

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 8

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01/10/2019	46	Introduction and first reading Referred to Family Care and Aging
01/14/2019	83	Authors added Relph; Ruud; Abeler; Eken
03/21/2019	1088a	Comm report: To pass as amended and re-refer to Health and Human Services Finance and Policy
04/01/2019		Comm report: To pass as amended and re-refer to Finance

1.1A bill for an act

1.2relating to health; establishing an assisted living license and license requirements;

1.3establishing fees and fines; modifying the health care bill of rights and the home

1.4care bill of rights; modifying home care licensing provisions; modifying the powers

1.5and duties of the director of the Office of Health Facility Complaints; modifying

1.6consumer protection for vulnerable adults; modifying the Vulnerable Adults Act;

1.7establishing task forces; requiring reports; authorizing rulemaking; appropriating

1.8money; amending Minnesota Statutes 2018, sections 144.051, subdivisions 4, 5,

1.96; 144.057, subdivision 1; 144.122; 144.1503; 144A.04, subdivision 5; 144A.10,

1.10subdivision 1; 144A.20, subdivision 1; 144A.24; 144A.26; 144A.43, subdivision

1.116; 144A.44, subdivision 1; 144A.441; 144A.442; 144A.45, subdivisions 1, 2;

1.12144A.471, subdivisions 7, 9; 144A.472, subdivision 7; 144A.474, subdivisions 8,

1.139, 11; 144A.475, subdivisions 3b, 5; 144A.476, subdivision 1; 144A.4791,

1.14subdivision 10; 144A.4799; 144A.53, subdivision 1, by adding subdivisions;

1.15256I.03, subdivision 15; 256I.04, subdivision 2a; 611A.033; 626.557, subdivisions

1.164, 9c, 12b; 626.5572, subdivisions 6, 21; proposing coding for new law in

1.17Minnesota Statutes, chapters 144; 144A; 144G; 630; repealing Minnesota Statutes

1.182018, sections 144A.472, subdivision 4; 144D.01; 144D.015; 144D.02; 144D.025;

1.19144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07;

1.20144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04;

1.21144G.05; 144G.06; 325F.72; Minnesota Rules, part 6400.6970.

1.22BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.23ARTICLE 1

1.24ASSISTED LIVING LICENSURE

1.25Section 1. [144G.10] DEFINITIONS.

1.26Subdivision 1. Applicability. For the purposes of this chapter, the definitions in this

1.27section have the meanings given.

1.28Subd. 2. Activities of daily living. "Activities of daily living" has the meaning given in

1.29section 256B.0659, subdivision 1, paragraph (b).

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

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

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

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

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

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

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

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

2.21 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections
2.22 144.50 to 144.56;

2.23 (iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
2.24 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments
2.25 that provide dementia care services;

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

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

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

2.31 (viii) a duly organized condominium, cooperative, and common interest community, or
2.32 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 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:

- 4.1 (i) emergency shelter, transitional housing, or any other residential units serving
4.2 exclusively or primarily homeless individuals, as that term is defined in section 116L.361;
- 4.3 (ii) a nursing home licensed under chapter 144A;
- 4.4 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections
4.5 144.50 to 144.56;
- 4.6 (iv) a lodging establishment licensed under chapter 157, except lodging establishments
4.7 that provide dementia care services;
- 4.8 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;
- 4.9 (vi) services and residential settings licensed under chapter 245A, including adult foster
4.10 care and services and settings governed under standards in chapter 245D;
- 4.11 (vii) private homes where the residents own or rent the home and control all aspects of
4.12 the property and building;
- 4.13 (viii) a duly organized condominium, cooperative and common interest community or
4.14 owners' association of the condominium, cooperative, and common interest community
4.15 where at least 80 percent of the units that comprise the condominium, cooperative, or
4.16 common interest community are occupied by individuals who are the owners, members, or
4.17 shareholders of the units;
- 4.18 (ix) temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- 4.19 (x) settings offering services conducted by and for the adherents of any recognized
4.20 church or religious denomination for its members through spiritual means or by prayer for
4.21 healing;
- 4.22 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
4.23 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
4.24 units financed by the Minnesota Housing Finance Agency that are intended to serve
4.25 individuals with disabilities or individuals who are homeless;
- 4.26 (xii) rental housing developed under United States Code, title 42, section 1437, or United
4.27 States Code, title 12, section 1701q;
- 4.28 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled
4.29 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
4.30 families under Code of Federal Regulations, title 24, section 983.56;
- 4.31 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United
4.32 States Code, title 42, section 8011; or

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

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

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

5.6 (2) providing standby assistance;

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

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

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

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

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

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

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

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

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

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

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

6.3 (3) medication management services;

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

6.5 (5) treatment and therapies;

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

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

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

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

6.16 Subd. 20. **Dementia.** "Dementia" means the loss of intellectual function of sufficient
6.17 severity that interferes with an individual's daily functioning. Dementia affects an individual's
6.18 memory and ability to think, reason, speak, and move. Symptoms may also include changes
6.19 in personality, mood, and behavior. Irreversible dementias include but are not limited to:

6.20 (1) Alzheimer's disease;

6.21 (2) vascular dementia;

6.22 (3) Lewy body dementia;

6.23 (4) frontal-temporal lobe dementia;

6.24 (5) alcohol dementia;

6.25 (6) Huntington's disease; and

6.26 (7) Creutzfeldt-Jakob disease.

6.27 Subd. 21. **Dementia care unit.** "Dementia care unit" means a special care unit in a
6.28 designated, separate area for individuals with Alzheimer's disease or other dementia that is
6.29 locked, segregated, or secured to prevent or limit access by a resident outside the designated
6.30 or separated area.

7.1 Subd. 22. **Dementia-trained staff.** "Dementia-trained staff" means any employee that
7.2 has completed the minimum training requirements and has demonstrated knowledge and
7.3 understanding in supporting individuals with dementia.

7.4 Subd. 23. **Designated representative.** "Designated representative" means one of the
7.5 following in the order of priority listed, to the extent the person may reasonably be identified
7.6 and located:

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

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

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

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

7.15 (5) the resident representative.

7.16 Subd. 24. **Dietary supplement.** "Dietary supplement" means a product taken by mouth
7.17 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may
7.18 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as
7.19 enzymes, organ tissue, glandulars, or metabolites.

7.20 Subd. 25. **Direct contact.** "Direct contact" means providing face-to-face care, training,
7.21 supervision, counseling, consultation, or medication assistance to residents of a facility.

7.22 Subd. 26. **Facility.** "Facility" means an assisted living facility and a basic care facility.

7.23 Subd. 27. **Hands-on assistance.** "Hands-on assistance" means physical help by another
7.24 person without which the resident is not able to perform the activity.

7.25 Subd. 28. **Licensed health professional.** "Licensed health professional" means a person
7.26 licensed in Minnesota to practice the professions described in section 214.01, subdivision
7.27 2.

7.28 Subd. 29. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the
7.29 resident occupancy level requested by a licensee and approved by the commissioner.

7.30 Subd. 30. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner
7.31 issues an assisted living license and who is responsible for the management, control, and
7.32 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. 31. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572, subdivision 15.

Subd. 32. **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. 33. **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. 34. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 35. **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. 36. **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;

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

9.2 (9) coordinating and communicating with the prescriber.

9.3 Subd. 37. **Medication reconciliation.** "Medication reconciliation" means the process
9.4 of identifying the most accurate list of all medications the resident is taking, including the
9.5 name, dosage, frequency, and route by comparing the resident record to an external list of
9.6 medications obtained from the resident, hospital, prescriber or other provider.

9.7 Subd. 38. **Medication setup.** "Medication setup" means arranging medications by a
9.8 nurse, pharmacy, or authorized prescriber for later administration by the resident or by
9.9 facility staff.

9.10 Subd. 39. **New construction.** "New construction" means a new building, renovation,
9.11 modification, reconstruction, physical changes altering the use of occupancy, or an addition
9.12 to a building.

9.13 Subd. 40. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to
9.14 148.285.

9.15 Subd. 41. **Occupational therapist.** "Occupational therapist" means a person who is
9.16 licensed under sections 148.6401 to 148.6449.

9.17 Subd. 42. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

9.18 Subd. 43. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not
9.19 required by federal law to bear the symbol "Rx only."

9.20 Subd. 44. **Person-centered planning and service delivery.** "Person-centered planning
9.21 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph
9.22 (b).

9.23 Subd. 45. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision
9.24 3.

9.25 Subd. 46. **Physical therapist.** "Physical therapist" means a person who is licensed under
9.26 sections 148.65 to 148.78.

9.27 Subd. 47. **Physician.** "Physician" means a person who is licensed under chapter 147.

9.28 Subd. 48. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;
9.29 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

9.30 Subd. 49. **Prescription.** "Prescription" has the meaning given in section 151.01,
9.31 subdivision 16a.

10.1 Subd. 50. **Provisional license.** "Provisional license" means the initial license the
10.2 department issues after approval of a complete written application and before the department
10.3 completes the provisional license and determines that the provisional licensee is in substantial
10.4 compliance.

10.5 Subd. 51. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be
10.6 completed at predetermined times or according to a predetermined routine.

10.7 Subd. 52. **Reminder.** "Reminder" means providing a verbal or visual reminder to a
10.8 resident.

10.9 Subd. 53. **Resident.** "Resident" means a person living in an assisted living facility or a
10.10 basic care facility.

10.11 Subd. 54. **Resident record.** "Resident record" means all records that document
10.12 information about the services provided to the resident.

10.13 Subd. 55. **Resident representative.** "Resident representative" means a person designated
10.14 in writing by the resident and identified in the resident's records on file with the facility.

10.15 Subd. 56. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed
10.16 under chapter 147C.

10.17 Subd. 57. **Revenues.** "Revenues" means all money received by a licensee derived from
10.18 the provision of home care services, including fees for services and appropriations of public
10.19 money for home care services.

10.20 Subd. 58. **Service agreement.** "Service agreement" means the written agreement between
10.21 the resident or the resident's representative and the provisional licensee or licensee about
10.22 the services that will be provided to the resident.

10.23 Subd. 59. **Standby assistance.** "Standby assistance" means the presence of another
10.24 person within arm's reach to minimize the risk of injury while performing daily activities
10.25 through physical intervention or cueing to assist a resident with an assistive task by providing
10.26 cues, oversight, and minimal physical assistance.

10.27 Subd. 60. **Social worker.** "Social worker" means a person who is licensed under chapter
10.28 148D or 148E.

10.29 Subd. 61. **Speech-language pathologist.** "Speech-language pathologist" has the meaning
10.30 given in section 148.512.

11.1 Subd. 62. **Substantial compliance.** "Substantial compliance" means the commissioner
11.2 has found no Level 4 violations, nor any pattern of or widespread Level 3 violations as
11.3 described under section 144G.35, subdivisions 1 and 2.

11.4 Subd. 63. **Supportive services.** "Supportive services" means services that may be offered
11.5 or provided in a basic care facility or an assisted living facility and means help with personal
11.6 laundry, handling or assisting with personal funds of residents, or arranging for medical
11.7 services, health-related services, social services, housekeeping, central dining, recreation,
11.8 or transportation. Arranging for services does not include making referrals, or contacting a
11.9 service provider in an emergency.

11.10 Subd. 64. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure
11.11 for compliance with this chapter.

11.12 Subd. 65. **Surveyor.** "Surveyor" means a staff person of the department who is authorized
11.13 to conduct surveys of basic care facilities and assisted living facilities and applicants.

11.14 Subd. 66. **Termination of housing or services.** "Termination of housing or services"
11.15 means a discharge, eviction, transfer, or service termination initiated by the facility. A
11.16 facility-initiated termination is one which the resident objects to and did not originate through
11.17 a resident's verbal or written request. A resident-initiated termination is one where a resident
11.18 or, if appropriate, a designated representative provided a verbal or written notice of intent
11.19 to leave the facility. A resident-initiated termination does not include the general expression
11.20 of a desire to return home or the elopement of residents with cognitive impairment.

11.21 Subd. 67. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,
11.22 other than medications, ordered or prescribed by a licensed health professional and provided
11.23 to a resident to cure, rehabilitate, or ease symptoms.

11.24 Subd. 68. **Unit of government.** "Unit of government" means a city, county, town, school
11.25 district, other political subdivision of the state, or an agency of the state or federal
11.26 government, that includes any instrumentality of a unit of government.

11.27 Subd. 69. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise
11.28 licensed or certified by a governmental health board or agency who provide services to a
11.29 resident.

11.30 Subd. 70. **Verbal.** "Verbal" means oral and not in writing.

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

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

12.5 Subd. 2. **Licensure categories.** (a) Three categories of facility licensure are established
12.6 under this chapter.

12.7 (b) A facility that provides basic care services must be licensed as a basic care facility.
12.8 A basic care facility shall not provide comprehensive assisted living services.

12.9 (c) A facility that provides basic care services and comprehensive assisted living services
12.10 must be licensed as an assisted living facility.

12.11 (d) A facility that provides basic care services and comprehensive assisted living services,
12.12 and provides services in a secure dementia care unit must be licensed as an assisted living
12.13 facility with a secure dementia unit.

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

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

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

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

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

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

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

12.28 (3) standards of training of facility personnel;

12.29 (4) standards for provision of services;

12.30 (5) standards for medication management;

- 13.1 (6) standards for supervision of services;
- 13.2 (7) standards for resident evaluation or assessment;
- 13.3 (8) standards for treatments and therapies;
- 13.4 (9) requirements for the involvement of a resident's health care provider, the
- 13.5 documentation of the health care provider's orders, if required, and the resident's service
- 13.6 agreement;
- 13.7 (10) the maintenance of accurate, current resident records;
- 13.8 (11) the establishment of categories of licensure based on services provided; and
- 13.9 (12) provisions to enforce these regulations and the basic care and assisted living bill of
- 13.10 rights.

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

- 13.12 (1) license, survey, and monitor without advance notice facilities in accordance with
- 13.13 this chapter;
- 13.14 (2) survey every provisional licensee within one year of the provisional license issuance
- 13.15 date subject to the provisional licensee providing licensed services to residents;
- 13.16 (3) survey facility licensees at least once every three years;
- 13.17 (4) investigate complaints of facilities;
- 13.18 (5) issue correction orders and assess civil penalties;
- 13.19 (6) take action as authorized in sections 144G.21 to 144G.33; and
- 13.20 (7) take other action reasonably required to accomplish the purposes of this chapter.

13.21 (b) After July 1, 2021, the commissioner shall review blueprints for all new facility

13.22 construction and must approve the plans before construction may be commenced.

13.23 (c) The commissioner shall provide on-site review of the construction to ensure that all

13.24 physical environment standards are met before the facility license is complete.

13.25 Subd. 3. **Rulemaking authorized.** (a) The commissioner shall adopt rules for all basic

13.26 care facilities and assisted living facilities that promote person-centered planning and service

13.27 and optimal quality of life, and that ensure resident rights are protected, resident choice is

13.28 allowed, and public health and safety is ensured.

13.29 (b) On July 1, 2019, the commissioner shall begin rulemaking using the process in section

13.30 14.389, subdivision 5.

- 14.1 (c) The commissioner shall adopt rules that include but are not limited to the following:
- 14.2 (1) minimum requirements for move-in assessments and ongoing assessments and
- 14.3 practice standards in sections 144A.43 to 144A.47;
- 14.4 (2) initial assessments and continuing assessments;
- 14.5 (3) emergency disaster and preparedness plans;
- 14.6 (4) uniform checklist disclosure of services; and
- 14.7 (5) uniform consumer information guide elements and other data collected.
- 14.8 (d) The commissioner shall publish the proposed rules by December 31, 2019.
- 14.9 Sec. 4. **[144G.13] APPLICATION FOR LICENSURE.**
- 14.10 Subdivision 1. **License application; required information.** Each application for a
- 14.11 facility license, including a provisional license, must include information sufficient to show
- 14.12 that the applicant meets the requirements of licensure, including:
- 14.13 (1) the business name and legal entity name of the operating entity; street address and
- 14.14 mailing address of the facility; and the names, e-mail addresses, telephone numbers, and
- 14.15 mailing addresses of all owners, controlling individuals, managerial officials, and the assisted
- 14.16 living administrator;
- 14.17 (2) the name and e-mail address of the managing agent, if applicable;
- 14.18 (3) the licensed capacity and the license category;
- 14.19 (4) the license fee in the amount specified in subdivision 3;
- 14.20 (5) any judgments, private or public litigation, tax liens, written complaints, administrative
- 14.21 actions, or investigations by any government agency against the applicant, owner, controlling
- 14.22 individual, managerial official, or assisted living administrator that are unresolved or
- 14.23 otherwise filed or commenced within the preceding ten years;
- 14.24 (6) documentation of compliance with the background study requirements of section
- 14.25 144A.476 for the owner, controlling individuals, and managerial officials. Each application
- 14.26 for a new license must include documentation for the applicant and for each individual with
- 14.27 five percent or more direct or indirect ownership in the applicant;
- 14.28 (7) evidence of workers' compensation coverage as required by sections 176.181 and
- 14.29 176.182;

- 15.1 (8) disclosure that the provider has no liability coverage or, if the provider has coverage,
15.2 documentation of coverage;
- 15.3 (9) a copy of the executed lease agreement if applicable;
- 15.4 (10) a copy of the management agreement if applicable;
- 15.5 (11) a copy of the operations transfer agreement or similar agreement if applicable;
- 15.6 (12) a copy of the executed agreement if the facility has contracted services with another
15.7 organization or individual for services such as managerial, billing, consultative, or medical
15.8 personnel staffing;
- 15.9 (13) whether any applicant, owner, controlling individual, managerial official, or assisted
15.10 living administrator of the facility has ever been convicted of a crime or found civilly liable
15.11 for an offense involving moral turpitude, including forgery, embezzlement, obtaining money
15.12 under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense
15.13 or violation, or any violation of section 626.557 or any other similar law in any other state,
15.14 or any violation of a federal or state law or regulation in connection with activities involving
15.15 any consumer fraud, false advertising, deceptive trade practices, or similar consumer
15.16 protection law;
- 15.17 (14) whether the applicant or any person employed by the applicant has a record of
15.18 defaulting in the payment of money collected for others, including the discharge of debts
15.19 through bankruptcy proceedings;
- 15.20 (15) documentation that the applicant has designated one or more owners, controlling
15.21 individuals, or employees as an agent or agents under subdivision 2, which shall not affect
15.22 the legal responsibility of any other owner or controlling person under this chapter;
- 15.23 (16) the signature of the owner or owners, or an authorized agent of the owner or owners
15.24 of the facility applicant. An application submitted on behalf of a business entity must be
15.25 signed by at least two owners or controlling individuals;
- 15.26 (17) identification of all states where the applicant, or individual having a five percent
15.27 or more ownership, currently or previously has been licensed as owner or operator of a
15.28 long-term care, community-based, or health care facility or agency where its license or
15.29 federal certification has been denied, suspended, restricted, conditioned, or revoked under
15.30 a private or state-controlled receivership, or where these same actions are pending under
15.31 the laws of any state or federal authority; and
- 15.32 (18) any other information required by the commissioner.

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

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

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

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

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

16.19 (1) basic care facility, \$.....;

16.20 (2) assisted living facility, \$.....; and

16.21 (3) assisted living facility with a secure dementia unit, \$.....

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

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

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

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

17.2 **Subdivision 1. Background studies required.** Before the commissioner issues a
17.3 provisional license, issues a license as a result of an approved change of ownership, or
17.4 renews a license, a controlling individual or managerial official is required to complete a
17.5 background study under section 144.057. For the purposes of this section, managerial
17.6 officials subject to the background check requirement are individuals who provide direct
17.7 contact as defined in section 245C.02, subdivision 11. No person may be involved in the
17.8 management, operation, or control of a facility if the person has been disqualified under
17.9 chapter 245C.

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

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

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

17.23 **Sec. 6. [144G.16] CONSIDERATION OF APPLICATIONS.**

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

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

17.31 (c) Failure to provide accurate information or demonstrate required performance history
17.32 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. 7. [144G.17] PROVISIONAL LICENSE.

Subdivision 1. **Provisional license.** (a) Beginning July 1, 2021, for new applicants, the commissioner shall issue a provisional license for each of the licensure categories 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), and subdivision 3.

(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 or change in the facility's category of licensure.

Subd. 2. **Initial survey of provisional licensees and licensure.** (a) During the provisional license period, the commissioner shall survey the provisional licensee after the

19.1 commissioner is notified or has evidence that the provisional licensee has residents and is
19.2 providing services.

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

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

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

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

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

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

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

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

20.3 (1) a reconsideration is in process;

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

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

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

20.12 Subd. 7. **Fines.** The fee for failure to comply with the notification requirements in section
20.13 144G.47, subdivision 5, is \$1,000.

20.14 **Sec. 8. [144G.18] LICENSE RENEWAL.**

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

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

20.19 (2) submits the renewal fee under section 144.122;

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

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

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

20.25 **Sec. 9. [144G.19] NOTIFICATION OF CHANGES OF INFORMATION.**

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

21.1 **ARTICLE 2**

21.2 **SURVEYS AND ENFORCEMENT**

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

21.4 (a) In addition to authority otherwise granted to the commissioner under this chapter,
21.5 the commissioner may refuse to grant a provisional license, refuse to grant a license as a
21.6 result of a change in ownership, renew a license, suspend or revoke a license, or impose a
21.7 conditional license if the owner, controlling individual, or employee of a basic care facility,
21.8 assisted living facility, or assisted living facility with a secure dementia unit:

21.9 (1) is in violation of the license application requirements of sections 144G.13 to 144G.20,
21.10 or during the term of the license, has incurred the following number of uncorrected or
21.11 repeated violations:

21.12 (i) two or more uncorrected violations or one or more repeated violations of Level 3 or
21.13 4 as defined in section 144G.35, subdivision 1; or

21.14 (ii) four or more uncorrected violations or two or more repeated violations of any nature,
21.15 including Level 2, Level 3, and Level 4 violations as defined in section 144G.35, subdivision
21.16 1;

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

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

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

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

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

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

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

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

- 22.1 (10) refuses to initiate a background study under section 144.057 or 245A.04;
- 22.2 (11) fails to timely pay any fines assessed by the commissioner;
- 22.3 (12) violates any local, city, or township ordinance relating to housing or services;
- 22.4 (13) has knowingly permitted repeated incidents of personnel performing services beyond
- 22.5 their competency level; or
- 22.6 (14) has operated beyond the scope of the facility's license category.
- 22.7 (b) A violation by a contractor providing the services of the facility is a violation by
- 22.8 facility.

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

22.10 Subdivision 1. **Terms to suspension or conditional license.** A suspension or conditional

22.11 license designation may include terms that must be completed or met before a suspension

22.12 or conditional license designation is lifted. A conditional license designation may include

22.13 restrictions or conditions that are imposed on the facility. Terms for a suspension or

22.14 conditional license may include one or more of the following and the scope of each will be

22.15 determined by the commissioner:

22.16 (1) requiring a consultant to review, evaluate, and make recommended changes to the

22.17 facility's practices and submit reports to the commissioner at the cost of the facility;

22.18 (2) requiring supervision of the facility or staff practices at the cost of the facility by an

22.19 unrelated person who has sufficient knowledge and qualifications to oversee the practices

22.20 and who will submit reports to the commissioner;

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

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

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

22.24 time; or

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

22.26 Subd. 2. **Continued operation.** A facility subject to this section may continue operating

22.27 during the period of time residents are being transferred to another service provider.

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

22.29 Subdivision 1. **Immediate temporary suspension for Level 4 violations.** (a) In addition

22.30 to any other remedies provided by law, the commissioner may, without a prior contested

23.1 case hearing, immediately temporarily suspend a license or prohibit delivery of housing or
23.2 services by a facility for not more than 90 days or issue a conditional license, if the
23.3 commissioner determines that there are:

23.4 (1) Level 4 violations; or

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

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

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

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

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

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

23.28 (1) advance notice is given to the facility;

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

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

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

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

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

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

24.11 Notwithstanding the provisions of section 144G.27, the commissioner must revoke a
24.12 license if a controlling individual of the facility is convicted of a felony or gross misdemeanor
24.13 that relates to operation of the facility or directly affects resident safety or care. The
24.14 commissioner shall notify the facility and the Office of Ombudsman for Long-Term Care
24.15 30 days in advance of the date of revocation.

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

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

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

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

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

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

24.27 (a) Within five working days after proceedings are initiated by the commissioner to
24.28 revoke or suspend a facility's license, or a decision by the commissioner not to renew a
24.29 living facility's license, the controlling individual of the facility or a designee must provide
24.30 to the commissioner and the ombudsman for long-term care the names of residents and the

25.1 names and addresses of the residents' guardians, designated representatives, and family
25.2 contacts.

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

25.7 (1) a correction order; and

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

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

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

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

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

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

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

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

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

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

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

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

26.4 Subd. 2. **Hearings.** Within 15 business days of receipt of the licensee's timely appeal
26.5 of a sanction under this section, other than for a temporary suspension, the commissioner
26.6 shall request assignment of an administrative law judge. The commissioner's request must
26.7 include a proposed date, time, and place of hearing. A hearing must be conducted by an
26.8 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
26.9 90 calendar days of the request for assignment, unless an extension is requested by either
26.10 party and granted by the administrative law judge for good cause or for purposes of discussing
26.11 settlement. In no case shall one or more extensions be granted for a total of more than 90
26.12 calendar days unless there is a criminal action pending against the licensee. If, while a
26.13 licensee continues to operate pending an appeal of an order for revocation, suspension, or
26.14 refusal to renew a license, the commissioner identifies one or more new violations of law
26.15 that meet the requirements of Level 3 or Level 4 violations as defined in section 144G.35,
26.16 subdivision 1, the commissioner shall act immediately to temporarily suspend the license.

26.17 Subd. 3. **Expedited hearings.** (a) Within five business days of receipt of the licensee's
26.18 timely appeal of a temporary suspension or issuance of a conditional license, the
26.19 commissioner shall request assignment of an administrative law judge. The request must
26.20 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
26.21 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
26.22 30 calendar days of the request for assignment, unless an extension is requested by either
26.23 party and granted by the administrative law judge for good cause. The commissioner shall
26.24 issue a notice of hearing by certified mail or personal service at least ten business days
26.25 before the hearing. Certified mail to the last known address is sufficient. The scope of the
26.26 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
26.27 of a conditional license should remain in effect and whether there is sufficient evidence to
26.28 conclude that the licensee's actions or failure to comply with applicable laws are Level 3
26.29 or Level 4 violations as defined in section 144G.35, subdivision 1, or that there were
26.30 violations that posed an imminent risk of harm to the resident's health and safety.

26.31 (b) The administrative law judge shall issue findings of fact, conclusions, and a
26.32 recommendation within ten business days from the date of hearing. The parties shall have
26.33 ten calendar days to submit exceptions to the administrative law judge's report. The record
26.34 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
26.35 final order shall be issued within ten business days from the close of the record. When an

27.1 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
27.2 the commissioner shall issue a final order affirming the temporary immediate suspension
27.3 or conditional license within ten calendar days of the commissioner's receipt of the
27.4 withdrawal or dismissal. The licensee is prohibited from operation during the temporary
27.5 suspension period.

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

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

27.13 Subd. 4. **Time limits for appeals.** To appeal the assessment of civil penalties under
27.14 section 144G.13, subdivision 4, and an action against a license under sections 144G.21 to
27.15 144G.33, a licensee must request a hearing no later than 15 days after the licensee receives
27.16 notice of the action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28.30 (4) the payor sources for each resident, including payor source identification numbers;
28.31 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 on-site 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.

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

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

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

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

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

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

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

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

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

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

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

31.30 (3) widespread, when problems are pervasive or represent a systemic failure that has
31.31 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, 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, 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.

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

33.1 an additional fine. The commissioner shall notify the licensee by mail to the last known
33.2 address in the licensing record that a second fine has been assessed. The licensee may appeal
33.3 the second fine as provided under section 144G.36.

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

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

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

33.12 Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in a
33.13 dedicated special revenue account. On an annual basis, the balance in the special revenue
33.14 account shall be appropriated to the commissioner to implement the recommendations of
33.15 the advisory council established in section 144A.4799.

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

33.17 Subdivision 1. **Reconsideration process required.** The commissioner shall make
33.18 available to facilities a correction order reconsideration process. This process may be used
33.19 to challenge the correction order issued, including the level and scope described in section
33.20 144G.35, subdivisions 1 and 2, and any fine assessed.

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

33.23 Subd. 3. **Reconsideration process.** (b) A facility may request from the commissioner,
33.24 in writing, a correction order reconsideration regarding any correction order issued to the
33.25 facility. The written request for reconsideration must be received by the commissioner
33.26 within 15 calendar days of the correction order receipt date. The correction order
33.27 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that
33.28 participated in writing or reviewing the correction order being disputed. The correction
33.29 order reconsiderations may be conducted in person, by telephone, by another electronic
33.30 form, or in writing, as determined by the commissioner. The commissioner shall respond
33.31 in writing to the request from a facility for a correction order reconsideration within 60 days
33.32 of the date the facility requests a reconsideration. The commissioner's response shall identify
33.33 the commissioner's decision regarding each citation challenged by the facility.

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

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

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

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

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

34.11 (5) the correction order is rescinded;

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

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

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

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

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

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

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

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

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

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

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

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

35.7 (4) the reasons for the request; and

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

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

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

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

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

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

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

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

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

35.27 **ARTICLE 3**

35.28 **FACILITY RESPONSIBILITIES**

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

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

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

36.3 (2) if providing health-related services, do so in a manner that complies with applicable
36.4 home care licensure requirements in chapter 144A and the Nurse Practice Act in sections
36.5 148.171 to 148.285;

36.6 (3) utilize person-centered planning and service delivery process as defined in section
36.7 245D.07;

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

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

36.14 (6) allow residents the ability to furnish and decorate the resident's unit within the terms
36.15 of the lease and the applicable NFPA life safety code;

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

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

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

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

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

36.26 (i) awake;

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

36.29 (iii) capable of communicating with residents;

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

36.31 (v) capable of following directions;

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

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

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

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

37.12 (ii) weekly housekeeping;

37.13 (iii) weekly laundry service;

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

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

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

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

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

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

37.30 Subdivision 1. **Responsibility for housing and services.** The facility is directly
37.31 responsible to the resident for all housing and service-related matters provided, irrespective
37.32 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 improvement initiative.** The facility shall engage in a quality improvement initiative appropriate to the size of the facility and relevant to the type of

services provided. A quality improvement initiative 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 a facility's quality improvement initiative must be available for two years. Information about the quality improvement initiative 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;

40.1 (4) documentation of annual performance reviews;

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

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

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

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

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

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

40.19 (1) as may be required by law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41.25 (12) documentation of complaints received and any resolution;

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

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

41.30 Subd. 9. Transfer of resident records. If a resident transfers to another facility or
41.31 another health care practitioner or provider, or is admitted to an inpatient facility, the facility,

42.1 upon request of the resident or the resident's representative, shall take steps to ensure a
42.2 coordinated transfer including sending a copy or summary of the resident's record to the
42.3 new facility or the resident, as appropriate.

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

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

42.11 (1) the licensee of the facility;

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

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

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

42.16 Sec. 4. **[144G.42] RESIDENT COMPLAINT AND INVESTIGATIVE PROCESS.**

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

42.27 (b) The facility must document the complaint, name of the resident, investigation, and
42.28 resolution of each complaint filed. The facility must maintain a record of all activities
42.29 regarding complaints received, including the date the complaint was received, and the
42.30 facility's investigation and resolution of the complaint. This complaint record must be kept
42.31 for each event for at least two years after the date of entry and must be available to the
42.32 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. 5. **[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.

44.1 Sec. 6. **[144G.44] INFECTION CONTROL AND PREVENTION.**

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

44.9 Sec. 7. **[144G.45] DISASTER PLANNING AND EMERGENCY PREPAREDNESS.**

44.10 (a) Each facility must meet the following requirements:

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

44.14 (2) post an emergency disaster plan prominently;

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

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

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

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

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

44.23 **ARTICLE 4**

44.24 **CONTRACTS, TERMINATIONS, AND RELOCATIONS**

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

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

44.29 Subd. 2. **Requirements of contract.** The contract must be signed by both the resident
44.30 or the designated representative and the licensee or an agent of the facility, and contain all

45.1 the terms concerning the provision of housing and services, whether provided directly by
45.2 the facility or by management agreement.

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

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

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

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

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

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

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

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

45.28 (1) the facility and service provider when applicable;

45.29 (2) the licensee of the facility;

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

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

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

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

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

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

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

46.11 (5) billing and payment procedures and requirements.

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

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

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

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

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

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

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

46.28 (6) the contact information to obtain long-term care consulting services under section
46.29 256B.0911.

46.30 Subd. 11. **Additional contract requirements for assisted living facilities.** (a) Assisted
46.31 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 and within the limitations of the applicable NFPA Life Safety Code 101;

(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, a facility 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 facility.

Subd. 2. Notice of contract termination required. If the facility and the resident or resident's designated representative cannot identify a mutually agreeable method of avoiding a termination of housing or services, the facility 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 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 contract may be executed between the facility 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 a contract that contained as a term of the contract the provision by the facility 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 a contract that does not contain as a term of the contract the provision by the facility of services is governed exclusively by the terms of the lease contained in the 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 facility 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 facility with whom the resident may discuss the notice of termination.

Subd. 4. **Notice period for nonemergency contract terminations.** A licensed facility may terminate a 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 contract terminations.** A licensed facility may terminate a contract ten calendar days after issuing the notice of contract termination if:

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

(2) a significant change in the resident's condition has resulted in service needs that are beyond the scope of services the facility has indicated in its contract that it will provide or that cannot be safely met without additional services provided by the facility 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 facility has not received payment for services.

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

Subdivision 1. **Right to appeal.** Residents have the right to appeal the termination of a contract that contained as a term of the contract the provision of services by the facility.

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

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

(2) a factual dispute between the facility and the resident concerning the underlying reason for an emergency termination of the 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 facility has alleged and demonstrated nonpayment. If an administrative law judge finds sufficient evidence to overturn a contract termination under this clause, the

50.1 resident will be given an additional 30 days' notice, after which the case will be reviewed
50.2 to determine whether there is a sufficient alternative.

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

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

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

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

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

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

50.15 (1) in the event of a termination of housing, shall identify, and work with the resident
50.16 to achieve a coordinated and orderly transfer to, a safe location that is appropriate for the
50.17 resident, and the facility must identify that location prior to any appeal hearing;

50.18 (2) in the event of a termination of services, shall identify, and work with the resident
50.19 to achieve a coordinated transfer to, an appropriate service provider, if services are still
50.20 needed and desired by the resident, and the facility must identify the provider prior to any
50.21 appeal hearing;

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

50.26 (4) a resident may decline to discharge to the location the facility identifies or to transfer
50.27 to the service provider the facility identifies, and may choose instead to discharge or transfer
50.28 to a location or service provider of the resident's choice within the timeline prescribed in
50.29 the discharge notice.

50.30 Subd. 2. **Safe location.** A safe location is not a private home where the occupant is
50.31 unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility
50.32 may not terminate a resident's housing or services if the resident will, as a result of the

51.1 termination, become homeless, as that term is defined in section 116L.361, subdivision 5,
51.2 or if an adequate and safe discharge location or adequate and needed service provider has
51.3 not been identified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52.22 Subd. 4. **Termination planning and final accounting requirements.** Prior to
52.23 termination, the facility must follow the termination planning requirements under section
52.24 144G.49 for residents. The facility must implement the plan approved by the commissioner
52.25 and ensure that arrangements for relocation and continued care that meet each resident's
52.26 social, emotional, and health needs are effectuated prior to closure.

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

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

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

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

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

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

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

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

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

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

53.30 (1) the transfers of residents within the facility are being proposed due to curtailment,
53.31 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.

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 regularly scheduled 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.

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

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

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

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

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

55.14 (2) demonstrated competency by satisfactorily completing a written or oral test on the
55.15 tasks the unlicensed personnel will perform and on the topics listed in section 144G.54,
55.16 subdivision 2, paragraph (a); and successfully demonstrated competency of topics in section
55.17 144G.54, subdivision 2, paragraph (a), clauses (5), (7), and (8), by a practical skills test.

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

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

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

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

55.30 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned
55.31 by a licensed health professional must meet the requirements for delegated tasks in section
55.32 144G.55, subdivision 2, and any other training or competency requirements within the

56.1 licensed health professional's scope of practice relating to delegation or assignment of tasks
56.2 to unlicensed personnel.

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

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

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

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

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

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

56.17 (1) documentation requirements for all services provided;

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

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

56.21 (4) maintenance of a clean and safe environment;

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

56.23 (i) hair care and bathing;

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

56.25 (iii) care and use of hearing aids; and

56.26 (iv) dressing and assisting with toileting;

56.27 (6) training on the prevention of falls;

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

56.29 (8) medication, exercise, and treatment reminders;

- 57.1 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 57.2 (10) preparation of modified diets as ordered by a licensed health professional;
- 57.3 (11) communication skills that include preserving the dignity of the resident and showing
- 57.4 respect for the resident and the resident's preferences, cultural background, and family;
- 57.5 (12) awareness of confidentiality and privacy;
- 57.6 (13) understanding appropriate boundaries between staff and residents and the resident's
- 57.7 family;
- 57.8 (14) procedures to use in handling various emergency situations; and
- 57.9 (15) awareness of commonly used health technology equipment and assistive devices.
- 57.10 (b) In addition to paragraph (a), training and competency evaluation for unlicensed
- 57.11 personnel providing comprehensive assisted living services must include:
- 57.12 (1) observing, reporting, and documenting resident status;
- 57.13 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
- 57.14 other observed changes that must be reported to appropriate personnel;
- 57.15 (3) reading and recording temperature, pulse, and respirations of the resident;
- 57.16 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
- 57.17 (5) safe transfer techniques and ambulation;
- 57.18 (6) range of motioning and positioning; and
- 57.19 (7) administering medications or treatments as required.

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

- 57.21 Subdivision 1. **Availability of contact staff.** (a) A basic care facility must have a person
- 57.22 available to staff for consultation on items relating to the provision of services or about the
- 57.23 resident.
- 57.24 (b) Assisted living facilities must have a registered nurse available for consultation to
- 57.25 staff performing delegated nursing tasks and must have an appropriate licensed health
- 57.26 professional available if performing other delegated services such as therapies.
- 57.27 (c) The appropriate contact person must be readily available either in person, by
- 57.28 telephone, or by other means to the staff at times when the staff is providing services.

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

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

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

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

58.29 Subd. 4. **Supervision of delegated tasks and therapy.** (a) Staff who perform delegated
58.30 nursing or therapy tasks must be supervised by an appropriate licensed health professional
58.31 or a registered nurse per the assisted living facility's policy where the services are being
58.32 provided to verify that the work is being performed competently and to identify problems
58.33 and solutions related to the staff person's ability to perform the tasks. Supervision of staff
58.34 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

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

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

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

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

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

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

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

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

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

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

60.30 (2) review of the basic care facility and assisted living facility bill of rights in section
60.31 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 assisted living 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

62.1 date, and must have at least two hours of training on topics related to dementia care for each
62.2 12 months of employment thereafter;

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

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

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

62.19 (b) Areas of required training include:

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

62.21 (2) assistance with activities of daily living;

62.22 (3) problem solving with challenging behaviors; and

62.23 (4) communication skills.

62.24 (c) The facility shall provide to consumers in written or electronic form a description of
62.25 the training program, the categories of employees trained, the frequency of training, and
62.26 the basic topics covered.

62.27 Subd. 2. **Basic care facility dementia training requirements.** (a) Basic care facilities
62.28 must meet the following training requirements:

62.29 (1) supervisors of direct-care staff must have at least four hours of initial training on
62.30 topics specified under paragraph (b) within 120 working hours of the employment start
62.31 date, and must have at least two hours of training on topics related to dementia care for each
62.32 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 make available 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.

64.1 **Sec. 2. [144G.61] REFERRALS TO ANOTHER PROVIDER.**

64.2 If a facility reasonably believes that a resident is in need of another medical or health
64.3 service, including a licensed health professional, or social service provider, the facility shall:

64.4 (1) determine the resident's preferences with respect to obtaining the service; and

64.5 (2) inform the resident of the resources available, if known, to assist the resident in
64.6 obtaining services.

64.7 **Sec. 3. [144G.62] INITIATION OF SERVICES.**

64.8 When a facility initiates services and the individualized review or assessment required
64.9 under section 144G.63 has not been completed, the facility must complete a temporary plan
64.10 and agreement with the resident for services.

64.11 **Sec. 4. [144G.63] INITIAL REVIEWS; ASSESSMENTS; MONITORING.**

64.12 (a) A basic care facility shall complete an individualized initial review of the resident's
64.13 needs and preferences. The initial review must be completed within 30 days of the start of
64.14 services. Resident monitoring and review must be conducted as needed based on changes
64.15 in the needs of the resident and cannot exceed 90 days from the date of the last review.

64.16 (b) An assisted living facility shall conduct a nursing assessment of a resident contracting
64.17 for health services. A registered nurse shall perform at the prospective resident's expense a
64.18 nursing assessment of the physical and cognitive needs of the prospective resident and
64.19 propose a temporary service agreement prior to the date on which a prospective resident
64.20 executes a contract with a facility or the date on which a prospective resident moves in,
64.21 whichever is earlier. Residents who are not receiving any services shall not be required to
64.22 undergo an initial review or nursing assessment. If necessitated by either the geographic
64.23 distance between the prospective resident and the facility, or urgent or unexpected
64.24 circumstances, the assessment may be conducted using telecommunication methods based
64.25 on practice standards that meet the resident's needs and reflect person-centered planning
64.26 and care delivery. The nursing assessment must be completed within five days of the start
64.27 of services.

64.28 (c) Resident reassessment and monitoring must be conducted no more than 14 days after
64.29 initiation of services. Ongoing resident reassessment and monitoring must be conducted as
64.30 needed based on changes in the needs of the resident and cannot exceed 90 days from the
64.31 last date of the assessment.

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

65.5 Sec. 5. **[144G.64] SERVICE AGREEMENTS.**

65.6 (a) No later than 14 days after the date that services are first provided, a facility shall
65.7 finalize a current written service agreement.

65.8 (b) The service agreement and any revisions must include a signature or other
65.9 authentication by the facility and by the resident or the designated representative documenting
65.10 agreement on the services to be provided. The service agreement must be revised, if needed,
65.11 based on resident review or reassessment under section 144G.63. The facility must provide
65.12 information to the resident about changes to the facility's fee for services and how to contact
65.13 the Office of Ombudsman for Long-Term Care.

65.14 (c) The facility must implement and provide all services required by the current service
65.15 agreement.

65.16 (d) The service agreement and the revised service agreement must be entered into the
65.17 resident's record, including notice of a change in a resident's fees when applicable.

65.18 (e) Staff providing services must be informed of the current written service agreement.

65.19 (f) The service agreement must include:

65.20 (1) a description of the services to be provided, the fees for services, and the frequency
65.21 of each service, according to the resident's current review or assessment and resident
65.22 preferences;

65.23 (2) the identification of staff or categories of staff who will provide the services;

65.24 (3) the schedule and methods of monitoring reviews or assessments of the resident;

65.25 (4) the schedule and methods of monitoring staff providing services; and

65.26 (5) a contingency plan that includes:

65.27 (i) the action to be taken by the facility and by the resident and the designated
65.28 representative if the scheduled service cannot be provided;

65.29 (ii) information and a method for a resident and the designated representative to contact
65.30 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; 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.

67.1 (b) The assessment must identify interventions needed in management of medications
67.2 to prevent diversion of medication by the resident or others who may have access to the
67.3 medications. "Diversion of medications" means the misuse, theft, or illegal or improper
67.4 disposition of medications and to provide instructions to the resident and designated
67.5 representative on interventions to manage the resident's medications and prevent diversion
67.6 of medications.

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

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

67.15 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving
67.16 medication management services, the assisted living facility must prepare and include in
67.17 the service agreement a written statement of the medication management services that will
67.18 be provided to the resident. The assisted living facility must develop and maintain a current
67.19 individualized medication management record for each resident based on the resident's
67.20 assessment that must contain the following:

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

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

67.24 (3) documentation of specific resident instructions relating to the administration of
67.25 medications;

67.26 (4) identification of persons responsible for monitoring medication supplies and ensuring
67.27 that medication refills are ordered on a timely basis;

67.28 (5) identification of medication management tasks that may be delegated to unlicensed
67.29 personnel;

67.30 (6) procedures for staff notifying a registered nurse or appropriate licensed health
67.31 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.

69.1 Subd. 10. Medication management for residents who will be away from home. (a)

69.2 An assisted living facility that is providing medication management services to the resident
69.3 must develop and implement policies and procedures for giving accurate and current
69.4 medications to residents for planned or unplanned times away from home according to the
69.5 resident's individualized medication management plan. The policies and procedures must
69.6 state that:

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

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

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

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

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

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

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

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

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

69.31 (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.

71.1 Subd. 15. **Verbal prescription orders.** Verbal prescription orders from an authorized
71.2 prescriber must be received by a nurse or pharmacist. The order must be handled according
71.3 to Minnesota Rules, part 6800.6200.

71.4 Subd. 16. **Written or electronic prescription.** When a written or electronic prescription
71.5 is received, it must be communicated to the registered nurse in charge and recorded or placed
71.6 in the resident's record.

71.7 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,
71.8 or electronically must be kept confidential according to sections 144.291 to 144.298 and
71.9 144A.44.

71.10 Subd. 18. **Medications provided by resident or family members.** When the assisted
71.11 living facility is aware of any medications or dietary supplements that are being used by
71.12 the resident and are not included in the assessment for medication management services,
71.13 the staff must advise the registered nurse and document that in the resident's record.

71.14 Subd. 19. **Storage of medications.** An assisted living facility must store all prescription
71.15 medications in securely locked and substantially constructed compartments according to
71.16 the manufacturer's directions and permit only authorized personnel to have access.

71.17 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate
71.18 or later administration, must be kept in the original container in which it was dispensed by
71.19 the pharmacy bearing the original prescription label with legible information including the
71.20 expiration or beyond-use date of a time-dated drug.

71.21 Subd. 21. **Prohibitions.** No prescription drug supply for one resident may be used or
71.22 saved for use by anyone other than the resident.

71.23 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by
71.24 the assisted living facility must be given to the resident or the designated representative
71.25 when the resident's service agreement ends or medication management services are no
71.26 longer part of the service agreement. Medications that have been stored in the resident's
71.27 home for a resident who is deceased or that have been discontinued or have expired may
71.28 be given to the resident or the designated representative for disposal.

71.29 (b) The assisted living facility shall dispose of any medications remaining with the
71.30 facility that are discontinued or expired or upon the termination of the service contract or
71.31 the resident's death according to state and federal regulations for disposition of medications
71.32 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

73.1 develop and maintain a current individualized treatment and therapy management record

73.2 for each resident which must contain at least the following:

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

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

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

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

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

73.15 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments
73.16 or therapies must be administered by a nurse, physician, or other licensed health professional
73.17 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
73.18 personnel by the licensed health professional according to the appropriate practice standards
73.19 for delegation or assignment. When administration of a treatment or therapy is delegated
73.20 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or
73.21 authorized licensed health professional has:

73.22 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
73.23 and the unlicensed personnel has demonstrated the ability to competently follow the
73.24 procedures;

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

73.27 (3) communicated with the unlicensed personnel about the individual needs of the
73.28 resident.

73.29 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment
73.30 or therapy administered by an assisted living facility must be in the resident's record. The
73.31 documentation must include the signature and title of the person who administered the
73.32 treatment or therapy and must include the date and time of administration. When treatment
73.33 or therapies are not administered as ordered or prescribed, the provider must document the

74.1 reason why it was not administered and any follow-up procedures that were provided to
74.2 meet the resident's needs.

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

74.9 Subd. 7. **Right to outside service provider; other payors.** Under section 144G.76, a
74.10 resident is free to retain therapy and treatment services from an off-site service provider.
74.11 Assisted living facilities must make every effort to assist residents in obtaining information
74.12 regarding whether the Medicare, medical assistance under chapter 256B, or another public
74.13 program will pay for any or all of the services.

74.14 **ARTICLE 7**

74.15 **RESIDENT RIGHTS AND PROTECTIONS**

74.16 Section 1. **[144G.70] REQUIRED NOTICES.**

74.17 Subdivision 1. **Notices in plain language; language accommodations.** The facility
74.18 must provide all notices in plain language that residents can understand and make reasonable
74.19 accommodations for residents who have communication disabilities and those whose primary
74.20 language is a language other than English.

74.21 Subd. 2. **Notice to residents; change in ownership or management.** A facility must
74.22 provide prompt written notice to the resident or designated representative of any change of
74.23 legal name, telephone number, and physical mailing address, which may not be a public or
74.24 private post office box, of:

74.25 (1) the licensee of the facility;

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

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

74.28 Subd. 3. **Notice of services for dementia.** The facility that provides services to residents
74.29 with dementia shall make available in written or electronic form, to residents and families
74.30 or other persons who request it, a description of the training program and related training
74.31 it provides, including the categories of employees trained, the frequency of training, and
74.32 the basic topics covered.

75.1 Subd. 4. **Notice of bill of rights.** (a) The facility shall provide the resident and the
75.2 designated representative a written notice of the rights under section 144G.76 before the
75.3 initiation of services to that resident. The facility shall make all reasonable efforts to provide
75.4 notice of the rights to the resident and the designated representative in a language the resident
75.5 and designated representative can understand.

75.6 (b) In addition to the text of the bill of rights in section 144G.76, the notice shall also
75.7 contain the following statement describing how to file a complaint.

75.8 "If you have a complaint about the facility or the person providing your services, you may
75.9 call the Minnesota Adult Abuse Reporting Center at 1-844-880-1574, or you may contact
75.10 the Office of Health Facility Complaints, Minnesota Department of Health. You may also
75.11 contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for
75.12 Mental Health and Developmental Disabilities."

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

75.20 (d) The facility must obtain written acknowledgment of the resident's receipt of the bill
75.21 of rights or shall document why an acknowledgment cannot be obtained. The
75.22 acknowledgment may be obtained from the resident and the designated representative.
75.23 Acknowledgment of receipt shall be retained in the resident's record.

75.24 Subd. 5. **Notice of available assistance .** The facility shall provide each resident with
75.25 identifying and contact information about the persons who can assist with health care or
75.26 supportive services being provided. The facility shall keep each resident informed of changes
75.27 in the personnel referenced in this subdivision.

75.28 Subd. 6. **Notice of complaint and investigation procedures.** The facility shall provide
75.29 each resident a written notice that includes:

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

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

75.32 (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;

77.1 (4) making reasonable accommodations for people who have communication disabilities
77.2 and those who speak a language other than English; and
77.3 (5) providing all information and notices in plain language and in terms the residents
77.4 can understand.

77.5 Sec. 5. **[144G.72] RETALIATION PROHIBITED.**

77.6 (a) No facility or agent of a facility may retaliate against a resident or employee by taking
77.7 adverse action directly related to the following actions performed in good faith by the
77.8 resident, employee, or any person on behalf of the resident:

77.9 (1) filing a complaint, or asserts any right;

77.10 (2) filing a maltreatment report under section 626.557;

77.11 (3) reporting a reasonable suspicion of a crime or systemic problems or concerns to the
77.12 administrator of the facility, the long-term care ombudsman, or a regulatory or other
77.13 government agency;

77.14 (4) participating in any investigation or administrative or judicial proceeding;

77.15 (5) contacting or indicating an intention to contract to receive services from a service
77.16 provider of the resident's choice other than the facility; or

77.17 (6) placing or indicating an intention to place an electronic monitoring device in the
77.18 resident's private space as provided under section 144.6502.

77.19 (b) For purposes of this section, to "retaliate" against a resident includes, but is not
77.20 limited to, any of the following actions taken in bad faith and not related to other events in
77.21 the facility by a facility or an agent of the facility against a resident, or any person with a
77.22 familial, personal, legal, or professional relationship with the resident:

77.23 (1) termination of a contract;

77.24 (2) any form of discrimination;

77.25 (3) restriction or prohibition of access:

77.26 (i) of the resident to the facility or visitors; or

77.27 (ii) of a family member or a person with a personal, legal, or professional relationship
77.28 with the resident, to the resident, unless the restriction is the result of a court order;

77.29 (4) imposition of involuntary seclusion or the withholding of food, care, or services;

77.30 (5) restriction of any of the rights granted to residents under state or federal law;

78.1 (6) restriction or reduction of access to or use of amenities, care, services, privileges, or
78.2 living arrangements; or

78.3 (7) unauthorized removal, tampering with, or deprivation of technology, communication,
78.4 or electronic monitoring devices.

78.5 Sec. 6. **[144G.73] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
78.6 **PROHIBITED.**

78.7 Deceptive marketing and business practices by a facility are prohibited. No employee
78.8 or agent of any facility may:

78.9 (1) make any false, fraudulent, deceptive, or misleading statements or representations,
78.10 or material omissions, in marketing, advertising, or any other description or representation
78.11 of care or services in writing;

78.12 (2) fail to inform a resident in writing of any limitations to services available prior to
78.13 executing a contract; or

78.14 (3) advertise or represent in writing that the facility has a special care unit, such as for
78.15 dementia or memory care, without:

78.16 (i) complying with disclosure requirements under sections 325F.72 and any training
78.17 requirements required by law or rule; and

78.18 (ii) after August 1, 2021, meeting and complying with all the requirements under this
78.19 chapter and any adopted rules.

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

78.21 Sec. 7. **[144G.75] USE OF RESTRAINTS PROHIBITED.**

78.22 Residents of assisted living facilities must be free from any physical or chemical restraints
78.23 imposed for purposes of discipline or convenience.

78.24 Sec. 8. **[144G.76] BASIC CARE FACILITY AND ASSISTED LIVING FACILITY**
78.25 **BILL OF RIGHTS.**

78.26 Subdivision 1. **Applicability.** All basic care facilities and assisted living facilities licensed
78.27 under this chapter must comply with this section and the commissioner shall enforce this
78.28 section against all facilities. A resident has these rights and no facility may require or request
78.29 a resident to waive any of the rights listed in this section at any time or for any reason,

79.1 including as a condition of initiating services or entering into a basic care facility and assisted
79.2 living facility contract.

79.3 Subd. 2. **Legislative intent.** It is the intent of the legislature to promote the interests and
79.4 well-being of residents. It is the intent of this section that every resident's civil and religious
79.5 liberties, including the right to independent personal decisions and knowledge of available
79.6 choices, shall not be infringed and that the facility must encourage and assist in the fullest
79.7 possible exercise of these rights. The rights established under this section for the benefit of
79.8 residents do not limit the rights residents have under other applicable law.

79.9 Subd. 3. **Right to information about rights.** (a) Before receiving services, residents
79.10 have the right to receive from the facility written information about rights under this section
79.11 in plain language and in terms residents can understand. The provider must make reasonable
79.12 accommodations for residents who have communication disabilities and those who speak
79.13 a language other than English. The information must include:

79.14 (1) what recourse residents have if their rights are violated;

79.15 (2) the name, address, telephone number, and e-mail contact information of organizations
79.16 that provide advocacy and legal services for residents to enforce their rights, including but
79.17 not limited to the designated protection and advocacy organization in Minnesota that provides
79.18 advice and representation to individuals with disabilities; and

79.19 (3) the name, address, telephone number, and e-mail contact information for government
79.20 agencies where the resident or private client may file a maltreatment report, complain, or
79.21 seek assistance, including the Office of Health Facility Complaints, the Minnesota Adult
79.22 Abuse Reporting Center (MAARC), the long-term care ombudsman, and state and county
79.23 agencies that regulate basic care facilities and assisted living facilities.

79.24 (b) Upon request, residents and their designated and resident representatives have the
79.25 right to current facility policies, inspection findings of state and local health authorities, and
79.26 further explanation of the rights provided under this section, consistent with chapter 13 and
79.27 section 626.557.

79.28 Subd. 4. **Right to courteous treatment.** Residents have the right to be treated with
79.29 courtesy and respect, and to have the resident's property treated with respect.

79.30 Subd. 5. **Right to appropriate care and services.** (a) Residents have the right to receive
79.31 care and services that are according to a suitable and up-to-date plan, and subject to accepted
79.32 health care, medical or nursing standards, and person-centered care to take an active part
79.33 in developing, modifying, and evaluating the plan and services. All plans for care and

80.1 services must be designed to enable residents to achieve their highest level of emotional,
80.2 psychological, physical, medical, and functional well-being and safety.

80.3 (b) Residents have the right to receive medical and personal care and services with
80.4 continuity by people who are properly trained and competent to perform their duties and in
80.5 sufficient numbers to adequately provide the services agreed to in the assisted living facility
80.6 or basic care facility contract, whichever is applicable.

80.7 Subd. 6. **Right to information about individuals providing services.** Residents have
80.8 the right to be told before receiving services the type and disciplines of staff who will be
80.9 providing the services, the frequency of visits proposed to be furnished, and other choices
80.10 that are available for addressing the resident's needs.

80.11 Subd. 7. **Freedom from maltreatment.** Residents have the right to be free from
80.12 maltreatment.

80.13 Subd. 8. **Right to participate in care and service agreement; notice of**
80.14 **change.** Residents have the right to actively participate in the planning, modification, and
80.15 evaluation of their care and services. This right includes:

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

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

80.19 (3) the right to include a family member or the resident's designated representative, or
80.20 both; and

80.21 (4) the right to be told in advance of, and take an active part in decisions regarding, any
80.22 recommended changes in the plan for care and services.

80.23 Subd. 9. **Right to disclosure of contract services and right to purchase outside**
80.24 **services.** (a) Residents have the right to be informed, prior to receiving care or services
80.25 from a facility, of:

80.26 (1) care and services that are included under the terms of the contract;

80.27 (2) information about care and other public services or private services that may be
80.28 available in the community at additional charges; and

80.29 (3) any limits to the services available from the facility.

80.30 (b) If the assisted living facility or basic care facility contract permits changes in services,
80.31 residents have the right to reasonable advance notice of any change.

81.1 (c) Residents have the right to purchase or rent goods or services not included in the
81.2 contract rate from a supplier of their choice unless otherwise provided by law. The supplier
81.3 must ensure that these purchases are sufficient to meet the medical or treatment needs of
81.4 the residents.

81.5 (d) Residents have the right to change services after services have begun, within the
81.6 limits of health insurance, long-term care insurance, medical assistance under chapter 256B,
81.7 and other health programs.

81.8 (e) Facilities must make every effort to assist residents in obtaining information regarding
81.9 whether the Medicare, medical assistance under chapter 256B, or other public program will
81.10 pay for any or all of the services.

81.11 Subd. 10. **Right to information about charges.** (a) Before services are initiated, residents
81.12 have the right to be notified:

81.13 (1) of charges for the services;

81.14 (2) as to what extent payment may be expected from health insurance, public programs,
81.15 or other sources, if known; and

81.16 (3) what charges the resident may be responsible for paying.

81.17 (b) If a contract permits changes in charges, residents have the right to reasonable advance
81.18 notice of any change.

81.19 Subd. 11. **Right to refuse services or care.** (a) Residents have the right to refuse services
81.20 or care.

81.21 (b) The facility must document in the resident's record that the facility informed residents
81.22 who refuse care, services, treatment, medication, or dietary restrictions of the likely medical,
81.23 health-related, or psychological consequences of the refusal.

81.24 (c) In cases where a resident is incapable of understanding the circumstances but has
81.25 not been adjudicated incompetent, or when legal requirements limit the right to refuse
81.26 medical treatment, the conditions and circumstances must be fully documented by the
81.27 attending physician in the resident's record.

81.28 Subd. 12. **Right to personal, treatment, and communication policy.** (a) Residents
81.29 have the right to:

81.30 (1) every consideration of their privacy, individuality, and cultural identity as related to
81.31 their social, religious, and psychological well-being. Staff must respect the privacy of a

82.1 resident's space by knocking on the door and seeking consent before entering, except in an
82.2 emergency or where doing so is contrary to the resident's person-centered care plan;

82.3 (2) respectfulness and privacy as they relate to the resident's medical and personal care
82.4 program. Case discussion, consultation, examination, and treatment are confidential and
82.5 must be conducted discreetly. Privacy must be respected during toileting, bathing, and other
82.6 activities of personal hygiene, except as needed for resident safety or assistance;

82.7 (3) communicate privately with persons of their choice;

82.8 (4) enter and, unless residing in a secured assisted living facility and restrictions on the
82.9 ability to leave are indicated in the resident's person-centered care plan, leave the facility
82.10 as they choose;

82.11 (5) private communication with a representative of a protection and advocacy services
82.12 agency; and

82.13 (6) access Internet service at their expense, unless offered by the facility.

82.14 (b) Personal mail must be sent by the facility without interference and received unopened
82.15 unless medically or programmatically contraindicated and documented by the physician or
82.16 advanced practice registered nurse in the resident's record. Residents must be provided
82.17 access to a telephone to make and receive calls as well as speak privately. Facilities that are
82.18 unable to provide a private area must make reasonable arrangements to accommodate the
82.19 privacy of residents' calls.

82.20 Subd. 13. **Right to confidentiality of records.** Residents have the right to have personal,
82.21 financial, and medical information kept private, to approve or refuse release of information
82.22 to any outside party, and to be advised of the facility's policies and procedures regarding
82.23 disclosure of the information. Residents must be notified when personal records are requested
82.24 by any outside party.

82.25 Subd. 14. **Right to visitors and social participation.** (a) Residents have the right of
82.26 reasonable access at reasonable times, or any time when the resident's welfare is in immediate
82.27 jeopardy, to any available rights protection services and advocacy services.

82.28 (b) Residents have the right to meet with or receive visits at any time by the resident's
82.29 guardian, conservator, health care agent, family, attorney, advocate, religious or social work
82.30 counselor, or any person of the resident's choosing.

82.31 (c) Residents have the right to participate in commercial, religious, social, community,
82.32 and political activities without interference and at their discretion if the activities do not
82.33 infringe on the right to privacy of other residents.

83.1 Subd. 15. **Right to designate representative.** Residents have the right to name a
83.2 designated representative. Before or at the time of execution of an assisted living facility
83.3 or basic care facility contract, the facility must offer the resident the opportunity to identify
83.4 a designated representative in writing in the contract. Residents have the right at any time
83.5 at or after they enter into an assisted living contract to name a designated representative.

83.6 Subd. 16. **Right to form family and advisory councils.** Residents and their families
83.7 have the right to organize, maintain, and participate in resident family and advisory councils.
83.8 Facilities must provide assistance and space for meetings and afford privacy. Staff or visitors
83.9 may attend only upon the council's invitation. A staff person must be designated the
83.10 responsibility of providing this assistance and responding to written requests that result
83.11 from council meetings. Resident and family councils must be encouraged to make
83.12 recommendations regarding facility policies.

83.13 Subd. 17. **Right to complain.** Residents have the right to:

83.14 (1) complain or inquire about either care or services that are provided or not provided;

83.15 (2) complain about the lack of courtesy or respect to the resident or the resident's property;

83.16 (3) know how to contact the agent of the facility who is responsible for handling
83.17 complaints and inquiries;

83.18 (4) have the facility conduct an investigation, attempt to resolve, and provide a timely
83.19 response to the complaint or inquiry;

83.20 (5) recommend changes in policies and services to staff and others of their choice; and

83.21 (6) complain about any violation of the resident's rights.

83.22 Subd. 18. **Right to assert rights.** Residents, their designated representatives, or any
83.23 person or persons on behalf of the resident have the right to assert the rights granted to
83.24 residents under this section or any other section.

83.25 Subd. 19. **Right to choose service provider.** Residents are free to choose who provides
83.26 the services they receive and where they receive those services. Residents shall not be
83.27 coerced or forced to obtain services in a particular setting and may instead choose to go out
83.28 into the community for the same services within the limits of health insurance, long-term
83.29 care insurance, medical assistance, or other health programs or public programs.

83.30 Subd. 20. **Right to electronic monitoring.** Residents have the right to place and use
83.31 electronic monitoring as provided under section 144.6502.

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

84.1 Sec. 9. **[144G.77] PROTECTION-RELATED RIGHTS.**

84.2 (a) In addition to the rights required in the basic care and assisted living bill of rights
84.3 under section 144G.76, the following rights must be provided to all residents. The facility
84.4 must promote and protect these rights for each resident by making residents aware of these
84.5 rights and ensuring staff are trained to support these rights:

84.6 (1) the right to furnish and decorate the resident's unit within the terms of the lease;

84.7 (2) the right to access food at any time;

84.8 (3) the right to choose visitors and the times of visits;

84.9 (4) the right to choose a roommate if sharing a unit;

84.10 (5) the right to personal privacy including the right to have and use a lockable door on
84.11 the resident's unit. The facility shall provide the locks on the resident's unit. Only a staff
84.12 member with a specific need to enter the unit shall have keys, and advance notice must be
84.13 given to the resident before entrance, when possible;

84.14 (6) the right to engage in chosen activities;

84.15 (7) the right to engage in community life;

84.16 (8) the right to control personal resources; and

84.17 (9) the right to individual autonomy, initiative, and independence in making life choices
84.18 including a daily schedule and with whom to interact.

84.19 (b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for
84.20 an individual resident only if determined necessary for health and safety reasons identified
84.21 by the facility through an initial assessment or reassessment, as defined under section
84.22 144G.63 and documented in the written service agreement under section 144G.64. Any
84.23 restrictions of those rights for people served under sections 256B.0915 and 256B.49 must
84.24 be documented by the case manager in the resident's coordinated service and support plan
84.25 (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision 15.

84.26 Sec. 10. **[144G.78] REQUEST FOR DISCONTINUATION OF LIFE-SUSTAINING**
84.27 **TREATMENT.**

84.28 (a) If a resident, family member, or other caregiver of the resident requests that an
84.29 employee or other agent of the facility discontinue a life-sustaining treatment, the employee
84.30 or agent receiving the request:

84.31 (1) shall take no action to discontinue the treatment; and

85.1 (2) shall promptly inform the supervisor or other agent of the facility of the resident's
85.2 request.

85.3 (b) Upon being informed of a request for termination of treatment, the facility shall
85.4 promptly:

85.5 (1) inform the resident that the request will be made known to the physician or advanced
85.6 practice registered nurse who ordered the resident's treatment;

85.7 (2) inform the physician or advanced practice registered nurse of the resident's request;
85.8 and

85.9 (3) work with the resident and the resident's physician or advanced practice registered
85.10 nurse to comply with the provisions of the Health Care Directive Act in chapter 145C.

85.11 (c) This section does not require the facility to discontinue treatment, except as may be
85.12 required by law or court order.

85.13 (d) This section does not diminish the rights of residents to control their treatments,
85.14 refuse services, or terminate their relationships with the facility.

85.15 (e) This section shall be construed in a manner consistent with chapter 145B or 145C,
85.16 whichever applies, and declarations made by residents under those chapters.

85.17 **Sec. 11. [144G.79] FORCED ARBITRATION; WAIVER OF RIGHTS.**

85.18 Subdivision 1. **Forced arbitration.** A facility must affirmatively disclose to the resident
85.19 any forced arbitration provisions in any basic care facility or assisted living facility contract
85.20 that precludes, limits, or delays the ability of a resident to begin a civil action. For contracts
85.21 entered into on or after July 1, 2020, forced arbitration provisions must be conspicuously
85.22 disclosed in a contract.

85.23 Subd. 2. **Waiver of rights is void.** Any waiver by the resident of the rights in this chapter
85.24 is void.

85.25 **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) An assisted living facility with a secure dementia unit 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;

87.1 (3) beginning August 1, 2021, fire drills shall be conducted in accordance with the
87.2 residential board and care requirements in the Life Safety Code; and

87.3 (4) the physical environment, including walls, floors, ceiling, all furnishings, grounds,
87.4 systems, and equipment must be kept in a continuous state of good repair and operation
87.5 with regard to the health, safety, comfort, and well-being of the residents in accordance
87.6 with a maintenance and repair program.

87.7 Subd. 3. **Local laws apply.** Basic care facilities and assisted living facilities shall be in
87.8 compliance with all applicable state and local governing laws, regulations, standards,
87.9 ordinances, and codes for fire safety, building, and zoning requirements.

87.10 Subd. 4. **Basic care facilities and assisted living facilities; design.** (a) After July 31,
87.11 2021, all basic care facilities and assisted living facilities with six or more residents must
87.12 meet the provisions relevant to assisted living facilities of the most current edition of the
87.13 Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health,
87.14 Care and Support Facilities" and of adopted rules. This minimum design standard shall be
87.15 met for all new licenses, new construction, modifications, renovations, alterations, change
87.16 of use, or additions. In addition to the guidelines, assisted living facilities shall provide the
87.17 option of a bath in addition to a shower for all residents.

87.18 (b) The commissioner shall establish an implementation timeline for mandatory usage
87.19 of the latest published guidelines. However, the commissioner shall not enforce the latest
87.20 published guidelines before six months after the date of publication.

87.21 Subd. 5. **Basic care facilities and assisted living facilities; life safety code.** (a) After
87.22 July 31, 2021, all basic care facilities and Tier Two assisted living facilities with six or more
87.23 residents shall meet the applicable provisions of the most current edition of the NFPA
87.24 Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter. This
87.25 minimum design standard shall be met for all new licenses, new construction, modifications,
87.26 renovations, alterations, change of use, or additions.

87.27 (b) The commissioner shall establish an implementation timeline for mandatory usage
87.28 of the latest published Life Safety Code. However, the commissioner shall not enforce the
87.29 latest published guidelines before six months after the date of publication.

87.30 Subd. 6. **Assisted living facilities with secure dementia units; life safety code.** (a)
87.31 After July 31, 2021, all Tier Three assisted living facilities shall meet the applicable
87.32 provisions of the most current edition of the NFPA Standard 101, Life Safety Code,
87.33 Healthcare (limited care) chapter. This minimum design standard shall be met for all new
87.34 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.

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

89.3 Subd. 8. **Variances or waivers.** (a) A facility may request that the commissioner grant
89.4 a variance or waiver from the provisions of this section. A request for a waiver must be
89.5 submitted to the commissioner in writing. Each request must contain:

89.6 (1) the specific requirement for which the variance or waiver is requested;

89.7 (2) the reasons for the request;

89.8 (3) the alternative measures that will be taken if a variance or waiver is granted;

89.9 (4) the length of time for which the variance or waiver is requested; and

89.10 (5) other relevant information deemed necessary by the commissioner to properly evaluate
89.11 the request for the waiver.

89.12 (b) The decision to grant or deny a variance or waiver must be based on the
89.13 commissioner's evaluation of the following criteria:

89.14 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or
89.15 well-being of a patient;

89.16 (2) whether the alternative measures to be taken, if any, are equivalent to or superior to
89.17 those prescribed in this section; and

89.18 (3) whether compliance with the requirements would impose an undue burden on the
89.19 applicant.

89.20 (c) The commissioner must notify the applicant in writing of the decision. If a variance
89.21 or waiver is granted, the notification must specify the period of time for which the variance
89.22 or waiver is effective and the alternative measures or conditions, if any, to be met by the
89.23 applicant.

89.24 (d) Alternative measures or conditions attached to a variance or waiver have the force
89.25 and effect of this chapter and are subject to the issuance of correction orders and fines in
89.26 accordance with sections 144G.34, subdivision 5, and 144G.35, subdivision 3. The amount
89.27 of fines for a violation of this section is that specified for the specific requirement for which
89.28 the variance or waiver was requested.

89.29 (e) A request for the renewal of a variance or waiver must be submitted in writing at
89.30 least 45 days before its expiration date. Renewal requests must contain the information
89.31 specified in paragraph (a). A variance or waiver must be renewed by the department if the
89.32 applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance

90.1 with the alternative measures or conditions imposed at the time the original variance or
90.2 waiver was granted.

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

90.6 (g) An applicant may contest the denial, revocation, or refusal to renew a variance or
90.7 waiver by requesting a contested case hearing under chapter 14. The applicant must submit,
90.8 within 15 days of the receipt of the department's decision, a written request for a hearing.
90.9 The request for hearing must set forth in detail the reasons why the applicant contends the
90.10 decision of the department should be reversed or modified. At the hearing, the applicant
90.11 has the burden of proving that the applicant satisfied the criteria specified in paragraph (b),
90.12 except in a proceeding challenging the revocation of a variance or waiver.

90.13 **ARTICLE 9**

90.14 **ASSISTED LIVING WITH SECURE DEMENTIA UNIT LICENSURE**

90.15 Section 1. **[144G.85] ADDITIONAL REQUIREMENTS FOR TIER THREE**
90.16 **ASSISTED LIVING WITH SECURE DEMENTIA UNIT LICENSURE.**

90.17 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with
90.18 secure dementia units.

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

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

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

90.26 (b) If the applicant does not have experience in managing residents with dementia, the
90.27 applicant must employ a consultant or management company for at least the first six months
90.28 of operation. The consultant or management company must have experience in dementia
90.29 care operations and must either present a plan acceptable to the commissioner to address
90.30 the consultant's identified concerns, or be approved by the commissioner. The applicant
90.31 must implement the recommendations of the consultant or management company.

91.1 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an
91.2 assisted living facility with secure dementia unit license to ensure compliance with the
91.3 physical environment requirements.

91.4 (d) The label "Assisted Living Facility with Secure Dementia Unit" must be identified
91.5 on the license.

91.6 Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing
91.7 at least 60 days prior to the voluntary relinquishment of a Tier Three assisted living facility
91.8 license. For voluntary relinquishment, the facility must:

91.9 (1) give all residents and their designated representatives 45 days' notice. The notice
91.10 must include:

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

91.12 (ii) changes in staffing;

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

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

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

91.19 (3) change service or care plans as appropriate to address any needs the residents may
91.20 have with the transition;

91.21 (4) notify the commissioner when the relinquishment process has been completed; and

91.22 (5) revise advertising materials and disclosure information to remove any reference that
91.23 the facility is a Tier Three assisted living facility

91.24 Sec. 2. **[144G.86] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**
91.25 **LIVING FACILITY WITH SECURE DEMENTIA UNIT LICENSEES.**

91.26 Subdivision 1. **General.** The licensee of an assisted living facility with a secure dementia
91.27 unit is responsible for the care and housing of the persons with dementia and the provision
91.28 of person-centered care that promotes each resident's dignity, independence, and comfort.
91.29 This includes the supervision, training, and overall conduct of the staff.

92.1 Subd. 2. **Additional requirements.** (a) The assisted living facility with secure dementia
92.2 unit licensee must follow the assisted living license requirements and the criteria in this
92.3 section.

92.4 (b) The administrator of a facility with an assisted living facility with secure dementia
92.5 unit license must complete and document that at least ten hours of the required annual
92.6 continuing educational requirements relate to the care of individuals with dementia.
92.7 Continuing education credits must be obtained through commissioner-approved sources
92.8 that may include college courses, preceptor credits, self-directed activities, course instructor
92.9 credits, corporate training, in-service training, professional association training, web-based
92.10 training, correspondence courses, telecourses, seminars, and workshops.

92.11 Subd. 3. **Policies.** In addition to the policies and procedures required in the licensing of
92.12 assisted living facilities, an assisted living facility with secure dementia unit licensee must
92.13 develop and implement policies and procedures that address the:

92.14 (1) philosophy of how services are provided based upon the assisted living licensee's
92.15 values, mission, and promotion of person-centered care and how the philosophy shall be
92.16 implemented;

92.17 (2) evaluation of behavioral symptoms and design of supports for intervention plans;

92.18 (3) wandering and egress prevention that provides detailed instructions to staff in the
92.19 event a resident elopes;

92.20 (4) assessment of residents for the use and effects of medications, including psychotropic
92.21 medications;

92.22 (5) staffing plan to ensure that residents' needs are met including a quality control system
92.23 that periodically reviews how well the staffing plan is working;

92.24 (6) staff training specific to dementia care;

92.25 (7) description of life enrichment programs and how activities are implemented;

92.26 (8) description of family support programs and efforts to keep the family engaged;

92.27 (9) limiting the use of public address and intercom systems for emergencies and
92.28 evacuation drills only;

92.29 (10) transportation coordination and assistance to and from outside medical appointments;
92.30 and

92.31 (11) safekeeping of resident's possessions.

93.1 A written summary addressing the topics listed in clauses (1) to (11) must be provided
93.2 to residents and the resident's representative at the time of move-in.

93.3 **Sec. 3. [144G.87] STAFFING AND STAFF TRAINING.**

93.4 Subdivision 1. **General.** (a) An assisted living facility with a secure dementia unit must
93.5 provide residents with dementia-trained staff who have been instructed in the person-centered
93.6 care approach. All direct care and other community staff assigned to care for dementia
93.7 residents must be specially trained to work with residents with Alzheimer's disease and
93.8 other dementias.

93.9 (b) Only staff trained as specified in subdivisions 2 and 3 shall be assigned to care for
93.10 dementia residents.

93.11 (c) Staffing levels must be sufficient to meet the scheduled and anticipated needs of
93.12 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and
93.13 needs of residents.

93.14 (d) In an emergency situation when trained staff are not available to provide services,
93.15 the facility may assign staff who have not completed the required training. The particular
93.16 emergency situation must be documented and must address:

93.17 (1) the nature of the emergency;

93.18 (2) how long the emergency lasted; and

93.19 (3) the names and positions of staff that provided coverage.

93.20 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide
93.21 support to residents with dementia have a basic understanding and fundamental knowledge
93.22 of the residents' emotional and unique health care needs using person-centered planning
93.23 delivery. Direct care dementia-trained staff and other staff must be trained on the topics
93.24 identified during the expedited rulemaking process. These requirements are in addition to
93.25 the licensing requirements for training.

93.26 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine as defined
93.27 in section 144G.35, subdivision 3.

93.28 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must
93.29 have experience and knowledge in the care of individuals with dementia.

93.30 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may
93.31 include various methods of instruction, such as classroom style, web-based training, video,
93.32 or one-to-one training. The licensee must have a method for determining and documenting

94.1 each staff person's knowledge and understanding of the training provided. All training must
94.2 be documented.

94.3 Sec. 4. **[144G.88] SERVICES FOR RESIDENTS WITH DEMENTIA.**

94.4 Subdivision 1. **Move-in assessment.** (a) In addition to the minimum services required
94.5 of assisted living facilities, an assisted living facility with a secure dementia unit must also
94.6 provide the following services:

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

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

94.14 (3) a daily meal program for nutrition and hydration must be provided and available
94.15 throughout each resident's waking hours. The individualized nutritional plan for each resident
94.16 must be documented in the resident's service or care plan. In addition, an assisted living
94.17 facility with a secure dementia unit must provide adaptive eating utensils for those residents
94.18 who have been evaluated as needing them to maintain their eating skills; and

94.19 (4) meaningful activities that promote or help sustain the physical and emotional
94.20 well-being of residents. The activities must be person-directed and available during residents'
94.21 waking hours.

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

94.24 (1) past and current interests;

94.25 (2) current abilities and skills;

94.26 (3) emotional and social needs and patterns;

94.27 (4) physical abilities and limitations;

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

94.29 (6) identification of activities for behavioral interventions.

94.30 (c) An individualized activity plan must be developed for each resident based on their
94.31 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.

**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;

96.1 (3) consumer organizations;

96.2 (4) direct care providers or their representatives;

96.3 (5) organizations representing long-term care providers and home care providers in
96.4 Minnesota;

96.5 (6) national patient safety experts; and

96.6 (7) other experts in the safety and quality improvement field.

96.7 The task force shall have at least one public member who is or has been a resident in an
96.8 assisted living setting and one public member who has or had a family member living in
96.9 assisted living setting. The membership will be voluntary except that public members can
96.10 be reimbursed under the provisions of section 15.059, subdivision 3.

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

96.16 Sec. 6. **TRANSITION PERIOD.**

96.17 (a) From July 1, 2019, to June 30, 2021, the commissioner shall engage in the rulemaking
96.18 process.

96.19 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new
96.20 basic care facility and assisted living facility licensure by hiring staff, developing forms,
96.21 and communicating with stakeholders about the new facility licensing.

96.22 (c) Effective August 1, 2021, all existing housing with services establishments providing
96.23 home care services under Minnesota Statutes, chapter 144A, must convert their registration
96.24 to licensure under Minnesota Statutes, chapter 144G.

96.25 (d) Effective August 1, 2021, all new basic care facilities and assisted living facilities
96.26 must be licensed by the commissioner.

96.27 (e) Effective August 1, 2021, all basic care facilities and assisted living facilities must
96.28 be licensed by the commissioner.

97.1 **Sec. 7. REPEALER.**

(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;

- 100.1 (6) renewal license, \$200;
- 100.2 (7) duplicate license, \$10;
- 100.3 (8) fee to a sponsor for review of individual continuing education seminars, institutes,
- 100.4 workshops, or home study courses:
- 100.5 (i) for less than seven clock hours, \$30; and
- 100.6 (ii) for seven or more clock hours, \$50;
- 100.7 (9) fee to a licensee for review of continuing education seminars, institutes, workshops,
- 100.8 or home study courses not previously approved for a sponsor and submitted with an
- 100.9 application for license renewal:
- 100.10 (i) for less than seven clock hours total, \$30; and
- 100.11 (ii) for seven or more clock hours total, \$50;
- 100.12 (10) late renewal fee, \$50;
- 100.13 (11) fee to a licensee for verification of licensure status and examination scores, \$30;
- 100.14 (12) registration as a registered continuing education sponsor, \$1,000; and
- 100.15 (13) health services executive initial license, \$200 if issued between July 1 and December
- 100.16 31, \$100 if issued between January 1 and June 30.

100.17 Sec. 6. **REVISOR INSTRUCTION.**

100.18 The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home

100.19 Administrators" to "Board of Executives for Long Term Services and Supports" and "Board

100.20 of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes

100.21 and apply to the board established in Minnesota Statutes, section 144A.19.

100.22 Sec. 7. **REPEALER.**

100.23 Minnesota Rules, part 6400.6970, is repealed.

100.24 **ARTICLE 2**

100.25 **ASSISTED LIVING LICENSURE CONFORMING CHANGES**

100.26 Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

100.27 Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections

100.28 144A.43 to 144A.482 and chapter 144G, the following data collected, created, or maintained

101.1 by the commissioner are classified as public data as defined in section 13.02, subdivision
101.2 15:

101.3 (1) all application data on licensees, license numbers, and license status;

101.4 (2) licensing information about licenses previously held under this chapter;

101.5 (3) correction orders, including information about compliance with the order and whether
101.6 the fine was paid;

101.7 (4) final enforcement actions pursuant to chapter 14;

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

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

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

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

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

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

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

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

102.1 (1) individuals providing services ~~which~~ that have direct contact, as defined under section
102.2 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
102.3 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
102.4 home care agencies licensed under chapter 144A; residential care homes licensed under
102.5 chapter 144B, basic care facilities and assisted living facilities licensed under chapter 144G,
102.6 and board and lodging establishments that are registered to provide supportive or health
102.7 supervision services under section 157.17;

102.8 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
102.9 services in a nursing home, basic care facilities and assisted living facilities licensed under
102.10 chapter 144G, or a home care agency licensed under chapter 144A or a boarding care home
102.11 licensed under sections 144.50 to 144.58. If the individual under study resides outside
102.12 Minnesota, the study must include a check for substantiated findings of maltreatment of
102.13 adults and children in the individual's state of residence when the information is made
102.14 available by that state, and must include a check of the National Crime Information Center
102.15 database;

102.16 (3) beginning July 1, 1999, all other employees in basic care facilities and assisted living
102.17 facilities licensed under chapter 144G, nursing homes licensed under chapter 144A, and
102.18 boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an
102.19 individual in this section shall disqualify the individual from positions allowing direct
102.20 contact or access to patients or residents receiving services. "Access" means physical access
102.21 to a client or the client's personal property without continuous, direct supervision as defined
102.22 in section 245C.02, subdivision 8, when the employee's employment responsibilities do not
102.23 include providing direct contact services;

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

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

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

103.1 Sec. 5. Minnesota Statutes 2018, section 144.122, is amended to read:

103.2 **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

103.3 (a) The state commissioner of health, by rule, may prescribe procedures and fees for
103.4 filing with the commissioner as prescribed by statute and for the issuance of original and
103.5 renewal permits, licenses, registrations, and certifications issued under authority of the
103.6 commissioner. The expiration dates of the various licenses, permits, registrations, and
103.7 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include
103.8 application and examination fees and a penalty fee for renewal applications submitted after
103.9 the expiration date of the previously issued permit, license, registration, and certification.
103.10 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,
103.11 registrations, and certifications when the application therefor is submitted during the last
103.12 three months of the permit, license, registration, or certification period. Fees proposed to
103.13 be prescribed in the rules shall be first approved by the Department of Management and
103.14 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be
103.15 in an amount so that the total fees collected by the commissioner will, where practical,
103.16 approximate the cost to the commissioner in administering the program. All fees collected
103.17 shall be deposited in the state treasury and credited to the state government special revenue
103.18 fund unless otherwise specifically appropriated by law for specific purposes.

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

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

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

103.30	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
103.31	Healthcare Organizations (JCAHO) and	
103.32	American Osteopathic Association (AOA)	
103.33	hospitals	
103.34	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
103.35	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
103.36		\$183 plus \$100 per bed between July 1, 2018,

104.1

and June 30, 2020. \$183 plus \$105 per bed

104.2

beginning July 1, 2020.

104.3

The commissioner shall set license fees for outpatient surgical centers, boarding care

104.4

homes, ~~and~~ supervised living facilities, assisted living facilities, and basic care facilities at

104.5

the following levels:

104.6	Outpatient surgical centers	\$3,712
104.7	Boarding care homes	\$183 plus \$91 per bed
104.8	Supervised living facilities	\$183 plus \$91 per bed.
104.9	<u>Assisted living facilities with secure</u>	
104.10	<u>dementia units</u>	<u>\$..... plus \$..... per bed.</u>
104.11	<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>
104.12	<u>Basic care facilities</u>	<u>\$..... plus \$..... per bed.</u>

104.13

Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if

104.14

received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017,

104.15

or later.

104.16

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants

104.17

the following fees to cover the cost of any initial certification surveys required to determine

104.18

a provider's eligibility to participate in the Medicare or Medicaid program:

104.19	Prospective payment surveys for hospitals	\$	900
104.20	Swing bed surveys for nursing homes	\$	1,200
104.21	Psychiatric hospitals	\$	1,400
104.22	Rural health facilities	\$	1,100
104.23	Portable x-ray providers	\$	500
104.24	Home health agencies	\$	1,800
104.25	Outpatient therapy agencies	\$	800
104.26	End stage renal dialysis providers	\$	2,100
104.27	Independent therapists	\$	800
104.28	Comprehensive rehabilitation outpatient facilities	\$	1,200
104.29	Hospice providers	\$	1,700
104.30	Ambulatory surgical providers	\$	1,800
104.31	Hospitals	\$	4,200
104.32	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.	
104.33	resurveys required to complete initial		
104.34	certification		

104.35

These fees shall be submitted at the time of the application for federal certification and

104.36

shall not be refunded. All fees collected after the date that the imposition of fees is not

105.1 prohibited by federal law shall be deposited in the state treasury and credited to the state
105.2 government special revenue fund.

105.3 Sec. 6. Minnesota Statutes 2018, section 144A.43, subdivision 6, is amended to read:

105.4 Subd. 6. **License.** "License" means a basic or comprehensive home care license issued
105.5 by the commissioner to a home care provider and effective July 1, 2021, providing services
105.6 outside of assisted living settings licensed under chapter 144G.

105.7 Sec. 7. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

105.8 Subdivision 1. **Statement of rights.** (a) ~~A person~~ client or resident who receives home
105.9 care services in the community or in an assisted living facility licensed under chapter 144G
105.10 has these rights:

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

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

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

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

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

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

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

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

106.1 (9) ~~the right to~~ choose freely among available providers and to change providers after
106.2 services have begun, within the limits of health insurance, long-term care insurance, medical
106.3 assistance, ~~or other health programs,~~ or public programs;

106.4 (10) ~~the right to~~ have personal, financial, and medical information kept private, and to
106.5 be advised of the provider's policies and procedures regarding disclosure of such information;

106.6 (11) ~~the right to~~ access the client's own records and written information from those
106.7 records in accordance with sections 144.291 to 144.298;

106.8 (12) ~~the right to~~ be served by people who are properly trained and competent to perform
106.9 their duties;

106.10 (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property
106.11 treated with respect;

106.12 (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation,
106.13 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
106.14 of Minors Act;

106.15 (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;

106.16 (16) ~~the right to~~ know the provider's reason for termination of services;

106.17 (17) ~~the right to~~ at least ~~ten~~ 30 days' advance notice of the termination of a service or
106.18 housing by a provider, except in cases where:

106.19 (i) the client engages in conduct that significantly alters the terms of the service ~~plan~~
106.20 agreement with the home care provider;

106.21 (ii) the client, person who lives with the client, or others create an abusive or unsafe
106.22 work environment for the person providing home care services; or

106.23 (iii) an emergency or a significant change in the client's condition has resulted in service
106.24 needs that exceed the current service ~~plan~~ agreement and that cannot be safely met by the
106.25 home care provider;

106.26 (18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of
106.27 services;

106.28 (19) ~~the right to~~ complain to staff and others of the client's choice about services that
106.29 are provided, or fail to be provided, and the lack of courtesy or respect to the client or the
106.30 client's property and the right to recommend changes in policies and services, free from
106.31 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

108.1 include the following provision in place of the provision in section 144A.44, subdivision
108.2 1, paragraph (a), clause (17):

108.3 "(17) the right to reasonable, advance notice of changes in services or charges, including
108.4 at least 30 days' advance notice of the termination of a service or housing by a provider,
108.5 except in cases where:

108.6 (i) the recipient of services engages in conduct that alters the conditions of employment
108.7 as specified in the employment contract between the home care provider and the individual
108.8 providing home care services, or creates an abusive or unsafe work environment for the
108.9 individual providing home care services;

108.10 (ii) an emergency for the informal caregiver or a significant change in the recipient's
108.11 condition has resulted in service needs that exceed the current service provider agreement
108.12 and that cannot be safely met by the home care provider; or

108.13 (iii) the provider has not received payment for services, ~~for which at least ten days'~~
108.14 ~~advance notice of the termination of a service shall be provided."~~

108.15 Sec. 9. Minnesota Statutes 2018, section 144A.442, is amended to read:

108.16 **144A.442 ASSISTED LIVING ~~CLIENTS~~ RESIDENTS; SERVICE**
108.17 **TERMINATION.**

108.18 (a) If an arranged home care provider, as defined in section 144D.01, subdivision 2a,
108.19 who is not also Medicare certified terminates a service agreement or service plan with an
108.20 assisted living client, as defined in section 144G.01, subdivision 3, the home care provider
108.21 shall provide the assisted living client and the legal or designated representatives of the
108.22 client, if any, with a written notice of termination which includes the following information:

108.23 (1) the effective date of termination;

108.24 (2) the reason for termination;

108.25 (3) without extending the termination notice period, an affirmative offer to meet with
108.26 the assisted living ~~client~~ resident or ~~client~~ resident representatives within no more than five
108.27 business days of the date of the termination notice to discuss the termination;

108.28 (4) contact information for a reasonable number of other home care providers in the
108.29 geographic area of the assisted living client, as required by section 144A.4791, subdivision
108.30 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.

110.1 Sec. 11. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:

110.2 Subd. 9. **Exclusions from home care licensure.** The following are excluded from home
110.3 care licensure and are not required to provide the home care bill of rights:

110.4 (1) an individual or business entity providing only coordination of home care that includes
110.5 one or more of the following:

110.6 (i) determination of whether a client needs home care services, or assisting a client in
110.7 determining what services are needed;

110.8 (ii) referral of clients to a home care provider;

110.9 (iii) administration of payments for home care services; or

110.10 (iv) administration of a health care home established under section 256B.0751;

110.11 (2) an individual who is not an employee of a licensed home care provider if the
110.12 individual:

110.13 (i) only provides services as an independent contractor to one or more licensed home
110.14 care providers;

110.15 (ii) provides no services under direct agreements or contracts with clients; and

110.16 (iii) is contractually bound to perform services in compliance with the contracting home
110.17 care provider's policies and service ~~plans~~ agreements;

110.18 (3) a business that provides staff to home care providers, such as a temporary employment
110.19 agency, if the business:

110.20 (i) only provides staff under contract to licensed or exempt providers;

110.21 (ii) provides no services under direct agreements with clients; and

110.22 (iii) is contractually bound to perform services under the contracting home care provider's
110.23 direction and supervision;

110.24 (4) any home care services conducted by and for the adherents of any recognized church
110.25 or religious denomination for its members through spiritual means, or by prayer for healing;

110.26 (5) an individual who only provides home care services to a relative;

110.27 (6) an individual not connected with a home care provider that provides assistance with
110.28 basic home care needs if the assistance is provided primarily as a contribution and not as a
110.29 business;

111.1 (7) an individual not connected with a home care provider that shares housing with and
111.2 provides primarily housekeeping or homemaking services to an elderly or disabled person
111.3 in return for free or reduced-cost housing;

111.4 (8) an individual or provider providing home-delivered meal services;

111.5 (9) an individual providing senior companion services and other older American volunteer
111.6 programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United
111.7 States Code, title 42, chapter 66;

111.8 ~~(10) an employee of a nursing home or home care provider licensed under this chapter~~
111.9 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
111.10 ~~responding to occasional emergency calls from individuals residing in a residential setting~~
111.11 ~~that is attached to or located on property contiguous to the nursing home, boarding care~~
111.12 ~~home, or location where home care services are also provided;~~

111.13 ~~(11) an employee of a nursing home or home care provider licensed under this chapter~~
111.14 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
111.15 ~~providing occasional minor services free of charge to individuals residing in a residential~~
111.16 ~~setting that is attached to or located on property contiguous to the nursing home, boarding~~
111.17 ~~care home, or location where home care services are also provided;~~

111.18 (12) a member of a professional corporation organized under chapter 319B that does
111.19 not regularly offer or provide home care services as defined in section 144A.43, subdivision
111.20 3;

111.21 (13) the following organizations established to provide medical or surgical services that
111.22 do not regularly offer or provide home care services as defined in section 144A.43,
111.23 subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit
111.24 corporation organized under chapter 317A, a partnership organized under chapter 323, or
111.25 any other entity determined by the commissioner;

111.26 (14) an individual or agency that provides medical supplies or durable medical equipment,
111.27 except when the provision of supplies or equipment is accompanied by a home care service;

111.28 (15) a physician licensed under chapter 147;

111.29 (16) an individual who provides home care services to a person with a developmental
111.30 disability who lives in a place of residence with a family, foster family, or primary caregiver;

111.31 (17) a business that only provides services that are primarily instructional and not medical
111.32 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

113.1	greater than \$1,275,000 and no more than	
113.2	\$1,500,000	\$5,797
113.3	greater than \$1,100,000 and no more than	
113.4	\$1,275,000	\$4,969
113.5	greater than \$950,000 and no more than	
113.6	\$1,100,000	\$4,141
113.7	greater than \$850,000 and no more than \$950,000	\$3,727
113.8	greater than \$750,000 and no more than \$850,000	\$3,313
113.9	greater than \$650,000 and no more than \$750,000	\$2,898
113.10	greater than \$550,000 and no more than \$650,000	\$2,485
113.11	greater than \$450,000 and no more than \$550,000	\$2,070
113.12	greater than \$350,000 and no more than \$450,000	\$1,656
113.13	greater than \$250,000 and no more than \$350,000	\$1,242
113.14	greater than \$100,000 and no more than \$250,000	\$828
113.15	greater than \$50,000 and no more than \$100,000	\$500
113.16	greater than \$25,000 and no more than \$50,000	\$400
113.17	no more than \$25,000	\$200

113.18 (d) For the period between July 1, 2018, and June 30, 2020, a home care provider who
113.19 is seeking to renew the provider's license shall pay a fee to the commissioner in an amount
113.20 that is ten percent higher than the applicable fee in paragraph (c). A home care provider's
113.21 fee shall be based on revenues derived from the provision of home care services during the
113.22 calendar year prior to the year in which the application is submitted.

113.23 (e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's
113.24 license shall pay a fee to the commissioner based on revenues derived from the provision
113.25 of home care services during the calendar year prior to the year in which the application is
113.26 submitted, according to the following schedule:

113.27 **License Renewal Fee**

113.28	Provider Annual Revenue	Fee
113.29	greater than \$1,500,000	\$7,651
113.30	greater than \$1,275,000 and no more than	
113.31	\$1,500,000	\$6,695
113.32	greater than \$1,100,000 and no more than	
113.33	\$1,275,000	\$5,739
113.34	greater than \$950,000 and no more than	
113.35	\$1,100,000	\$4,783
113.36	greater than \$850,000 and no more than \$950,000	\$4,304
113.37	greater than \$750,000 and no more than \$850,000	\$3,826
113.38	greater than \$650,000 and no more than \$750,000	\$3,347

114.1	greater than \$550,000 and no more than \$650,000	\$2,870
114.2	greater than \$450,000 and no more than \$550,000	\$2,391
114.3	greater than \$350,000 and no more than \$450,000	\$1,913
114.4	greater than \$250,000 and no more than \$350,000	\$1,434
114.5	greater than \$100,000 and no more than \$250,000	\$957
114.6	greater than \$50,000 and no more than \$100,000	\$577
114.7	greater than \$25,000 and no more than \$50,000	\$462
114.8	no more than \$25,000	\$231

114.9 (f) If requested, the home care provider shall provide the commissioner information to
 114.10 verify the provider's annual revenues or other information as needed, including copies of
 114.11 documents submitted to the Department of Revenue.

114.12 (g) At each annual renewal, a home care provider may elect to pay the highest renewal
 114.13 fee for its license category, and not provide annual revenue information to the commissioner.

114.14 (h) A temporary license or license applicant, or temporary licensee or licensee that
 114.15 knowingly provides the commissioner incorrect revenue amounts for the purpose of paying
 114.16 a lower license fee, shall be subject to a civil penalty in the amount of double the fee the
 114.17 provider should have paid.

114.18 (i) The fee for failure to comply with the notification requirements in section 144A.473,
 114.19 subdivision 2, paragraph (c), is \$1,000.

114.20 ~~(i)~~ (j) Fees and penalties collected under this section shall be deposited in the state
 114.21 treasury and credited to the state government special revenue fund. All fees are
 114.22 nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if
 114.23 received before July 1, 2017, for temporary licenses or licenses being issued effective July
 114.24 1, 2017, or later.

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

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

114.30 Sec. 13. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

114.31 Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license
 114.32 holder's timely appeal of a temporary suspension or issuance of a conditional license, the
 114.33 commissioner shall request assignment of an administrative law judge. The request must

115.1 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
115.2 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
115.3 30 calendar days of the request for assignment, unless an extension is requested by either
115.4 party and granted by the administrative law judge for good cause. The commissioner shall
115.5 issue a notice of hearing by certified mail or personal service at least ten business days
115.6 before the hearing. Certified mail to the last known address is sufficient. The scope of the
115.7 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
115.8 of a conditional license should remain in effect and whether there is sufficient evidence to
115.9 conclude that the licensee's actions or failure to comply with applicable laws are level 3 or
115.10 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there
115.11 were violations that posed an imminent risk of harm to the health and safety of persons in
115.12 the provider's care.

115.13 (b) The administrative law judge shall issue findings of fact, conclusions, and a
115.14 recommendation within ten business days from the date of hearing. The parties shall have
115.15 ten calendar days to submit exceptions to the administrative law judge's report. The record
115.16 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
115.17 final order shall be issued within ten business days from the close of the record. When an
115.18 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
115.19 the commissioner shall issue a final order affirming the temporary immediate suspension
115.20 or conditional license within ten calendar days of the commissioner's receipt of the
115.21 withdrawal or dismissal. The license holder is prohibited from operation during the temporary
115.22 suspension period.

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

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

115.30 Sec. 14. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

115.31 Subd. 5. **Plan required.** (a) The process of suspending ~~or~~ revoking, or refusing to renew
115.32 a license must include a plan for transferring affected ~~clients~~ clients' care to other providers
115.33 by the home care provider, which will be monitored by the commissioner. Within three
115.34 ~~business~~ calendar days of being notified of the ~~final~~ revocation, refusal to renew, or

116.1 suspension ~~action~~, the home care provider shall provide the commissioner, the lead agencies
116.2 as defined in section 256B.0911, county adult protection and case managers, and the
116.3 ombudsman for long-term care with the following information:

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

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

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

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

116.9 (5) for each client, a copy of the client's service ~~plan~~ agreement, and a list of the types
116.10 of services being provided.

116.11 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
116.12 by mailing the notice to the address in the license record. The home care provider shall
116.13 cooperate with the commissioner and the lead agencies, county adult protection and county
116.14 managers, and the ombudsman for long term care during the process of transferring care of
116.15 clients to qualified providers. Within three ~~business~~ calendar days of being notified of the
116.16 final revocation, refusal to renew, or suspension action, the home care provider must notify
116.17 and disclose to each of the home care provider's clients, or the client's representative or
116.18 emergency contact persons, that the commissioner is taking action against the home care
116.19 provider's license by providing a copy of the revocation, refusal to renew, or suspension
116.20 notice issued by the commissioner. If the provider does not comply with the disclosure
116.21 requirements in this section, the commissioner, lead agencies, county adult protection and
116.22 county managers and ombudsman for long-term care shall notify the clients, client
116.23 representatives, or emergency contact persons, about the action being taken. The revocation,
116.24 refusal to renew, or suspension notice is public data except for any private data contained
116.25 therein.

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

116.28 Sec. 15. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

116.29 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before
116.30 the commissioner issues a temporary license, issues a license as a result of an approved
116.31 change in ownership, or renews a license, an owner or managerial official is required to
116.32 complete a background study under section 144.057. No person may be involved in the
116.33 management, operation, or control of a home care provider if the person has been disqualified

117.1 under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C,
117.2 the individual may request reconsideration of the disqualification. If the individual requests
117.3 reconsideration and the commissioner sets aside or rescinds the disqualification, the individual
117.4 is eligible to be involved in the management, operation, or control of the provider. If an
117.5 individual has a disqualification under section 245C.15, subdivision 1, and the disqualification
117.6 is affirmed, the individual's disqualification is barred from a set aside, and the individual
117.7 must not be involved in the management, operation, or control of the provider.

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

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

117.20 (d) The department shall not issue any license if the applicant or owner or managerial
117.21 official has been unsuccessful in having a background study disqualification set aside under
117.22 section 144.057 and chapter 245C; if the owner or managerial official, as an owner or
117.23 managerial official of another home care provider, was substantially responsible for the
117.24 other home care provider's failure to substantially comply with sections 144A.43 to
117.25 144A.482; or if an owner that has ceased doing business, either individually or as an owner
117.26 of a home care provider, was issued a correction order for failing to assist clients in violation
117.27 of this chapter.

117.28 Sec. 16. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

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

117.33 (1) the effective date of termination;

118.1 (2) the reason for termination;

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

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

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

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

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

118.15 Sec. 17. Minnesota Statutes 2018, section 144A.4799, is amended to read:

118.16 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**
118.17 **AND ASSISTED LIVING ADVISORY COUNCIL.**

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

118.20 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who
118.21 are currently receiving home care or assisted living services ~~or~~, persons who have received
118.22 home care or assisted living services within five years of the application date, persons who
118.23 have family members receiving home care or assisted living services, or persons who have
118.24 family members who have received home care or assisted living services within five years
118.25 of the application date;

118.26 (2) three Minnesota home care licensees representing basic ~~and~~ or comprehensive levels
118.27 of licensure or Minnesota assisted living licensees representing assisted living or assisted
118.28 living with secure dementia unit category of licensure who may be a managerial official,
118.29 an administrator, a supervising registered nurse, or an unlicensed personnel performing
118.30 home care tasks;

118.31 (3) one member representing the Minnesota Board of Nursing; ~~and~~

118.32 (4) one member representing the office of ombudsman for long-term care; and

119.1 (5) beginning July 1, 2021, a member of a county health and human services or county
119.2 adult protection office.

119.3 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and
119.4 administered under section 15.059 with per diems and costs paid within the limits of available
119.5 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees
119.6 may be developed as necessary by the commissioner. Advisory council meetings are subject
119.7 to the Open Meeting Law under chapter 13D.

119.8 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide
119.9 advice regarding regulations of Department of Health licensed home care providers in this
119.10 chapter, including advice on the following:

119.11 (1) community standards for home care practices;

119.12 (2) enforcement of licensing standards and whether certain disciplinary actions are
119.13 appropriate;

119.14 (3) ways of distributing information to licensees and consumers of home care;

119.15 (4) training standards;

119.16 (5) identifying emerging issues and opportunities in the home care field, including;

119.17 (6) identifying the use of technology in home and telehealth capabilities;

119.18 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method
119.19 for an integrated license with an existing license for rural licensed nursing homes to provide
119.20 limited home care services in an adjacent independent living apartment building owned by
119.21 the licensed nursing home; and

119.22 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,
119.23 including but not limited to studies concerning costs related to dementia and chronic disease
119.24 among an elderly population over 60 and additional long-term care costs, as described in
119.25 section 62U.10, subdivision 6.

119.26 (b) The advisory council shall perform other duties as directed by the commissioner.

119.27 (c) The advisory council shall annually ~~review the balance of the account in the state~~
119.28 ~~government special revenue fund described in section 144A.474, subdivision 11, paragraph~~
119.29 ~~(i), and make annual recommendations by January 15 directly to the chairs and ranking~~
119.30 ~~minority members of the legislative committees with jurisdiction over health and human~~
119.31 ~~services regarding appropriations to the commissioner for the purposes in section 144A.474,~~
119.32 ~~subdivision 11, paragraph (i).~~ The recommendations shall address ways the commissioner

120.1 may improve protection of the public under existing statutes and laws and include but are
 120.2 not limited to projects that create and administer training of licensees and their employees
 120.3 to improve residents lives, supporting ways that licensees can improve and enhance quality
 120.4 care, ways to provide technical assistance to licensees to improve compliance; information
 120.5 technology and data projects that analyze and communicate information about trends of
 120.6 violations or lead to ways of improving client care; communications strategies to licensees
 120.7 and the public; and other projects or pilots that benefit clients, families, and the public.

120.8 Sec. 18. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

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

120.13 Sec. 19. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

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

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

120.23 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota
 120.24 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior
 120.25 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;
 120.26 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,
 120.27 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,
 120.28 subdivision 4a, as a community residential setting by the commissioner of human services;
 120.29 or

120.30 (3) the ~~establishment~~ facility is ~~registered~~ licensed under ~~chapter 144D~~ chapter 144G
 120.31 and provides three meals a day.

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

121.3 (1) located on Indian reservations and subject to tribal health and safety requirements;
121.4 or

121.5 (2) ~~a supportive housing establishment that has an approved habitability inspection and~~
121.6 ~~an individual lease agreement and that serves people who have experienced long-term~~
121.7 ~~homelessness and were referred through a coordinated assessment in section 256I.03,~~
121.8 ~~subdivision 15~~ supportive housing establishments where an individual has an approved
121.9 habitability inspection and an individual lease agreement.

121.10 (c) Supportive housing establishments that serve individuals who have experienced
121.11 long-term homelessness and emergency shelters must participate in the homeless management
121.12 information system and a coordinated assessment system as defined by the commissioner.

121.13 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of
121.14 housing support unless all staff members who have direct contact with recipients:

121.15 (1) have skills and knowledge acquired through one or more of the following:

121.16 (i) a course of study in a health- or human services-related field leading to a bachelor
121.17 of arts, bachelor of science, or associate's degree;

121.18 (ii) one year of experience with the target population served;

121.19 (iii) experience as a mental health certified peer specialist according to section 256B.0615;

121.20 or

121.21 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to
121.22 144A.483;

121.23 (2) hold a current driver's license appropriate to the vehicle driven if transporting
121.24 recipients;

121.25 (3) complete training on vulnerable adults mandated reporting and child maltreatment
121.26 mandated reporting, where applicable; and

121.27 (4) complete housing support orientation training offered by the commissioner.

121.28 Sec. 20. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

121.29 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
121.30 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
121.31 under section 144A.02; a facility or service required to be licensed under chapter 245A; an

122.1 assisted living facility or basic care facility required to be licensed under chapter 144G; a
122.2 home care provider licensed or required to be licensed under sections 144A.43 to 144A.482;
122.3 a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization
122.4 that offers, provides, or arranges for personal care assistance services under the medical
122.5 assistance program as authorized under sections 256B.0625, subdivision 19a, 256B.0651
122.6 to 256B.0654, 256B.0659, or 256B.85.

122.7 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
122.8 own home or in another unlicensed location, the term "facility" refers to the provider, person,
122.9 or organization that offers, provides, or arranges for personal care services, and does not
122.10 refer to the vulnerable adult's home or other location at which services are rendered.

122.11 Sec. 21. Minnesota Statutes 2018, section 626.5572, subdivision 21, is amended to read:

122.12 Subd. 21. **Vulnerable adult.** (a) "Vulnerable adult" means any person 18 years of age
122.13 or older who:

122.14 (1) is a resident or inpatient of a facility;

122.15 (2) receives services required to be licensed under chapter 245A, except that a person
122.16 receiving outpatient services for treatment of chemical dependency or mental illness, or one
122.17 who is served in the Minnesota sex offender program on a court-hold order for commitment,
122.18 or is committed as a sexual psychopathic personality or as a sexually dangerous person
122.19 under chapter 253B, is not considered a vulnerable adult unless the person meets the
122.20 requirements of clause (4);

122.21 (3) is a resident of an assisted living facility or basic care facility required to be licensed
122.22 under chapter 144G;

122.23 ~~(3)~~ (4) receives services from a home care provider required to be licensed under sections
122.24 144A.43 to 144A.482; or from a person or organization that offers, provides, or arranges
122.25 for personal care assistance services under the medical assistance program as authorized
122.26 under section 256B.0625, subdivision 19a, 256B.0651, 256B.0653, 256B.0654, 256B.0659,
122.27 or 256B.85; or

122.28 ~~(4)~~ (5) regardless of residence or whether any type of service is received, possesses a
122.29 physical or mental infirmity or other physical, mental, or emotional dysfunction:

122.30 (i) that impairs the individual's ability to provide adequately for the individual's own
122.31 care without assistance, including the provision of food, shelter, clothing, health care, or
122.32 supervision; and

123.1 (ii) because of the dysfunction or infirmity and the need for care or services, the individual
123.2 has an impaired ability to protect the individual's self from maltreatment.

123.3 (b) For purposes of this subdivision, "care or services" means care or services for the
123.4 health, safety, welfare, or maintenance of an individual.

123.5 Sec. 22. **REPEALER.**

123.6 Minnesota Statutes 2018, section 144A.472, subdivision 4, is repealed.

123.7 ARTICLE 3

123.8 ELECTRONIC MONITORING

123.9 Section 1. **[144.6502] ELECTRONIC MONITORING IN CERTAIN HEALTH CARE**
123.10 **FACILITIES.**

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

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

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

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

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

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

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

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

123.28 (1) a court-appointed guardian;

123.29 (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.

125.1 (c) A resident, or resident representative when consenting on behalf of the resident, may
125.2 consent to electronic monitoring with any conditions of the resident's or resident
125.3 representative's choosing, including the list of standard conditions provided in subdivision
125.4 6. A resident, or resident representative when consenting on behalf of the resident, may
125.5 request that the electronic monitoring device be turned off or the visual or audio recording
125.6 component of the electronic monitoring device be blocked at any time.

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

125.14 (e) Any resident conducting electronic monitoring must immediately remove or disable
125.15 an electronic monitoring device prior to a new roommate moving into a shared room or
125.16 shared private living unit, unless the resident obtains the roommate's or roommate's resident
125.17 representative's written consent as provided under paragraph (d) prior to the roommate
125.18 moving into the shared room or shared private living unit. Upon obtaining the new
125.19 roommate's signed notification and consent form and submitting the form to the facility as
125.20 required under subdivision 5, the resident may resume electronic monitoring.

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

125.25 Subd. 4. **Refusal of roommate to consent.** If a resident of a facility who is residing in
125.26 a shared room or shared living unit, or the resident representative of such a resident when
125.27 acting on behalf of the resident, wants to conduct electronic monitoring and another resident
125.28 living in or moving into the same shared room or shared living unit refuses to consent to
125.29 the use of an electronic monitoring device, the facility shall make a reasonable attempt to
125.30 accommodate the resident who wants to conduct electronic monitoring. A facility has met
125.31 the requirement to make a reasonable attempt to accommodate a resident or resident
125.32 representative who wants to conduct electronic monitoring when, upon notification that a
125.33 roommate has not consented to the use of an electronic monitoring device in the resident's
125.34 room, the facility offers to move the resident to another shared room or shared living unit
125.35 that is available at the time of the request. If a resident chooses to reside in a private room

126.1 or private living unit in a facility in order to accommodate the use of an electronic monitoring
126.2 device, the resident must pay either the private room rate in a nursing home setting, or the
126.3 applicable rent in a housing with services establishment. If a facility is unable to
126.4 accommodate a resident due to lack of space, the facility must reevaluate the request every
126.5 two weeks until the request is fulfilled. A facility is not required to provide a private room,
126.6 a single-bed room, or a private living unit to a resident who is unable to pay.

126.7 Subd. 5. **Notice to facility.** (a) Electronic monitoring may begin only after the resident
126.8 or resident representative who intends to place an electronic monitoring device and any
126.9 roommate or roommate's resident representative completes the notification and consent
126.10 form and submits the form to the facility.

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

126.15 (c) In the event that a resident or roommate, or the resident representative or roommate's
126.16 resident representative if the representative is consenting on behalf of the resident or
126.17 roommate, chooses to alter the conditions under which consent to electronic monitoring is
126.18 given or chooses to withdraw consent to electronic monitoring, the facility must make
126.19 available the original notification and consent form so that it may be updated. Upon receipt
126.20 of the updated form, the facility must place the updated form in the resident's file or file the
126.21 original form with the resident's signed housing with services contract. The facility must
126.22 provide a copy of the updated form to the resident and the resident's roommate, if applicable.

126.23 (d) If a new roommate, or the new roommate's resident representative when consenting
126.24 on behalf of the new roommate, does not submit to the facility a completed notification and
126.25 consent form and the resident conducting the electronic monitoring does not remove or
126.26 disable the electronic monitoring device, the facility must remove the electronic monitoring
126.27 device.

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

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

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

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

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

127.5 (4) the resident or resident representative submits the notification and consent form to
127.6 the facility within 14 calendar days of placing the electronic monitoring device; and

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

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

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

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

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

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

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

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

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

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

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

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

- 128.1 (3) the type of electronic monitoring device to be used;
- 128.2 (4) a list of standard conditions or restrictions that the resident or a roommate may elect
- 128.3 to place on the use of the electronic monitoring device, including but not limited to:
- 128.4 (i) prohibiting audio recording;
- 128.5 (ii) prohibiting video recording;
- 128.6 (iii) prohibiting broadcasting of audio or video;
- 128.7 (iv) turning off the electronic monitoring device or blocking the visual recording
- 128.8 component of the electronic monitoring device for the duration of an exam or procedure by
- 128.9 a health care professional;
- 128.10 (v) turning off the electronic monitoring device or blocking the visual recording
- 128.11 component of the electronic monitoring device while dressing or bathing is performed; and
- 128.12 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
- 128.13 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;
- 128.14 (5) any other condition or restriction elected by the resident or roommate on the use of
- 128.15 an electronic monitoring device;
- 128.16 (6) a statement of the circumstances under which a recording may be disseminated under
- 128.17 subdivision 10;
- 128.18 (7) a signature box for documenting that the resident or roommate has withdrawn consent;
- 128.19 and
- 128.20 (8) an acknowledgment that the resident, in accordance with subdivision 3, consents,
- 128.21 authorizes, and allows the Office of Ombudsman for Long-Term Care and representatives
- 128.22 of its office to disclose information about the form limited to:
- 128.23 (i) the fact that the form was received from the resident or resident representative;
- 128.24 (ii) if signed by a resident representative, the name of the resident representative and
- 128.25 the source of authority allowing the resident representative to sign the notification and
- 128.26 consent form on the resident's behalf; and
- 128.27 (iii) the type of electronic monitoring device placed.
- 128.28 (b) Facilities must make the notification and consent form available to the residents and
- 128.29 inform residents of their option to conduct electronic monitoring of their rooms or private
- 128.30 living unit.

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

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

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

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

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

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

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

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

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

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

129.29 (b) Except as required under other law, a recording or copy of a recording made as
129.30 provided in this section may only be disseminated for the purpose of addressing health,
129.31 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

131.1 must be returned to the facility or resident who provided the copy when it is no longer
131.2 needed for purposes of defending against a proposed action.

131.3 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided
131.4 under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to
131.5 comply with subdivision 5, paragraphs (b) to (e); 6, paragraph (b); 7, paragraph (c); 8; 9;
131.6 10; or 14. For each violation of this section, the commissioner may impose a fine up to \$500
131.7 upon a finding of noncompliance with a correction order issued according to this subdivision.

131.8 (b) The commissioner may exercise the commissioner's authority provided under section
131.9 144D.05 to compel a housing with services establishment to meet the requirements of this
131.10 section.

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

131.13 Sec. 2. **TRANSITION TO AUTHORIZED ELECTRONIC MONITORING IN**
131.14 **CERTAIN HEALTH CARE FACILITIES.**

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

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

131.19 Sec. 3. **DIRECTION TO THE COMMISSIONER OF HEALTH.**

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

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

131.24 **ARTICLE 4**

131.25 **OFFICE OF HEALTH FACILITY COMPLAINTS; MINNESOTA VULNERABLE**
131.26 **ADULTS ACT**

131.27 Section 1. Minnesota Statutes 2018, section 144A.53, subdivision 1, is amended to read:

131.28 Subdivision 1. **Powers.** The director may:

131.29 (1) promulgate by rule, pursuant to chapter 14, and within the limits set forth in
131.30 subdivision 2, the methods by which complaints against health facilities, health care
131.31 providers, home care providers, ~~or residential care homes~~, or administrative agencies are

132.1 to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not
132.2 be charged for filing a complaint;

132.3 (2) recommend legislation and changes in rules to the state commissioner of health,
132.4 governor, administrative agencies or the federal government;

132.5 (3) investigate, upon a complaint or upon initiative of the director, any action or failure
132.6 to act by a health care provider, home care provider, ~~residential care home~~, or a health
132.7 facility;

132.8 (4) request and receive access to relevant information, records, incident reports, or
132.9 documents in the possession of an administrative agency, a health care provider, a home
132.10 care provider, a ~~residential care home~~, or a health facility, and issue investigative subpoenas
132.11 to individuals and facilities for oral information and written information, including privileged
132.12 information which the director deems necessary for the discharge of responsibilities. For
132.13 purposes of investigation and securing information to determine violations, the director
132.14 need not present a release, waiver, or consent of an individual. The identities of patients or
132.15 residents must be kept private as defined by section 13.02, subdivision 12;

132.16 (5) enter and inspect, at any time, a health facility ~~or residential care home~~ and be
132.17 permitted to interview staff; provided that the director shall not unduly interfere with or
132.18 disturb the provision of care and services within the facility ~~or home~~ or the activities of a
132.19 patient or resident unless the patient or resident consents;

132.20 (6) issue correction orders and assess civil fines ~~pursuant to section~~ for violations of
132.21 sections 144.651, 144.653, 144A.10, 144A.45, and 626.557, Minnesota Rules, chapters
132.22 4655, 4658, 4664, and 4665, or any other law which that provides for the issuance of
132.23 correction orders to health facilities or home care provider, or under section 144A.45. The
132.24 director may use the authority in section 144A.474, subdivision 11, to calculate the fine
132.25 amount. A facility's or home's refusal to cooperate in providing lawfully requested
132.26 information within the requested time period may also be grounds for a correction order or
132.27 fine at a Level 2 fine pursuant to section 144A.474, subdivision 11;

132.28 (7) recommend the certification or decertification of health facilities pursuant to Title
132.29 XVIII or XIX of the United States Social Security Act;

132.30 (8) assist patients or residents of health facilities ~~or residential care homes~~ in the
132.31 enforcement of their rights under Minnesota law; and

132.32 (9) work with administrative agencies, health facilities, home care providers, residential
132.33 care homes, and health care providers and organizations representing consumers on programs

133.1 designed to provide information about health facilities to the public and to health facility
133.2 residents.

133.3 Sec. 2. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to
133.4 read:

133.5 Subd. 5. **Safety and quality improvement technical panel.** The director shall establish
133.6 an expert technical panel to examine and make recommendations, on an ongoing basis, on
133.7 how to apply proven safety and quality improvement practices and infrastructure to settings
133.8 and providers that provide long-term services and supports. The technical panel must include
133.9 representation from nonprofit Minnesota-based organizations dedicated to patient safety or
133.10 innovation in health care safety and quality, Department of Health staff with expertise in
133.11 issues related to adverse health events, the University of Minnesota, organizations
133.12 representing long-term care providers and home care providers in Minnesota, national patient
133.13 safety experts, and other experts in the safety and quality improvement field. The technical
133.14 panel shall periodically provide recommendations to the legislature on legislative changes
133.15 needed to promote safety and quality improvement practices in long-term care settings and
133.16 with long-term care providers.

133.17 Sec. 3. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to
133.18 read:

133.19 Subd. 6. **Training and operations panel.** (a) The director shall establish a training and
133.20 operations panel within the Office of Health Facility Complaints to examine and make
133.21 recommendations, on an ongoing basis, on continual improvements to the operation of the
133.22 office. The training and operations panel shall be composed of office staff, including
133.23 investigators and intake and triage staff; one or more representatives of the commissioner's
133.24 office; and employees from any other divisions in the Department of Health with relevant
133.25 knowledge or expertise. The training and operations panel may also consult with employees
133.26 from other agencies in state government with relevant knowledge or expertise.

133.27 (b) The training and operations panel shall examine and make recommendations to the
133.28 director and the commissioner regarding introducing or refining office systems, procedures,
133.29 and staff training in order to improve office and staff efficiency; enhance communications
133.30 between the office, health care facilities, home care providers, and residents or clients; and
133.31 provide for appropriate, effective protection for vulnerable adults through rigorous
133.32 investigations and enforcement of laws. Panel duties include but are not limited to:

134.1 (1) developing the office's training processes to adequately prepare and support
134.2 investigators in performing their duties;

134.3 (2) developing clear, consistent internal policies for conducting investigations as required
134.4 by federal law, including policies to ensure staff meet the deadlines in state and federal laws
134.5 for triaging, investigating, and making final dispositions of cases involving maltreatment,
134.6 and procedures for notifying the vulnerable adult, reporter, and facility of any delays in
134.7 investigations; communicating these policies to staff in a clear, timely manner; and
134.8 developing procedures to evaluate and modify these internal policies on an ongoing basis;

134.9 (3) developing and refining quality control measures for the intake and triage processes,
134.10 through such practices as reviewing a random sample of the triage decisions made in case
134.11 reports or auditing a random sample of the case files to ensure the proper information is
134.12 being collected, the files are being properly maintained, and consistent triage and
134.13 investigations determinations are being made;

134.14 (4) developing and maintaining systems and procedures to accurately determine the
134.15 situations in which the office has jurisdiction over a maltreatment allegation;

134.16 (5) developing and maintaining audit procedures for investigations to ensure investigators
134.17 obtain and document information necessary to support decisions;

134.18 (6) following a maltreatment determination, developing and maintaining procedures to
134.19 clearly communicate the appeal or review rights of all parties upon final disposition; and

134.20 (7) continuously upgrading the information on and utility of the office's website through
134.21 such steps as providing clear, detailed information about the appeal or review rights of
134.22 vulnerable adults, alleged perpetrators, and providers and facilities.

134.23 Sec. 4. Minnesota Statutes 2018, section 144A.53, is amended by adding a subdivision to
134.24 read:

134.25 Subd. 7. **Posting maltreatment reports.** (a) The director shall post on the Department
134.26 of Health website the following information for the most recent five-year period:

134.27 (1) the public portions of all substantiated reports of maltreatment of a vulnerable adult
134.28 at a facility or by a provider for which the Department of Health is the lead investigative
134.29 agency under section 626.557; and

134.30 (2) whether the facility or provider has requested reconsideration or initiated any type
134.31 of dispute resolution or appeal of a substantiated maltreatment report.

135.1 (b) Following a reconsideration, dispute resolution, or appeal, the director must update
135.2 the information posted under this subdivision to reflect the results of the reconsideration,
135.3 dispute resolution, or appeal.

135.4 (c) The information posted under this subdivision must be posted in coordination with
135.5 other divisions or sections at the Department of Health and in a manner that does not duplicate
135.6 information already published by the Department of Health, and must be posted in a format
135.7 that allows consumers to search the information by facility or provider name and by the
135.8 physical address of the facility or the local business address of the provider.

135.9 Sec. 5. Minnesota Statutes 2018, section 626.557, subdivision 4, is amended to read:

135.10 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall
135.11 immediately make an oral report to the common entry point. The common entry point may
135.12 accept electronic reports submitted through a web-based reporting system established by
135.13 the commissioner. Use of a telecommunications device for the deaf or other similar device
135.14 shall be considered an oral report. The common entry point may not require written reports.
135.15 To the extent possible, the report must be of sufficient content to identify the vulnerable
135.16 adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of
135.17 previous maltreatment, the name and address of the reporter, the time, date, and location of
135.18 the incident, and any other information that the reporter believes might be helpful in
135.19 investigating the suspected maltreatment. The common entry point must provide a way to
135.20 record that the reporter has electronic evidence to submit. A mandated reporter may disclose
135.21 not public data, as defined in section 13.02, and medical records under sections 144.291 to
135.22 144.298, to the extent necessary to comply with this subdivision.

135.23 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified
135.24 under Title 19 of the Social Security Act, a nursing home that is licensed under section
135.25 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital
135.26 that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code
135.27 of Federal Regulations, title 42, section 482.66, may submit a report electronically to the
135.28 common entry point instead of submitting an oral report. The report may be a duplicate of
135.29 the initial report the facility submits electronically to the commissioner of health to comply
135.30 with the reporting requirements under Code of Federal Regulations, title 42, section 483.13.
135.31 The commissioner of health may modify these reporting requirements to include items
135.32 required under paragraph (a) that are not currently included in the electronic reporting form.

136.1 Sec. 6. Minnesota Statutes 2018, section 626.557, subdivision 9c, is amended to read:

136.2 Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a)

136.3 ~~Upon request of the reporter,~~ The lead investigative agency shall notify the reporter that it
136.4 has received the report, and provide information on the initial disposition of the report within
136.5 five business days of receipt of the report, provided that the notification will not endanger
136.6 the vulnerable adult or hamper the investigation.

136.7 (b) Except to the extent prohibited by federal law, when the Department of Health is the
136.8 lead investigative agency, the agency must provide the following information to the
136.9 vulnerable adult or the vulnerable adult's guardian or health care agent, if known, within
136.10 five days after the initiation of an investigation, provided that the provision of the information
136.11 will not hamper the investigation or harm the vulnerable adult:

136.12 (1) the maltreatment allegations by types: abuse, neglect, financial exploitation, and
136.13 drug diversion;

136.14 (2) the name of the facility or other location at which alleged maltreatment occurred;

136.15 (3) the dates of the alleged maltreatment if identified in the report at the time of the lead
136.16 investigative agency disclosure;

136.17 (4) the name and contact information for the investigator or other information as requested
136.18 and allowed under law; and

136.19 (5) confirmation of whether the lead investigative agency is investigating the matter
136.20 and, if so:

136.21 (i) an explanation of the process;

136.22 (ii) an estimated timeline for the investigation;

136.23 (iii) a notification that the vulnerable adult or the vulnerable adult's guardian or health
136.24 care agent may electronically submit evidence to support the maltreatment report, including
136.25 but not limited to photographs, videos, and documents; and

136.26 (iv) a statement that the lead investigative agency will provide an update on the
136.27 investigation upon request by the vulnerable adult or the vulnerable adult's guardian or
136.28 health care agent and a report when the investigation is concluded.

136.29 (c) If the Department of Health is the lead investigative agency, the Department of Health
136.30 shall provide maltreatment information, to the extent allowed under state and federal law,
136.31 including any reports, upon request of the vulnerable adult that is the subject of a
136.32 maltreatment report or upon request of that vulnerable adult's guardian or health care agent.

137.1 (d) If the common entry point data indicates that the reporter has electronic evidence,
137.2 the lead investigative agency shall seek to receive such evidence prior to making a
137.3 determination that the lead investigative agency will not investigate the matter. Nothing in
137.4 this paragraph requires the lead investigative agency to stop investigating prior to receipt
137.5 of the electronic evidence nor prevents the lead investigative agency from closing the
137.6 investigation prior to receipt of the electronic evidence if, in the opinion of the investigator,
137.7 the evidence is not necessary to the determination.

137.8 (e) The lead investigative agency may assign multiple reports of maltreatment for the
137.9 same or separate incidences related to the same vulnerable adult to the same investigator,
137.10 as deemed appropriate.

137.11 (f) Reports related to the same vulnerable adult, the same incident, or the same alleged
137.12 perpetrator, facility, or licensee must be cross-referenced.

137.13 (g) Upon conclusion of every investigation it conducts, the lead investigative agency
137.14 shall make a final disposition as defined in section 626.5572, subdivision 8.

137.15 ~~(e)~~ (h) When determining whether the facility or individual is the responsible party for
137.16 substantiated maltreatment or whether both the facility and the individual are responsible
137.17 for substantiated maltreatment, the lead investigative agency shall consider at least the
137.18 following mitigating factors:

137.19 (1) whether the actions of the facility or the individual caregivers were in accordance
137.20 with, and followed the terms of, an erroneous physician order, prescription, resident care
137.21 plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible
137.22 for the issuance of the erroneous order, prescription, plan, or directive or knows or should
137.23 have known of the errors and took no reasonable measures to correct the defect before
137.24 administering care;

137.25 (2) the comparative responsibility between the facility, other caregivers, and requirements
137.26 placed upon the employee, including but not limited to, the facility's compliance with related
137.27 regulatory standards and factors such as the adequacy of facility policies and procedures,
137.28 the adequacy of facility training, the adequacy of an individual's participation in the training,
137.29 the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a
137.30 consideration of the scope of the individual employee's authority; and

137.31 (3) whether the facility or individual followed professional standards in exercising
137.32 professional judgment.

138.1 ~~(d)~~ (i) When substantiated maltreatment is determined to have been committed by an
138.2 individual who is also the facility license holder, both the individual and the facility must
138.3 be determined responsible for the maltreatment, and both the background study
138.4 disqualification standards under section 245C.15, subdivision 4, and the licensing actions
138.5 under section 245A.06 or 245A.07 apply.

138.6 ~~(e)~~ (j) The lead investigative agency shall complete its final disposition within 60 calendar
138.7 days. If the lead investigative agency is unable to complete its final disposition within 60
138.8 calendar days, the lead investigative agency shall notify the following persons provided
138.9 that the notification will not endanger the vulnerable adult or hamper the investigation: (1)
138.10 the vulnerable adult or the vulnerable adult's guardian or health care agent, when known,
138.11 if the lead investigative agency knows them to be aware of the investigation; and (2) the
138.12 facility, where applicable. The notice shall contain the reason for the delay and the projected
138.13 completion date. If the lead investigative agency is unable to complete its final disposition
138.14 by a subsequent projected completion date, the lead investigative agency shall again notify
138.15 the vulnerable adult or the vulnerable adult's guardian or health care agent, when known if
138.16 the lead investigative agency knows them to be aware of the investigation, and the facility,
138.17 where applicable, of the reason for the delay and the revised projected completion date
138.18 provided that the notification will not endanger the vulnerable adult or hamper the
138.19 investigation. The lead investigative agency must notify the health care agent of the
138.20 vulnerable adult only if the health care agent's authority to make health care decisions for
138.21 the vulnerable adult is currently effective ~~under section 145C.06~~ and not suspended under
138.22 section 524.5-310 ~~and the investigation relates to a duty assigned to the health care agent~~
138.23 ~~by the principal~~. A lead investigative agency's inability to complete the final disposition
138.24 within 60 calendar days or by any projected completion date does not invalidate the final
138.25 disposition.

138.26 ~~(f)~~ (k) Within ten calendar days of completing the final disposition, the lead investigative
138.27 agency shall provide a copy of the public investigation memorandum under subdivision
138.28 12b, paragraph ~~(b)~~, ~~clause (1)~~ (d), when required to be completed under this section, to the
138.29 following persons:

138.30 (1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known,
138.31 unless the lead investigative agency knows that the notification would endanger the
138.32 well-being of the vulnerable adult;

138.33 (2) the reporter, ~~if~~ unless the reporter requested ~~notification~~ otherwise when making the
138.34 report, provided this notification would not endanger the well-being of the vulnerable adult;

139.1 (3) the alleged perpetrator, if known;

139.2 (4) the facility; ~~and~~

139.3 (5) the ombudsman for long-term care, or the ombudsman for mental health and
139.4 developmental disabilities, as appropriate;

139.5 (6) law enforcement; and

139.6 (7) the county attorney, as appropriate.

139.7 ~~(g)~~ (l) If, as a result of a reconsideration, review, or hearing, the lead investigative agency
139.8 changes the final disposition, or if a final disposition is changed on appeal, the lead
139.9 investigative agency shall notify the parties specified in paragraph ~~(f)~~ (k).

139.10 ~~(h)~~ (m) The lead investigative agency shall notify the vulnerable adult who is the subject
139.11 of the report or the vulnerable adult's guardian or health care agent, if known, and any person
139.12 or facility determined to have maltreated a vulnerable adult, of their appeal or review rights
139.13 under this section or section 256.021.

139.14 ~~(i)~~ (n) The lead investigative agency shall routinely provide investigation memoranda
139.15 for substantiated reports to the appropriate licensing boards. These reports must include the
139.16 names of substantiated perpetrators. The lead investigative agency may not provide
139.17 investigative memoranda for inconclusive or false reports to the appropriate licensing boards
139.18 unless the lead investigative agency's investigation gives reason to believe that there may
139.19 have been a violation of the applicable professional practice laws. If the investigation
139.20 memorandum is provided to a licensing board, the subject of the investigation memorandum
139.21 shall be notified and receive a summary of the investigative findings.

139.22 ~~(j)~~ (o) In order to avoid duplication, licensing boards shall consider the findings of the
139.23 lead investigative agency in their investigations if they choose to investigate. This does not
139.24 preclude licensing boards from considering other information.

139.25 ~~(k)~~ (p) The lead investigative agency must provide to the commissioner of human services
139.26 its final dispositions, including the names of all substantiated perpetrators. The commissioner
139.27 of human services shall establish records to retain the names of substantiated perpetrators.

139.28 Sec. 7. Minnesota Statutes 2018, section 626.557, subdivision 12b, is amended to read:

139.29 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a
139.30 lead investigative agency, the county social service agency shall maintain appropriate
139.31 records. Data collected by the county social service agency under this section are welfare
139.32 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 ~~(e)~~ (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 (e)~~ 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.

141.1 The investigation memorandum must be written in a manner which protects the identity
141.2 of the reporter and of the vulnerable adult and may not contain the names or, to the extent
141.3 possible, data on individuals or private data on individuals listed in ~~clause (2)~~ paragraph
141.4 (e).

141.5 ~~(2)~~ (e) Data on individuals collected and maintained in the investigation memorandum
141.6 are private data on individuals, including:

141.7 ~~(i)~~ (1) the name of the vulnerable adult;

141.8 ~~(ii)~~ (2) the identity of the individual alleged to be the perpetrator;

141.9 ~~(iii)~~ (3) the identity of the individual substantiated as the perpetrator; and

141.10 ~~(iv)~~ (4) the identity of all individuals interviewed as part of the investigation.

141.11 ~~(3)~~ (f) Other data on individuals maintained as part of an investigation under this section
141.12 are private data on individuals upon completion of the investigation.

141.13 ~~(e)~~ (g) After the assessment or investigation is completed, the name of the reporter must
141.14 be confidential, except:

141.15 (1) the subject of the report may compel disclosure of the name of the reporter only with
141.16 the consent of the reporter; or

141.17 (2) upon a written finding by a court that the report was false and there is evidence that
141.18 the report was made in bad faith.

141.19 This subdivision does not alter disclosure responsibilities or obligations under the Rules
141.20 of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal
141.21 prosecution, the district court shall do an in-camera review prior to determining whether to
141.22 order disclosure of the identity of the reporter.

141.23 ~~(d)~~ (h) Notwithstanding section 138.163, data maintained under this section by the
141.24 commissioners of health and human services must be maintained under the following
141.25 schedule and then destroyed unless otherwise directed by federal requirements:

141.26 (1) data from reports determined to be false, maintained for three years after the finding
141.27 was made;

141.28 (2) data from reports determined to be inconclusive, maintained for four years after the
141.29 finding was made;

141.30 (3) data from reports determined to be substantiated, maintained for seven years after
141.31 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;

- 144.1 (ii) the number of reports investigated;
- 144.2 (iii) the percentage and number of reported cases awaiting triage;
- 144.3 (iv) the number and percentage of open investigations;
- 144.4 (v) the number and percentage of reports that have failed to meet state or federal timelines
- 144.5 for triaging, investigating, or making a final disposition of an investigation by cause of
- 144.6 delay; and
- 144.7 (vi) processes the office will implement to bring the office into compliance with state
- 144.8 and federal timelines for triaging, investigating, and making final dispositions of
- 144.9 investigations;
- 144.10 (3) a trend analysis of internal audits conducted by the office; and
- 144.11 (4) trends and patterns in maltreatment of vulnerable adults, licensing violations by
- 144.12 facilities or providers serving vulnerable adults, and other metrics as determined by the
- 144.13 commissioner.
- 144.14 (b) The commissioner shall maintain on the Department of Health website reports
- 144.15 published under this section for at least the past three years.

144.16 Sec. 10. **REPORT; SAFETY AND QUALITY IMPROVEMENT PRACTICES.**

144.17 By January 15, 2020, the safety and quality improvement technical panel established

144.18 under Minnesota Statutes, section 144A.53, subdivision 5, shall provide recommendations

144.19 to the legislature on legislative changes needed to promote safety and quality improvement

144.20 practices in long-term care settings and with long-term care providers. The recommendations

144.21 must address:

144.22 (1) how to implement a system for adverse health events reporting, learning, and

144.23 prevention in long-term care settings and with long-term care providers; and

144.24 (2) interim actions to improve systems for the timely analysis of reports and complaints

144.25 submitted to the Office of Health Facility Complaints to identify common themes and key

144.26 prevention opportunities, and to disseminate key findings to providers across the state for

144.27 the purposes of shared learning and prevention.

ARTICLE 5**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

146.1 of employees, related to a course of study that is expected to lead to career advancement
146.2 with the provider or in the field of long-term care, including home care, care of persons
146.3 with disabilities, or nursing.

146.4 Subd. 5. **Participating providers.** The commissioner shall publish a request for proposals
146.5 in the State Register, specifying provider eligibility requirements, criteria for a qualifying
146.6 employee scholarship and loan forgiveness program, provider selection criteria,
146.7 documentation required for program participation, maximum award amount, and methods
146.8 of evaluation. The commissioner must publish additional requests for proposals each year
146.9 in which funding is available for this purpose.

146.10 Subd. 6. **Application requirements.** Eligible providers seeking a grant shall submit an
146.11 application to the commissioner. Applications must contain a complete description of the
146.12 employee scholarship and loan forgiveness program being proposed by the applicant,
146.13 including the need for the organization to enhance the education of its workforce, the process
146.14 for determining which employees will be eligible for scholarships or loan repayment, any
146.15 other sources of funding for scholarships or loan repayment, the expected degrees or
146.16 credentials eligible for scholarships or loan repayment, the amount of funding sought for
146.17 the scholarship and loan forgiveness program, a proposed budget detailing how funds will
146.18 be spent, and plans for retaining eligible employees after completion of their scholarship
146.19 or repayment of their loan.

146.20 Subd. 7. **Selection process.** The commissioner shall determine a maximum award for
146.21 grants and make grant selections based on the information provided in the grant application,
146.22 including the demonstrated need for an applicant provider to enhance the education of its
146.23 workforce, the proposed employee scholarship and loan forgiveness selection process, the
146.24 applicant's proposed budget, and other criteria as determined by the commissioner.
146.25 Notwithstanding any law or rule to the contrary, funds awarded to grantees in a grant
146.26 agreement do not lapse until the grant agreement expires.

146.27 Subd. 8. **Reporting requirements.** Participating providers shall submit an invoice for
146.28 reimbursement and a report to the commissioner on a schedule determined by the
146.29 commissioner and on a form supplied by the commissioner. The report shall include the
146.30 amount spent on scholarships and loan repayment; the number of employees who received
146.31 scholarships and the number of employees for whom loans were repaid; and, for each
146.32 scholarship or loan forgiveness recipient, the name of the recipient, the current position of
146.33 the recipient, the amount awarded or loan amount repaid, the educational institution attended,
146.34 the nature of the educational program, and the expected or actual program completion date.

147.1 During the grant period, the commissioner may require and collect from grant recipients
147.2 other information necessary to evaluate the program.

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

147.4 Sec. 2. Minnesota Statutes 2018, section 144A.10, subdivision 1, is amended to read:

147.5 Subdivision 1. **Enforcement authority.** The commissioner of health is the exclusive
147.6 state agency charged with the responsibility and duty of inspecting all facilities required to
147.7 be licensed under section 144A.02, and issuing correction orders and imposing fines as
147.8 provided in this section, Minnesota Rules, chapter 4658, or any other applicable law. The
147.9 commissioner of health shall enforce the rules established pursuant to sections 144A.01 to
147.10 144A.155, subject only to the authority of the Department of Public Safety respecting the
147.11 enforcement of fire and safety standards in nursing homes and the responsibility of the
147.12 commissioner of human services under sections 245A.01 to 245A.16 or 252.28.

147.13 The commissioner may request and must be given access to relevant information, records,
147.14 incident reports, or other documents in the possession of a licensed facility if the
147.15 commissioner considers them necessary for the discharge of responsibilities. For the purposes
147.16 of inspections and securing information to determine compliance with the licensure laws
147.17 and rules, the commissioner need not present a release, waiver, or consent of the individual.
147.18 A nursing home's refusal to cooperate in providing lawfully requested information is grounds
147.19 for a correction order, a fine according to Minnesota Rules, part 4658.0190, item EE, or
147.20 both. The identities of patients or residents must be kept private as defined by section 13.02,
147.21 subdivision 12.

147.22 Sec. 3. Minnesota Statutes 2018, section 144A.45, subdivision 1, is amended to read:

147.23 Subdivision 1. **Regulations.** The commissioner shall regulate home care providers
147.24 pursuant to sections 144A.43 to 144A.482. The regulations shall include the following:

147.25 (1) provisions to assure, to the extent possible, the health, safety, well-being, and
147.26 appropriate treatment of persons who receive home care services while respecting a client's
147.27 autonomy and choice;

147.28 (2) requirements that home care providers furnish the commissioner with specified
147.29 information necessary to implement sections 144A.43 to 144A.482;

147.30 (3) standards of training of home care provider personnel;

147.31 (4) standards for provision of home care services;

- 148.1 (5) standards for medication management;
- 148.2 (6) standards for supervision of home care services;
- 148.3 (7) standards for client evaluation or assessment;
- 148.4 (8) requirements for the involvement of a client's health care provider, the documentation
- 148.5 of health care providers' orders, if required, and the client's service ~~plan~~ agreement;
- 148.6 (9) standards for the maintenance of accurate, current client records;
- 148.7 (10) the establishment of basic and comprehensive levels of licenses based on services
- 148.8 provided; and
- 148.9 (11) provisions to enforce these regulations and the home care bill of rights, including
- 148.10 provisions for issuing penalties and fines according to section 144A.474, subdivision 11,
- 148.11 for violations of sections 144A.43 to 144A.482.

148.12 Sec. 4. Minnesota Statutes 2018, section 144A.45, subdivision 2, is amended to read:

148.13 Subd. 2. **Regulatory functions.** The commissioner shall:

- 148.14 (1) license, survey, and monitor without advance notice, home care providers in
- 148.15 accordance with sections 144A.43 to 144A.482;
- 148.16 (2) survey every temporary licensee within one year of the temporary license issuance
- 148.17 date subject to the temporary licensee providing home care services to a client or clients;
- 148.18 (3) survey all licensed home care providers on an interval that will promote the health
- 148.19 and safety of clients;
- 148.20 (4) with the consent of the client, visit the home where services are being provided;
- 148.21 (5) issue correction orders and assess civil penalties in accordance with ~~section~~ sections
- 148.22 144.653, subdivisions 5 to 8, 144A.474, and 144A.475, for violations of sections 144A.43
- 148.23 to 144A.482;
- 148.24 (6) take action as authorized in section 144A.475; and
- 148.25 (7) take other action reasonably required to accomplish the purposes of sections 144A.43
- 148.26 to 144A.482.

148.27 Sec. 5. Minnesota Statutes 2018, section 144A.474, subdivision 8, is amended to read:

148.28 Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the

148.29 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.** (a) For providers that have Level 3 or Level 4 violations under subdivision 11, or any violations determined to be widespread, the department commissioner shall conduct a an on-site follow-up survey within 90 calendar days of the survey. For providers that have only Level 1 or Level 2 violations under subdivision 11, the commissioner shall conduct a follow-up survey, but may conduct the survey via telephone, fax, e-mail, or by other methods determined by the commissioner. 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 new Level 3 and Level 4 violations.

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

151.1 the applicant's or provider's last known address. The ~~noncompliance~~ notice of noncompliance
151.2 with a correction order must list the violations not corrected and any fines imposed.

151.3 (d) The license holder must pay the fines assessed on or before the payment date specified
151.4 on a correction order or on a notice of noncompliance with a correction order. If the license
151.5 holder fails to ~~fully comply with the order~~ pay a fine by the specified date, the commissioner
151.6 may issue a ~~second~~ late payment fine or suspend the license until the license holder ~~complies~~
151.7 ~~by paying the fine~~ pays all outstanding fines. A timely appeal shall stay payment of the late
151.8 payment fine until the commissioner issues a final order.

151.9 (e) ~~A license holder shall promptly notify the commissioner in writing when a violation~~
151.10 ~~specified in the order is corrected~~. If upon reinspection the commissioner determines that
151.11 a violation has not been corrected as indicated by the ~~order~~ notice of noncompliance with
151.12 a correction order, the commissioner may issue ~~a second~~ an additional fine for noncompliance
151.13 with a notice of noncompliance with a correction order. The commissioner shall notify the
151.14 license holder by mail to the last known address in the licensing record that ~~a second~~ an
151.15 additional fine has been assessed. The license holder may appeal the ~~second~~ additional fine
151.16 as provided under this subdivision.

151.17 (f) A home care provider that has been assessed a fine under this subdivision or
151.18 subdivision 8 has a right to a reconsideration or a hearing under this section and chapter 14.

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

151.22 (h) In addition to any fine imposed under this section, the commissioner may assess
151.23 costs related to an investigation that results in a final order assessing a fine or other
151.24 enforcement action authorized by this chapter.

151.25 (i) Fines collected under this subdivision shall be deposited in the state government
151.26 special revenue fund and credited to an account separate from the revenue collected under
151.27 section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines
151.28 collected must be used by the commissioner for special projects to improve home care in
151.29 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 6

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

- 153.1
- of Ombudsman for Long-Term Care to perform at least the following functions: supervision,
- 153.2
- 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 under chapter 245D or 245G;

(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, 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 the 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 conspicuous notice informing the tenant of the policy concerning the conditions under which and 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;

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(14) billing and payment procedures and requirements;

(15) a statement regarding the ability of a resident 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. 2a. **Additional contract requirements.** (a) For a resident receiving one or more health-related services from the establishment's arranged home care provider, as defined in section 144D.01, subdivision 6, the contract 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 home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people 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. 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.

In addition to registration under this chapter, a housing with services establishment must comply with chapter 504B and the provisions of section 325F.72, and shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it. A housing with services establishment is not required to obtain a lodging license under chapter 157 and related rules.

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; 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

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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

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(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.