k)~~ (p) The lead investigative agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 7. Minnesota Statutes 2018, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph ~~(c)~~ (g).

(b) Data maintained by the common entry point are ~~confidential~~ private data on individuals or ~~protected~~ nonpublic data as defined in section 13.02, provided that the name of the reporter is confidential data on individuals. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

~~(b)~~ (c) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02, provided that data, other than data on the reporter, may be shared with the vulnerable adult

or guardian or health care agent if the lead investigative agency determines that sharing of the data is needed to protect the vulnerable adult. Upon completion of the investigation, the data are classified as provided in ~~clauses (1) to (3) and paragraph (c)~~ paragraphs (d) to (g).

~~(1)~~ (d) The investigation memorandum must contain the following data, which are public:

~~(i)~~ (1) the name of the facility investigated;

~~(ii)~~ (2) a statement of the nature of the alleged maltreatment;

~~(iii)~~ (3) pertinent information obtained from medical or other records reviewed;

~~(iv)~~ (4) the identity of the investigator;

~~(v)~~ (5) a summary of the investigation's findings;

~~(vi)~~ (6) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

~~(vii)~~ (7) a statement of any action taken by the facility;

~~(viii)~~ (8) a statement of any action taken by the lead investigative agency; and

~~(ix)~~ (9) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data on individuals listed in ~~clause (2)~~ paragraph (e).

~~(2)~~ (e) Data on individuals collected and maintained in the investigation memorandum are private data on individuals, including:

~~(i)~~ (1) the name of the vulnerable adult;

~~(ii)~~ (2) the identity of the individual alleged to be the perpetrator;

~~(iii)~~ (3) the identity of the individual substantiated as the perpetrator; and

~~(iv)~~ (4) the identity of all individuals interviewed as part of the investigation.

~~(3)~~ (f) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

~~(c)~~ (g) After the assessment or investigation is completed, the name of the reporter must be confidential~~.~~, except:

(1) the subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter; or

(2) upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith.

This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

~~(d)~~ (h) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

~~(e)~~ (i) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:

(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;

(2) trends about types of substantiated maltreatment found in the reporting period;

(3) ~~if there are upward trends for types of maltreatment substantiated,~~ recommendations for preventing, addressing, and responding to ~~them~~ substantiated maltreatment;

(4) efforts undertaken or recommended to improve the protection of vulnerable adults;

(5) whether and where backlogs of cases result in a failure to conform with statutory time frames and recommendations for reducing backlogs if applicable;

(6) recommended changes to statutes affecting the protection of vulnerable adults; and

(7) any other information that is relevant to the report trends and findings.

~~(f)~~ (j) Each lead investigative agency must have a record retention policy.

~~(g)~~ (k) Lead investigative agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

~~(h)~~ (l) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

~~(i)~~ (m) Notwithstanding paragraph (a) or (b), a lead investigative agency may share common entry point or investigative data and may notify other affected parties, including the vulnerable adult and their authorized representative, if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

~~(j)~~ (n) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 8. **DIRECTION TO COMMISSIONER OF HEALTH; PROGRESS IN IMPLEMENTING RECOMMENDATIONS OF LEGISLATIVE AUDITOR.**

By March 1, 2020, the commissioner of health must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over health, human services, or aging on the progress toward implementing each recommendation of the Office

of the Legislative Auditor with which the commissioner agreed in the commissioner's letter to the legislative auditor dated March 1, 2018. The commissioner shall include in the report existing data collected in the course of the commissioner's continuing oversight of the Office of Health Facility Complaints sufficient to demonstrate the implementation of the recommendations with which the commissioner agreed.

Sec. 9. **REPORTS; OFFICE OF HEALTH FACILITY COMPLAINTS' RESPONSE TO VULNERABLE ADULT MALTREATMENT ALLEGATIONS.**

(a) On a quarterly basis until January 2021, and annually thereafter, the commissioner of health must publish on the Department of Health website a report on the Office of Health Facility Complaints' response to allegations of maltreatment of vulnerable adults. The report must include:

(1) a description and assessment of the office's efforts to improve its internal processes and compliance with federal and state requirements concerning allegations of maltreatment of vulnerable adults, including any relevant timelines;

(2)(i) the number of reports received by type of reporter;

(ii) the number of reports investigated;

(iii) the percentage and number of reported cases awaiting triage;

(iv) the number and percentage of open investigations;

(v) the number and percentage of reports that have failed to meet state or federal timelines for triaging, investigating, or making a final disposition of an investigation by cause of delay; and

(vi) processes the office will implement to bring the office into compliance with state and federal timelines for triaging, investigating, and making final dispositions of investigations;

(3) a trend analysis of internal audits conducted by the office; and

(4) trends and patterns in maltreatment of vulnerable adults, licensing violations by facilities or providers serving vulnerable adults, and other metrics as determined by the commissioner.

(b) The commissioner shall maintain on the Department of Health website reports published under this section for at least the past three years.

Sec. 10. **REPORT; SAFETY AND QUALITY IMPROVEMENT PRACTICES.**

By January 15, 2020, the safety and quality improvement technical panel established under Minnesota Statutes, section 144A.53, subdivision 5, shall provide recommendations to the legislature on legislative changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers. The recommendations must address:

(1) how to implement a system for adverse health events reporting, learning, and prevention in long-term care settings and with long-term care providers; and

(2) interim actions to improve systems for the timely analysis of reports and complaints submitted to the Office of Health Facility Complaints to identify common themes and key prevention opportunities, and to disseminate key findings to providers across the state for the purposes of shared learning and prevention.

ARTICLE 14
MISCELLANEOUS

Section 1. Minnesota Statutes 2018, section 144.1503, is amended to read:

144.1503 HOME AND COMMUNITY-BASED SERVICES EMPLOYEE SCHOLARSHIP AND LOAN FORGIVENESS PROGRAM.

Subdivision 1. **Creation.** The home and community-based services employee scholarship and loan forgiveness grant program is established for the purpose of assisting qualified provider applicants to fund employee scholarships for education in nursing and other health care fields and to repay qualified educational loans secured by employees for education in nursing and other health care fields.

Subd. 1a. **Definition.** For purposes of this section, "qualified educational loan" means a government, commercial, or foundation loan secured by an employee of a qualified provider of older adult services, for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the employee's graduate or undergraduate education.

Subd. 2. **Provision of grants.** The commissioner shall make grants available to qualified providers of older adult services. Grants must be used by home and community-based service providers to recruit and train staff through the establishment of an employee scholarship and loan forgiveness fund.

Subd. 3. **Eligibility.** (a) Eligible providers must primarily provide services to individuals who are 65 years of age and older in home and community-based settings, including housing

with services establishments as defined in section 144D.01, subdivision 4; a facility licensed under chapter 144G; adult day care as defined in section 245A.02, subdivision 2a; and home care services as defined in section 144A.43, subdivision 3.

(b) Qualifying providers must establish a home and community-based services employee scholarship and loan forgiveness program, as specified in subdivision 4. Providers that receive funding under this section must use the funds to award scholarships to, and to repay qualified educational loans of, employees who work an average of at least 16 hours per week for the provider.

Subd. 4. **Home and community-based services employee scholarship program.** Each qualifying provider under this section must propose a home and community-based services employee scholarship and loan forgiveness program. Providers must establish criteria by which funds are to be distributed among employees. At a minimum, the scholarship and loan forgiveness program must cover employee costs, and repay qualified educational loans of employees, related to a course of study that is expected to lead to career advancement with the provider or in the field of long-term care, including home care, care of persons with disabilities, or nursing.

Subd. 5. **Participating providers.** The commissioner shall publish a request for proposals in the State Register, specifying provider eligibility requirements, criteria for a qualifying employee scholarship and loan forgiveness program, provider selection criteria, documentation required for program participation, maximum award amount, and methods of evaluation. The commissioner must publish additional requests for proposals each year in which funding is available for this purpose.

Subd. 6. **Application requirements.** Eligible providers seeking a grant shall submit an application to the commissioner. Applications must contain a complete description of the employee scholarship and loan forgiveness program being proposed by the applicant, including the need for the organization to enhance the education of its workforce, the process for determining which employees will be eligible for scholarships or loan repayment, any other sources of funding for scholarships or loan repayment, the expected degrees or credentials eligible for scholarships or loan repayment, the amount of funding sought for the scholarship and loan forgiveness program, a proposed budget detailing how funds will be spent, and plans for retaining eligible employees after completion of their scholarship or repayment of their loan.

Subd. 7. **Selection process.** The commissioner shall determine a maximum award for grants and make grant selections based on the information provided in the grant application,

including the demonstrated need for an applicant provider to enhance the education of its workforce, the proposed employee scholarship and loan forgiveness selection process, the applicant's proposed budget, and other criteria as determined by the commissioner. Notwithstanding any law or rule to the contrary, funds awarded to grantees in a grant agreement do not lapse until the grant agreement expires.

Subd. 8. **Reporting requirements.** Participating providers shall submit an invoice for reimbursement and a report to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner. The report shall include the amount spent on scholarships and loan repayment; the number of employees who received scholarships and the number of employees for whom loans were repaid; and, for each scholarship or loan forgiveness recipient, the name of the recipient, the current position of the recipient, the amount awarded or loan amount repaid, the educational institution attended, the nature of the educational program, and the expected or actual program completion date. During the grant period, the commissioner may require and collect from grant recipients other information necessary to evaluate the program.

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

Sec. 2. Minnesota Statutes 2018, section 144A.10, subdivision 1, is amended to read:

Subdivision 1. **Enforcement authority.** The commissioner of health is the exclusive state agency charged with the responsibility and duty of inspecting all facilities required to be licensed under section 144A.02, and issuing correction orders and imposing fines as provided in this section, Minnesota Rules, chapter 4658, or any other applicable law. The commissioner of health shall enforce the rules established pursuant to sections 144A.01 to 144A.155, subject only to the authority of the Department of Public Safety respecting the enforcement of fire and safety standards in nursing homes and the responsibility of the commissioner of human services under sections 245A.01 to 245A.16 or 252.28.

The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a licensed facility if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. A nursing home's refusal to cooperate in providing lawfully requested information is grounds for a correction order, a fine according to Minnesota Rules, part 4658.0190, item EE, or both. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

Sec. 3. Minnesota Statutes 2018, section 144A.45, subdivision 1, is amended to read:

Subdivision 1. **Regulations.** The commissioner shall regulate home care providers pursuant to sections 144A.43 to 144A.482. The regulations shall include the following:

(1) provisions to assure, to the extent possible, the health, safety, well-being, and appropriate treatment of persons who receive home care services while respecting a client's autonomy and choice;

(2) requirements that home care providers furnish the commissioner with specified information necessary to implement sections 144A.43 to 144A.482;

(3) standards of training of home care provider personnel;

(4) standards for provision of home care services;

(5) standards for medication management;

(6) standards for supervision of home care services;

(7) standards for client evaluation or assessment;

(8) requirements for the involvement of a client's health care provider, the documentation of health care providers' orders, if required, and the client's service ~~plan~~ agreement;

(9) standards for the maintenance of accurate, current client records;

(10) the establishment of basic and comprehensive levels of licenses based on services provided; and

(11) provisions to enforce these regulations and the home care bill of rights, including provisions for issuing penalties and fines according to section 144A.474, subdivision 11, for violations of sections 144A.43 to 144A.482.

Sec. 4. Minnesota Statutes 2018, section 144A.45, subdivision 2, is amended to read:

Subd. 2. **Regulatory functions.** The commissioner shall:

(1) license, survey, and monitor without advance notice, home care providers in accordance with sections 144A.43 to 144A.482;

(2) survey every temporary licensee within one year of the temporary license issuance date subject to the temporary licensee providing home care services to a client or clients;

(3) survey all licensed home care providers on an interval that will promote the health and safety of clients;

(4) with the consent of the client, visit the home where services are being provided;

(5) issue correction orders and assess civil penalties in accordance with ~~section~~ sections 144.653, subdivisions 5 to 8, 144A.474, and 144A.475, for violations of sections 144A.43 to 144A.482;

(6) take action as authorized in section 144A.475; and

(7) take other action reasonably required to accomplish the purposes of sections 144A.43 to 144A.482.

Sec. 5. Minnesota Statutes 2018, section 144A.474, subdivision 8, is amended to read:

Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a home care provider, a managerial official, or an employee of the provider is not in compliance with sections 144A.43 to 144A.482. The correction order shall cite the specific statute and document areas of noncompliance and the time allowed for correction. In addition to issuing a correction order, the commissioner may impose an immediate fine as provided in subdivision 11.

(b) The commissioner shall mail copies of any correction order to the last known address of the home care provider, or electronically scan the correction order and e-mail it to the last known home care provider e-mail address, within 30 calendar days after the survey exit date. A copy of each correction order, the amount of any immediate fine issued, the correction plan, and copies of any documentation supplied to the commissioner shall be kept on file by the home care provider, and public documents shall be made available for viewing by any person upon request. Copies may be kept electronically.

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

Sec. 6. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:

Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under subdivision 11, or any violations determined to be widespread, the department shall conduct a follow-up survey within 90 calendar days of the survey. When conducting a follow-up survey, the surveyor will focus on whether the previous violations have been corrected and may also address any new violations that are observed while evaluating the corrections that have been made. If a new violation is identified on a follow-up survey, ~~no fine will be~~

~~imposed unless it is not corrected on the next follow-up survey~~ the surveyor shall issue a correction order for the new violation and may impose an immediate fine for the new violation.

Sec. 7. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:

Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in paragraph (c) as follows:

(1) Level 1, no fines or enforcement;

(2) Level 2, fines ranging from $0 to $500, in addition to any of the enforcement mechanisms authorized in section 144A.475 for widespread violations;

(3) Level 3, fines ranging from $500 to $1,000, in addition to any of the enforcement mechanisms authorized in section 144A.475; and

(4) Level 4, fines ranging from $1,000 to $5,000, in addition to any of the enforcement mechanisms authorized in section 144A.475.

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

(1) level of violation:

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

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

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

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

(2) scope of violation:

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

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

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

(c) If the commissioner finds that the applicant or a home care provider required to be licensed under sections 144A.43 to 144A.482 has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner may impose ~~a~~ an additional fine for noncompliance with a correction order. A notice of noncompliance with a correction order must be mailed to the applicant's or provider's last known address. The ~~noncompliance~~ notice of noncompliance with a correction order must list the violations not corrected and any fines imposed.

(d) The license holder must pay the fines assessed on or before the payment date specified on a correction order or on a notice of noncompliance with a correction order. If the license holder fails to ~~fully comply with the order~~ pay a fine by the specified date, the commissioner may issue a ~~second~~ late payment fine or suspend the license until the license holder ~~complies by paying the fine~~ pays all outstanding fines. A timely appeal shall stay payment of the late payment fine until the commissioner issues a final order.

(e) A license holder shall promptly notify the commissioner in writing when a violation specified in ~~the order~~ a notice of noncompliance with a correction order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the ~~order~~ notice of noncompliance with a correction order, the commissioner may issue ~~a second~~ an additional fine for noncompliance with a notice of noncompliance with a correction order. The commissioner shall notify the license holder by mail to the last known address in the licensing record that ~~a second~~ an additional fine has been assessed. The license holder may appeal the ~~second~~ additional fine as provided under this subdivision.

(f) A home care provider that has been assessed a fine under this subdivision or subdivision 8 has a right to a reconsideration or a hearing under this section and chapter 14.

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

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

(i) Fines collected under this subdivision shall be deposited in the state government special revenue fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines

collected must be used by the commissioner for special projects to improve home care in Minnesota as recommended by the advisory council established in section 144A.4799.

Sec. 8. Minnesota Statutes 2018, section 611A.033, is amended to read:

611A.033 SPEEDY TRIAL; NOTICE OF SCHEDULE CHANGE.

(a) A victim has the right to request that the prosecutor make a demand under rule 11.09 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand. The prosecutor shall make reasonable efforts to comply with the victim's request.

(b) A prosecutor shall make reasonable efforts to provide advance notice of any change in the schedule of the court proceedings to a victim who has been subpoenaed or requested to testify.

(c) In a criminal proceeding in which a vulnerable adult, as defined in section 609.232, subdivision 11, is a victim, the state may, and, if requested to do so by the victim, the state shall, move the court for a speedy trial. The court~~, after consideration of~~ shall grant the motion if it determines that the age and health of the victim~~, may grant a speedy trial~~ justifies doing so. The motion may be filed and served with the complaint or any time after the complaint is filed and served.

Sec. 9. **[630.38] VULNERABLE ADULT VICTIM; MOTION FOR DEPOSITION.**

In a criminal proceeding in which a vulnerable adult, as defined in section 609.232, subdivision 11, is a victim, the state may, and, if requested to do so by the victim, the state shall, make a motion to depose the victim under Minnesota Rules of Criminal Procedure, rule 21. The court shall grant the motion if it determines that the age and health of the victim justifies doing so or if other criteria in the rule are met. If the motion is granted, the court shall ensure that the deposition takes place as soon as is practicable.

ARTICLE 15
APPROPRIATIONS

Section 1. **APPROPRIATION; OFFICE OF OMBUDSMAN FOR LONG-TERM CARE.**

(a) $2,150,000 in fiscal year 2020 and $3,577,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of human services for 25 additional regional ombudsmen in the Office of Ombudsman for Long-Term Care, to perform the duties in Minnesota Statutes, section 256.9742.

(b) $510,000 in fiscal year 2020 and $977,000 in fiscal year 2021 are appropriated from the general fund to the commissioner of human services for six additional staff in the Office of Ombudsman for Long-Term Care to perform at least the following functions: supervision, policy activities, consumer intake, and data management.

144A.472 HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL.

Subd. 4. **Multiple units.** Multiple units or branches of a licensee must be separately licensed if the commissioner determines that the units cannot adequately share supervision and administration of services from the main office.

144D.01 DEFINITIONS.

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

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

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

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

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

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

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

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

(b) Housing with services establishment does not include:

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

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

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

(4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;

(5) a family adult foster care home licensed by the Department of Human Services;

(6) private homes in which the residents are related by kinship, law, or affinity with the providers of services;

(7) residential settings for persons with developmental disabilities in which the services are licensed under chapter 245D;

(8) a home-sharing arrangement such as when an elderly or disabled person or single-parent family makes lodging in a private residence available to another person in exchange for services or rent, or both;

(9) a duly organized condominium, cooperative, common interest community, or owners' association of the foregoing where at least 80 percent of the units that comprise the condominium, cooperative, or common interest community are occupied by individuals who are the owners, members, or shareholders of the units;

(10) services for persons with developmental disabilities that are provided under a license under chapter 245D; or

(11) a temporary family health care dwelling as defined in sections 394.307 and 462.3593.

Subd. 5. **Supportive services.** "Supportive services" means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging

for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency.

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

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

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

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

144D.02 REGISTRATION REQUIRED.

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

144D.025 OPTIONAL REGISTRATION.

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

144D.03 REGISTRATION.

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

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

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

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

(2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;

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

(4) verification that the establishment has entered into a housing with services contract, as required in section 144D.04, with each resident or resident's representative;

(5) verification that the establishment is complying with the requirements of section 325F.72, if applicable;

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

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

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

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

144D.04 HOUSING WITH SERVICES CONTRACTS.

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

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

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

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

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

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

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

(6) the term of the contract;

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

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

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

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

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

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

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

(14) billing and payment procedures and requirements;

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

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

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

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

144D.045 INFORMATION CONCERNING ARRANGED HOME CARE PROVIDERS.

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

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

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

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

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

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

144D.05 AUTHORITY OF COMMISSIONER.

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

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

144D.06 OTHER LAWS.

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

144D.065 TRAINING IN DEMENTIA CARE REQUIRED.

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

(1) supervisors of direct-care staff must have at least eight hours of initial training on topics specified under paragraph (b) within 120 working hours of the employment start date, and must

have at least two hours of training on topics related to dementia care for each 12 months of employment thereafter;

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

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

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

(b) Areas of required training include:

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

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

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

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

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

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

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

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

144D.066 ENFORCEMENT OF DEMENTIA CARE TRAINING REQUIREMENTS.

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

(1) for dementia care training requirements in section 144D.065, the commissioner shall review training records as part of the home care provider survey process for direct care staff and supervisors

of direct care staff, in accordance with section 144A.474. The commissioner may also request and review training records at any time during the year;

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

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

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

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

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

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

144D.07 RESTRAINTS.

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

144D.08 UNIFORM CONSUMER INFORMATION GUIDE.

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

144D.09 TERMINATION OF LEASE.

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

144D.10 MANAGER REQUIREMENTS.

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

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

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

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

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

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

144D.11 EMERGENCY PLANNING.

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

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

(2) post an emergency disaster plan prominently;

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

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

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

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

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

144G.01 DEFINITIONS.

Subdivision 1. **Scope; other definitions.** For purposes of sections 144G.01 to 144G.05, the following definitions apply. In addition, the definitions provided in section 144D.01 also apply to sections 144G.01 to 144G.05.

Subd. 2. **Assisted living.** "Assisted living" means a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of this chapter.

Subd. 3. **Assisted living client.** "Assisted living client" or "client" means a housing with services resident who receives assisted living that is subject to the requirements of this chapter.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health.

144G.02 ASSISTED LIVING; PROTECTED TITLE; REGULATORY FUNCTION.

Subdivision 1. **Protected title; restriction on use.** No person or entity may use the phrase "assisted living," whether alone or in combination with other words and whether orally or in writing, to advertise, market, or otherwise describe, offer, or promote itself, or any housing, service, service package, or program that it provides within this state, unless the person or entity is a housing with services establishment that meets the requirements of this chapter, or is a person or entity that

provides some or all components of assisted living that meet the requirements of this chapter. A person or entity entitled to use the phrase "assisted living" shall use the phrase only in the context of its participation in assisted living that meets the requirements of this chapter. A housing with services establishment offering or providing assisted living that is not made available to residents in all of its housing units shall identify the number or location of the units in which assisted living is available, and may not use the term "assisted living" in the name of the establishment registered with the commissioner under chapter 144D, or in the name the establishment uses to identify itself to residents or the public.

Subd. 2. **Authority of commissioner.** (a) The commissioner, upon receipt of information that may indicate the failure of a housing with services establishment, the arranged home care provider, an assisted living client, or an assisted living client's representative to comply with a legal requirement to which one or more of the entities may be subject, shall make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

(b) In addition to the authority with respect to licensed home care providers under section 144A.45 and with respect to housing with services establishments under chapter 144D, the commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which a housing with services establishment is located to compel the housing with services establishment or the arranged home care provider to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment or arranged home care provider is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

144G.03 ASSISTED LIVING REQUIREMENTS.

Subdivision 1. **Verification in annual registration.** A registered housing with services establishment using the phrase "assisted living," pursuant to section 144G.02, subdivision 1, shall verify to the commissioner in its annual registration pursuant to chapter 144D that the establishment is complying with sections 144G.01 to 144G.05, as applicable.

Subd. 2. **Minimum requirements for assisted living.** (a) Assisted living shall be provided or made available only to individuals residing in a registered housing with services establishment. Except as expressly stated in this chapter, a person or entity offering assisted living may define the available services and may offer assisted living to all or some of the residents of a housing with services establishment. The services that comprise assisted living may be provided or made available directly by a housing with services establishment or by persons or entities with which the housing with services establishment has made arrangements.

(b) A person or entity entitled to use the phrase "assisted living," according to section 144G.02, subdivision 1, shall do so only with respect to a housing with services establishment, or a service, service package, or program available within a housing with services establishment that, at a minimum:

(1) provides or makes available health-related services under a home care license. At a minimum, health-related services must include:

(i) assistance with self-administration of medication, medication management, or medication administration as defined in section 144A.43; and

(ii) assistance with at least three of the following seven activities of daily living: bathing, dressing, grooming, eating, transferring, continence care, and toileting.

All health-related services shall be provided in a manner that complies with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(2) provides necessary assessments of the physical and cognitive needs of assisted living clients by a registered nurse, as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(3) has and maintains a system for delegation of health care activities to unlicensed personnel by a registered nurse, including supervision and evaluation of the delegated activities as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

(4) provides staff access to an on-call registered nurse 24 hours per day, seven days per week;

(5) has and maintains a system to check on each assisted living client at least daily;

(6) provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements;

(7) has a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs, who shall be:

(i) awake;

(ii) located in the same building, in an attached building, or on a contiguous campus with the housing with services establishment in order to respond within a reasonable amount of time;

(iii) capable of communicating with assisted living clients;

(iv) capable of recognizing the need for assistance;

(v) capable of providing either the assistance required or summoning the appropriate assistance; and

(vi) capable of following directions;

(8) offers to provide or make available at least the following supportive services to assisted living clients:

(i) two meals per day;

(ii) weekly housekeeping;

(iii) weekly laundry service;

(iv) upon the request of the client, reasonable assistance with arranging for transportation to medical and social services appointments, and the name of or other identifying information about the person or persons responsible for providing this assistance;

(v) upon the request of the client, reasonable assistance with accessing community resources and social services available in the community, and the name of or other identifying information about the person or persons responsible for providing this assistance; and

(vi) periodic opportunities for socialization; and

(9) makes available to all prospective and current assisted living clients information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This information must be made available beginning no later than six months after the commissioner makes the uniform format and required components available to providers according to section 144G.06.

Subd. 3. **Exemption from awake-staff requirement.** A housing with services establishment that offers or provides assisted living is exempt from the requirement in subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and responsible for responding to requests for assistance must be awake, if the establishment meets the following requirements:

(1) the establishment has a maximum capacity to serve 12 or fewer assisted living clients;

(2) the person or persons available and responsible for responding to requests for assistance are physically present within the housing with services establishment in which the assisted living clients reside;

(3) the establishment has a system in place that is compatible with the health, safety, and welfare of the establishment's assisted living clients;

(4) the establishment's housing with services contract, as required by section 144D.04, includes a statement disclosing the establishment's qualification for, and intention to rely upon, this exemption;

(5) the establishment files with the commissioner, for purposes of public information but not review or approval by the commissioner, a statement describing how the establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement available to actual and prospective assisted living clients; and

(6) the establishment indicates on its housing with services registration, under section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the exemption under this subdivision.

Subd. 4. **Nursing assessment.** (a) A housing with services establishment offering or providing assisted living shall:

(1) offer to have the arranged home care provider conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a service plan prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier; and

(2) inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a housing with services establishment or the date on which a prospective resident moves in, whichever is earlier.

(b) An arranged home care provider is not obligated to conduct a nursing assessment by a registered nurse when requested by a prospective resident if either the geographic distance between the prospective resident and the provider, or urgent or unexpected circumstances, do not permit the assessment to be conducted prior to the date on which the prospective resident executes a contract or moves in, whichever is earlier. When such circumstances occur, the arranged home care provider shall offer to conduct a telephone conference whenever reasonably possible.

(c) The arranged home care provider shall comply with applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285, with respect to the provision of a nursing assessment prior to the delivery of nursing services and the execution of a home care service plan or service agreement.

Subd. 5. **Assistance with arranged home care provider.** The housing with services establishment shall provide each assisted living client with identifying information about a person or persons reasonably available to assist the client with concerns the client may have with respect to the services provided by the arranged home care provider. The establishment shall keep each assisted living client reasonably informed of any changes in the personnel referenced in this subdivision. Upon request of the assisted living client, such personnel or designee shall provide reasonable assistance to the assisted living client in addressing concerns regarding services provided by the arranged home care provider.

Subd. 6. **Termination of housing with services contract.** If a housing with services establishment terminates a housing with services contract with an assisted living client, the establishment shall provide the assisted living client, and the legal or designated representative of the assisted living client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the section of the contract that authorizes the termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living client and, if applicable, client representatives, within no more than five business days of the date of the termination notice to discuss the termination;

(4) an explanation that:

(i) the assisted living client must vacate the apartment, along with all personal possessions, on or before the effective date of termination;

(ii) failure to vacate the apartment by the date of termination may result in the filing of an eviction action in court by the establishment, and that the assisted living client may present a defense, if any, to the court at that time; and

(iii) the assisted living client may seek legal counsel in connection with the notice of termination;

(5) a statement that, with respect to the notice of termination, reasonable accommodation is available for the disability of the assisted living client, if any; and

(6) the name and contact information of the representative of the establishment with whom the assisted living client or client representatives may discuss the notice of termination.

144G.04 RESERVATION OF RIGHTS.

Subdivision 1. **Use of services.** Nothing in this chapter requires an assisted living client to utilize any service provided or made available in assisted living.

Subd. 2. **Housing with services contracts.** Nothing in this chapter requires a housing with services establishment to execute or refrain from terminating a housing with services contract with a prospective or current resident who is unable or unwilling to meet the requirements of residency, with or without assistance.

Subd. 3. **Provision of services.** Nothing in this chapter requires the arranged home care provider to offer or continue to provide services under a service agreement or service plan to a prospective or current resident of the establishment whose needs cannot be met by the arranged home care provider.

Subd. 4. **Altering operations; service packages.** Nothing in this chapter requires a housing with services establishment or arranged home care provider offering assisted living to fundamentally alter the nature of the operations of the establishment or the provider in order to accommodate the request or need for facilities or services by any assisted living client, or to refrain from requiring, as a condition of residency, that an assisted living client pay for a package of assisted living services even if the client does not choose to utilize all or some of the services in the package.

144G.05 REIMBURSEMENT UNDER ASSISTED LIVING SERVICE PACKAGES.

Notwithstanding the provisions of this chapter, the requirements for the elderly waiver program's assisted living payment rates under section 256B.0915, subdivision 3e, shall continue to be effective and providers who do not meet the requirements of this chapter may continue to receive payment under section 256B.0915, subdivision 3e, as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved Elderly Home and Community Based Services Waiver Program (Control Number 0025.91). Providers of assisted living for the community access for disability inclusion (CADI) and Brain Injury (BI) waivers shall continue to receive payment as long as they continue to meet the definitions and standards for assisted living and assisted living plus set forth in the federally approved CADI and BI waiver plans.

144G.06 UNIFORM CONSUMER INFORMATION GUIDE.

The commissioner shall adopt a uniform format for the guide to be used by individual providers, and the required components of materials to be used by providers to inform assisted living clients of their legal rights, and shall make the uniform format and the required components available to assisted living providers.

325F.72 DISCLOSURE OF SPECIAL CARE STATUS REQUIRED.

Subdivision 1. **Persons to whom disclosure is required.** Housing with services establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder or that advertise, market, or otherwise promote the establishment as providing specialized care for Alzheimer's disease or a related disorder are considered a "special care unit." All special care units shall provide a written disclosure to the following:

(1) the commissioner of health, if requested;

(2) the Office of Ombudsman for Long-Term Care; and

(3) each person seeking placement within a residence, or the person's authorized representative, before an agreement to provide the care is entered into.

Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

(1) a statement of the overall philosophy and how it reflects the special needs of residents with Alzheimer's disease or other dementias;

(2) the criteria for determining who may reside in the special care unit;

(3) the process used for assessment and establishment of the service plan or agreement, including how the plan is responsive to changes in the resident's condition;

(4) staffing credentials, job descriptions, and staff duties and availability, including any training specific to dementia;

(5) physical environment as well as design and security features that specifically address the needs of residents with Alzheimer's disease or other dementias;

(6) frequency and type of programs and activities for residents of the special care unit;

(7) involvement of families in resident care and availability of family support programs;

(8) fee schedules for additional services to the residents of the special care unit; and

(9) a statement that residents will be given a written notice 30 days prior to changes in the fee schedule.

Subd. 3. **Duty to update.** Substantial changes to disclosures must be reported to the parties listed in subdivision 1 at the time the change is made.

Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31 for repeated and intentional violations of this section. However, no private right of action may be maintained as provided under section 8.31, subdivision 3a.

6400.6970 FEES.

Subpart 1. **Payment types and nonrefundability.** The fees imposed in this part shall be paid by cash, personal check, bank draft, cashier's check, or money order made payable to the Board of Examiners for Nursing Home Administrators. All fees are nonrefundable.

Subp. 2. **Amounts.** The amount of fees may be set by the board with the approval of the Department of Management and Budget up to the limits provided in this part depending upon the total amount required to sustain board operations under Minnesota Statutes, section 16A.1285, subdivision 2. Information about fees in effect at any time is available from the board office. The maximum amounts of fees are:

A. application for licensure, $150;

B. for a prospective applicant for a review of education and experience advisory to the license application, $50, to be applied to the fee for application for licensure if the latter is submitted within one year of the request for review of education and experience;

C. state examination, $75;

D. initial license, $200 if issued between July 1 and December 31, $100 if issued between January 1 and June 30;

E. acting administrator permit, $250;

F. renewal license, $200;

G. duplicate license, $10;

H. fee to a sponsor for review of individual continuing education seminars, institutes, workshops, or home study courses:

(1) for less than seven clock hours, $30; and

(2) for seven or more clock hours, $50;

I. fee to a licensee for review of continuing education seminars, institutes, workshops, or home study courses not previously approved for a sponsor and submitted with an application for license renewal:

(1) for less than seven clock hours total, $30; and

(2) for seven or more clock hours total, $50;

J. late renewal fee, $50;

K. fee to a licensee for verification of licensure status and examination scores, $30; and

L. registration as a registered continuing education sponsor, $1,000.