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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 90

- 01/17/2019 Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 02/25/2019 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division
- 03/04/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
- 03/07/2019 Adoption of Report: Re-referred to the Committee on Commerce
- 03/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
- 04/26/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
- 05/10/2019 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments
- 05/19/2019 Returned to the House as Amended by the Senate
The House concurred in the Senate Amendments and repassed the bill as Amended by the Senate

1.1 A bill for an act

1.2 relating to health; establishing consumer protections for residents of assisted living

1.3 establishments; prohibiting deceptive marketing and business practices; establishing

1.4 provisions for independent senior living facilities; establishing an assisted living

1.5 establishment license; changing the name for Board of Examiners for Nursing

1.6 Home Administrators; imposing fees; establishing a health services executive

1.7 license; making certain conforming changes; providing penalties; granting

1.8 rulemaking authority; requiring reports; appropriating money; amending Minnesota

1.9 Statutes 2018, sections 144.051, subdivisions 4, 5, 6; 144.057, subdivision 1;

1.10 144.122; 144A.04, subdivision 5; 144A.19, subdivision 1; 144A.20, subdivision

1.11 1, by adding subdivisions; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511;

1.12 144A.26; 144A.44, subdivision 1; 144A.471, subdivisions 7, 9; 144A.472,

1.13 subdivision 7; 144A.474, subdivisions 9, 11, by adding a subdivision; 144A.475,

1.14 subdivisions 3b, 5; 144A.476, subdivision 1; 144A.4799; 256.9741, subdivision

1.15 1; 256I.03, subdivision 15; 256I.04, subdivision 2a; 325F.72, subdivisions 1, 2;

1.16 626.5572, subdivision 6; proposing coding for new law in Minnesota Statutes,

1.17 chapters 144; 144G; 256M; 325F; proposing coding for new law as Minnesota

1.18 Statutes, chapter 144I; repealing Minnesota Statutes 2018, sections 144A.441;

1.19 144A.442; 144A.472, subdivision 4; 144D.01; 144D.015; 144D.02; 144D.025;

1.20 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07;

1.21 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04;

1.22 144G.05; 144G.06.

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

1.24 ARTICLE 1

1.25 ASSISTED LIVING LICENSURE

1.26 Section 1. Minnesota Statutes 2018, section 144.122, is amended to read:

1.27 144.122 LICENSE, PERMIT, AND SURVEY FEES.

1.28 (a) The state commissioner of health, by rule, may prescribe procedures and fees for

1.29 filing with the commissioner as prescribed by statute and for the issuance of original and

1.30 renewal permits, licenses, registrations, and certifications issued under authority of the

2.1 commissioner. The expiration dates of the various licenses, permits, registrations, and
 2.2 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include
 2.3 application and examination fees and a penalty fee for renewal applications submitted after
 2.4 the expiration date of the previously issued permit, license, registration, and certification.
 2.5 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,
 2.6 registrations, and certifications when the application therefor is submitted during the last
 2.7 three months of the permit, license, registration, or certification period. Fees proposed to
 2.8 be prescribed in the rules shall be first approved by the Department of Management and
 2.9 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be
 2.10 in an amount so that the total fees collected by the commissioner will, where practical,
 2.11 approximate the cost to the commissioner in administering the program. All fees collected
 2.12 shall be deposited in the state treasury and credited to the state government special revenue
 2.13 fund unless otherwise specifically appropriated by law for specific purposes.

2.14 (b) The commissioner may charge a fee for voluntary certification of medical laboratories
 2.15 and environmental laboratories, and for environmental and medical laboratory services
 2.16 provided by the department, without complying with paragraph (a) or chapter 14. Fees
 2.17 charged for environment and medical laboratory services provided by the department must
 2.18 be approximately equal to the costs of providing the services.

2.19 (c) The commissioner may develop a schedule of fees for diagnostic evaluations
 2.20 conducted at clinics held by the services for children with disabilities program. All receipts
 2.21 generated by the program are annually appropriated to the commissioner for use in the
 2.22 maternal and child health program.

2.23 (d) The commissioner shall set license fees for hospitals and nursing homes that are not
 2.24 boarding care homes at the following levels:

2.25 2.26 2.27 2.28	Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	\$7,655 plus \$16 per bed
2.29	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
2.30 2.31 2.32 2.33	Nursing home	\$183 plus \$91 per bed until June 30, 2018. \$183 plus \$100 per bed between July 1, 2018, and June 30, 2020. \$183 plus \$105 per bed beginning July 1, 2020.

2.34 The commissioner shall set license fees for outpatient surgical centers, boarding care
 2.35 homes, ~~and supervised living facilities,~~ assisted living facilities, and assisted living facilities
 2.36 with dementia care at the following levels:

3.1	Outpatient surgical centers	\$3,712
3.2	Boarding care homes	\$183 plus \$91 per bed
3.3	Supervised living facilities	\$183 plus \$91 per bed.
3.4	<u>Assisted living facilities with dementia care</u>	<u>\$3,000 plus \$100 per resident.</u>
3.5	<u>Assisted living facilities</u>	<u>\$2,000 plus \$75 per resident.</u>

3.6 Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if
 3.7 received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017,
 3.8 or later.

3.9 (e) Unless prohibited by federal law, the commissioner of health shall charge applicants
 3.10 the following fees to cover the cost of any initial certification surveys required to determine
 3.11 a provider's eligibility to participate in the Medicare or Medicaid program:

3.12	Prospective payment surveys for hospitals	\$	900
3.13	Swing bed surveys for nursing homes	\$	1,200
3.14	Psychiatric hospitals	\$	1,400
3.15	Rural health facilities	\$	1,100
3.16	Portable x-ray providers	\$	500
3.17	Home health agencies	\$	1,800
3.18	Outpatient therapy agencies	\$	800
3.19	End stage renal dialysis providers	\$	2,100
3.20	Independent therapists	\$	800
3.21	Comprehensive rehabilitation outpatient facilities	\$	1,200
3.22	Hospice providers	\$	1,700
3.23	Ambulatory surgical providers	\$	1,800
3.24	Hospitals	\$	4,200
3.25	Other provider categories or additional	Actual surveyor costs: average	
3.26	resurveys required to complete initial	surveyor cost x number of hours for	
3.27	certification	the survey process.	

3.28 These fees shall be submitted at the time of the application for federal certification and
 3.29 shall not be refunded. All fees collected after the date that the imposition of fees is not
 3.30 prohibited by federal law shall be deposited in the state treasury and credited to the state
 3.31 government special revenue fund.

3.32 (f) Notwithstanding section 16A.1283, the commissioner may adjust the fees assessed
 3.33 on assisted living facilities and assisted living facilities with dementia care under paragraph
 3.34 (d), in a revenue-neutral manner in accordance with the requirements of this paragraph:

3.35 (1) a facility seeking to renew a license shall pay a renewal fee in an amount that is up
 3.36 to ten percent lower than the applicable fee in paragraph (d) if residents who receive home

4.1 and community-based waiver services under sections 256B.0915 and 256B.49 comprise
4.2 more than 50 percent of the facility's capacity in the calendar year prior to the year in which
4.3 the renewal application is submitted; and

4.4 (2) a facility seeking to renew a license shall pay a renewal fee in an amount that is up
4.5 to ten percent higher than the applicable fee in paragraph (d) if residents who receive home
4.6 and community-based waiver services under sections 256B.0915 and 256B.49 comprise
4.7 less than 50 percent of the facility's capacity during the calendar year prior to the year in
4.8 which the renewal application is submitted.

4.9 The commissioner may annually adjust the percentages in clauses (1) and (2), to ensure this
4.10 paragraph is implemented in a revenue-neutral manner. The commissioner shall develop a
4.11 method for determining capacity thresholds in this paragraph in consultation with the
4.12 commissioner of human services and must coordinate the administration of this paragraph
4.13 with the commissioner of human services for purposes of verification.

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

4.15 Sec. 2. **[144I.01] DEFINITIONS.**

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

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

4.19 Subd. 3. **Advanced practice registered nurse.** "Advanced practice registered nurse"
4.20 has the meaning given in section 148.171, subdivision 3.

4.21 Subd. 4. **Applicant.** "Applicant" means an individual, legal entity, or other organization
4.22 that has applied for licensure under this chapter.

4.23 Subd. 5. **Assisted living contract.** "Assisted living contract" means the legal agreement
4.24 between a resident and an assisted living facility for housing and, if applicable, assisted
4.25 living services.

4.26 Subd. 6. **Assisted living director.** "Assisted living director" means a person who
4.27 administers, manages, supervises, or is in general administrative charge of an assisted living
4.28 facility, whether or not the individual has an ownership interest in the facility, and whether
4.29 or not the person's functions or duties are shared with one or more individuals and who is
4.30 licensed by the Board of Executives for Long Term Services and Supports pursuant to
4.31 section 144A.20.

5.1 Subd. 7. **Assisted living facility.** "Assisted living facility" means a licensed facility that
5.2 provides sleeping accommodations and assisted living services to one or more adults.
5.3 Assisted living facility includes assisted living facility with dementia care, and does not
5.4 include:

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

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

5.8 (3) a hospital, certified boarding care, or supervised living facility licensed under sections
5.9 144.50 to 144.56;

5.10 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
5.11 9520.0500 to 9520.0670, or under chapter 245D or 245G;

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

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

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

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

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

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

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

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

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

6.6 (14) an independent senior living facility governed by chapter 144K.

6.7 Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with
6.8 dementia care" means a licensed assisted living facility that is advertised, marketed, or
6.9 otherwise promoted as providing specialized care for individuals with Alzheimer's disease
6.10 or other dementias. An assisted living facility with a secured dementia care unit must be
6.11 licensed as an assisted living facility with dementia care.

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

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

6.16 (2) providing standby assistance;

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

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

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

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

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

6.28 (8) medication management services;

6.29 (9) hands-on assistance with transfers and mobility;

6.30 (10) treatment and therapies;

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

7.5 (12) providing other complex or specialty health care services; and

7.6 (13) supportive services in addition to the provision of at least one of the services listed
7.7 in clauses (1) to (12).

7.8 Subd. 10. **Authority having jurisdiction.** "Authority having jurisdiction" means an
7.9 organization, office, or individual responsible for enforcing the requirements of a code or
7.10 standard, or for approving equipment, materials, an installation, or a procedure.

7.11 Subd. 11. **Authorized agent.** "Authorized agent" means the person who is authorized
7.12 to accept service of notices and orders on behalf of the licensee.

7.13 Subd. 12. **Change of ownership.** "Change of ownership" means a change in the licensee
7.14 that is responsible for the management, control, and operation of a facility.

7.15 Subd. 13. **Commissioner.** "Commissioner" means the commissioner of health.

7.16 Subd. 14. **Controlled substance.** "Controlled substance" has the meaning given in
7.17 section 152.01, subdivision 4.

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

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

7.22 (2) each managerial official; and

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

7.25 (b) Controlling individual does not include:

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

7.29 (2) government and government-sponsored entities such as the U.S. Department of
7.30 Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota

8.1 Housing Finance Agency which provide loans, financing, and insurance products for housing
8.2 sites;

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

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

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

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

8.12 (5) an individual who is a member of an organization exempt from taxation under section
8.13 290.05, unless the individual is also an officer, owner, or managerial official of the license
8.14 or owns any of the beneficial interests not excluded in this subdivision. This clause does
8.15 not exclude from the definition of controlling individual an organization that is exempt from
8.16 taxation; or

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

8.20 Subd. 16. **Dementia.** "Dementia" means the loss of cognitive function, including the
8.21 ability to think, remember, problem solve, or reason, of sufficient severity to interfere with
8.22 an individual's daily functioning. Dementia is caused by different diseases and conditions,
8.23 including but not limited to Alzheimer's disease, vascular dementia, neurodegenerative
8.24 conditions, Creutzfeldt-Jakob disease, and Huntington's disease.

8.25 Subd. 17. **Dementia care services.** "Dementia care services" means ongoing care for
8.26 behavioral and psychological symptoms of dementia, including planned group and individual
8.27 programming and person-centered care practices provided according to section 144I.40 to
8.28 support activities of daily living for people living with dementia.

8.29 Subd. 18. **Dementia-trained staff.** "Dementia-trained staff" means any employee who
8.30 has completed the minimum training required under sections 144I.21 and 144I.39 and has
8.31 demonstrated knowledge and the ability to support individuals with dementia.

8.32 Subd. 19. **Designated representative.** "Designated representative" means a person
8.33 designated under section 144I.25.

9.1 Subd. 20. **Dietary supplement.** "Dietary supplement" means a product taken by mouth
9.2 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may
9.3 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as
9.4 enzymes, organ tissue, glandulars, or metabolites.

9.5 Subd. 21. **Dietitian.** "Dietitian" means a person licensed as a dietitian under section
9.6 148.624.

9.7 Subd. 22. **Direct contact.** "Direct contact" means providing face-to-face care, training,
9.8 supervision, counseling, consultation, or medication assistance to residents of a facility.

9.9 Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual
9.10 or organization with the possession of at least five percent equity in capital, stock, or profits
9.11 of the licensee, or who is a member of a limited liability company of the licensee.

9.12 Subd. 24. **Facility.** "Facility" means an assisted living facility.

9.13 Subd. 25. **Hands-on assistance.** "Hands-on assistance" means physical help by another
9.14 person without which the resident is not able to perform the activity.

9.15 Subd. 26. **"I'm okay" check services.** "'I'm okay" check services" means having,
9.16 maintaining documenting a system to, by any means, check on the safety of a resident a
9.17 minimum of once daily or more frequently according to the assisted living contract.

9.18 Subd. 27. **Indirect ownership interest.** "Indirect ownership interest" means an individual
9.19 or legal entity with a direct ownership interest in an entity that has a direct or indirect
9.20 ownership interest of at least five percent in an entity that is a licensee.

9.21 Subd. 28. **Legal representative.** "Legal representative" means one of the following in
9.22 the order of priority listed, to the extent the person may reasonably be identified and located:

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

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

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

9.29 (4) an attorney-in-fact acting in accordance with the powers granted to the attorney-in-fact
9.30 by a written power of attorney under chapter 523.

9.31 Subd. 29. **Licensed health professional.** "Licensed health professional" means a person
9.32 licensed in Minnesota to practice a profession described in section 214.01, subdivision 2.

10.1 Subd. 30. **Licensed practical nurse.** "Licensed practical nurse" has the meaning given
10.2 in section 148.171, subdivision 8.

10.3 Subd. 31. **Licensed resident capacity.** "Licensed resident capacity" means the resident
10.4 occupancy level requested by a licensee and approved by the commissioner.

10.5 Subd. 32. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner
10.6 issues a license for an assisted living facility and who is responsible for the management,
10.7 control, and operation of a facility.

10.8 Subd. 33. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,
10.9 subdivision 15.

10.10 Subd. 34. **Management agreement.** "Management agreement" means a written, executed
10.11 agreement between a licensee and manager regarding the provision of certain services on
10.12 behalf of the licensee.

10.13 Subd. 35. **Manager.** "Manager" means an individual or legal entity designated by the
10.14 licensee through a management agreement to act on behalf of the licensee in the on-site
10.15 management of the assisted living facility.

10.16 Subd. 36. **Managerial official.** "Managerial official" means an individual who has the
10.17 decision-making authority related to the operation of the facility and the responsibility for
10.18 the ongoing management or direction of the policies, services, or employees of the facility.

10.19 Subd. 37. **Medication.** "Medication" means a prescription or over-the-counter drug. For
10.20 purposes of this chapter only, medication includes dietary supplements.

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

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

10.24 (2) preparing the medication as necessary;

10.25 (3) administering the medication to the resident;

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

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

10.29 Subd. 39. **Medication management.** "Medication management" means the provision
10.30 of any of the following medication-related services to a resident:

10.31 (1) performing medication setup;

- 11.1 (2) administering medications;
- 11.2 (3) storing and securing medications;
- 11.3 (4) documenting medication activities;
- 11.4 (5) verifying and monitoring the effectiveness of systems to ensure safe handling and
11.5 administration;
- 11.6 (6) coordinating refills;
- 11.7 (7) handling and implementing changes to prescriptions;
- 11.8 (8) communicating with the pharmacy about the resident's medications; and
- 11.9 (9) coordinating and communicating with the prescriber.

11.10 Subd. 40. **Medication reconciliation.** "Medication reconciliation" means the process
11.11 of identifying the most accurate list of all medications the resident is taking, including the
11.12 name, dosage, frequency, and route, by comparing the resident record to an external list of
11.13 medications obtained from the resident, hospital, prescriber, or other provider.

11.14 Subd. 41. **Medication setup.** "Medication setup" means arranging medications by a
11.15 nurse, pharmacy, or authorized prescriber for later administration by the resident or by
11.16 facility staff.

11.17 Subd. 42. **New construction.** "New construction" means a new building, renovation,
11.18 modification, reconstruction, physical changes altering the use of occupancy, or addition
11.19 to a building.

11.20 Subd. 43. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to
11.21 148.285.

11.22 Subd. 44. **Nutritionist.** "Nutritionist" means a person licensed as a nutritionist under
11.23 section 148.624.

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

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

11.27 Subd. 47. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not
11.28 required by federal law to bear the symbol "Rx only."

11.29 Subd. 48. **Owner.** "Owner" means an individual or legal entity that has a direct or indirect
11.30 ownership interest of five percent or more in a licensee. For purposes of this chapter, "owner
11.31 of a nonprofit corporation" means the president and treasurer of the board of directors or,

12.1 for an entity owned by an employee stock ownership plan, means the president and treasurer
12.2 of the entity. A government entity that is issued a license under this chapter shall be
12.3 designated the owner.

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

12.7 Subd. 50. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision
12.8 3.

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

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

12.12 Subd. 53. **Prescriber.** "Prescriber" means a person who is authorized by section 148.235;
12.13 151.01, subdivision 23; or 151.37 to prescribe prescription drugs.

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

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

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

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

12.24 Subd. 58. **Repeat violation.** "Repeat violation" means the issuance of two or more
12.25 correction orders within a 12-month period for a violation of the same provision of a statute
12.26 or rule.

12.27 Subd. 59. **Resident.** "Resident" means a person living in an assisted living facility who
12.28 has executed an assisted living contract.

12.29 Subd. 60. **Resident record.** "Resident record" means all records that document
12.30 information about the services provided to the resident.

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

13.1 Subd. 62. **Secured dementia care unit.** "Secured dementia care unit" means a designated
13.2 area or setting designed for individuals with dementia that is locked or secured to prevent
13.3 a resident from exiting, or to limit a resident's ability to exit, the secured area or setting. A
13.4 secured dementia care unit is not solely an individual resident's living area.

13.5 Subd. 63. **Service plan.** "Service plan" means the written plan between the resident and
13.6 the provisional licensee or licensee about the services that will be provided to the resident.

13.7 Subd. 64. **Social worker.** "Social worker" means a person who is licensed under chapter
13.8 148D or 148E.

13.9 Subd. 65. **Speech-language pathologist.** "Speech-language pathologist" has the meaning
13.10 given in section 148.512, subdivision 17.

13.11 Subd. 66. **Standby assistance.** "Standby assistance" means the presence of another
13.12 person within arm's reach to minimize the risk of injury while performing daily activities
13.13 through physical intervention or cueing to assist a resident with an assistive task by providing
13.14 cues, oversight, and minimal physical assistance.

13.15 Subd. 67. **Substantial compliance.** "Substantial compliance" means complying with
13.16 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks
13.17 to residents.

13.18 Subd. 68. **Supportive services.** "Supportive services" means:

13.19 (1) assistance with laundry, shopping, and household chores;

13.20 (2) housekeeping services;

13.21 (3) provision or assistance with meals or food preparation;

13.22 (4) help with arranging for, or arranging transportation to, medical, social, recreational,
13.23 personal, or social services appointments;

13.24 (5) provision of social or recreational services; or

13.25 (6) "I'm okay" check services.

13.26 Arranging for services does not include making referrals, or contacting a service provider
13.27 in an emergency.

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

13.30 Subd. 70. **Surveyor.** "Surveyor" means a staff person of the department who is authorized
13.31 to conduct surveys of assisted living facilities.

14.1 Subd. 71. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,
14.2 other than medications, ordered or prescribed by a licensed health professional and provided
14.3 to a resident to cure, rehabilitate, or ease symptoms.

14.4 Subd. 72. **Unit of government.** "Unit of government" means a city, county, town, school
14.5 district, other political subdivision of the state, or agency of the state or federal government,
14.6 that includes any instrumentality of a unit of government.

14.7 Subd. 73. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise
14.8 licensed or certified by a governmental health board or agency who provide services to a
14.9 resident.

14.10 Subd. 74. **Verbal.** "Verbal" means oral and not in writing.

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

14.12 Sec. 3. **[144I.02] ASSISTED LIVING FACILITY LICENSE.**

14.13 Subdivision 1. **License required.** Beginning August 1, 2021, no assisted living facility
14.14 may operate in Minnesota unless it is licensed under this chapter. The licensee is legally
14.15 responsible for the management, control, and operation of the facility, regardless of the
14.16 existence of a management agreement or subcontract. Nothing in this chapter shall in any
14.17 way affect the rights and remedies available under other law.

14.18 Subd. 2. **Licensure categories.** (a) The categories in this subdivision are established for
14.19 assisted living facility licensure.

14.20 (b) The assisted living facility category is for assisted living facilities that only provide
14.21 assisted living services.

14.22 (c) The assisted living facility with dementia care category is for assisted living facilities
14.23 that provide assisted living services and dementia care services. An assisted living facility
14.24 with dementia care may also provide dementia care services in a secured dementia care
14.25 unit.

14.26 (d) An assisted living facility that has a secured dementia care unit must be licensed as
14.27 an assisted living facility with dementia care.

14.28 Subd. 3. **Licensure under other law.** An assisted living facility licensed under this
14.29 chapter is not required to also be licensed as a boarding establishment, food and beverage
14.30 service establishment, hotel, motel, lodging establishment, resort, or restaurant under chapter
14.31 157.

15.1 Subd. 4. **Violations; penalty.** (a) Operating an assisted living facility without a license
15.2 is a misdemeanor, and the commissioner may also impose a fine.

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

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

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

15.8 Sec. 4. **[144I.03] PROVISIONAL LICENSE.**

15.9 Subdivision 1. **Provisional license.** Beginning August 1, 2021, for new assisted living
15.10 facility license applicants, the commissioner shall issue a provisional license from one of
15.11 the licensure categories specified in section 144I.02, subdivision 2. A provisional license
15.12 is effective for up to one year from the initial effective date of the license, except that a
15.13 provisional license may be extended according to subdivision 2, paragraphs (c) and (d).

15.14 Subd. 2. **Initial survey; licensure.** (a) During the provisional license period, the
15.15 commissioner shall survey the provisional licensee after the commissioner is notified or
15.16 has evidence that the provisional licensee is providing assisted living services to at least
15.17 one resident.

15.18 (b) Within two days of beginning to provide assisted living services, the provisional
15.19 licensee must provide notice to the commissioner that it is providing assisted living services
15.20 by sending an e-mail to the e-mail address provided by the commissioner. If the provisional
15.21 licensee does not provide services during the provisional license period, the provisional
15.22 license shall expire at the end of the period and the applicant must reapply.

15.23 (c) If the provisional licensee notifies the commissioner that the licensee is providing
15.24 assisted living services within 45 calendar days prior to expiration of the provisional license,
15.25 the commissioner may extend the provisional license for up to 60 calendar days in order to
15.26 allow the commissioner to complete the on-site survey required under this section and
15.27 follow-up survey visits.

15.28 (d) If the provisional licensee is in substantial compliance with the survey, the
15.29 commissioner shall issue a facility license. If the provisional licensee is not in substantial
15.30 compliance with the initial survey, the commissioner shall either: (1) not issue the facility
15.31 license and terminate the provisional license; or (2) extend the provisional license for a
15.32 period not to exceed 90 calendar days and apply conditions necessary to bring the facility
15.33 into substantial compliance. If the provisional licensee is not in substantial compliance with

16.1 the survey within the time period of the extension or if the provisional licensee does not
16.2 satisfy the license conditions, the commissioner may deny the license.

16.3 Subd. 3. **Reconsideration.** (a) If a provisional licensee whose assisted living facility
16.4 license has been denied or extended with conditions disagrees with the conclusions of the
16.5 commissioner, then the provisional licensee may request a reconsideration by the
16.6 commissioner. The reconsideration request process must be conducted internally by the
16.7 commissioner and chapter 14 does not apply.

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

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

16.15 Subd. 4. **Continued operation.** A provisional licensee whose license is denied is
16.16 permitted to continue operating during the period of time when:

16.17 (1) a reconsideration is in process;

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

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

16.23 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license
16.24 is denied must comply with the requirements for notification and the coordinated move of
16.25 residents in sections 144I.26 and 144I.263.

16.26 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section
16.27 144I.26, subdivision 7, is \$1,000.

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

16.29 Sec. 5. **[144I.04] APPLICATION FOR LICENSURE.**

16.30 Subdivision 1. **License applications.** (a) Each application for an assisted living facility
16.31 license, including provisional and renewal applications, must include information sufficient
16.32 to show that the applicant meets the requirements of licensure, including:

- 17.1 (1) the business name and legal entity name of the licensee, and the street address and
17.2 mailing address of the facility;
- 17.3 (2) the names, e-mail addresses, telephone numbers, and mailing addresses of all owners,
17.4 controlling individuals, managerial officials, and the assisted living director;
- 17.5 (3) the name and e-mail address of the managing agent and manager, if applicable;
- 17.6 (4) the licensed resident capacity and the license category;
- 17.7 (5) the license fee in the amount specified in section 144.122;
- 17.8 (6) documentation of compliance with the background study requirements in section
17.9 144I.06 for the owner, controlling individuals, and managerial officials. Each application
17.10 for a new license must include documentation for the applicant and for each individual with
17.11 five percent or more direct or indirect ownership in the applicant;
- 17.12 (7) evidence of workers' compensation coverage as required by sections 176.181 and
17.13 176.182;
- 17.14 (8) documentation that the facility has liability coverage;
- 17.15 (9) a copy of the executed lease agreement between the landlord and the licensee, if
17.16 applicable;
- 17.17 (10) a copy of the management agreement, if applicable;
- 17.18 (11) a copy of the operations transfer agreement or similar agreement, if applicable;
- 17.19 (12) an organizational chart that identifies all organizations and individuals with an
17.20 ownership interest in the licensee of five percent or greater and that specifies their relationship
17.21 with the licensee and with each other;
- 17.22 (13) whether the applicant, owner, controlling individual, managerial official, or assisted
17.23 living director of the facility has ever been convicted of:
- 17.24 (i) a crime or found civilly liable for a federal or state felony level offense that was
17.25 detrimental to the best interests of the facility and its resident within the last ten years
17.26 preceding submission of the license application. Offenses include: felony crimes against
17.27 persons and other similar crimes for which the individual was convicted, including guilty
17.28 pleas and adjudicated pretrial diversions; financial crimes such as extortion, embezzlement,
17.29 income tax evasion,, insurance fraud, and other similar crimes for which the individual was
17.30 convicted, including guilty pleas and adjudicated pretrial diversions; any felonies involving
17.31 malpractice that resulted in a conviction of criminal neglect or misconduct; and any felonies

18.1 that would result in a mandatory exclusion under section 1128(a) of the Social Security
18.2 Act;

18.3 (ii) any misdemeanor conviction, under federal or state law, related to: the delivery of
18.4 an item or service under Medicaid or a state health care program, or the abuse or neglect of
18.5 a patient in connection with the delivery of a health care item or service;

18.6 (iii) any misdemeanor conviction, under federal or state law, related to theft, fraud,
18.7 embezzlement, breach of fiduciary duty, or other financial misconduct in connection with
18.8 the delivery of a health care item or service;

18.9 (iv) any felony or misdemeanor conviction, under federal or state law, relating to the
18.10 interference with or obstruction of any investigation into any criminal offense described in
18.11 Code of Federal Regulations, title 42, section 1001.101 or 1001.201;

18.12 (v) any felony or misdemeanor conviction, under federal or state law, relating to the
18.13 unlawful manufacture, distribution, prescription, or dispensing of a controlled substance;

18.14 (vi) any felony or gross misdemeanor that relates to the operation of a nursing home or
18.15 assisted living facility or directly affects resident safety or care during that period;

18.16 (vii) any revocation or suspension of a license to provide health care by any state licensing
18.17 authority. This includes the surrender of such a license while a formal disciplinary proceeding
18.18 was pending before a state licensing authority;

18.19 (viii) any revocation or suspension of accreditation; or

18.20 (ix) any suspension or exclusion from participation in, or any sanction imposed by, a
18.21 federal or state health care program, or any debarment from participation in any federal
18.22 executive branch procurement or non-procurement program;

18.23 (14) whether, in the preceding three years, the applicant or any owner, controlling
18.24 individual, managerial official, or assisted living director of the facility has a record of
18.25 defaulting in the payment of money collected for others, including the discharge of debts
18.26 through bankruptcy proceedings;

18.27 (15) the signature of the owner of the licensee, or an authorized agent of the licensee;

18.28 (16) identification of all states where the applicant or individual having a five percent
18.29 or more ownership, currently or previously has been licensed as an owner or operator of a
18.30 long-term care, community-based, or health care facility or agency where its license or
18.31 federal certification has been denied, suspended, restricted, conditioned, refused, not renewed,

19.1 or revoked under a private or state-controlled receivership, or where these same actions are
19.2 pending under the laws of any state or federal authority;

19.3 (17) statistical information required by the commissioner; and

19.4 (18) any other information required by the commissioner.

19.5 Subd. 2. **Authorized agents.** (a) An application for an assisted living facility license or
19.6 for renewal of a facility license must specify one or more owners, controlling individuals,
19.7 or employees as authorized agents who can accept service on behalf of the licensee in
19.8 proceedings under this chapter.

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

19.16 Subd. 3. **Fees.** (a) An initial applicant, renewal applicant, or applicant filing a change
19.17 of ownership for assisted living facility licensure must submit the application fee required
19.18 in section 144.122 to the commissioner along with a completed application.

19.19 (b) The penalty for late submission of the renewal application less than 30 days before
19.20 the expiration date of the license or after expiration of the license is \$200. The penalty for
19.21 operating a facility after expiration of the license and before a renewal license is issued, is
19.22 \$250 each day after expiration of the license until the renewal license issuance date. The
19.23 facility is still subject to the misdemeanor penalties for operating after license expiration.

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

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

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

20.1 Sec. 6. **[144I.05] TRANSFER OF LICENSE PROHIBITED.**

20.2 Subdivision 1. **Transfers prohibited.** An assisted living facility license may not be
20.3 transferred to another party.

20.4 Subd. 2. **New license required.** (a) A prospective licensee must apply for a license prior
20.5 to operating a currently licensed assisted living facility. The new license, if issued, shall
20.6 not be a provisional license. The licensee must change whenever one of the following events
20.7 occur:

20.8 (1) the form of the licensee's legal entity structure is converted or changed to a different
20.9 type of legal entity structure;

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

20.12 (3) within the previous 24 months, 50 percent or more of the licensee is transferred,
20.13 whether by a single transaction or multiple transactions, to:

20.14 (i) a different person; or

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

20.17 (4) any other event or combination of events that results in a substitution, elimination,
20.18 or withdrawal of the licensee's responsibility for the facility.

20.19 (b) The prospective licensee must provide written notice to the department at least 60
20.20 calendar days prior to the anticipated date of the change of licensee.

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

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

20.24 Sec. 7. **[144I.06] BACKGROUND STUDIES.**

20.25 Subdivision 1. **Background studies required.** (a) Before the commissioner issues a
20.26 provisional license, issues a license as a result of an approved change of ownership, or
20.27 renews a license, a managerial official or a natural person who is an owner with direct
20.28 ownership interest is required to undergo a background study under section 144.057. No
20.29 person may be involved in the management, operation, or control of an assisted living facility
20.30 if the person has been disqualified under chapter 245C. For the purposes of this section,

21.1 managerial officials subject to the background study requirement are individuals who provide
21.2 direct contact.

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

21.6 (c) Employees, contractors, and regularly-scheduled volunteers of the facility are subject
21.7 to the background study required by section 144.057 and may be disqualified under chapter
21.8 245C. Nothing in this section shall be construed to prohibit the facility from requiring
21.9 self-disclosure of criminal conviction information.

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

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

21.20 Subd. 4. **Termination in good faith.** Termination of an employee in good faith reliance
21.21 on information or records obtained under this section regarding a confirmed conviction does
21.22 not subject the assisted living facility to civil liability or liability for unemployment benefits.

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

21.24 Sec. 8. **[144I.07] LICENSE RENEWAL.**

21.25 A license that is not a provisional license may be renewed for a period of up to one year
21.26 if the licensee:

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

21.29 (2) submits the renewal fee under section 144I.04, subdivision 3;

21.30 (3) submits the late fee under section 144I.04, subdivision 3, if the renewal application
21.31 is received less than 30 days before the expiration date of the license or after the expiration
21.32 of the license;

22.1 (4) provides information sufficient to show that the applicant meets the requirements of
22.2 licensure, including items required under section 144I.04, subdivision 1; and

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

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

22.5 **Sec. 9. [144I.08] NOTIFICATION OF CHANGES IN INFORMATION.**

22.6 A provisional licensee or licensee shall notify the commissioner in writing prior to a
22.7 change in the manager or authorized agent and within 60 calendar days after any change in
22.8 the information required in section 144I.04, subdivision 1, paragraph (a), clause (1), (3),
22.9 (4), (17), or (18).

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

22.11 **Sec. 10. [144I.09] CONSIDERATION OF APPLICATIONS.**

22.12 (a) Before issuing a provisional license or license or renewing a license, the commissioner
22.13 shall consider an applicant's compliance history in providing care in a facility that provides
22.14 care to children, the elderly, ill individuals, or individuals with disabilities.

22.15 (b) The applicant's compliance history shall include repeat violation, rule violations, and
22.16 any license or certification involuntarily suspended or terminated during an enforcement
22.17 process.

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

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

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

22.26 (3) the applicant refused to allow agents of the commissioner to inspect its books, records,
22.27 and files related to the license application, or any portion of the premises;

22.28 (4) the applicant willfully prevented, interfered with, or attempted to impede in any way:

22.29 (i) the work of any authorized representative of the commissioner, the ombudsman for
22.30 long-term care, or the ombudsman for mental health and developmental disabilities; or (ii)

23.1 the duties of the commissioner, local law enforcement, city or county attorneys, adult
23.2 protection, county case managers, or other local government personnel;

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

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

23.6 (d) If a license is denied, the applicant has the reconsideration rights available under
23.7 section 144I.03, subdivision 3.

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

23.9 **Sec. 11. [144I.10] MINIMUM ASSISTED LIVING FACILITY REQUIREMENTS.**

23.10 Subdivision 1. Minimum requirements. (a) All assisted living facilities shall:

23.11 (1) distribute to residents the assisted living bill of rights;

23.12 (2) provide services in a manner that complies with the Nurse Practice Act in sections
23.13 148.171 to 148.285;

23.14 (3) utilize a person-centered planning and service delivery process;

23.15 (4) have and maintain a system for delegation of health care activities to unlicensed
23.16 personnel by a registered nurse, including supervision and evaluation of the delegated
23.17 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;

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

23.20 (6) allow residents the ability to furnish and decorate the resident's unit within the terms
23.21 of the assisted living contract;

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

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

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

23.25 (10) notify the resident of the resident's right to have and use a lockable door to the
23.26 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with
23.27 a specific need to enter the unit shall have keys, and advance notice must be given to the
23.28 resident before entrance, when possible. An assisted living facility must not lock a resident
23.29 in the resident's unit;

23.30 (11) develop and implement a staffing plan for determining its staffing level that:

24.1 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness
24.2 of staffing levels in the facility;

24.3 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably
24.4 foreseeable unscheduled needs of each resident as required by the residents' assessments
24.5 and service plans on a 24-hour per day basis; and

24.6 (iii) ensures that the facility can respond promptly and effectively to individual resident
24.7 emergencies and to emergency, life safety, and disaster situations affecting staff or residents
24.8 in the facility;

24.9 (12) ensures that one or more persons are available 24 hours per day, seven days per
24.10 week, who are responsible for responding to the requests of residents for assistance with
24.11 health or safety needs. Such persons must be:

24.12 (i) awake;

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

24.15 (iii) capable of communicating with residents;

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

24.17 (v) capable of following directions; and

24.18 (vi) for an assisted living facility with dementia care providing services in a secured
24.19 dementia care unit, an awake person must be physically present in the secured dementia
24.20 care unit; and

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

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

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

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

- 25.1 (C) the facility cannot require a resident to include and pay for meals in their contract;
- 25.2 (ii) weekly housekeeping;
- 25.3 (iii) weekly laundry service;
- 25.4 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
- 25.5 for transportation to medical and social services appointments, shopping, and other recreation,
- 25.6 and provide the name of or other identifying information about the persons responsible for
- 25.7 providing this assistance;
- 25.8 (v) upon the request of the resident, provide reasonable assistance with accessing
- 25.9 community resources and social services available in the community, and provide the name
- 25.10 of or other identifying information about persons responsible for providing this assistance;
- 25.11 (vi) provide culturally sensitive programs; and
- 25.12 (vii) have a daily program of social and recreational activities that are based upon
- 25.13 individual and group interests, physical, mental, and psychosocial needs, and that creates
- 25.14 opportunities for active participation in the community at large.
- 25.15 (b) The resident's rights in section 144I.101, subdivisions 12, 13, and 18, may be restricted
- 25.16 for an individual resident only if determined necessary for health and safety reasons identified
- 25.17 by the facility through an initial assessment or reassessment under section 144I.16,
- 25.18 subdivision 2, and documented in the written service plan under section 144I.16, subdivision
- 25.19 4. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49
- 25.20 must be documented by the case manager in the resident's coordinated service and support
- 25.21 plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision
- 25.22 15. Nothing in this section affects other laws applicable to or prohibiting restrictions on the
- 25.23 resident's rights in section 144I.101, subdivisions 12, 13, and 18.
- 25.24 Subd. 2. **Policies and procedures.** (a) Each assisted living facility must have policies
- 25.25 and procedures in place to address the following and keep them current:
- 25.26 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;
- 25.27 (2) conducting and handling background studies on employees;
- 25.28 (3) orientation, training, and competency evaluations of staff, and a process for evaluating
- 25.29 staff performance;
- 25.30 (4) handling complaints regarding staff or services provided by staff;
- 25.31 (5) conducting initial evaluations of residents' needs and the providers' ability to provide
- 25.32 those services;

26.1 (6) conducting initial and ongoing resident evaluations and assessments of resident
26.2 needs, including assessments by a registered nurse or appropriate licensed health professional,
26.3 and how changes in a resident's condition are identified, managed, and communicated to
26.4 staff and other health care providers as appropriate;

26.5 (7) orientation to and implementation of the assisted living bill of rights;

26.6 (8) infection control practices;

26.7 (9) reminders for medications, treatments, or exercises, if provided;

26.8 (10) conducting appropriate screenings, or documentation of prior screenings, to show
26.9 that staff are free of tuberculosis, consistent with current United States Centers for Disease
26.10 Control and Prevention standards;

26.11 (11) ensuring that nurses and licensed health professionals have current and valid licenses
26.12 to practice;

26.13 (12) medication and treatment management;

26.14 (13) delegation of tasks by registered nurses or licensed health professionals;

26.15 (14) supervision of registered nurses and licensed health professionals; and

26.16 (15) supervision of unlicensed personnel performing delegated tasks.

26.17 Subd. 3. **Infection control program.** All assisted living facilities must establish and
26.18 maintain an infection control program.

26.19 Subd. 4. **Clinical nurse supervision.** All assisted living facilities must have a clinical
26.20 nurse supervisor who is a registered nurse licensed in Minnesota.

26.21 Subd. 5. **Resident councils.** The facility must provide a resident council with space and
26.22 privacy for meetings, where doing so is reasonably achievable. Staff, visitors, and other
26.23 guests may attend a resident council meeting only at the council's invitation. The facility
26.24 must designate a staff person who is approved by the resident council to be responsible for
26.25 providing assistance and responding to written requests that result from meetings. The
26.26 facility must consider the views of the resident council and must respond promptly to the
26.27 grievances and recommendations of the council, but a facility is not required to implement
26.28 as recommended every request of the council. The facility shall, with the approval of the
26.29 resident council, take reasonably achievable steps to make residents aware of upcoming
26.30 meetings in a timely manner.

26.31 Subd. 6. **Family councils.** The facility must provide a family council with space and
26.32 privacy for meetings, where doing so is reasonably achievable. The facility must designate

27.1 a staff person who is approved by the family council to be responsible for providing
27.2 assistance and responding to written requests that result from meetings. The facility must
27.3 consider the views of the family council and must respond promptly to the grievances and
27.4 recommendations of the council, but a facility is not required to implement as recommended
27.5 every request of the council. The facility shall, with the approval of the family council, take
27.6 reasonably achievable steps to make residents and family members aware of upcoming
27.7 meetings in a timely manner.

27.8 Subd. 7. **Resident grievances; reporting maltreatment.** All facilities must post in a
27.9 conspicuous place information about the facilities' grievance procedure, and the name,
27.10 telephone number, and e-mail contact information for the individuals who are responsible
27.11 for handling resident grievances. The notice must also have the contact information for the
27.12 state and applicable regional Office of Ombudsman for Long-Term Care and the Office of
27.13 Ombudsman for Mental Health and Developmental Disabilities, and must have information
27.14 for reporting suspected maltreatment to the Minnesota Adult Abuse Reporting Center.

27.15 Subd. 8. **Protecting resident rights.** All facilities shall ensure that every resident has
27.16 access to consumer advocacy or legal services by:

27.17 (1) providing names and contact information, including telephone numbers and e-mail
27.18 addresses of at least three organizations that provide advocacy or legal services to residents;

27.19 (2) providing the name and contact information for the Minnesota Office of Ombudsman
27.20 for Long-Term Care and the Office of the Ombudsman for Mental Health and Developmental
27.21 Disabilities, including both the state and regional contact information;

27.22 (3) assisting residents in obtaining information on whether Medicare or medical assistance
27.23 under chapter 256B will pay for services;

27.24 (4) making reasonable accommodations for people who have communication disabilities
27.25 and those who speak a language other than English; and

27.26 (5) providing all information and notices in plain language and in terms the residents
27.27 can understand.

27.28 Subd. 9. **Payment for services under disability waivers.** For new assisted living
27.29 facilities that did not operate as registered housing with services establishments prior to
27.30 August 1, 2021, home and community-based services under section 256B.49 are not available
27.31 when the new facility setting is adjoined to, or on the same property as, an institution as
27.32 defined in Code of Federal Regulations, title 42, section 441.301(c).

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

28.1 Sec. 12. [144I.101] ASSISTED LIVING BILL OF RIGHTS.

28.2 Subdivision 1. **Applicability.** This section applies to residents living in assisted living
28.3 facilities.

28.4 Subd. 2. **Legislative intent.** The rights established under this section for the benefit of
28.5 residents do not limit any other rights available under law. No facility may request or require
28.6 that any resident waive any of these rights at any time for any reason, including as a condition
28.7 of admission to the facility.

28.8 Subd. 3. **Information about rights.** Before receiving services, residents have the right
28.9 to be informed by the facility of the rights granted under this section and the recourse
28.10 residents have if rights are violated. The information must be in plain language and in terms
28.11 residents can understand. The facility must make reasonable accommodations for residents
28.12 who have communication disabilities and those who speak a language other than English.

28.13 Subd. 4. **Appropriate care and services.** (a) Residents have the right to care and assisted
28.14 living services that are appropriate based on the resident's needs and according to an
28.15 up-to-date service plan subject to accepted health care standards.

28.16 (b) Residents have the right to receive health care and other assisted living services with
28.17 continuity from people who are properly trained and competent to perform their duties and
28.18 in sufficient numbers to adequately provide the services agreed to in the assisted living
28.19 contract and the service plan.

28.20 Subd. 5. **Refusal of care or services.** Residents have the right to refuse care or assisted
28.21 living services and to be informed by the facility of the medical, health-related, or
28.22 psychological consequences of refusing care or services.

28.23 Subd. 6. **Participation in care and service planning.** Residents have the right to actively
28.24 participate in the planning, modification, and evaluation of their care and services. This
28.25 right includes:

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

28.28 (2) the right to include the resident's legal and designated representatives and persons
28.29 of the resident's choosing; and

28.30 (3) the right to be told in advance of, and take an active part in decisions regarding, any
28.31 recommended changes in the service plan.

29.1 Subd. 7. **Courteous treatment.** Residents have the right to be treated with courtesy and
29.2 respect, and to have the resident's property treated with respect.

29.3 Subd. 8. **Freedom from maltreatment.** Residents have the right to be free from physical,
29.4 sexual, and emotional abuse; neglect; financial exploitation; and all forms of maltreatment
29.5 covered under the Vulnerable Adults Act.

29.6 Subd. 9. **Right to come and go freely.** Residents have the right to enter and leave the
29.7 facility as they choose. This right may be restricted only as allowed by other law and
29.8 consistent with a resident's service plan.

29.9 Subd. 10. **Individual autonomy.** Residents have the right to individual autonomy,
29.10 initiative, and independence in making life choices, including establishing a daily schedule
29.11 and choosing with whom to interact.

29.12 Subd. 11. **Right to control resources.** Residents have the right to control personal
29.13 resources.

29.14 Subd. 12. **Visitors and social participation.** (a) Residents have the right to meet with
29.15 or receive visits at any time by the resident's family, guardian, conservator, health care
29.16 agent, attorney, advocate, or religious or social work counselor, or any person of the resident's
29.17 choosing. This right may be restricted in certain circumstances if necessary for the resident's
29.18 health and safety and if documented in the resident's service plan.

29.19 (b) Residents have the right to engage in community life and in activities of their choice.
29.20 This includes the right to participate in commercial, religious, social, community, and
29.21 political activities without interference and at their discretion if the activities do not infringe
29.22 on the rights of other residents.

29.23 Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to consideration
29.24 of their privacy, individuality, and cultural identity as related to their social, religious, and
29.25 psychological well-being. Staff must respect the privacy of a resident's space by knocking
29.26 on the door and seeking consent before entering, except in an emergency or where clearly
29.27 inadvisable or unless otherwise documented in the resident's service plan.

29.28 (b) Residents have the right to have and use a lockable door to the resident's unit. The
29.29 facility shall provide locks on the resident's unit. Only a staff member with a specific need
29.30 to enter the unit shall have keys. This right may be restricted in certain circumstances if
29.31 necessary for a resident's health and safety and documented in the resident's service plan.

29.32 (c) Residents have the right to respect and privacy regarding the resident's service plan.
29.33 Case discussion, consultation, examination, and treatment are confidential and must be

30.1 conducted discreetly. Privacy must be respected during toileting, bathing, and other activities
30.2 of personal hygiene, except as needed for resident safety or assistance.

30.3 Subd. 14. **Communication privacy.** (a) Residents have the right to communicate
30.4 privately with persons of their choice.

30.5 (b) If an assisted living facility is sending or receiving mail on behalf of residents, the
30.6 assisted living facility must do so without interference.

30.7 (c) Residents must be provided access to a telephone to make and receive calls.

30.8 Subd. 15. **Confidentiality of records.** (a) Residents have the right to have personal,
30.9 financial, health, and medical information kept private, to approve or refuse release of
30.10 information to any outside party, and to be advised of the assisted living facility's policies
30.11 and procedures regarding disclosure of the information. Residents must be notified when
30.12 personal records are requested by any outside party.

30.13 (b) Residents have the right to access their own records.

30.14 Subd. 16. **Right to furnish and decorate.** Residents have the right to furnish and decorate
30.15 the resident's unit within the terms of the assisted living contract.

30.16 Subd. 17. **Right to choose roommate.** Residents have the right to choose a roommate
30.17 if sharing a unit.

30.18 Subd. 18. **Right to access food.** Residents have the right to access food at any time.
30.19 This right may be restricted in certain circumstances if necessary for the resident's health
30.20 and safety and if documented in the resident's service plan.

30.21 Subd. 19. **Access to technology.** Residents have the right to access Internet service at
30.22 their expense.

30.23 Subd. 20. **Grievances and inquiries.** Residents have the right to make and receive a
30.24 timely response to a complaint or inquiry, without limitation. Residents have the right to
30.25 know and every facility must provide the name and contact information of the person
30.26 representing the facility who is designated to handle and resolve complaints and inquiries.

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

30.29 (1) the resident's legal counsel;

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

31.1 (3) any representative of the Office of Ombudsman for Long-Term Care.

31.2 Subd. 22. **Information about charges.** Before services are initiated, residents have the
 31.3 right to be notified:

31.4 (1) of all charges for housing and assisted living services;

31.5 (2) of any limits on housing and assisted living services available;

31.6 (3) if known, whether and what amount of payment may be expected from health
 31.7 insurance, public programs, or other sources; and

31.8 (4) what charges the resident may be responsible for paying.

31.9 Subd. 23. **Information about individuals providing services.** Before receiving services
 31.10 identified in the service plan, residents have the right to be told the type and disciplines of
 31.11 staff who will be providing the services, the frequency of visits proposed to be furnished,
 31.12 and other choices that are available for addressing the resident's needs.

31.13 Subd. 24. **Information about other providers and services.** Residents have the right
 31.14 to be informed by the assisted living facility, prior to executing an assisted living contract,
 31.15 that other public and private services may be available and that the resident has the right to
 31.16 purchase, contract for, or obtain services from a provider other than the assisted living
 31.17 facility.

31.18 Subd. 25. **Resident councils.** Residents have the right to organize and participate in
 31.19 resident councils as described in section 144I.10, subdivision 5.

31.20 Subd. 26. **Family councils.** Residents have the right to participate in family councils
 31.21 formed by families or residents as described in section 144I.10, subdivision 6.

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

31.23 Sec. 13. **[144I.11] HOUSING AND SERVICES.**

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

31.29 Subd. 2. **Uniform checklist disclosure of services.** (a) All assisted living facilities must
 31.30 provide to prospective residents:

32.1 (1) a disclosure of the categories of assisted living licenses available and the category
32.2 of license held by the facility;

32.3 (2) a written checklist listing all services permitted under the facility's license, identifying
32.4 all services the facility offers to provide under the assisted living facility contract, and
32.5 identifying all services allowed under the license that the facility does not provide; and

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

32.7 (b) The requirements of paragraph (a) must be completed prior to the execution of the
32.8 assisted living contract.

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

32.11 Subd. 3. **Reservation of rights.** Nothing in this chapter:

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

32.14 (2) prevents a facility from requiring, as a condition of the contract, that the resident pay
32.15 for a package of services even if the resident does not choose to use all or some of the
32.16 services in the package. For residents who are eligible for home and community-based
32.17 waiver services under sections 256B.0915 and 256B.49, payment for services will follow
32.18 the policies of those programs;

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

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

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

32.24 Sec. 14. **[144L.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

32.25 Subdivision 1. **Definition.** For the purposes of this section, "transfer" means a move of
32.26 a resident within the facility to a different room or other private living unit.

32.27 Subd. 2. **Orderly transfer.** A facility must provide for the safe, orderly, coordinated,
32.28 and appropriate transfer of residents within the facility.

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

- 33.1 (1) the effective date of the proposed transfer;
- 33.2 (2) the proposed transfer location;
- 33.3 (3) a statement that the resident may refuse the proposed transfer, and may discuss any
33.4 consequences of a refusal with staff of the facility;
- 33.5 (4) the name and contact information of a person employed by the facility with whom
33.6 the resident may discuss the notice of transfer; and
- 33.7 (5) contact information for the Office of Ombudsman for Long-Term Care.
- 33.8 (b) Notwithstanding paragraph (a), a facility may conduct a facility-initiated transfer of
33.9 a resident with less than 30 days' written notice if the transfer is necessary due to:
- 33.10 (1) conditions that render the resident's room or private living unit uninhabitable;
- 33.11 (2) the resident's urgent medical needs; or
- 33.12 (3) a risk to the health or safety of another resident of the facility.
- 33.13 Subd. 4. **Consent required.** The facility may not transfer a resident without first obtaining
33.14 the resident's consent to the transfer unless:
- 33.15 (1) there are conditions that render the resident's room or private living unit uninhabitable;
33.16 or
- 33.17 (2) there is a change in facility operations as described in subdivision 5.
- 33.18 Subd. 5. **Changes in facility operations.** (a) In situations where there is a curtailment,
33.19 reduction, or capital improvement within a facility necessitating transfers, the facility must:
- 33.20 (1) minimize the number of transfers it initiates to complete the project or change in
33.21 operations;
- 33.22 (2) consider individual resident needs and preferences;
- 33.23 (3) provide reasonable accommodations for individual resident requests regarding the
33.24 transfers; and
- 33.25 (4) in advance of any notice to any residents, legal representatives, or designated
33.26 representatives, provide notice to the Office of Ombudsman for Long-Term Care and, when
33.27 appropriate, the Office of Ombudsman for Mental Health and Developmental Disabilities
33.28 of the curtailment, reduction, or capital improvement and the corresponding needed transfers.
- 33.29 Subd. 6. **Evaluation.** If a resident consents to a transfer, reasonable modifications must
33.30 be made to the new room or private living unit that are necessary to accommodate the

34.1 resident's disabilities. The facility must evaluate the resident's individual needs before
34.2 deciding whether the room or unit to which the resident will be moved is appropriate to the
34.3 resident's psychological, cognitive, and health care needs, including the accessibility of the
34.4 bathroom.

34.5 Subd. 7. **Disclosure.** When entering into the assisted living contract, the facility must
34.6 provide a conspicuous notice of the circumstance under which the facility may require a
34.7 transfer, including any transfer that may be required if the resident will be receiving housing
34.8 support under section 256I.06.

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

34.10 Sec. 15. **[144I.13] BUSINESS OPERATION.**

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

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

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

34.24 (b) A facility or staff person may not:

34.25 (1) accept a power-of-attorney from residents for any purpose, and may not accept
34.26 appointments as guardians or conservators of residents; or

34.27 (2) borrow a resident's funds or personal or real property, nor in any way convert a
34.28 resident's property to the possession of the facility or staff person.

34.29 (c) A facility may not serve as a resident's legal, designated, or other representative.

34.30 (d) Nothing in this subdivision precludes a facility or staff person from accepting gifts
34.31 of minimal value or precludes acceptance of donations or bequests made to a facility that
34.32 are exempt from section 501(c)(3) of the Internal Revenue Code.

35.1 Subd. 4. **Handling residents' finances and property.** (a) A facility may assist residents
35.2 with household budgeting, including paying bills and purchasing household goods, but may
35.3 not otherwise manage a resident's property.

35.4 (b) Where funds are deposited with the facility by the resident, the licensee:

35.5 (1) retains fiduciary and custodial responsibility for the funds;

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

35.7 (3) must maintain records of and provide a resident with receipts for all transactions and
35.8 purchases made with the resident's funds. When receipts are not available, the transaction
35.9 or purchase must be documented.

35.10 (c) Subject to paragraph (d), if responsibilities for day-to-day management of the resident
35.11 funds are delegated to the manager, the manager must:

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

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

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

35.17 Subd. 5. **Final accounting; return of money and property.** Within 30 days of the
35.18 effective date of a facility-initiated or resident-initiated termination of housing or services
35.19 or the death of the resident, the facility must:

35.20 (1) provide to the resident, resident's legal representative, and resident's designated
35.21 representative a final statement of account;

35.22 (2) provide any refunds due;

35.23 (3) return any money, property, or valuables held in trust or custody by the facility; and

35.24 (4) as required under section 504B.178, refund the resident's security deposit unless it
35.25 is applied to the first month's charges.

35.26 Subd. 6. **Compliance with requirements for reporting maltreatment of vulnerable**
35.27 **adults; abuse prevention plan.** (a) The assisted living facility must comply with the
35.28 requirements for the reporting of maltreatment of vulnerable adults in section 626.557. The
35.29 facility must establish and implement a written procedure to ensure that all cases of suspected
35.30 maltreatment are reported.

36.1 (b) The facility must develop and implement an individual abuse prevention plan for
36.2 each vulnerable adult. The plan shall contain an individualized review or assessment of the
36.3 person's susceptibility to abuse by another individual, including other vulnerable adults; the
36.4 person's risk of abusing other vulnerable adults; and statements of the specific measures to
36.5 be taken to minimize the risk of abuse to that person and other vulnerable adults. For purposes
36.6 of the abuse prevention plan, abuse includes self-abuse.

36.7 Subd. 7. **Posting information for reporting suspected crime and maltreatment.** The
36.8 facility shall support protection and safety through access to the state's systems for reporting
36.9 suspected criminal activity and suspected vulnerable adult maltreatment by:

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

36.12 (2) posting information and the reporting number for the Minnesota Adult Abuse
36.13 Reporting Center to report suspected maltreatment of a vulnerable adult under section
36.14 626.557; and

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

36.16 Subd. 8. **Employee records.** (a) The facility must maintain current records of each paid
36.17 employee, each regularly scheduled volunteer providing services, and each individual
36.18 contractor providing services. The records must include the following information:

36.19 (1) evidence of current professional licensure, registration, or certification if licensure,
36.20 registration, or certification is required by this chapter or rules;

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

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

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

36.27 (5) for individuals providing assisted living services, verification that required health
36.28 screenings under subdivision 9, have taken place and the dates of those screenings; and

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

36.30 (b) Each employee record must be retained for at least three years after a paid employee,
36.31 volunteer, or contractor ceases to be employed by, provide services at, or be under contract

37.1 with the facility. If a facility ceases operation, employee records must be maintained for
37.2 three years after facility operations cease.

37.3 Subd. 9. **Tuberculosis prevention and control.** The facility must establish and maintain
37.4 a comprehensive tuberculosis infection control program according to the most current
37.5 tuberculosis infection control guidelines issued by the United States Centers for Disease
37.6 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the
37.7 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a
37.8 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,
37.9 students, and regularly scheduled volunteers. The commissioner shall provide technical
37.10 assistance regarding implementation of the guidelines.

37.11 Subd. 10. **Disaster planning and emergency preparedness plan.** (a) The facility must
37.12 meet the following requirements:

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

37.16 (2) post an emergency disaster plan prominently;

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

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

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

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

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

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

37.26 Sec. 16. **[144L.14] STAFFING AND SUPERVISORY REQUIREMENTS.**

37.27 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing
37.28 assisted living services must be trained and competent in the provision of services consistent
37.29 with current practice standards appropriate to the resident's needs, and promote and be
37.30 trained to support the assisted living bill of rights.

38.1 Subd. 2. Licensed health professionals and nurses. (a) Licensed health professionals
38.2 and nurses providing services as employees of a licensed facility must possess a current
38.3 Minnesota license or registration to practice.

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

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

38.10 Subd. 3. Unlicensed personnel. (a) Unlicensed personnel providing assisted living
38.11 services must have:

38.12 (1) successfully completed a training and competency evaluation appropriate to the
38.13 services provided by the facility and the topics listed in subdivision 10, paragraph (b); or

38.14 (2) demonstrated competency by satisfactorily completing a written or oral test on the
38.15 tasks the unlicensed personnel will perform and on the topics listed in subdivision 10,
38.16 paragraph (b); and successfully demonstrated competency of topics in subdivision 10,
38.17 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

38.18 Unlicensed personnel who only provide assisted living services listed in section 144I.01,
38.19 subdivision 9, clauses (1) to (5), shall not perform delegated nursing or therapy tasks.

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

38.22 (1) have successfully completed training and demonstrated competency by successfully
38.23 completing a written or oral test of the topics in subdivision 10, paragraphs (b) and (c), and
38.24 a practical skills test on tasks listed in subdivision 10, paragraphs (b), clauses (5) and (7),
38.25 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

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

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

38.31 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned
38.32 by a licensed health professional must meet the requirements for delegated tasks in

39.1 subdivision 7 and any other training or competency requirements within the licensed health
39.2 professional's scope of practice relating to delegation or assignment of tasks to unlicensed
39.3 personnel.

39.4 Subd. 4. **Availability of contact person to staff.** (a) Assisted living facilities must have
39.5 a registered nurse available for consultation by staff performing delegated nursing tasks
39.6 and must have an appropriate licensed health professional available if performing other
39.7 delegated services such as therapies.

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

39.10 Subd. 5. **Supervision of staff.** (a) Staff who only provide assisted living services specified
39.11 in section 144I.01, subdivision 9, clauses (1) to (5), must be supervised periodically where
39.12 the services are being provided to verify that the work is being performed competently and
39.13 to identify problems and solutions to address issues relating to the staff's ability to provide
39.14 the services. The supervision of the unlicensed personnel must be done by staff of the facility
39.15 having the authority, skills, and ability to provide the supervision of unlicensed personnel
39.16 and who can implement changes as needed, and train staff.

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

39.21 Subd. 6. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff
39.22 who perform delegated nursing or therapy tasks must be supervised by an appropriate
39.23 licensed health professional or a registered nurse according to the assisted living facility's
39.24 policy where the services are being provided to verify that the work is being performed
39.25 competently and to identify problems and solutions related to the staff person's ability to
39.26 perform the tasks. Supervision of staff performing medication or treatment administration
39.27 shall be provided by a registered nurse or appropriate licensed health professional and must
39.28 include observation of the staff administering the medication or treatment and the interaction
39.29 with the resident.

39.30 (b) The direct supervision of staff performing delegated tasks must be provided within
39.31 30 calendar days after the date on which the individual begins working for the facility and
39.32 first performs the delegated tasks for residents and thereafter as needed based on performance.
39.33 This requirement also applies to staff who have not performed delegated tasks for one year
39.34 or longer.

40.1 Subd. 7. **Delegation of assisted living services.** A registered nurse or licensed health
40.2 professional may delegate tasks only to staff who are competent and possess the knowledge
40.3 and skills consistent with the complexity of the tasks and according to the appropriate
40.4 Minnesota practice act. The assisted living facility must establish and implement a system
40.5 to communicate up-to-date information to the registered nurse or licensed health professional
40.6 regarding the current available staff and their competency so the registered nurse or licensed
40.7 health professional has sufficient information to determine the appropriateness of delegating
40.8 tasks to meet individual resident needs and preferences.

40.9 Subd. 8. **Documentation.** A facility must retain documentation of supervision activities
40.10 in the personnel records.

40.11 Subd. 9. **Temporary staff.** When a facility contracts with a temporary staffing agency,
40.12 those individuals must meet the same requirements required by this section for personnel
40.13 employed by the facility and shall be treated as if they are staff of the facility.

40.14 Subd. 10. **Instructor and competency evaluation requirements; training for**
40.15 **unlicensed personnel.** (a) Instructors and competency evaluators must meet the following
40.16 requirements:

40.17 (1) training and competency evaluations of unlicensed personnel who only provide
40.18 assisted living services specified in section 144I.01, subdivision 9, clauses (1) to (5), must
40.19 be conducted by individuals with work experience and training in providing these services;
40.20 and

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

40.24 (b) Training and competency evaluations for all unlicensed personnel must include the
40.25 following:

40.26 (1) documentation requirements for all services provided;

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

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

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

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

40.32 (i) hair care and bathing;

- 41.1 (ii) care of teeth, gums, and oral prosthetic devices;
- 41.2 (iii) care and use of hearing aids; and
- 41.3 (iv) dressing and assisting with toileting;
- 41.4 (6) training on the prevention of falls;
- 41.5 (7) standby assistance techniques and how to perform them;
- 41.6 (8) medication, exercise, and treatment reminders;
- 41.7 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 41.8 (10) preparation of modified diets as ordered by a licensed health professional;
- 41.9 (11) communication skills that include preserving the dignity of the resident and showing
- 41.10 respect for the resident and the resident's preferences, cultural background, and family;
- 41.11 (12) awareness of confidentiality and privacy;
- 41.12 (13) understanding appropriate boundaries between staff and residents and the resident's
- 41.13 family;
- 41.14 (14) procedures to use in handling various emergency situations; and
- 41.15 (15) awareness of commonly used health technology equipment and assistive devices.
- 41.16 (c) In addition to paragraph (b), training and competency evaluation for unlicensed
- 41.17 personnel providing assisted living services must include:
- 41.18 (1) observing, reporting, and documenting resident status;
- 41.19 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
- 41.20 other observed changes that must be reported to appropriate personnel;
- 41.21 (3) reading and recording temperature, pulse, and respirations of the resident;
- 41.22 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
- 41.23 (5) safe transfer techniques and ambulation;
- 41.24 (6) range of motioning and positioning; and
- 41.25 (7) administering medications or treatments as required.
- 41.26 (d) When the registered nurse or licensed health professional delegates tasks, that person
- 41.27 must ensure that prior to the delegation the unlicensed personnel is trained in the proper
- 41.28 methods to perform the tasks or procedures for each resident and are able to demonstrate
- 41.29 the ability to competently follow the procedures and perform the tasks. If an unlicensed

42.1 personnel has not regularly performed the delegated assisted living task for a period of 24
42.2 consecutive months, the unlicensed personnel must demonstrate competency in the task to
42.3 the registered nurse or appropriate licensed health professional. The registered nurse or
42.4 licensed health professional must document instructions for the delegated tasks in the
42.5 resident's record.

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

42.7 Sec. 17. **[144I.15] REQUIRED NOTICES.**

42.8 Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) An assisted
42.9 living facility must provide the resident a written notice of the rights under section 144I.101
42.10 before the initiation of services to that resident. The facility shall make all reasonable efforts
42.11 to provide notice of the rights to the resident in a language the resident can understand.

42.12 (b) In addition to the text of the assisted living bill of rights in section 144I.101, the
42.13 notice shall also contain the following statement describing how to file a complaint or report
42.14 suspected abuse.

42.15 "If you want to report suspected abuse, neglect, or financial exploitation, you may contact
42.16 the Minnesota Adult Abuse Reporting Center (MAARC). If you have a complaint about
42.17 the facility or person providing your services, you may contact the Office of Health Facility
42.18 Complaints, Minnesota Department of Health. You may also contact the Office of
42.19 Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and
42.20 Developmental Disabilities."

42.21 (c) The statement must include contact information for the Minnesota Adult Abuse
42.22 Reporting Center and the telephone number, website address, e-mail address, mailing
42.23 address, and street address of the Office of Health Facility Complaints at the Minnesota
42.24 Department of Health, the Office of Ombudsman for Long-Term Care, and the Office of
42.25 Ombudsman for Mental Health and Developmental Disabilities. The statement must include
42.26 the facility's name, address, e-mail, telephone number, and name or title of the person at
42.27 the facility to whom problems or complaints may be directed. It must also include a statement
42.28 that the facility will not retaliate because of a complaint.

42.29 (d) A facility must obtain written acknowledgment from the resident of the resident's
42.30 receipt of the assisted living bill of rights or shall document why an acknowledgment cannot
42.31 be obtained. Acknowledgment of receipt shall be retained in the resident's record.

42.32 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide
42.33 all notices in plain language that residents can understand and make reasonable

43.1 accommodations for residents who have communication disabilities and those whose primary
43.2 language is a language other than English.

43.3 Subd. 3. **Notice of dementia training.** An assisted living facility with dementia care
43.4 shall make available in written or electronic form, to residents and families or other persons
43.5 who request it, a description of the training program and related training it provides, including
43.6 the categories of employees trained, the frequency of training, and the basic topics covered.
43.7 A hard copy of this notice must be provided upon request.

43.8 Subd. 4. **Notice of available assistance.** A facility shall provide each resident with
43.9 identifying and contact information about the persons who can assist with health care or
43.10 supportive services being provided. A facility shall keep each resident informed of changes
43.11 in the personnel referenced in this subdivision.

43.12 Subd. 5. **Notice to residents; change in ownership or management.** (a) A facility must
43.13 provide written notice to the resident, legal representative, or designated representative of
43.14 a change of ownership within seven calendar days after the facility receives a new license.

43.15 (b) A facility must provide prompt written notice to the resident, legal representative,
43.16 or designated representative, of any change of legal name, telephone number, and physical
43.17 mailing address, which may not be a public or private post office box, of:

43.18 (1) the manager of the facility, if applicable; and

43.19 (2) the authorized agent.

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

43.21 Sec. 18. **[144I.16] SERVICES.**

43.22 Subdivision 1. **Acceptance of residents.** An assisted living facility may not accept a
43.23 person as a resident unless the facility has staff, sufficient in qualifications, competency,
43.24 and numbers, to adequately provide the services agreed to in the assisted living contract.

43.25 Subd. 2. **Initial reviews, assessments, and monitoring.** (a) Residents who are not
43.26 receiving any services shall not be required to undergo an initial nursing assessment.

43.27 (b) An assisted living facility shall conduct a nursing assessment by a registered nurse
43.28 of the physical and cognitive needs of the prospective resident and propose a temporary
43.29 service plan prior to the date on which a prospective resident executes a contract with a
43.30 facility or the date on which a prospective resident moves in, whichever is earlier. If
43.31 necessitated by either the geographic distance between the prospective resident and the
43.32 facility, or urgent or unexpected circumstances, the assessment may be conducted using

44.1 telecommunication methods based on practice standards that meet the resident's needs and
44.2 reflect person-centered planning and care delivery.

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

44.7 (d) For residents only receiving assisted living services specified in section 144I.01,
44.8 subdivision 9, clauses (1) to (5), the facility shall complete an individualized initial review
44.9 of the resident's needs and preferences. The initial review must be completed within 30
44.10 calendar days of the start of services. Resident monitoring and review must be conducted
44.11 as needed based on changes in the needs of the resident and cannot exceed 90 calendar days
44.12 from the date of the last review.

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

44.17 Subd. 3. **Temporary service plan.** When a facility initiates services and the
44.18 individualized assessment required in subdivision 2 has not been completed, the facility
44.19 must complete a temporary plan and agreement with the resident for services. A temporary
44.20 service plan shall not be effective for more than 72 hours.

44.21 Subd. 4. **Service plan, implementation, and revisions to service plan.** (a) No later
44.22 than 14 calendar days after the date that services are first provided, an assisted living facility
44.23 shall finalize a current written service plan.

44.24 (b) The service plan and any revisions must include a signature or other authentication
44.25 by the facility and by the resident documenting agreement on the services to be provided.
44.26 The service plan must be revised, if needed, based on resident reassessment under subdivision
44.27 2. The facility must provide information to the resident about changes to the facility's fee
44.28 for services and how to contact the Office of Ombudsman for Long-Term Care.

44.29 (c) The facility must implement and provide all services required by the current service
44.30 plan.

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

44.33 (e) Staff providing services must be informed of the current written service plan.

45.1 (f) The service plan must include:

45.2 (1) a description of the services to be provided, the fees for services, and the frequency
45.3 of each service, according to the resident's current assessment and resident preferences;

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

45.5 (3) the schedule and methods of monitoring assessments of the resident;

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

45.7 (5) a contingency plan that includes:

45.8 (i) the action to be taken if the scheduled service cannot be provided;

45.9 (ii) information and a method to contact the facility;

45.10 (iii) the names and contact information of persons the resident wishes to have notified
45.11 in an emergency or if there is a significant adverse change in the resident's condition,
45.12 including identification of and information as to who has authority to sign for the resident
45.13 in an emergency; and

45.14 (iv) the circumstances in which emergency medical services are not to be summoned
45.15 consistent with chapters 145B and 145C, and declarations made by the resident under those
45.16 chapters.

45.17 Subd. 5. **Referrals.** If a facility reasonably believes that a resident is in need of another
45.18 medical or health service, including a licensed health professional, or social service provider,
45.19 the facility shall:

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

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

45.23 Subd. 6. **Medical cannabis.** Assisted living facilities may exercise the authority and are
45.24 subject to the protections in section 152.34.

45.25 Subd. 7. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,
45.26 family member, or other caregiver of the resident requests that an employee or other agent
45.27 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the
45.28 request:

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

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

46.1 (b) Upon being informed of a request for discontinuance of treatment, the facility shall
46.2 promptly:

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

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

46.7 (3) work with the resident and the resident's physician or advanced practice registered
46.8 nurse to comply with chapter 145C.

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

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

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

46.15 Subd. 8. **Applicability of other law.** Assisted living facilities are subject to and must
46.16 comply with chapter 504B.

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

46.18 Sec. 19. **[144L.17] MEDICATION MANAGEMENT.**

46.19 Subdivision 1. **Medication management services.** (a) This section applies only to
46.20 assisted living facilities that provide medication management services.

46.21 (b) An assisted living facility that provides medication management services must
46.22 develop, implement, and maintain current written medication management policies and
46.23 procedures. The policies and procedures must be developed under the supervision and
46.24 direction of a registered nurse, licensed health professional, or pharmacist consistent with
46.25 current practice standards and guidelines.

46.26 (c) The written policies and procedures must address requesting and receiving
46.27 prescriptions for medications; preparing and giving medications; verifying that prescription
46.28 drugs are administered as prescribed; documenting medication management activities;
46.29 controlling and storing medications; monitoring and evaluating medication use; resolving
46.30 medication errors; communicating with the prescriber, pharmacist, and resident and legal
46.31 and designated representatives; disposing of unused medications; and educating residents
46.32 and legal and designated representatives about medications. When controlled substances

47.1 are being managed, the policies and procedures must also identify how the provider will
47.2 ensure security and accountability for the overall management, control, and disposition of
47.3 those substances in compliance with state and federal regulations and with subdivision 23.

47.4 Subd. 2. **Provision of medication management services.** (a) For each resident who
47.5 requests medication management services, the facility shall, prior to providing medication
47.6 management services, have a registered nurse, licensed health professional, or authorized
47.7 prescriber under section 151.37 conduct an assessment to determine what medication
47.8 management services will be provided and how the services will be provided. This assessment
47.9 must be conducted face-to-face with the resident. The assessment must include an
47.10 identification and review of all medications the resident is known to be taking. The review
47.11 and identification must include indications for medications, side effects, contraindications,
47.12 allergic or adverse reactions, and actions to address these issues.

47.13 (b) The assessment must identify interventions needed in management of medications
47.14 to prevent diversion of medication by the resident or others who may have access to the
47.15 medications and provide instructions to the resident and legal or designated representatives
47.16 on interventions to manage the resident's medications and prevent diversion of medications.
47.17 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or
47.18 improper disposition of medications.

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

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

47.27 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving
47.28 medication management services, the assisted living facility must prepare and include in
47.29 the service plan a written statement of the medication management services that will be
47.30 provided to the resident. The facility must develop and maintain a current individualized
47.31 medication management record for each resident based on the resident's assessment that
47.32 must contain the following:

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

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

48.3 (3) documentation of specific resident instructions relating to the administration of
48.4 medications;

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

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

48.9 (6) procedures for staff notifying a registered nurse or appropriate licensed health
48.10 professional when a problem arises with medication management services; and

48.11 (7) any resident-specific requirements relating to documenting medication administration,
48.12 verifications that all medications are administered as prescribed, and monitoring of
48.13 medication use to prevent possible complications or adverse reactions.

48.14 (b) The medication management record must be current and updated when there are any
48.15 changes.

48.16 (c) Medication reconciliation must be completed when a licensed nurse, licensed health
48.17 professional, or authorized prescriber is providing medication management.

48.18 Subd. 6. **Administration of medication.** Medications may be administered by a nurse,
48.19 physician, or other licensed health practitioner authorized to administer medications or by
48.20 unlicensed personnel who have been delegated medication administration tasks by a
48.21 registered nurse.

48.22 Subd. 7. **Delegation of medication administration.** When administration of medications
48.23 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered
48.24 nurse has:

48.25 (1) instructed the unlicensed personnel in the proper methods to administer the
48.26 medications, and the unlicensed personnel has demonstrated the ability to competently
48.27 follow the procedures;

48.28 (2) specified, in writing, specific instructions for each resident and documented those
48.29 instructions in the resident's records; and

48.30 (3) communicated with the unlicensed personnel about the individual needs of the
48.31 resident.

49.1 Subd. 8. Documentation of administration of medications. Each medication
49.2 administered by the assisted living facility staff must be documented in the resident's record.
49.3 The documentation must include the signature and title of the person who administered the
49.4 medication. The documentation must include the medication name, dosage, date and time
49.5 administered, and method and route of administration. The staff must document the reason
49.6 why medication administration was not completed as prescribed and document any follow-up
49.7 procedures that were provided to meet the resident's needs when medication was not
49.8 administered as prescribed and in compliance with the resident's medication management
49.9 plan.

49.10 Subd. 9. Documentation of medication setup. Documentation of dates of medication
49.11 setup, name of medication, quantity of dose, times to be administered, route of administration,
49.12 and name of person completing medication setup must be done at the time of setup.

49.13 Subd. 10. Medication management for residents who will be away from home. (a)
49.14 An assisted living facility that is providing medication management services to the resident
49.15 must develop and implement policies and procedures for giving accurate and current
49.16 medications to residents for planned or unplanned times away from home according to the
49.17 resident's individualized medication management plan. The policies and procedures must
49.18 state that:

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

49.22 (2) for unplanned time away, when the pharmacy is not able to provide the medications,
49.23 a licensed nurse or unlicensed personnel shall provide medications in amounts and dosages
49.24 needed for the length of the anticipated absence, not to exceed seven calendar days;

49.25 (3) the resident must be provided written information on medications, including any
49.26 special instructions for administering or handling the medications, including controlled
49.27 substances; and

49.28 (4) the medications must be placed in a medication container or containers appropriate
49.29 to the provider's medication system and must be labeled with the resident's name and the
49.30 dates and times that the medications are scheduled.

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

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

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

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

50.8 (ii) how the container or containers must be labeled;

50.9 (iii) written information about the medications to be provided;

50.10 (iv) how the unlicensed staff must document in the resident's record that medications
50.11 have been provided, including documenting the date the medications were provided and
50.12 who received the medications, the person who provided the medications to the resident, the
50.13 number of medications that were provided to the resident, and other required information;

50.14 (v) how the registered nurse shall be notified that medications have been provided and
50.15 whether the registered nurse needs to be contacted before the medications are given to the
50.16 resident or the designated representative;

50.17 (vi) a review by the registered nurse of the completion of this task to verify that this task
50.18 was completed accurately by the unlicensed personnel; and

50.19 (vii) how the unlicensed personnel must document in the resident's record any unused
50.20 medications that are returned to the facility, including the name of each medication and the
50.21 doses of each returned medication.

50.22 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must
50.23 determine whether the facility shall require a prescription for all medications the provider
50.24 manages. The facility must inform the resident whether the facility requires a prescription
50.25 for all over-the-counter and dietary supplements before the facility agrees to manage those
50.26 medications.

50.27 Subd. 12. **Medications; over-the-counter drugs; dietary supplements not**
50.28 **prescribed.** An assisted living facility providing medication management services for
50.29 over-the-counter drugs or dietary supplements must retain those items in the original labeled
50.30 container with directions for use prior to setting up for immediate or later administration.
50.31 The facility must verify that the medications are up to date and stored as appropriate.

51.1 Subd. 13. **Prescriptions.** There must be a current written or electronically recorded
51.2 prescription as defined in section 151.01, subdivision 16a, for all prescribed medications
51.3 that the assisted living facility is managing for the resident.

51.4 Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12
51.5 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions
51.6 for controlled substances must comply with chapter 152.

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

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

51.13 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,
51.14 or electronically must be kept confidential according to sections 144.291 to 144.298 and
51.15 144A.44.

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

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

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

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

51.29 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by
51.30 the assisted living facility must be provided to the resident when the resident's service plan
51.31 ends or medication management services are no longer part of the service plan. Medications
51.32 for a resident who is deceased or that have been discontinued or have expired may be
51.33 provided for disposal.

52.1 (b) The facility shall dispose of any medications remaining with the facility that are
52.2 discontinued or expired or upon the termination of the service contract or the resident's
52.3 death according to state and federal regulations for disposition of medications and controlled
52.4 substances.

52.5 (c) Upon disposition, the facility must document in the resident's record the disposition
52.6 of the medication including the medication's name, strength, prescription number as
52.7 applicable, quantity, to whom the medications were given, date of disposition, and names
52.8 of staff and other individuals involved in the disposition.

52.9 Subd. 23. **Loss or spillage.** (a) Assisted living facilities providing medication
52.10 management must develop and implement procedures for loss or spillage of all controlled
52.11 substances defined in Minnesota Rules, part 6800.4220. These procedures must require that
52.12 when a spillage of a controlled substance occurs, a notation must be made in the resident's
52.13 record explaining the spillage and the actions taken. The notation must be signed by the
52.14 person responsible for the spillage and include verification that any contaminated substance
52.15 was disposed of according to state or federal regulations.

52.16 (b) The procedures must require that the facility providing medication management
52.17 investigate any known loss or unaccounted for prescription drugs and take appropriate action
52.18 required under state or federal regulations and document the investigation in required records.

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

52.20 Sec. 20. **[144L.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

52.21 Subdivision 1. **Treatment and therapy management services.** This section applies
52.22 only to assisted living facilities that provide treatment and therapy management services.

52.23 Subd. 2. **Policies and procedures.** (a) An assisted living facility that provides treatment
52.24 and therapy management services must develop, implement, and maintain up-to-date written
52.25 treatment or therapy management policies and procedures. The policies and procedures
52.26 must be developed under the supervision and direction of a registered nurse or appropriate
52.27 licensed health professional consistent with current practice standards and guidelines.

52.28 (b) The written policies and procedures must address requesting and receiving orders
52.29 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting
52.30 treatment or therapy activities, educating and communicating with residents about treatments
52.31 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and
52.32 communicating with the prescriber.

53.1 Subd. 3. Individualized treatment or therapy management plan. For each resident
53.2 receiving management of ordered or prescribed treatments or therapy services, the assisted
53.3 living facility must prepare and include in the service plan a written statement of the treatment
53.4 or therapy services that will be provided to the resident. The facility must also develop and
53.5 maintain a current individualized treatment and therapy management record for each resident
53.6 which must contain at least the following:

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

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

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

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

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

53.19 Subd. 4. Administration of treatments and therapy. Ordered or prescribed treatments
53.20 or therapies must be administered by a nurse, physician, or other licensed health professional
53.21 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
53.22 personnel by the licensed health professional according to the appropriate practice standards
53.23 for delegation or assignment. When administration of a treatment or therapy is delegated
53.24 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or
53.25 authorized licensed health professional has:

53.26 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
53.27 and the unlicensed personnel has demonstrated the ability to competently follow the
53.28 procedures;

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

53.31 (3) communicated with the unlicensed personnel about the individual needs of the
53.32 resident.

54.1 Subd. 5. **Documentation of administration of treatments and therapies.** Each treatment
54.2 or therapy administered by an assisted living facility must be in the resident record. The
54.3 documentation must include the signature and title of the person who administered the
54.4 treatment or therapy and must include the date and time of administration. When treatment
54.5 or therapies are not administered as ordered or prescribed, the provider must document the
54.6 reason why it was not administered and any follow-up procedures that were provided to
54.7 meet the resident's needs.

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

54.14 Subd. 7. **Right to outside service provider; other payors.** Under section 144I.101, a
54.15 resident is free to retain therapy and treatment services from an off-site service provider.
54.16 Assisted living facilities must make every effort to assist residents in obtaining information
54.17 regarding whether the Medicare program, the medical assistance program under chapter
54.18 256B, or another public program will pay for any or all of the services.

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

54.20 Sec. 21. **[144I.19] RESIDENT RECORD REQUIREMENTS.**

54.21 Subdivision 1. **Resident record.** (a) Assisted living facilities must maintain records for
54.22 each resident for whom it is providing services. Entries in the resident records must be
54.23 current, legible, permanently recorded, dated, and authenticated with the name and title of
54.24 the person making the entry.

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

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

54.32 (1) as may be required by law;

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

55.4 (3) to persons authorized in writing by the resident, including third-party payers; and

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

55.7 Subd. 2. **Access to records.** The facility must ensure that the appropriate records are
55.8 readily available to employees and contractors authorized to access the records. Resident
55.9 records must be maintained in a manner that allows for timely access, printing, or
55.10 transmission of the records. The records must be made readily available to the commissioner
55.11 upon request.

55.12 Subd. 3. **Contents of resident record.** Contents of a resident record include the following
55.13 for each resident:

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

55.16 (2) the name, address, and telephone number of the resident's emergency contact, legal
55.17 representatives, and designated representative;

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

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

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

55.24 (6) copies of any health care directives, guardianships, powers of attorney, or
55.25 conservatorships;

55.26 (7) the facility's current and previous assessments and service plans;

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

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

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

56.4 (11) documentation that services have been provided as identified in the service plan;

56.5 (12) documentation that the resident has received and reviewed the assisted living bill
56.6 of rights;

56.7 (13) documentation of complaints received and any resolution;

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

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

56.12 Subd. 4. **Transfer of resident records.** With the resident's knowledge and consent, if
56.13 a resident is relocated to another facility or to a nursing home, or if care is transferred to
56.14 another service provider, the facility must timely convey to the new facility, nursing home,
56.15 or provider:

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

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

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

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

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

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

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

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

56.28 Subd. 5. **Record retention.** Following the resident's discharge or termination of services,
56.29 an assisted living facility must retain a resident's record for at least five years or as otherwise
56.30 required by state or federal regulations. Arrangements must be made for secure storage and
56.31 retrieval of resident records if the facility ceases to operate.

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

57.2 Sec. 22. **[144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

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

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

57.9 (1) an overview of this chapter;

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

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

57.13 (4) compliance with and reporting of the maltreatment of vulnerable adults under section
57.14 626.557 to the Minnesota Adult Abuse Reporting Center (MAARC);

57.15 (5) the assisted living bill of rights and staff responsibilities related to ensuring the
57.16 exercise and protection of those rights;

57.17 (6) the principles of person-centered planning and service delivery and how they apply
57.18 to direct support services provided by the staff person;

57.19 (7) handling of residents' complaints, reporting of complaints, and where to report
57.20 complaints, including information on the Office of Health Facility Complaints;

57.21 (8) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
57.22 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care
57.23 Ombudsman at the Department of Human Services, county-managed care advocates, or
57.24 other relevant advocacy services; and

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

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

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

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

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

58.8 Subd. 3. **Verification and documentation of orientation and training.** The assisted
58.9 living facility shall retain evidence in the employee record of each staff person having
58.10 completed the orientation and training required by this section.

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

58.14 Subd. 5. **Training required relating to dementia.** All direct care staff and supervisors
58.15 providing direct services must demonstrate an understanding of the training specified in
58.16 section 144I.21.

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

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

58.22 (2) review of the assisted living bill of rights and staff responsibilities related to ensuring
58.23 the exercise and protection of those rights;

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

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

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

59.3 (6) the principles of person-centered planning and service delivery and how they apply
 59.4 to direct support services provided by the staff person.

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

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

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

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

59.16 Subd. 7. **Implementation.** The assisted living facility must implement all orientation
 59.17 and training topics covered in this section.

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

59.19 Sec. 23. **[144I.21] TRAINING IN DEMENTIA CARE REQUIRED.**

59.20 (a) All assisted living facilities must meet the following training requirements:

59.21 (1) supervisors of direct-care staff must have at least eight hours of initial training on
 59.22 topics specified under paragraph (b) within 120 working hours of the employment start
 59.23 date, and must have at least two hours of training on topics related to dementia care for each
 59.24 12 months of employment thereafter;

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

60.1 requirement is complete. Direct-care employees must have at least two hours of training on
60.2 topics related to dementia for each 12 months of employment thereafter;

60.3 (3) for assisted living facilities with dementia care, direct care employees must have
60.4 completed at least eight hours of initial training on topics specified under paragraph (b)
60.5 within 80 working hours of the employment start date. Until this initial training is complete,
60.6 an employee must not provide direct care unless there is another employee on site who has
60.7 completed the initial eight hours of training on topics related to dementia care and who can
60.8 act as a resource and assist if issues arise. A trainer of the requirements under paragraph
60.9 (b) or a supervisor meeting the requirements in clause (1) must be available for consultation
60.10 with the new employee until the training requirement is complete. Direct-care employees
60.11 must have at least two hours of training on topics related to dementia for each 12 months
60.12 of employment thereafter;

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

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

60.20 (b) Areas of required training include:

60.21 (1) an explanation of Alzheimer's disease and other dementias;

60.22 (2) assistance with activities of daily living;

60.23 (3) problem solving with challenging behaviors;

60.24 (4) communication skills; and

60.25 (5) person-centered planning and service delivery.

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

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

61.1 Sec. 24. **[144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

61.2 **Subdivision 1. Restrictions.** (a) The commissioner has discretion to bar any controlling
61.3 individual of a facility if the person was a controlling individual of any other nursing home
61.4 or assisted living facility in the previous two-year period and:

61.5 (1) during that period of time the nursing home or assisted living facility incurred the
61.6 following number of uncorrected or repeated violations:

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

61.9 (ii) four or more uncorrected violations that created an imminent risk to direct resident
61.10 care or safety; or

61.11 (2) during that period of time, was convicted of a felony or gross misdemeanor that
61.12 related to the operation of the nursing home or assisted living facility, or directly affected
61.13 resident safety or care.

61.14 (b) When the commissioner bars a controlling individual under this subdivision, the
61.15 controlling individual may appeal the commissioner's decision under chapter 14.

61.16 **Subd. 2. Exception.** Subdivision 1 does not apply to any controlling individual of the
61.17 facility who had no legal authority to affect or change decisions related to the operation of
61.18 the nursing home or assisted living facility that incurred the uncorrected violations.

61.19 **Subd. 3. Stay of adverse action required by controlling individual restrictions.** (a)
61.20 In lieu of revoking, suspending, or refusing to renew the license of a facility where a
61.21 controlling individual was disqualified by subdivision 1, paragraph (a), clause (1), the
61.22 commissioner may issue an order staying the revocation, suspension, or nonrenewal of the
61.23 facility's license. The order may but need not be contingent upon the facility's compliance
61.24 with restrictions and conditions imposed on the license to ensure the proper operation of
61.25 the facility and to protect the health, safety, comfort, treatment, and well-being of the
61.26 residents in the facility. The decision to issue an order for a stay must be made within 90
61.27 calendar days of the commissioner's determination that a controlling individual of the facility
61.28 is disqualified by subdivision 1, paragraph (a), clause (1), from operating a facility.

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

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

62.1 (2) the conditions in the nursing home or assisted living facility that received the number
62.2 and type of uncorrected or repeated violations described in subdivision 1, paragraph (a),
62.3 clause (1); and

62.4 (3) the conditions and compliance history of each of the nursing homes and assisted
62.5 living facilities owned or operated by the controlling individual.

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

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

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

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

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

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

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

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

63.5 Sec. 25. **[144I.24] MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE**
63.6 **SAFETY REQUIREMENTS.**

63.7 Subdivision 1. **Requirements.** (a) The following are required for all assisted living
63.8 facilities:

63.9 (1) public utilities must be available, and working or inspected and approved water and
63.10 septic systems must be in place;

63.11 (2) the location must be publicly accessible to fire department services and emergency
63.12 medical services;

63.13 (3) the location's topography must provide sufficient natural drainage and is not subject
63.14 to flooding;

63.15 (4) all-weather roads and walks must be provided within the lot lines to the primary
63.16 entrance and the service entrance, including employees' and visitors' parking at the site; and

63.17 (5) the location must include space for outdoor activities for residents.

63.18 (b) An assisted living facility with dementia care that has a secured dementia care unit
63.19 must also meet the following requirements:

63.20 (1) a hazard vulnerability assessment or safety risk must be performed on and around
63.21 the property. The hazards indicated on the assessment must be assessed and mitigated to
63.22 protect the residents from harm; and

63.23 (2) the facility shall be protected throughout by an approved supervised automatic
63.24 sprinkler system by August 1, 2029.

63.25 Subd. 2. **Fire protection and physical environment.** (a) Each assisted living facility
63.26 must have a comprehensive fire protection system that includes:

63.27 (1) protection throughout by an approved supervised automatic sprinkler system according
63.28 to building code requirements established in Minnesota Rules, part 1305.0903, or smoke
63.29 detectors in each occupied room installed and maintained in accordance with the National
63.30 Fire Protection Association (NFPA) Standard 72;

64.1 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
64.2 10; and

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

64.7 (b) Fire drills in assisted living facilities shall be conducted in accordance with the
64.8 residential board and care requirements in the Life Safety Code, except that fire drills in
64.9 secured dementia care units shall be conducted in accordance with the healthcare (limited
64.10 care) chapter of the Life Safety Code.

64.11 (c) Existing construction or elements, including assisted living facilities that were
64.12 registered as housing with services establishments under chapter 144D prior to August 1,
64.13 2021, shall be permitted to be continued in use provided such use does not constitute a
64.14 distinct hazard to life. Any existing elements that an authority having jurisdiction deems a
64.15 distinct hazard to life must be corrected. The facility must document in the facility's records
64.16 any actions taken to comply with a correction order, and must submit to the commissioner
64.17 for review and approval prior to correction.

64.18 Subd. 3. **Local laws apply.** Assisted living facilities shall comply with all applicable
64.19 state and local governing laws, regulations, standards, ordinances, and codes for fire safety,
64.20 building, and zoning requirements.

64.21 Subd. 4. **Design requirements.** (a) All assisted living facilities with six or more residents
64.22 must meet the provisions relevant to assisted living facilities in the most current edition of
64.23 the Facility Guidelines Institute "Guidelines for Design and Construction of Residential
64.24 Health, Care and Support Facilities" and of adopted rules. This minimum design standard
64.25 must be met for all new licenses, new construction, modifications, renovations, alterations,
64.26 changes of use, or additions. In addition to the guidelines, assisted living facilities shall
64.27 provide the option of a bath in addition to a shower for all residents.

64.28 (b) If the commissioner decides to update the edition of the guidelines specified in
64.29 paragraph (a) for purposes of this subdivision, the commissioner must notify the chairs and
64.30 ranking minority members of the legislative committees and divisions with jurisdiction over
64.31 health care and public safety of the planned update by January 15 of the year in which the
64.32 new edition will become effective. Following notice from the commissioner, the new edition
64.33 shall become effective for assisted living facilities beginning August 1 of that year, unless
64.34 provided otherwise in law. The commissioner shall, by publication in the State Register,

65.1 specify a date by which facilities must comply with the updated edition. The date by which
65.2 facilities must comply shall not be sooner than six months after publication of the
65.3 commissioner's notice in the State Register.

65.4 Subd. 5. **Assisted living facilities; life safety code.** (a) All assisted living facilities with
65.5 six or more residents must meet the applicable provisions of the most current edition of the
65.6 NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter.
65.7 The minimum design standard shall be met for all new licenses, new construction,
65.8 modifications, renovations, alterations, changes of use, or additions.

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

65.19 Subd. 6. **Assisted living facilities with dementia care and secured dementia care**
65.20 **unit; Life Safety Code.** (a) All assisted living facilities with dementia care and a secured
65.21 dementia care unit must meet the applicable provisions of the most current edition of the
65.22 NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. The minimum
65.23 design standards shall be met for all new licenses, new construction, modifications,
65.24 renovations, alterations, changes of use, or additions.

65.25 (b) If the commissioner decides to update the Life Safety Code for purposes of this
65.26 subdivision, the commissioner must notify the chairs and ranking minority members of the
65.27 legislative committees and divisions with jurisdiction over health care and public safety of
65.28 the planned update by January 15 of the year in which the new Life Safety Code will become
65.29 effective. Following notice from the commissioner, the new edition shall become effective
65.30 for assisted living facilities with dementia care and a secured dementia care unit beginning
65.31 August 1 of that year, unless provided otherwise in law. The commissioner shall, by
65.32 publication in the State Register, specify a date by which these facilities must comply with
65.33 the updated Life Safety Code. The date by which these facilities must comply shall not be
65.34 sooner than six months after publication of the commissioner's notice in the State Register.

66.1 Subd. 7. New construction; plans. (a) For all new licensure and construction beginning
66.2 on or after August 1, 2021, the following must be provided to the commissioner:

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

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

66.16 (3) final mechanical and electrical plans and specifications must address the complete
66.17 layout and type of all installations, systems, and equipment to be provided. Heating plans
66.18 must include heating elements, piping, thermostatic controls, pumps, tanks, heat exchangers,
66.19 boilers, breeching, and accessories. Ventilation plans must include room air quantities,
66.20 ducts, fire and smoke dampers, exhaust fans, humidifiers, and air handling units. Plumbing
66.21 plans must include the fixtures and equipment fixture schedule; water supply and circulating
66.22 piping, pumps, tanks, riser diagrams, and building drains; the size, location, and elevation
66.23 of water and sewer services; and the building fire protection systems. Electrical plans must
66.24 include fixtures and equipment, receptacles, switches, power outlets, circuits, power and
66.25 light panels, transformers, and service feeders. Plans must show location of nurse call signals,
66.26 cable lines, fire alarm stations, and fire detectors and emergency lighting.

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

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

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

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

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

67.5 (2) the reasons for the request;

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

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

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

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

67.12 (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or
67.13 well-being of a resident;

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

67.16 (3) whether compliance with the requirements would impose an undue burden on the
67.17 facility.

67.18 (c) The commissioner must notify the facility in writing of the decision. If a variance or
67.19 waiver is granted, the notification must specify the period of time for which the variance
67.20 or waiver is effective and the alternative measures or conditions, if any, to be met by the
67.21 facility.

67.22 (d) Alternative measures or conditions attached to a variance or waiver have the force
67.23 and effect of this chapter and are subject to the issuance of correction orders and fines in
67.24 accordance with sections 144I.30, subdivision 7, and 144I.31. The amount of fines for a
67.25 violation of this subdivision is that specified for the specific requirement for which the
67.26 variance or waiver was requested.

67.27 (e) A request for renewal of a variance or waiver must be submitted in writing at least
67.28 45 days before its expiration date. Renewal requests must contain the information specified
67.29 in paragraph (b). A variance or waiver must be renewed by the commissioner if the facility
67.30 continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the
67.31 alternative measures or conditions imposed at the time the original variance or waiver was
67.32 granted.

68.1 (f) The commissioner must deny, revoke, or refuse to renew a variance or waiver if it
68.2 is determined that the criteria in paragraph (a) are not met. The facility must be notified in
68.3 writing of the reasons for the decision and informed of the right to appeal the decision.

68.4 (g) A facility may contest the denial, revocation, or refusal to renew a variance or waiver
68.5 by requesting a contested case hearing under chapter 14. The facility must submit, within
68.6 15 days of the receipt of the commissioner's decision, a written request for a hearing. The
68.7 request for hearing must set forth in detail the reasons why the facility contends the decision
68.8 of the commissioner should be reversed or modified. At the hearing, the facility has the
68.9 burden of proving by a preponderance of the evidence that the facility satisfied the criteria
68.10 specified in paragraph (b), except in a proceeding challenging the revocation of a variance
68.11 or waiver.

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

68.13 **Sec. 26. [144I.25] ASSISTED LIVING CONTRACT REQUIREMENTS.**

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

68.17 (b) The contract must contain all the terms concerning the provision of:

68.18 (1) housing;

68.19 (2) assisted living services, whether provided directly by the facility or by management
68.20 agreement or other agreement; and

68.21 (3) the resident's service plan, if applicable.

68.22 (c) A facility must:

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

68.25 (2) give a complete copy of any signed contract and any addendums, and all supporting
68.26 documents and attachments, to the resident promptly after a contract and any addendum
68.27 has been signed.

68.28 (d) A contract under this section is a consumer contract under sections 325G.29 to
68.29 325G.37.

68.30 (e) Before or at the time of execution of the contract, the facility must offer the resident
68.31 the opportunity to identify a designated representative according to subdivision 3.

69.1 (f) The resident must agree in writing to any additions or amendments to the contract.
69.2 Upon agreement between the resident and the facility, a new contract or an addendum to
69.3 the existing contract must be executed and signed.

69.4 Subd. 2. **Contents and contract; contact information.** (a) The contract must include
69.5 in a conspicuous place and manner on the contract the legal name and the license number
69.6 of the facility.

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

69.9 (1) the facility and contracted service provider when applicable;

69.10 (2) the licensee of the facility;

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

69.12 (4) the authorized agent for the facility.

69.13 (c) The contract must include:

69.14 (1) a disclosure of the category of assisted living facility license held by the facility and,
69.15 if the facility is not an assisted living facility with dementia care, a disclosure that it does
69.16 not hold an assisted living facility with dementia care license;

69.17 (2) a description of all the terms and conditions of the contract, including a description
69.18 of and any limitations to the housing or assisted living services to be provided for the
69.19 contracted amount;

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

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

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

69.26 (6) billing and payment procedures and requirements; and

69.27 (7) disclosure of the facility's ability to provide specialized diets.

69.28 (d) The contract must include a description of the facility's complaint resolution process
69.29 available to residents, including the name and contact information of the person representing
69.30 the facility who is designated to handle and resolve complaints.

69.31 (e) The contract must include a clear and conspicuous notice of:

- 70.1 (1) the right under section 144I.262 to appeal the termination of an assisted living
70.2 contract;
- 70.3 (2) the facility's policy regarding transfer of residents within the facility, under what
70.4 circumstances a transfer may occur, and the circumstances under which resident consent is
70.5 required for a transfer;
- 70.6 (3) contact information for the Office of Ombudsman for Long-Term Care, the
70.7 Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health
70.8 Facility Complaints;
- 70.9 (4) the resident's right to obtain services from an unaffiliated service provider;
- 70.10 (5) a description of the facility's policies related to medical assistance waivers under
70.11 sections 256B.0915 and 256B.49 and the housing support program under chapter 256I,
70.12 including:
- 70.13 (i) whether the facility is enrolled with the commissioner of human services to provide
70.14 customized living services under medical assistance waivers;
- 70.15 (ii) whether the facility has an agreement to provide housing support under section
70.16 256I.04, subdivision 2, paragraph (b);
- 70.17 (iii) whether there is a limit on the number of people residing at the facility who can
70.18 receive customized living services or participate in the housing support program at any
70.19 point in time. If so, the limit must be provided;
- 70.20 (iv) whether the facility requires a resident to pay privately for a period of time prior to
70.21 accepting payment under medical assistance waivers or the housing support program, and
70.22 if so, the length of time that private payment is required;
- 70.23 (v) a statement that medical assistance waivers provide payment for services, but do not
70.24 cover the cost of rent;
- 70.25 (vi) a statement that residents may be eligible for assistance with rent through the housing
70.26 support program; and
- 70.27 (vii) a description of the rent requirements for people who are eligible for medical
70.28 assistance waivers but who are not eligible for assistance through the housing support
70.29 program;
- 70.30 (6) the contact information to obtain long-term care consulting services under section
70.31 256B.0911; and
- 70.32 (7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.

71.1 (f) The contract must include a description of the facility's complaint resolution process
71.2 available to residents, including the name and contact information of the person representing
71.3 the facility who is designated to handle and resolve complaints.

71.4 Subd. 3. **Designation of representative.** (a) Before or at the time of execution of an
71.5 assisted living contract, an assisted living facility must offer the resident the opportunity to
71.6 identify a designated representative in writing in the contract and must provide the following
71.7 verbatim notice on a document separate from the contract:

71.8 **RIGHT TO DESIGNATE A REPRESENTATIVE FOR CERTAIN PURPOSES.**

71.9 You have the right to name anyone as your "Designated Representative." A Designated
71.10 Representative can assist you, receive certain information and notices about you, including
71.11 some information related to your health care, and advocate on your behalf. A Designated
71.12 Representative does not take the place of your guardian, conservator, power of attorney
71.13 ("attorney-in-fact"), or health care power of attorney ("health care agent"), if applicable.

71.14 (b) The contract must contain a page or space for the name and contact information of
71.15 the designated representative and a box the resident must initial if the resident declines to
71.16 name a designated representative. Notwithstanding subdivision 1, paragraph (f), the resident
71.17 has the right at any time to add, remove, or change the name and contact information of the
71.18 designated representative.

71.19 Subd. 4. **Filing.** The contract and related documents must be maintained by the facility
71.20 in files from the date of execution until five years after the contract is terminated or expires.
71.21 The contracts and all associated documents must be available for on-site inspection by the
71.22 commissioner at any time. The documents shall be available for viewing or copies shall be
71.23 made available to the resident and the legal or designated representative at any time.

71.24 Subd. 5. **Waivers of liability prohibited.** The contract must not include a waiver of
71.25 facility liability for the health and safety or personal property of a resident. The contract
71.26 must not include any provision that the facility knows or should know to be deceptive,
71.27 unlawful, or unenforceable under state or federal law, nor include any provision that requires
71.28 or implies a lesser standard of care or responsibility than is required by law.

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

71.30 **Sec. 27. [144I.26] ASSISTED LIVING CONTRACT TERMINATIONS.**

71.31 Subdivision 1. **Definition.** For purposes of sections 144I.26 to 144I.263, "termination"
71.32 means:

72.1 (1) a facility-initiated termination of housing provided to the resident under the contract;
72.2 or

72.3 (2) a facility-initiated termination or nonrenewal of all assisted living services the resident
72.4 receives from the facility under the contract.

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

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

72.10 (2) identify and offer reasonable accommodations or modifications, interventions, or
72.11 alternatives to avoid the termination or enable the resident to remain in the facility, including
72.12 but not limited to securing services from another provider of the resident's choosing that
72.13 may allow the resident to avoid the termination. A facility is not required to offer
72.14 accommodations, modifications, interventions, or alternatives that fundamentally alter the
72.15 nature of the operation of the facility.

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

72.19 (c) The facility must notify the resident that the resident may invite family members,
72.20 relevant health professionals, a representative of the Office of Ombudsman for Long-Term
72.21 Care, or other persons of the resident's choosing to participate in the meeting. For residents
72.22 who receive home and community-based waiver services under sections 256B.0915 and
72.23 256B.49, the facility must notify the resident's case manager of the meeting.

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

72.28 Subd. 3. Termination for nonpayment. (a) A facility may initiate a termination of
72.29 housing because of nonpayment of rent or a termination of services because of nonpayment
72.30 for services. Upon issuance of a notice of termination for nonpayment, the facility must
72.31 inform the resident that public benefits may be available and must provide contact
72.32 information for the Senior LinkAge Line under section 256.975, subdivision 7.

73.1 (b) An interruption to a resident's public benefits that lasts for no more than 60 days
73.2 does not constitute nonpayment.

73.3 Subd. 4. **Termination for violation of the assisted living contract.** A facility may
73.4 initiate a termination of the assisted living contract if the resident violates a lawful provision
73.5 of the contract and the resident does not cure the violation within a reasonable amount of
73.6 time after the facility provides written notice of the ability to cure to the resident. Written
73.7 notice of the ability to cure may be provided in person or by first class mail. A facility is
73.8 not required to provide a resident with written notice of the ability to cure for a violation
73.9 that threatens the health or safety of the resident or another individual in the facility, or for
73.10 a violation that constitutes illegal conduct.

73.11 Subd. 5. **Expedited termination.** (a) A facility may initiate an expedited termination
73.12 of housing or services if:

73.13 (1) the resident has engaged in conduct that substantially interferes with the rights, health,
73.14 or safety of other residents;

73.15 (2) the resident has engaged in conduct that substantially and intentionally interferes
73.16 with the safety or physical health of facility staff; or

73.17 (3) the resident has committed an act listed in section 504B.171 that substantially
73.18 interferes with the rights, health, or safety of other residents.

73.19 (b) A facility may initiate an expedited termination of services if:

73.20 (1) the resident has engaged in conduct that substantially interferes with the resident's
73.21 health or safety;

73.22 (2) the resident's assessed needs exceed the scope of services agreed upon in the assisted
73.23 living contract and are not included in the services the facility disclosed in the uniform
73.24 checklist; or

73.25 (3) extraordinary circumstances exist, causing the facility to be unable to provide the
73.26 resident with the services disclosed in the uniform checklist that are necessary to meet the
73.27 resident's needs.

73.28 Subd. 6. **Right to use provider of resident's choosing.** A facility may not terminate
73.29 the assisted living contract if the underlying reason for termination may be resolved by the
73.30 resident obtaining services from another provider of the resident's choosing and the resident
73.31 obtains those services.

74.1 Subd. 7. **Notice of contract termination required.** (a) A facility terminating a contract
74.2 must issue a written notice of termination according to this section. The facility must also
74.3 send a copy of the termination notice to the Office of Ombudsman for Long-Term Care
74.4 and, for residents who receive home and community-based waiver services under sections
74.5 256B.0915 and 256B.49, to the resident's case manager, as soon as practicable after providing
74.6 notice to the resident. A facility may terminate an assisted living contract only as permitted
74.7 under subdivisions 3, 4, and 5.

74.8 (b) A facility terminating a contract under subdivision 3 or 4 must provide a written
74.9 termination notice at least 30 days before the effective date of the termination to the resident,
74.10 legal representative, and designated representative.

74.11 (c) A facility terminating a contract under subdivision 5 must provide a written
74.12 termination notice at least 15 days before the effective date of the termination to the resident,
74.13 legal representative, and designated representative.

74.14 (d) If a resident moves out of a facility or cancels services received from the facility,
74.15 nothing in this section prohibits a facility from enforcing against the resident any notice
74.16 periods with which the resident must comply under the assisted living contract.

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

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

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

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

74.24 (4) a statement that the resident has the right to appeal the termination by requesting a
74.25 hearing, and information concerning the timeframe within which the request must be
74.26 submitted and the contact information for the agency to which the request must be submitted;

74.27 (5) a statement that the facility must participate in a coordinated move to another provider
74.28 or caregiver, as required under section 144I.263;

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

74.31 (7) information on how to contact the Office of Ombudsman for Long-Term Care to
74.32 request an advocate to assist regarding the termination;

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

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

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

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

75.13 (1) the reason for the relocation;

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

75.16 (3) contact information for the Office of Ombudsman for Long-Term Care;

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

75.20 (5) a statement that, if the facility refuses to provide housing or services after a relocation,
75.21 the resident has the right to appeal under section 144I.262. The facility must provide contact
75.22 information for the agency to which the resident may submit an appeal.

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

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

75.25 (2) for residents who receive home and community-based waiver services under sections
75.26 256B.0915 and 256B.49, the resident's case manager; and

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

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

76.1 Subd. 10. **Right to return.** If a resident is absent from a facility for any reason, including
76.2 an emergency relocation, the facility shall not refuse to allow a resident to return if a
76.3 termination of housing has not been effectuated.

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

76.5 **Sec. 28. [144I.261] NONRENEWAL OF HOUSING.**

76.6 (a) If a facility decides to not renew a resident's housing under a contract, the facility
76.7 must either (1) provide the resident with 60 calendar days' notice of the nonrenewal and
76.8 assistance with relocation planning, or (2) follow the termination procedure under section
76.9 144I.26.

76.10 (b) The notice must include the reason for the nonrenewal and contact information of
76.11 the Office of Ombudsman for Long-Term Care.

76.12 (c) A facility must:

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

76.14 (2) for residents who receive home and community-based waiver services under sections
76.15 256B.0915 and 256B.49, provide notice to the resident's case manager;

76.16 (3) ensure a coordinated move to a safe location, as defined in section 144I.263,
76.17 subdivision 2, that is appropriate for the resident;

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

76.20 (5) consult and cooperate with the resident, legal representative, designated representative,
76.21 case manager for a resident who receives home and community-based waiver services under
76.22 sections 256B.0915 and 256B.49, relevant health professionals, and any other persons of
76.23 the resident's choosing to make arrangements to move the resident, including consideration
76.24 of the resident's goals; and

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

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

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

77.1 Sec. 29. [144I.262] APPEALS.

77.2 Subdivision 1. Right to appeal. Residents have the right to appeal the termination of
77.3 an assisted living contract.

77.4 Subd. 2. Permissible grounds to appeal termination. A resident may appeal a
77.5 termination initiated under section 144I.26, subdivision 3, 4, or 5, on the ground that:

77.6 (1) there is a factual dispute as to whether the facility had a permissible basis to initiate
77.7 the termination;

77.8 (2) the termination would result in great harm or the potential for great harm to the
77.9 resident as determined by the totality of the circumstances, except in circumstances where
77.10 there is a greater risk of harm to other residents or staff at the facility;

77.11 (3) the resident has cured or demonstrated the ability to cure the reasons for the
77.12 termination, or has identified a reasonable accommodation or modification, intervention,
77.13 or alternative to the termination; or

77.14 (4) the facility has terminated the contract in violation of state or federal law.

77.15 Subd. 3. Appeals process. (a) The Office of Administrative Hearings must conduct an
77.16 expedited hearing as soon as practicable under this section, but in no event later than 14
77.17 calendar days after the office receives the request, unless the parties agree otherwise or the
77.18 chief administrative law judge deems the timing to be unreasonable, given the complexity
77.19 of the issues presented.

77.20 (b) The hearing must be held at the facility where the resident lives, unless holding the
77.21 hearing at that location is impractical, the parties agree to hold the hearing at a different
77.22 location, or the chief administrative law judge grants a party's request to appear at another
77.23 location or by telephone or interactive video.

77.24 (c) The hearing is not a formal contested case proceeding, except when determined
77.25 necessary by the chief administrative law judge.

77.26 (d) Parties may but are not required to be represented by counsel. The appearance of a
77.27 party without counsel does not constitute the unauthorized practice of law.

77.28 (e) The hearing shall be limited to the amount of time necessary for the participants to
77.29 expeditiously present the facts about the proposed termination. The administrative law judge
77.30 shall issue a recommendation to the commissioner as soon as practicable, but in no event
77.31 later than ten business days after the hearing.

78.1 Subd. 4. **Burden of proof for appeals of termination.** (a) The facility bears the burden
78.2 of proof to establish by a preponderance of the evidence that the termination was permissible
78.3 if the appeal is brought on the ground listed in subdivision 2, clause (4).

78.4 (b) The resident bears the burden of proof to establish by a preponderance of the evidence
78.5 that the termination was permissible if the appeal is brought on the ground listed in
78.6 subdivision 2, clause (2) or (3).

78.7 Subd. 5. **Determination; appeal of determination.** (a) The resident's termination must
78.8 be rescinded if the resident prevails in the appeal.

78.9 (b) The order may contain any conditions that may be placed on the resident's continued
78.10 residency or receipt of services, including but not limited to changes to the service plan or
78.11 a required increase in services.

78.12 Subd. 6. **Service provision while appeal pending.** A termination of housing or services
78.13 shall not occur while an appeal is pending. If additional services are needed to meet the
78.14 health or safety needs of the resident while an appeal is pending, the resident is responsible
78.15 for contracting for those additional services from the facility or another provider and for
78.16 ensuring the costs for those additional services are covered.

78.17 Subd. 7. **Application of chapter 504B to appeals of terminations.** A resident may not
78.18 bring an action under chapter 504B to challenge a termination that has occurred and been
78.19 upheld under this section.

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

78.21 Sec. 30. **[144I.263] COORDINATED MOVES.**

78.22 Subdivision 1. **Duties of facility.** (a) If a facility terminates an assisted living contract,
78.23 reduces services to the extent that a resident needs to move, or conducts a planned closure
78.24 under section 144I.27, the facility:

78.25 (1) must ensure, subject to paragraph (c), a coordinated move to a safe location that is
78.26 appropriate for the resident and that is identified by the facility prior to any hearing under
78.27 section 144I.262;

78.28 (2) must ensure a coordinated move of the resident to an appropriate service provider
78.29 identified by the facility prior to any hearing under section 144I.262, provided services are
78.30 still needed and desired by the resident; and

78.31 (3) must consult and cooperate with the resident, legal representative, designated
78.32 representative, case manager for a resident who receives home and community-based waiver

79.1 services under sections 256B.0915 and 256B.49, relevant health professionals, and any
79.2 other persons of the resident's choosing to make arrangements to move the resident, including
79.3 consideration of the resident's goals.

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

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

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

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

79.14 (2) the contact information for the Office of Ombudsman for Long-Term Care and the
79.15 name and contact information of the person employed by the facility with whom the resident
79.16 may discuss the reduction of services;

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

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

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

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

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

79.31 Subd. 2. **Safe location.** A safe location is not a private home where the occupant is
79.32 unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel. A facility

80.1 may not terminate a resident's housing or services if the resident will, as the result of the
80.2 termination, become homeless, as that term is defined in section 116L.361, subdivision 5,
80.3 or if an adequate and safe discharge location or adequate and needed service provider has
80.4 not been identified. This subdivision does not preclude a resident from declining to move
80.5 to the location the facility identifies.

80.6 Subd. 3. **Relocation plan required.** The facility must prepare a relocation plan to prepare
80.7 for the move to the new location or service provider.

80.8 Subd. 4. **License restrictions.** Unless otherwise ordered by the commissioner, if a
80.9 facility's license is restricted by the commissioner under section 144I.33 such that a resident
80.10 must move or obtain a new service provider, the facility must comply with this section.

80.11 Subd. 5. **No waiver.** The rights established under this section for the benefit of residents
80.12 do not limit any other rights available under other law. No facility may request or require
80.13 that any resident waive the resident's rights at any time for any reason, including as a
80.14 condition of admission to the facility.

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

80.16 Sec. 31. **[144I.264] ARBITRATION.**

80.17 (a) An assisted living facility must clearly and conspicuously disclose, in writing in an
80.18 assisted living contract, any arbitration provision in the contract that precludes, limits, or
80.19 delays the ability of a resident from taking a civil action.

80.20 (b) An arbitration requirement must not include a choice of law or choice of venue
80.21 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
80.22 federal or local law.

80.23 **EFFECTIVE DATE.** This section is effective August 1, 2021, for contracts entered
80.24 into on or after that date.

80.25 Sec. 32. **[144I.265] OFFICE OF OMBUDSMAN FOR LONG-TERM CARE.**

80.26 Subdivision 1. **Immunity from liability.** The Office of Ombudsman for Long-Term
80.27 Care and representatives of the office are immune from liability for conduct described in
80.28 section 256.9742, subdivision 2.

80.29 Subd. 2. **Data classification.** All forms and notices received by the Office of Ombudsman
80.30 for Long-Term Care under this chapter are classified under section 256.9744.

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

81.1 Sec. 33. **[144I.27] PLANNED CLOSURES.**

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

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

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

81.9 (2) the procedures and actions the facility will implement to ensure all residents receive
81.10 appropriate termination planning in accordance with section 144I.263, and final accountings
81.11 and returns under section 144I.13, subdivision 5;

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

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

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

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

81.22 **Subd. 4. Termination planning and final accounting requirements.** Prior to
81.23 termination, the facility must follow the termination planning requirements under section
81.24 144I.263, and final accounting and return requirements under section 144I.13, subdivision
81.25 5, for residents. The facility must implement the plan approved by the commissioner and
81.26 ensure that arrangements for relocation and continued care that meet each resident's social,
81.27 emotional, and health needs are effectuated prior to closure.

81.28 **Subd. 5. Notice to residents.** After the commissioner has approved the relocation plan
81.29 and at least 60 calendar days before closing, except as provided under subdivision 6, the
81.30 facility must notify residents, designated representatives, and legal representatives of the
81.31 closure, the proposed date of closure, the contact information of the ombudsman for long-term
81.32 care, and that the facility will follow the termination planning requirements under section
81.33 144I.263, and final accounting and return requirements under section 144I.13, subdivision

82.1 5. For residents who receive home and community-based waiver services under sections
82.2 256B.0915 and 256B.49, the facility must also provide this information to the resident's
82.3 case manager.

82.4 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the
82.5 commissioner deems the facility can no longer remain open, the facility must meet all
82.6 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds
82.7 would endanger the health and safety of residents. In the event the commissioner determines
82.8 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice
82.9 to residents as soon as practicable or as directed by the commissioner.

82.10 (b) Upon request from the commissioner, the facility must provide the commissioner
82.11 with any documentation related to the appropriateness of its relocation plan, or to any
82.12 assertion that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining
82.13 open would otherwise endanger the health and safety of residents pursuant to paragraph
82.14 (a).

82.15 Subd. 7. **Other rights.** Nothing in this section affects the rights and remedies available
82.16 under chapter 504B.

82.17 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements
82.18 of this section.

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

82.20 Sec. 34. **[144L.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

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

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

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

82.27 (3) standards of training of facility personnel;

82.28 (4) standards for the provision of assisted living services;

82.29 (5) standards for medication management;

82.30 (6) standards for supervision of assisted living services;

82.31 (7) standards for resident evaluation or assessment;

83.1 (8) standards for treatments and therapies;

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

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

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

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

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

83.9 (1) license, survey, and monitor without advance notice assisted living facilities in
83.10 accordance with this chapter and rules;

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

83.13 (3) survey assisted living facility licensees at least once every two years;

83.14 (4) investigate complaints of assisted living facilities;

83.15 (5) issue correction orders and assess civil penalties under sections 144I.30 and 144I.31;

83.16 (6) take action as authorized in section 144I.33; and

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

83.18 (b) The commissioner shall review blueprints for all new facility construction and must
83.19 approve the plans before construction may be commenced.

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

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

83.23 Sec. 35. **[144I.30] SURVEYS AND INVESTIGATIONS.**

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

83.28 (b) The commissioner, upon request to the facility, must be given access to relevant
83.29 information, records, incident reports, and other documents in the possession of the facility
83.30 if the commissioner considers them necessary for the discharge of responsibilities. For

84.1 purposes of surveys and investigations and securing information to determine compliance
84.2 with licensure laws and rules, the commissioner need not present a release, waiver, or
84.3 consent to the individual. The identities of residents must be kept private as defined in
84.4 section 13.02, subdivision 12.

84.5 Subd. 2. **Surveys.** The commissioner shall conduct a survey of each assisted living
84.6 facility on a frequency of at least once every two years. The commissioner may conduct
84.7 surveys more frequently than every two years based on the license category, the facility's
84.8 compliance history, the number of residents served, or other factors as determined by the
84.9 commissioner deemed necessary to ensure the health, safety, and welfare of residents and
84.10 compliance with the law.

84.11 Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to
84.12 determine if the facility has corrected deficient issues and systems identified during a survey
84.13 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,
84.14 mail, or on-site reviews. Follow-up surveys, other than complaint investigations, shall be
84.15 concluded with an exit conference and written information provided on the process for
84.16 requesting a reconsideration of the survey results.

84.17 Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without
84.18 advance notice to the facilities. Surveyors may contact the facility on the day of a survey
84.19 to arrange for someone to be available at the survey site. The contact does not constitute
84.20 advance notice. The surveyor must provide presurvey notification to the Office of
84.21 Ombudsman for Long-Term Care.

84.22 Subd. 5. **Information provided by facility.** The assisted living facility shall provide
84.23 accurate and truthful information to the department during a survey, investigation, or other
84.24 licensing activities.

84.25 Subd. 6. **Providing resident records.** Upon request of a surveyor, assisted living facilities
84.26 shall provide a list of current and past residents and their legal representatives and designated
84.27 representatives that includes addresses and telephone numbers and any other information
84.28 requested about the services to residents within a reasonable period of time.

84.29 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the
84.30 commissioner finds upon survey or during a complaint investigation that a facility, a
84.31 managerial official, or an employee of the facility is not in compliance with this chapter.
84.32 The correction order shall cite the specific statute and document areas of noncompliance
84.33 and the time allowed for correction.

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

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

85.10 Subd. 8. **Required follow-up surveys.** For assisted living facilities that have Level 3
85.11 or Level 4 violations under section 144I.31, the commissioner shall conduct a follow-up
85.12 survey within 90 calendar days of the survey. When conducting a follow-up survey, the
85.13 surveyor shall focus on whether the previous violations have been corrected and may also
85.14 address any new violations that are observed while evaluating the corrections that have been
85.15 made.

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

85.17 Sec. 36. **[144I.31] VIOLATIONS AND FINES.**

85.18 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision
85.19 may be assessed based on the level and scope of the violations described in subdivision 2
85.20 as follows and may be imposed immediately with no opportunity to correct the violation
85.21 prior to imposition:

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

85.23 (2) Level 2, a fine of \$500 per violation, in addition to any enforcement mechanism
85.24 authorized in section 144I.33 for widespread violations;

85.25 (3) Level 3, a fine of \$3,000 per violation per incident, in addition to any enforcement
85.26 mechanism authorized in section 144I.33;

85.27 (4) Level 4, a fine of \$5,000 per incident, in addition to any enforcement mechanism
85.28 authorized in section 144I.33; and

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

86.1 (b) When a fine is assessed against a facility for substantiated maltreatment, the
86.2 commissioner shall not also impose an immediate fine under this chapter for the same
86.3 circumstance.

86.4 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized
86.5 by both level and scope:

86.6 (1) level of violation:

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

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

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

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

86.16 (2) scope of violation:

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

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

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

86.24 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a
86.25 facility has not corrected violations by the date specified in the correction order or conditional
86.26 license resulting from a survey or complaint investigation, the commissioner shall provide
86.27 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance
86.28 to the facility. The noncompliance notice must list the violations not corrected.

86.29 Subd. 4. **Immediate fine; payment.** (a) For every Level 3 or Level 4 violation, the
86.30 commissioner may issue an immediate fine. The licensee must still correct the violation in
86.31 the time specified. The issuance of an immediate fine may occur in addition to any

87.1 enforcement mechanism authorized under section 144I.33. The immediate fine may be
87.2 appealed as allowed under this section.

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

87.7 (c) A licensee shall promptly notify the commissioner in writing when a violation
87.8 specified in the order is corrected. If upon reinspection the commissioner determines that
87.9 a violation has not been corrected as indicated by the order, the commissioner may issue
87.10 an additional fine. The commissioner shall notify the licensee by mail to the last known
87.11 address in the licensing record that a second fine has been assessed. The licensee may appeal
87.12 the second fine as provided under this subdivision.

87.13 (d) A facility that has been assessed a fine under this section has a right to a
87.14 reconsideration or hearing under this section and chapter 14.

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

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

87.21 Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in a
87.22 dedicated special revenue account. On an annual basis, the balance in the special revenue
87.23 account shall be appropriated to the commissioner for special projects to improve home
87.24 care in Minnesota as recommended by the advisory council established in section 144A.4799.

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

87.26 Sec. 37. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

87.27 Subdivision 1. **Reconsideration process required.** The commissioner shall make
87.28 available to assisted living facilities a correction order reconsideration process. This process
87.29 may be used to challenge the correction order issued, including the level and scope described
87.30 in section 144I.31, and any fine assessed. When a licensee requests reconsideration of a
87.31 correction order, the correction order is not stayed while it is under reconsideration. The
87.32 commissioner shall post information on its website that the licensee requested reconsideration
87.33 of the correction order and that the review is pending.

88.1 Subd. 2. **Reconsideration process.** An assisted living facility may request from the
88.2 commissioner, in writing, a correction order reconsideration regarding any correction order
88.3 issued to the facility. The written request for reconsideration must be received by the
88.4 commissioner within 15 calendar days of the correction order receipt date. The correction
88.5 order reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that
88.6 participated in writing or reviewing the correction order being disputed. The correction
88.7 order reconsiderations may be conducted in person, by telephone, by another electronic
88.8 form, or in writing, as determined by the commissioner. The commissioner shall respond
88.9 in writing to the request from a facility for a correction order reconsideration within 60 days
88.10 of the date the facility requests a reconsideration. The commissioner's response shall identify
88.11 the commissioner's decision regarding each citation challenged by the facility.

88.12 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be
88.13 one or more of the following:

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

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

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

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

88.22 (5) the correction order is rescinded;

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

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

88.26 Subd. 4. **Updating the correction order website.** If the correction order findings are
88.27 changed by the commissioner, the commissioner shall update the correction order website.

88.28 Subd. 5. **Provisional licensees.** This section does not apply to provisional licensees.

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

89.1 Sec. 38. [144I.33] ENFORCEMENT.

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

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

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

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

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

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

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

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

89.18 (8) interferes with or impedes ombudsman access according to section 256.9742,
89.19 subdivision 4;

89.20 (9) interferes with or impedes a representative of the department in the enforcement of
89.21 this chapter or fails to fully cooperate with an inspection, survey, or investigation by the
89.22 department;

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

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

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

89.27 (13) violates any local, city, or township ordinance relating to housing or assisted living
89.28 services;

89.29 (14) has repeated incidents of personnel performing services beyond their competency
89.30 level; or

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

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

90.3 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional
90.4 license designation may include terms that must be completed or met before a suspension
90.5 or conditional license designation is lifted. A conditional license designation may include
90.6 restrictions or conditions that are imposed on the assisted living facility. Terms for a
90.7 suspension or conditional license may include one or more of the following and the scope
90.8 of each will be determined by the commissioner:

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

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

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

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

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

90.18 (6) any other action reasonably required to accomplish the purpose of this subdivision
90.19 and subdivision 1.

90.20 (b) A facility subject to this subdivision may continue operating during the period of
90.21 time residents are being transferred to another service provider.

90.22 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies
90.23 provided by law, the commissioner may, without a prior contested case hearing, immediately
90.24 temporarily suspend a license or prohibit delivery of housing or services by a facility for
90.25 not more than 90 calendar days or issue a conditional license, if the commissioner determines
90.26 that there are:

90.27 (1) Level 4 violations; or

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

90.29 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

90.30 (c) A notice stating the reasons for the immediate temporary suspension or conditional
90.31 license and informing the licensee of the right to an expedited hearing under subdivision
90.32 11 must be delivered by personal service to the address shown on the application or the last

91.1 known address of the licensee. The licensee may appeal an order immediately temporarily
91.2 suspending a license or issuing a conditional license. The appeal must be made in writing
91.3 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
91.4 the commissioner within five calendar days after the licensee receives notice. If an appeal
91.5 is made by personal service, it must be received by the commissioner within five calendar
91.6 days after the licensee received the order.

91.7 (d) A licensee whose license is immediately temporarily suspended must comply with
91.8 the requirements for notification and transfer of residents in subdivision 9. The requirements
91.9 in subdivision 9 remain if an appeal is requested.

91.10 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,
91.11 paragraph (a), the commissioner must revoke a license if a controlling individual of the
91.12 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility
91.13 or directly affects resident safety or care. The commissioner shall notify the facility and the
91.14 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of
91.15 revocation.

91.16 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
91.17 within 60 calendar days of notification to suspend or revoke a facility's license or must
91.18 refuse to renew a facility's license if within the preceding two years the facility has incurred
91.19 the following number of uncorrected or repeated violations:

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

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

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

91.26 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated
91.27 by the commissioner to revoke or suspend a facility's license, or a decision by the
91.28 commissioner not to renew a living facility's license, the controlling individual of the facility
91.29 or a designee must provide to the commissioner and the ombudsman for long-term care the
91.30 names of residents and the names and addresses of the residents' designated representatives
91.31 and legal representatives, and family or other contacts listed in the assisted living contract.

91.32 (b) The controlling individual or designees of the facility must provide updated
91.33 information each month until the proceeding is concluded. If the controlling individual or

92.1 designee of the facility fails to provide the information within this time, the facility is subject
92.2 to the issuance of:

92.3 (1) a correction order; and

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

92.5 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this
92.6 subdivision must require that the facility immediately comply with the request for information
92.7 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the
92.8 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100
92.9 increments for each day the noncompliance continues.

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

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

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

92.19 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew
92.20 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57
92.21 to 14.69. The hearing must commence within 60 calendar days after the proceedings are
92.22 initiated. In addition to any other remedy provided by law, the commissioner may, without
92.23 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services
92.24 by a provider for not more than 90 calendar days, or issue a conditional license if the
92.25 commissioner determines that there are Level 3 violations that do not pose an imminent
92.26 risk of harm to the health or safety of the facility residents, provided:

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

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

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

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

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

93.6 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in
93.7 section 144I.31.

93.8 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

93.9 (1) be mailed or delivered to the commissioner;

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

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

93.13 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew
93.14 a license must include a plan for transferring affected residents' cares to other providers by
93.15 the facility. The commissioner shall monitor the transfer plan. Within three calendar days
93.16 of being notified of the final revocation, refusal to renew, or suspension, the licensee shall
93.17 provide the commissioner, the lead agencies as defined in section 256B.0911, county adult
93.18 protection and case managers, and the ombudsman for long-term care with the following
93.19 information:

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

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

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

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

93.26 and

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

93.29 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
93.30 by mailing the notice to the address in the license record. The licensee shall cooperate with
93.31 the commissioner and the lead agencies, county adult protection and county managers, and
93.32 the ombudsman for long-term care during the process of transferring care of residents to

94.1 qualified providers. Within three calendar days of being notified of the final revocation,
94.2 refusal to renew, or suspension action, the facility must notify and disclose to each of the
94.3 residents, or the resident's legal and designated representatives or emergency contact persons,
94.4 that the commissioner is taking action against the facility's license by providing a copy of
94.5 the revocation, refusal to renew, or suspension notice issued by the commissioner. If the
94.6 facility does not comply with the disclosure requirements in this section, the commissioner
94.7 shall notify the residents, legal and designated representatives, or emergency contact persons
94.8 about the actions being taken. Lead agencies, county adult protection and county managers,
94.9 and the Office of Ombudsman for Long-Term Care may also provide this information. The
94.10 revocation, refusal to renew, or suspension notice is public data except for any private data
94.11 contained therein.

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

94.14 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal
94.15 of a sanction under this section, other than for a temporary suspension, the commissioner
94.16 shall request assignment of an administrative law judge. The commissioner's request must
94.17 include a proposed date, time, and place of hearing. A hearing must be conducted by an
94.18 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
94.19 90 calendar days of the request for assignment, unless an extension is requested by either
94.20 party and granted by the administrative law judge for good cause or for purposes of discussing
94.21 settlement. In no case shall one or more extensions be granted for a total of more than 90
94.22 calendar days unless there is a criminal action pending against the licensee. If, while a
94.23 licensee continues to operate pending an appeal of an order for revocation, suspension, or
94.24 refusal to renew a license, the commissioner identifies one or more new violations of law
94.25 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,
94.26 the commissioner shall act immediately to temporarily suspend the license.

94.27 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's
94.28 timely appeal of a temporary suspension or issuance of a conditional license, the
94.29 commissioner shall request assignment of an administrative law judge. The request must
94.30 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
94.31 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
94.32 30 calendar days of the request for assignment, unless an extension is requested by either
94.33 party and granted by the administrative law judge for good cause. The commissioner shall
94.34 issue a notice of hearing by certified mail or personal service at least ten business days
94.35 before the hearing. Certified mail to the last known address is sufficient. The scope of the

95.1 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
95.2 of a conditional license should remain in effect and whether there is sufficient evidence to
95.3 conclude that the licensee's actions or failure to comply with applicable laws are Level 3
95.4 or Level 4 violations as defined in section 144I.31, or that there were violations that posed
95.5 an imminent risk of harm to the resident's health and safety.

95.6 (b) The administrative law judge shall issue findings of fact, conclusions, and a
95.7 recommendation within ten business days from the date of hearing. The parties shall have
95.8 ten calendar days to submit exceptions to the administrative law judge's report. The record
95.9 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
95.10 final order shall be issued within ten business days from the close of the record. When an
95.11 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
95.12 the commissioner shall issue a final order affirming the temporary immediate suspension
95.13 or conditional license within ten calendar days of the commissioner's receipt of the
95.14 withdrawal or dismissal. The licensee is prohibited from operation during the temporary
95.15 suspension period.

95.16 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
95.17 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
95.18 sanction, the licensee is prohibited from operation pending a final commissioner's order
95.19 after the contested case hearing conducted under chapter 14.

95.20 (d) A licensee whose license is temporarily suspended must comply with the requirements
95.21 for notification and transfer of residents under subdivision 9. These requirements remain if
95.22 an appeal is requested.

95.23 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under
95.24 section 144I.31, and an action against a license under this section, a licensee must request
95.25 a hearing no later than 15 business days after the licensee receives notice of the action.

95.26 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner
95.27 and managerial officials of a facility whose Minnesota license has not been renewed or
95.28 whose Minnesota license has been revoked because of noncompliance with applicable laws
95.29 or rules shall not be eligible to apply for nor will be granted an assisted living facility license
95.30 under this chapter or a home care provider license under chapter 144A, or be given status
95.31 as an enrolled personal care assistance provider agency or personal care assistant by the
95.32 Department of Human Services under section 256B.0659, for five years following the
95.33 effective date of the nonrenewal or revocation. If the owner or managerial officials already
95.34 have enrollment status, the Department of Human Services shall terminate that enrollment.

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

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

96.11 (d) The commissioner shall notify the facility 30 calendar days in advance of the date
96.12 of nonrenewal, suspension, or revocation of the license. Within ten business days after the
96.13 receipt of the notification, the facility may request, in writing, that the commissioner stay
96.14 the nonrenewal, revocation, or suspension of the license. The facility shall specify the
96.15 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance
96.16 with the licensure laws and regulations; any limits on the authority or responsibility of the
96.17 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,
96.18 or suspension; and any other information to establish that the continuing affiliation with
96.19 these individuals will not jeopardize resident health, safety, or well-being. The commissioner
96.20 shall determine whether the stay will be granted within 30 calendar days of receiving the
96.21 facility's request. The commissioner may propose additional restrictions or limitations on
96.22 the facility's license and require that granting the stay be contingent upon compliance with
96.23 those provisions. The commissioner shall take into consideration the following factors when
96.24 determining whether the stay should be granted:

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

96.27 (2) the compliance history of the facility; and

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

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

96.33 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may
96.34 be considered by the commissioner when the conditions upon which the revocation was

97.1 based have been corrected and satisfactory evidence of this fact has been furnished to the
97.2 commissioner. A new license may be granted after an inspection has been made and the
97.3 facility has complied with all provisions of this chapter and adopted rules.

97.4 Subd. 15. **Informal conference.** At any time, the commissioner and the applicant,
97.5 licensee, manager if applicable, or facility may hold an informal conference to exchange
97.6 information, clarify issues, or resolve issues.

97.7 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the
97.8 commissioner may bring an action in district court to enjoin a person who is involved in
97.9 the management, operation, or control of a facility or an employee of the facility from
97.10 illegally engaging in activities regulated by this chapter. The commissioner may bring an
97.11 action under this subdivision in the district court in Ramsey County or in the district in
97.12 which the facility is located. The court may grant a temporary restraining order in the
97.13 proceeding if continued activity by the person who is involved in the management, operation,
97.14 or control of a facility, or by an employee of the facility, would create an imminent risk of
97.15 harm to a resident.

97.16 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,
97.17 the commissioner may issue subpoenas and compel the attendance of witnesses and the
97.18 production of all necessary papers, books, records, documents, and other evidentiary material.
97.19 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear
97.20 or testify regarding any matter about which the person may be lawfully questioned or to
97.21 produce any papers, books, records, documents, or evidentiary materials in the matter to be
97.22 heard, the commissioner may apply to the district court in any district, and the court shall
97.23 order the person to comply with the commissioner's order or subpoena. The commissioner
97.24 may administer oaths to witnesses or take their affirmation. Depositions may be taken in
97.25 or outside the state in the manner provided by law for taking depositions in civil actions. A
97.26 subpoena or other process or paper may be served on a named person anywhere in the state
97.27 by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage
97.28 and in the same manner as prescribed by law for a process issued out of a district court. A
97.29 person subpoenaed under this subdivision shall receive the same fees, mileage, and other
97.30 costs that are paid in proceedings in district court.

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

97.32 Sec. 39. **[144I.34] INNOVATION VARIANCE.**

97.33 Subdivision 1. **Definition; granting variances.** (a) For purposes of this section,
97.34 "innovation variance" means a specified alternative to a requirement of this chapter.

98.1 (b) An innovation variance may be granted to allow an assisted living facility to offer
98.2 services of a type or in a manner that is innovative, will not impair the services provided,
98.3 will not adversely affect the health, safety, or welfare of the residents, and is likely to improve
98.4 the services provided. The innovative variance cannot change any of the resident's rights
98.5 under the assisted living bill of rights.

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

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

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

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

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

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

98.16 (4) the reasons for the request; and

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

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

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

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

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

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

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

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

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

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

99.6 Sec. 40. **[144I.35] RESIDENT QUALITY OF CARE AND OUTCOMES**

99.7 **IMPROVEMENT TASK FORCE.**

99.8 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of
 99.9 care and outcomes improvement task force to examine and make recommendations, on an
 99.10 ongoing basis, on how to apply proven safety and quality improvement practices and
 99.11 infrastructure to settings and providers that provide long-term services and supports.

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

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

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

99.17 (3) consumer organizations;

99.18 (4) direct care providers or their representatives;

99.19 (5) organizations representing long-term care providers and home care providers in
 99.20 Minnesota;

99.21 (6) the ombudsman for long-term care or a designee;

99.22 (7) national patient safety experts; and

99.23 (8) other experts in the safety and quality improvement field.

99.24 The task force shall have at least one public member who either is or has been a resident in
 99.25 an assisted living setting and one public member who has or had a family member living
 99.26 in an assisted living setting. The membership shall be voluntary except that public members
 99.27 may be reimbursed under section 15.059, subdivision 3.

99.28 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations
 99.29 to the commissioner and the legislature on changes needed to promote safety and quality
 99.30 improvement practices in long-term care settings and with long-term care providers. The

100.1 task force shall meet no fewer than four times per year. The task force shall be established
100.2 by July 1, 2020.

100.3 Sec. 41. **[144L.36] RULEMAKING AUTHORIZED.**

100.4 (a) The commissioner shall adopt rules for all assisted living facilities that promote
100.5 person-centered planning and service delivery and optimal quality of life, and that ensure
100.6 resident rights are protected, resident choice is allowed, and public health and safety is
100.7 ensured.

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

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

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

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

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

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

100.16 (5) emergency disaster and preparedness plans;

100.17 (6) uniform checklist disclosure of services;

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

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

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

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

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

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

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

100.28 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall
100.29 publish final rules by December 31, 2020.

101.1 Sec. 42. [144I.50] RETALIATION PROHIBITED.

101.2 Subdivision 1. Retaliation prohibited. A facility or agent of a facility may not retaliate
101.3 against a resident or employee if the resident, employee, or any person acting on behalf of
101.4 the resident:

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

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

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

101.11 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
101.12 problems or concerns to the director or manager of the facility, the Office of Ombudsman
101.13 for Long-Term Care, a regulatory or other government agency, or a legal or advocacy
101.14 organization;

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

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

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

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

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

101.24 Subd. 2. Retaliation against a resident. For purposes of this section, to retaliate against
101.25 a resident includes but is not limited to any of the following actions taken or threatened by
101.26 a facility or an agent of the facility against a resident, or any person with a familial, personal,
101.27 legal, or professional relationship with the resident:

101.28 (1) termination of a contract;

101.29 (2) any form of discrimination;

101.30 (3) restriction or prohibition of access:

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

- 102.1 (ii) of a family member or a person with a personal, legal, or professional relationship
102.2 with the resident, to the resident, unless the restriction is the result of a court order;
- 102.3 (4) the imposition of involuntary seclusion or the withholding of food, care, or services;
102.4 (5) restriction of any of the rights granted to residents under state or federal law;
102.5 (6) restriction or reduction of access to or use of amenities, care, services, privileges, or
102.6 living arrangements; or
- 102.7 (7) unauthorized removal, tampering with, or deprivation of technology, communication,
102.8 or electronic monitoring devices.

102.9 **Subd. 3. Retaliation against an employee.** For purposes of this section, to retaliate
102.10 against an employee means any of the following actions taken or threatened by the facility
102.11 or an agent of the facility against an employee:

- 102.12 (1) unwarranted discharge or transfer;
102.13 (2) unwarranted demotion or refusal to promote;
102.14 (3) unwarranted reduction in compensation, benefits, or privileges;
102.15 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
102.16 (5) any form of unwarranted discrimination.

102.17 **Subd. 4. Determination by commissioner.** A resident may request that the commissioner
102.18 determine whether the facility retaliated against a resident. If a resident demonstrates to the
102.19 commissioner that the facility took any action described in subdivision 2 within 30 days of
102.20 an initial action described in subdivision 1, the facility must present evidence to the
102.21 commissioner of the nonretaliatory reason relied on by the facility for the facility action.
102.22 Based on the evidence provided by both parties, the commissioner shall determine if
102.23 retaliation occurred.

102.24 **Subd. 5. Other laws.** Nothing in this section affects the rights available to a resident
102.25 under section 626.557.

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

102.27 **Sec. 43. [144I.51] CONSUMER ADVOCACY AND LEGAL SERVICES.**

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

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

103.4 (2) the Office of Ombudsman for Long-Term Care, including both the state and regional
103.5 contact information.

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

103.7 Sec. 44. **[144I.52] APPLICABILITY OF OTHER LAWS.**

103.8 Assisted living facilities:

103.9 (1) are subject to and must comply with chapter 504B;

103.10 (2) must comply with section 325F.72; and

103.11 (3) are not required to obtain a lodging license under chapter 157 and related rules.

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

103.13 Sec. 45. **TRANSITION PERIOD.**

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

103.15 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new
103.16 assisted living facility and assisted living facility with dementia care licensure by hiring
103.17 staff, developing forms, and communicating with stakeholders about the new facility
103.18 licensing.

103.19 (c) Effective August 1, 2021, all existing housing with services establishments providing
103.20 home care services under Minnesota Statutes, chapter 144A, must convert their registration
103.21 to licensure under Minnesota Statutes, chapter 144I.

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

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

103.25 Within available appropriations to the commissioner of health for enforcement activities
103.26 for fiscal years 2020 and 2021, the commissioner of health shall prioritize enforcement
103.27 activities taken under Minnesota Statutes, section 144A.442.

104.1 Sec. 47. **REVISOR INSTRUCTION.**

104.2 The revisor of statutes, in consultation with Senate Counsel, Research, and Fiscal
104.3 Analysis, House Research, and the commissioner of health, shall recodify Minnesota Statutes,
104.4 chapter 144I, in Minnesota Statutes, chapter 144G, prior to publication of the 2019
104.5 Supplement of Minnesota Statutes, and shall reorganize provisions in that chapter for greater
104.6 clarity and improved organization, without changing the meaning or effect of these
104.7 provisions.

104.8 Sec. 48. **REPEALER.**

104.9 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;
104.10 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;
104.11 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are
104.12 repealed effective August 1, 2021.

104.13 **ARTICLE 2**104.14 **DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH**
104.15 **DEMENTIA CARE**104.16 Section 1. **[144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING**
104.17 **FACILITIES WITH DEMENTIA CARE.**

104.18 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with
104.19 dementia care.

104.20 Subd. 2. **Demonstrated capacity.** (a) An applicant for licensure as an assisted living
104.21 facility with dementia care must have the ability to provide services in a manner that is
104.22 consistent with the requirements in this section. The commissioner shall consider the
104.23 following criteria, including, but not limited to:

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

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

104.28 (b) If the applicant does not have experience in managing residents with dementia, the
104.29 applicant must employ a consultant for at least the first six months of operation. The
104.30 consultant must meet the requirements in paragraph (a), clause (1), and make
104.31 recommendations on providing dementia care services consistent with the requirements of
104.32 this chapter. The consultant must (1) have two years of work experience related to dementia,

105.1 health care, gerontology, or a related field, and (2) have completed at least the minimum
105.2 core training requirements in section 144I.21. The applicant must document an acceptable
105.3 plan to address the consultant's identified concerns and must either implement the
105.4 recommendations or document in the plan any consultant recommendations that the applicant
105.5 chooses not to implement. The commissioner must review the applicant's plan upon request.

105.6 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an
105.7 assisted living facility with dementia care license to ensure compliance with the physical
105.8 environment requirements.

105.9 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the
105.10 license.

105.11 Subd. 3. **Relinquishing license.** (a) The licensee must notify the commissioner and the
105.12 Office of Ombudsman for Long-Term Care in writing at least 60 calendar days prior to the
105.13 voluntary relinquishment of an assisted living facility with dementia care license. For
105.14 voluntary relinquishment, the facility must at least:

105.15 (1) give all residents and their designated and legal representatives 60 calendar days'
105.16 notice. The notice must include at a minimum:

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

105.18 (ii) changes in staffing;

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

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

105.21 (v) contact information for the Office of Ombudsman for Long-Term Care;

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

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

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

105.29 (5) revise advertising materials and disclosure information to remove any reference that
105.30 the facility is an assisted living facility with dementia care.

105.31 (b) Nothing in this section alters obligations under section 144I.27.

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

106.2 Sec. 2. **[144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**
106.3 **LIVING FACILITIES WITH DEMENTIA CARE.**

106.4 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care
106.5 is responsible for the care and housing of the persons with dementia and the provision of
106.6 person-centered care that promotes each resident's dignity, independence, and comfort. This
106.7 includes the supervision, training, and overall conduct of the staff.

106.8 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living
106.9 license requirements and the criteria in this section.

106.10 (b) The assisted living director of an assisted living facility with dementia care must
106.11 complete and document that at least ten hours of the required annual continuing educational
106.12 requirements relate to the care of individuals with dementia. The training must include
106.13 medical management of dementia, creating and maintaining supportive and therapeutic
106.14 environments for residents with dementia, and transitioning and coordinating services for
106.15 residents with dementia. Continuing education credits may include college courses, preceptor
106.16 credits, self-directed activities, course instructor credits, corporate training, in-service
106.17 training, professional association training, web-based training, correspondence courses,
106.18 telecourses, seminars, and workshops.

106.19 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing
106.20 of all facilities, the assisted living facility with dementia care licensee must develop and
106.21 implement policies and procedures that address the:

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

106.25 (2) evaluation of behavioral symptoms and design of supports for intervention plans,
106.26 including nonpharmacological practices that are person-centered and evidence-informed;

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

106.29 (4) medication management, including an assessment of residents for the use and effects
106.30 of medications, including psychotropic medications;

106.31 (5) staff training specific to dementia care;

106.32 (6) description of life enrichment programs and how activities are implemented;

107.1 (7) description of family support programs and efforts to keep the family engaged;

107.2 (8) limiting the use of public address and intercom systems for emergencies and
107.3 evacuation drills only;

107.4 (9) transportation coordination and assistance to and from outside medical appointments;
107.5 and

107.6 (10) safekeeping of resident's possessions.

107.7 (b) The policies and procedures must be provided to residents and the resident's legal
107.8 and designated representatives at the time of move-in.

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

107.10 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

107.11 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide
107.12 residents with dementia-trained staff who have been instructed in the person-centered care
107.13 approach. All direct care staff assigned to care for residents with dementia must be specially
107.14 trained to work with residents with Alzheimer's disease and other dementias.

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

107.17 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of
107.18 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and
107.19 needs of residents.

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

107.23 (1) the nature of the emergency;

107.24 (2) how long the emergency lasted; and

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

107.26 Subd. 2. **Staffing requirements.** (a) The licensee must ensure that staff who provide
107.27 support to residents with dementia can demonstrate a basic understanding and ability to
107.28 apply dementia training to the residents' emotional and unique health care needs using
107.29 person-centered planning delivery. Direct care dementia-trained staff and other staff must
107.30 be trained on the topics identified during the expedited rulemaking process. These
107.31 requirements are in addition to the licensing requirements for training.

108.1 (b) Failure to comply with paragraph (a) or subdivision 1 shall result in a fine under
108.2 section 144I.31.

108.3 Subd. 3. **Supervising staff training.** Persons providing or overseeing staff training must
108.4 have experience and knowledge in the care of individuals with dementia, including:

108.5 (1) two years of work experience related to Alzheimer's disease or other dementias, or
108.6 in health care, gerontology, or another related field; and

108.7 (2) completion of training equivalent to the requirements in this section and successfully
108.8 passing a skills competency or knowledge test required by the commissioner.

108.9 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may
108.10 include various methods of instruction, such as classroom style, web-based training, video,
108.11 or one-to-one training. The licensee must have a method for determining and documenting
108.12 each staff person's knowledge and understanding of the training provided. All training must
108.13 be documented.

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

108.15 **Sec. 4. [144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

108.16 (a) In addition to the minimum services required in section 144I.10, an assisted living
108.17 facility with dementia care must also provide the following services:

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

108.23 (2) nonpharmacological practices that are person-centered and evidence-informed;

108.24 (3) services to prepare and educate persons living with dementia and their legal and
108.25 designated representatives about transitions in care and ensuring complete, timely
108.26 communication between, across, and within settings; and

108.27 (4) services that provide residents with choices for meaningful engagement with other
108.28 facility residents and the broader community.

108.29 (b) Each resident must be evaluated for activities according to the licensing rules of the
108.30 facility. In addition, the evaluation must address the following:

108.31 (1) past and current interests;

- 109.1 (2) current abilities and skills;
- 109.2 (3) emotional and social needs and patterns;
- 109.3 (4) physical abilities and limitations;
- 109.4 (5) adaptations necessary for the resident to participate; and
- 109.5 (6) identification of activities for behavioral interventions.
- 109.6 (c) An individualized activity plan must be developed for each resident based on their
- 109.7 activity evaluation. The plan must reflect the resident's activity preferences and needs.
- 109.8 (d) A selection of daily structured and non-structured activities must be provided and
- 109.9 included on the resident's activity service or care plan as appropriate. Daily activity options
- 109.10 based on resident evaluation may include but are not limited to:
- 109.11 (1) occupation or chore related tasks;
- 109.12 (2) scheduled and planned events such as entertainment or outings;
- 109.13 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;
- 109.14 (4) one-to-one activities that encourage positive relationships between residents and
- 109.15 staff such as telling a life story, reminiscing, or playing music;
- 109.16 (5) spiritual, creative, and intellectual activities;
- 109.17 (6) sensory stimulation activities;
- 109.18 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;
- 109.19 and
- 109.20 (8) outdoor activities.
- 109.21 (e) Behavioral symptoms that negatively impact the resident and others in the assisted
- 109.22 living facility with dementia care must be evaluated and included on the service or care
- 109.23 plan. The staff must initiate and coordinate outside consultation or acute care when indicated.
- 109.24 (f) Support must be offered to family and other significant relationships on a regularly
- 109.25 scheduled basis but not less than quarterly.
- 109.26 (g) Access to secured outdoor space and walkways that allow residents to enter and
- 109.27 return without staff assistance must be provided.
- 109.28 **EFFECTIVE DATE.** This section is effective August 1, 2021.

110.1

ARTICLE 3

110.2

CONSUMER PROTECTIONS

110.3

Section 1. [144.6502] ELECTRONIC MONITORING IN CERTAIN FACILITIES.

110.4

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

110.5

subdivision have the meanings given.

110.6

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

110.7

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

110.8

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

110.9

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

110.10

section.

110.11

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

110.12

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

110.13

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

110.14

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

110.15

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

110.16

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

110.17

(3) until August 1, 2021, a housing with services establishment registered under chapter

110.18

144D that is either subject to chapter 144G or has a disclosed special unit under section

110.19

325F.72; or

110.20

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

110.21

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

110.22

(h) "Resident representative" means one of the following in the order of priority listed,

110.23

to the extent the person may reasonably be identified and located:

110.24

(1) a court-appointed guardian;

110.25

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

110.26

(3) a person who is not an agent of a facility or of a home care provider designated in

110.27

writing by the resident and maintained in the resident's records on file with the facility.

110.28

Subd. 2. Electronic monitoring authorized. (a) A resident or a resident representative

110.29

may conduct electronic monitoring of the resident's room or private living unit through the

111.1 use of electronic monitoring devices placed in the resident's room or private living unit as
111.2 provided in this section.

111.3 (b) Nothing in this section precludes the use of electronic monitoring of health care
111.4 allowed under other law.

111.5 (c) Electronic monitoring authorized under this section is not a covered service under
111.6 home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and
111.7 256B.49.

111.8 (d) This section does not apply to monitoring technology authorized as a home and
111.9 community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.

111.10 Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this
111.11 subdivision, a resident must consent to electronic monitoring in the resident's room or private
111.12 living unit in writing on a notification and consent form. If the resident has not affirmatively
111.13 objected to electronic monitoring and the resident's medical professional determines that
111.14 the resident currently lacks the ability to understand and appreciate the nature and
111.15 consequences of electronic monitoring, the resident representative may consent on behalf
111.16 of the resident. For purposes of this subdivision, a resident affirmatively objects when the
111.17 resident orally, visually, or through the use of auxiliary aids or services declines electronic
111.18 monitoring. The resident's response must be documented on the notification and consent
111.19 form.

111.20 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
111.21 be asked if the resident wants electronic monitoring to be conducted. The resident
111.22 representative must explain to the resident:

111.23 (1) the type of electronic monitoring device to be used;

111.24 (2) the standard conditions that may be placed on the electronic monitoring device's use,
111.25 including those listed in subdivision 6;

111.26 (3) with whom the recording may be shared under subdivision 10 or 11; and

111.27 (4) the resident's ability to decline all recording.

111.28 (c) A resident, or resident representative when consenting on behalf of the resident, may
111.29 consent to electronic monitoring with any conditions of the resident's or resident
111.30 representative's choosing, including the list of standard conditions provided in subdivision
111.31 6. A resident, or resident representative when consenting on behalf of the resident, may
111.32 request that the electronic monitoring device be turned off or the visual or audio recording
111.33 component of the electronic monitoring device be blocked at any time.

112.1 (d) Prior to implementing electronic monitoring, a resident, or resident representative
112.2 when acting on behalf of the resident, must obtain the written consent on the notification
112.3 and consent form of any other resident residing in the shared room or shared private living
112.4 unit. A roommate's or roommate's resident representative's written consent must comply
112.5 with the requirements of paragraphs (a) to (c). Consent by a roommate or a roommate's
112.6 resident representative under this paragraph authorizes the resident's use of any recording
112.7 obtained under this section, as provided under subdivision 10 or 11.

112.8 (e) Any resident conducting electronic monitoring must immediately remove or disable
112.9 an electronic monitoring device prior to a new roommate moving into a shared room or
112.10 shared private living unit, unless the resident obtains the roommate's or roommate's resident
112.11 representative's written consent as provided under paragraph (d) prior to the roommate
112.12 moving into the shared room or shared private living unit. Upon obtaining the new
112.13 roommate's signed notification and consent form and submitting the form to the facility as
112.14 required under subdivision 5, the resident may resume electronic monitoring.

112.15 (f) The resident or roommate, or the resident representative or roommate's resident
112.16 representative if the representative is consenting on behalf of the resident or roommate, may
112.17 withdraw consent at any time and the withdrawal of consent must be documented on the
112.18 original consent form as provided under subdivision 5, paragraph (d).

112.19 Subd. 4. **Refusal of roommate to consent.** If a resident of a facility who is residing in
112.20 a shared room or shared living unit, or the resident representative of such a resident when
112.21 acting on behalf of the resident, wants to conduct electronic monitoring and another resident
112.22 living in or moving into the same shared room or shared living unit refuses to consent to
112.23 the use of an electronic monitoring device, the facility shall make a reasonable attempt to
112.24 accommodate the resident who wants to conduct electronic monitoring. A facility has met
112.25 the requirement to make a reasonable attempt to accommodate a resident or resident
112.26 representative who wants to conduct electronic monitoring when, upon notification that a
112.27 roommate has not consented to the use of an electronic monitoring device in the resident's
112.28 room, the facility offers to move the resident to another shared room or shared living unit
112.29 that is available at the time of the request. If a resident chooses to reside in a private room
112.30 or private living unit in a facility in order to accommodate the use of an electronic monitoring
112.31 device, the resident must pay either the private room rate in a nursing home setting, or the
112.32 applicable rent in a housing with services establishment or assisted living facility. If a facility
112.33 is unable to accommodate a resident due to lack of space, the facility must reevaluate the
112.34 request every two weeks until the request is fulfilled. A facility is not required to provide

113.1 a private room, a single-bed room, or a private living unit to a resident who is unable to
113.2 pay.

113.3 Subd. 5. Notice to facility; exceptions. (a) Electronic monitoring may begin only after
113.4 the resident or resident representative who intends to place an electronic monitoring device
113.5 and any roommate or roommate's resident representative completes the notification and
113.6 consent form and submits the form to the facility.

113.7 (b) Notwithstanding paragraph (a), the resident or resident representative who intends
113.8 to place an electronic monitoring device may do so without submitting a notification and
113.9 consent form to the facility for up to 14 days:

113.10 (1) if the resident or the resident representative reasonably fears retaliation against the
113.11 resident by the facility, timely submits the completed notification and consent form to the
113.12 Office of Ombudsman for Long-Term Care, and timely submits a Minnesota Adult Abuse
113.13 Reporting Center report or police report, or both, upon evidence from the electronic
113.14 monitoring device that suspected maltreatment has occurred;

113.15 (2) if there has not been a timely written response from the facility to a written
113.16 communication from the resident or resident representative expressing a concern prompting
113.17 the desire for placement of an electronic monitoring device and if the resident or a resident
113.18 representative timely submits a completed notification and consent form to the Office of
113.19 Ombudsman for Long-Term Care; or

113.20 (3) if the resident or resident representative has already submitted a Minnesota Adult
113.21 Abuse Reporting Center report or police report regarding the resident's concerns prompting
113.22 the desire for placement and if the resident or a resident representative timely submits a
113.23 completed notification and consent form to the Office of Ombudsman for Long-Term Care.

113.24 (c) Upon receipt of any completed notification and consent form, the facility must place
113.25 the original form in the resident's file or file the original form with the resident's housing
113.26 with services contract. The facility must provide a copy to the resident and the resident's
113.27 roommate, if applicable.

113.28 (d) If a resident is conducting electronic monitoring according to paragraph (b) and
113.29 obtains a signed notification and consent form from a roommate, the resident or resident
113.30 representative must submit the signed notification and consent form to the facility. In the
113.31 event that a resident or roommate, or the resident representative or roommate's resident
113.32 representative if the representative is consenting on behalf of the resident or roommate,
113.33 chooses to alter the conditions under which consent to electronic monitoring is given or
113.34 chooses to withdraw consent to electronic monitoring, the facility must make available the

114.1 original notification and consent form so that it may be updated. Upon receipt of the updated
114.2 form, the facility must place the updated form in the resident's file or file the original form
114.3 with the resident's signed housing with services contract. The facility must provide a copy
114.4 of the updated form to the resident and the resident's roommate, if applicable.

114.5 (e) If a new roommate, or the new roommate's resident representative when consenting
114.6 on behalf of the new roommate, does not submit to the facility a completed notification and
114.7 consent form and the resident conducting the electronic monitoring does not remove or
114.8 disable the electronic monitoring device, the facility must remove the electronic monitoring
114.9 device.

114.10 (f) If a roommate, or the roommate's resident representative when withdrawing consent
114.11 on behalf of the roommate, submits an updated notification and consent form withdrawing
114.12 consent and the resident conducting electronic monitoring does not remove or disable the
114.13 electronic monitoring device, the facility must remove the electronic monitoring device.

114.14 Subd. 6. Form requirements. (a) The notification and consent form completed by the
114.15 resident must include, at a minimum, the following information:

114.16 (1) the resident's signed consent to electronic monitoring or the signature of the resident
114.17 representative, if applicable. If a person other than the resident signs the consent form, the
114.18 form must document the following:

114.19 (i) the date the resident was asked if the resident wants electronic monitoring to be
114.20 conducted;

114.21 (ii) who was present when the resident was asked;

114.22 (iii) an acknowledgment that the resident did not affirmatively object; and

114.23 (iv) the source of authority allowing the resident representative to sign the notification
114.24 and consent form on the resident's behalf;

114.25 (2) the resident's roommate's signed consent or the signature of the roommate's resident
114.26 representative, if applicable. If a roommate's resident representative signs the consent form,
114.27 the form must document the following:

114.28 (i) the date the roommate was asked if the roommate wants electronic monitoring to be
114.29 conducted;

114.30 (ii) who was present when the roommate was asked;

114.31 (iii) an acknowledgment that the roommate did not affirmatively object; and

- 115.1 (iv) the source of authority allowing the resident representative to sign the notification
115.2 and consent form on the roommate's behalf;
- 115.3 (3) the type of electronic monitoring device to be used;
- 115.4 (4) a list of standard conditions or restrictions that the resident or a roommate may elect
115.5 to place on the use of the electronic monitoring device, including but not limited to:
- 115.6 (i) prohibiting audio recording;
- 115.7 (ii) prohibiting video recording;
- 115.8 (iii) prohibiting broadcasting of audio or video;
- 115.9 (iv) turning off the electronic monitoring device or blocking the visual recording
115.10 component of the electronic monitoring device for the duration of an exam or procedure by
115.11 a health care professional;
- 115.12 (v) turning off the electronic monitoring device or blocking the visual recording
115.13 component of the electronic monitoring device while dressing or bathing is performed; and
- 115.14 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
115.15 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;
- 115.16 (5) any other condition or restriction elected by the resident or roommate on the use of
115.17 an electronic monitoring device;
- 115.18 (6) a statement of the circumstances under which a recording may be disseminated under
115.19 subdivision 10;
- 115.20 (7) a signature box for documenting that the resident or roommate has withdrawn consent;
115.21 and
- 115.22 (8) an acknowledgment that the resident consents to the Office of Ombudsman for
115.23 Long-Term Care and its representatives disclosing information about the form. Disclosure
115.24 under this clause shall be limited to:
- 115.25 (i) the fact that the form was received from the resident or resident representative;
- 115.26 (ii) if signed by a resident representative, the name of the resident representative and
115.27 the source of authority allowing the resident representative to sign the notification and
115.28 consent form on the resident's behalf; and
- 115.29 (iii) the type of electronic monitoring device placed.

116.1 (b) Facilities must make the notification and consent form available to the residents and
116.2 inform residents of their option to conduct electronic monitoring of their rooms or private
116.3 living unit.

116.4 (c) Notification and consent forms received by the Office of Ombudsman for Long-Term
116.5 Care are classified under section 256.9744.

116.6 (d) A facility that contacts the Office of Ombudsman for Long-Term Care regarding an
116.7 electronic monitoring device presumably placed in accordance with subdivision 5, paragraph
116.8 (a) or (b), must provide the office with the type, make, and model number of the electronic
116.9 monitoring device discovered by the facility.

116.10 Subd. 7. **Costs and installation.** (a) A resident or resident representative choosing to
116.11 conduct electronic monitoring must do so at the resident's own expense, including paying
116.12 purchase, installation, maintenance, and removal costs.

116.13 (b) If a resident chooses to place an electronic monitoring device that uses Internet
116.14 technology for visual or audio monitoring, the resident may be responsible for contracting
116.15 with an Internet service provider.

116.16 (c) The facility shall make a reasonable attempt to accommodate the resident's installation
116.17 needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when
116.18 available for other public uses. A facility has the burden of proving that a requested
116.19 accommodation is not reasonable.

116.20 (d) All electronic monitoring device installations and supporting services must be
116.21 UL-listed.

116.22 Subd. 8. **Notice to visitors.** (a) A facility must post a sign at each facility entrance
116.23 accessible to visitors that states: "Electronic monitoring devices, including security cameras
116.24 and audio devices, may be present to record persons and activities."

116.25 (b) The facility is responsible for installing and maintaining the signage required in this
116.26 subdivision.

116.27 Subd. 9. **Obstruction of electronic monitoring devices.** (a) A person must not knowingly
116.28 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a
116.29 resident's room or private living unit without the permission of the resident or resident
116.30 representative. Checking the electronic monitoring device by facility staff for the make and
116.31 model number does not constitute tampering under this subdivision.

117.1 (b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring
117.2 device or blocks the visual recording component of the electronic monitoring device at the
117.3 direction of the resident or resident representative, or if consent has been withdrawn.

117.4 Subd. 10. **Dissemination of recordings.** (a) No person may access any video or audio
117.5 recording created through authorized electronic monitoring without the written consent of
117.6 the resident or resident representative.

117.7 (b) Except as required under other law, a recording or copy of a recording made as
117.8 provided in this section may only be disseminated for the purpose of addressing health,
117.9 safety, or welfare concerns of one or more residents.

117.10 (c) A person disseminating a recording or copy of a recording made as provided in this
117.11 section in violation of paragraph (b) may be civilly or criminally liable.

117.12 Subd. 11. **Admissibility of evidence.** Subject to applicable rules of evidence and
117.13 procedure, any video or audio recording created through electronic monitoring under this
117.14 section may be admitted into evidence in a civil, criminal, or administrative proceeding.

117.15 Subd. 12. **Liability.** (a) For the purposes of state law, the mere presence of an electronic
117.16 monitoring device in a resident's room or private living unit is not a violation of the resident's
117.17 right to privacy under section 144.651 or 144A.44.

117.18 (b) For the purposes of state law, a facility or home care provider is not civilly or
117.19 criminally liable for the mere disclosure by a resident or a resident representative of a
117.20 recording.

117.21 Subd. 13. **Immunity from liability.** The Office of Ombudsman for Long-Term Care
117.22 and representatives of the office are immune from liability for conduct described in section
117.23 256.9742, subdivision 2.

117.24 Subd. 14. **Resident protections.** (a) A facility must not:

117.25 (1) refuse to admit a potential resident or remove a resident because the facility disagrees
117.26 with the decision of the potential resident, the resident, or a resident representative acting
117.27 on behalf of the resident regarding electronic monitoring;

117.28 (2) retaliate or discriminate against any resident for consenting or refusing to consent
117.29 to electronic monitoring, as provided in section 144.6512, 144G.07, or 144I.50; or

117.30 (3) prevent the placement or use of an electronic monitoring device by a resident who
117.31 has provided the facility or the Office of Ombudsman for Long-Term Care with notice and
117.32 consent as required under this section.

118.1 (b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights
118.2 and obligations in this section is contrary to public policy and is void and unenforceable.

118.3 Subd. 15. **Employee discipline.** (a) An employee of the facility or an employee of a
118.4 contractor providing services at the facility, including an arranged home care provider as
118.5 defined in section 144D.01, subdivision 2a, who is the subject of proposed disciplinary
118.6 action based upon evidence obtained by electronic monitoring must be given access to that
118.7 evidence for purposes of defending against the proposed action.

118.8 (b) An employee who obtains a recording or a copy of the recording must treat the
118.9 recording or copy confidentially and must not further disseminate it to any other person
118.10 except as required under law. Any copy of the recording must be returned to the facility or
118.11 resident who provided the copy when it is no longer needed for purposes of defending
118.12 against a proposed action.

118.13 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided
118.14 under section 144A.10, 144A.45, 144A.474, or 144I.30, upon a finding that the facility has
118.15 failed to comply with:

118.16 (1) subdivision 5, paragraphs (c) to (f);

118.17 (2) subdivision 6, paragraph (b);

118.18 (3) subdivision 7, paragraph (c); or

118.19 (4) subdivision 8, 9, 10, or 14.

118.20 (b) For each violation of this section, the commissioner may impose a fine of up to \$500
118.21 upon a finding of noncompliance with a correction order issued under this subdivision.

118.22 (c) The commissioner may exercise the commissioner's authority under section 144D.05
118.23 to compel a housing with services establishment to meet the requirements of this section.

118.24 **EFFECTIVE DATE.** This section is effective January 1, 2020, and applies to all
118.25 agreements in effect, entered into, or renewed on or after that date.

118.26 Sec. 2. **[144.6512] RETALIATION IN NURSING HOMES PROHIBITED.**

118.27 Subdivision 1. **Definitions.** For the purposes of this section:

118.28 (1) "nursing home" means a facility licensed as a nursing home under chapter 144A;

118.29 and

118.30 (2) "resident" means a person residing in a nursing home.

119.1 Subd. 2. **Retaliation prohibited.** A nursing home or agent of a nursing home may not
119.2 retaliate against a resident or employee if the resident, employee, or any person acting on
119.3 behalf of the resident:

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

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

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

119.10 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
119.11 problems or concerns to the administrator or manager of the nursing home, the Office of
119.12 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
119.13 advocacy organization;

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

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

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

119.19 (8) contracts or indicates an intention to contract to receive services from a service
119.20 provider of the resident's choice other than the nursing home; or

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

119.23 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
119.24 a resident includes but is not limited to any of the following actions taken or threatened by
119.25 a nursing home or an agent of the nursing home against a resident, or any person with a
119.26 familial, personal, legal, or professional relationship with the resident:

119.27 (1) a discharge or transfer;

119.28 (2) any form of discrimination;

119.29 (3) restriction or prohibition of access:

119.30 (i) of the resident to the nursing home or visitors; or

- 120.1 (ii) of a family member or a person with a personal, legal, or professional relationship
120.2 with the resident, to the resident, unless the restriction is the result of a court order;
- 120.3 (4) the imposition of involuntary seclusion or the withholding of food, care, or services;
- 120.4 (5) restriction of any of the rights granted to residents under state or federal law;
- 120.5 (6) restriction or reduction of access to or use of amenities, care, services, privileges, or
120.6 living arrangements; or
- 120.7 (7) unauthorized removal, tampering with, or deprivation of technology, communication,
120.8 or electronic monitoring devices.

120.9 Subd. 4. **Retaliation against an employee.** For purposes of this section, to retaliate
120.10 against an employee means any of the following actions taken by the nursing home or an
120.11 agent of the nursing home against an employee:

- 120.12 (1) unwarranted discharge or transfer;
- 120.13 (2) unwarranted demotion or refusal to promote;
- 120.14 (3) unwarranted reduction in compensation, benefits, or privileges;
- 120.15 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- 120.16 (5) any form of unwarranted discrimination.

120.17 Subd. 5. **Determination by commissioner.** A resident may request that the commissioner
120.18 determine whether the facility retaliated against a resident. If a resident demonstrates to the
120.19 commissioner that the facility took any action described in subdivision 3 within 30 days of
120.20 an initial action described in subdivision 2, the facility must present evidence to the
120.21 commissioner of the nonretaliatory reason relied on by the facility for the facility action.
120.22 Based on the evidence provided by both parties, the commissioner shall determine if
120.23 retaliation occurred.

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

120.25 Sec. 3. **[144G.07] RETALIATION PROHIBITED.**

120.26 Subdivision 1. **Definitions.** For the purposes of this section:

- 120.27 (1) "facility" means a housing with services establishment registered under section
120.28 144D.02 and operating under title protection under this chapter; and
- 120.29 (2) "resident" means a resident of a facility.

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

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

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

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

121.9 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
121.10 problems or concerns to the administrator or manager of the facility, the Office of
121.11 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
121.12 advocacy organization;

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

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

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

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

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

121.22 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
121.23 a resident includes but is not limited to any of the following actions taken or threatened by
121.24 a facility or an agent of the facility against a resident, or any person with a familial, personal,
121.25 legal, or professional relationship with the resident:

121.26 (1) termination of a contract;

121.27 (2) any form of discrimination;

121.28 (3) restriction or prohibition of access:

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

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

- 122.1 (4) the imposition of involuntary seclusion or the withholding of food, care, or services;
- 122.2 (5) restriction of any of the rights granted to residents under state or federal law;
- 122.3 (6) restriction or reduction of access to or use of amenities, care, services, privileges, or
- 122.4 living arrangements;
- 122.5 (7) an arbitrary increase in charges or fees;
- 122.6 (8) unauthorized removal, tampering with, or deprivation of technology, communication,
- 122.7 or electronic monitoring devices; or
- 122.8 (9) any oral or written communication of false information about a person advocating
- 122.9 on behalf of the resident.
- 122.10 Subd. 4. **Retaliation against an employee.** For purposes of this section, to retaliate
- 122.11 against an employee means any of the following actions taken by the facility or an agent of
- 122.12 the facility against an employee:
- 122.13 (1) unwarranted discharge or transfer;
- 122.14 (2) unwarranted demotion or refusal to promote;
- 122.15 (3) unwarranted reduction in compensation, benefits, or privileges;
- 122.16 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
- 122.17 (5) any form of unwarranted discrimination.
- 122.18 Subd. 5. **Determination by commissioner.** A resident may request that the commissioner
- 122.19 determine whether the facility retaliated against a resident. If a resident demonstrates to the
- 122.20 commissioner that the facility took any action described in subdivision 3 within 30 days of
- 122.21 an initial action described in subdivision 2, the facility must present evidence to the
- 122.22 commissioner of the nonretaliatory reason relied on by the facility for the facility action.
- 122.23 Based on the evidence provided by both parties, the commissioner shall determine if
- 122.24 retaliation occurred.
- 122.25 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,
- 122.26 2021.
- 122.27 **Sec. 4. [325F.721] PROVISION OF "I'M OKAY" CHECK SERVICES.**
- 122.28 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
- 122.29 the meanings given them.

123.1 (b) "Covered setting" means an unlicensed setting providing sleeping accommodations
123.2 to one or more adult residents, at least 80 percent of which are 55 years of age or older, and
123.3 offering or providing, for a fee, supportive services. For the purposes of this section, covered
123.4 setting does not mean:

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

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

123.8 (3) a hospital, certified boarding care, or supervised living facility licensed under sections
123.9 144.50 to 144.56;

123.10 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
123.11 9520.0500 to 9520.0670, or under chapter 245D or 245G;

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

123.14 (6) private homes in which the residents are related by kinship, law, or affinity with the
123.15 providers of services;

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

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

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

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

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

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

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

124.6 (14) an assisted living facility licensed under chapter 144I.

124.7 (b) "'I'm okay" check services" means providing a service to, by any means, check on
124.8 the safety of a resident.

124.9 (c) "Resident" means a person entering into written contract for housing and services
124.10 with a covered setting.

124.11 (d) "Supportive services" means:

124.12 (1) assistance with laundry, shopping, and household chores;

124.13 (2) housekeeping services;

124.14 (3) provision of meals or assistance with meals or food preparation;

124.15 (4) help with arranging, or arranging transportation to, medical, social, recreational,
124.16 personal, or social services appointments; or

124.17 (5) provision of social or recreational services.

124.18 Arranging for services does not include making referrals or contacting a service provider
124.19 in an emergency.

124.20 Subd. 2. **Disclosure of "I'm okay" check services.** (a) A covered setting must
124.21 prominently disclose in a written contract whether or not the setting itself or through a
124.22 provider with which the setting has a business agreement offers "I'm okay" check services.

124.23 (b) If the resident contracts for "I'm okay" check services, the written contract must
124.24 detail the nature, extent, and frequency of the provision of these services.

124.25 (c) A covered setting must disclose to prospective residents that the facility is not licensed
124.26 as an assisted living facility under chapter 144I and, notwithstanding any contract for "I'm
124.27 okay" check services, is not permitted to provide assisted living services, as defined in
124.28 section 144I.01, subdivision 9, either directly or through a provider under a business
124.29 relationship or other affiliation with the covered setting.

124.30 **EFFECTIVE DATE.** This section is effective for contracts entered into on or after
124.31 August 1, 2021.

125.1

ARTICLE 4

125.2

**ASSISTED LIVING LICENSURE CONFORMING CHANGES; DIRECTOR
LICENSURE**

125.3

125.4 Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

125.5 Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections

125.6 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or maintained

125.7 by the commissioner are classified as public data as defined in section 13.02, subdivision

125.8 15:

125.9 (1) all application data on licensees, license numbers, and license status;

125.10 (2) licensing information about licenses previously held under this chapter;

125.11 (3) correction orders, including information about compliance with the order and whether

125.12 the fine was paid;

125.13 (4) final enforcement actions pursuant to chapter 14;

125.14 (5) orders for hearing, findings of fact, and conclusions of law; and

125.15 (6) when the licensee and department agree to resolve the matter without a hearing, the

125.16 agreement and specific reasons for the agreement are public data.

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

125.18 Sec. 2. Minnesota Statutes 2018, section 144.051, subdivision 5, is amended to read:

125.19 Subd. 5. **Data classification; confidential data.** For providers regulated pursuant to

125.20 sections 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or

125.21 maintained by the Department of Health are classified as confidential data on individuals

125.22 as defined in section 13.02, subdivision 3: active investigative data relating to the

125.23 investigation of potential violations of law by a licensee including data from the survey

125.24 process before the correction order is issued by the department.

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

125.26 Sec. 3. Minnesota Statutes 2018, section 144.051, subdivision 6, is amended to read:

125.27 Subd. 6. **Release of private or confidential data.** For providers regulated pursuant to

125.28 sections 144A.43 to 144A.482 and chapter 144I, the department may release private or

125.29 confidential data, except Social Security numbers, to the appropriate state, federal, or local

125.30 agency and law enforcement office to enhance investigative or enforcement efforts or further

125.31 a public health protective process. Types of offices include Adult Protective Services, Office

126.1 of the Ombudsman for Long-Term Care and Office of the Ombudsman for Mental Health
126.2 and Developmental Disabilities, the health licensing boards, Department of Human Services,
126.3 county or city attorney's offices, police, and local or county public health offices.

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

126.5 Sec. 4. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

126.6 Subdivision 1. **Background studies required.** The commissioner of health shall contract
126.7 with the commissioner of human services to conduct background studies of:

126.8 (1) individuals providing services ~~which~~ that have direct contact, as defined under section
126.9 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
126.10 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
126.11 home care agencies licensed under chapter 144A; ~~residential care homes licensed under~~
126.12 ~~chapter 144B;~~ assisted living facilities and assisted living facilities with dementia care
126.13 licensed under chapter 144I; and board and lodging establishments that are registered to
126.14 provide supportive or health supervision services under section 157.17;

126.15 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
126.16 services in a nursing home or a home care agency licensed under chapter 144A; an assisted
126.17 living facility or assisted living facility with dementia care licensed under chapter 144I; or
126.18 a boarding care home licensed under sections 144.50 to 144.58. If the individual under study
126.19 resides outside Minnesota, the study must include a check for substantiated findings of
126.20 maltreatment of adults and children in the individual's state of residence when the information
126.21 is made available by that state, and must include a check of the National Crime Information
126.22 Center database;

126.23 (3) ~~beginning July 1, 1999,~~ all other employees in assisted living facilities or assisted
126.24 living facilities with dementia care licensed under chapter 144I, nursing homes licensed
126.25 under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A
126.26 disqualification of an individual in this section shall disqualify the individual from positions
126.27 allowing direct contact or access to patients or residents receiving services. "Access" means
126.28 physical access to a client or the client's personal property without continuous, direct
126.29 supervision as defined in section 245C.02, subdivision 8, when the employee's employment
126.30 responsibilities do not include providing direct contact services;

126.31 (4) individuals employed by a supplemental nursing services agency, as defined under
126.32 section 144A.70, who are providing services in health care facilities; and

127.1 (5) controlling persons of a supplemental nursing services agency, as defined under
127.2 section 144A.70.

127.3 If a facility or program is licensed by the Department of Human Services and subject to
127.4 the background study provisions of chapter 245C and is also licensed by the Department
127.5 of Health, the Department of Human Services is solely responsible for the background
127.6 studies of individuals in the jointly licensed programs.

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

127.8 Sec. 5. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

127.9 Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who
127.10 must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners~~
127.11 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The
127.12 nursing home may share the services of a licensed administrator. The administrator must
127.13 maintain a ~~sufficient~~ an on-site presence in the facility to effectively manage the facility in
127.14 compliance with applicable rules and regulations. The administrator must establish procedures
127.15 and delegate authority for on-site operations in the administrator's absence, but is ultimately
127.16 responsible for the management of the facility. Each nursing home must have posted at all
127.17 times the name of the administrator and the name of the person in charge on the premises
127.18 in the absence of the licensed administrator.

127.19 ~~(b) Notwithstanding sections 144A.18 to 144A.27, a nursing home with a director of~~
127.20 ~~nursing serving as an unlicensed nursing home administrator as of March 1, 2001, may~~
127.21 ~~continue to have a director of nursing serve in that capacity, provided the director of nursing~~
127.22 ~~has passed the state law and rules examination administered by the Board of Examiners for~~
127.23 ~~Nursing Home Administrators and maintains evidence of completion of 20 hours of~~
127.24 ~~continuing education each year on topics pertinent to nursing home administration.~~

127.25 Sec. 6. Minnesota Statutes 2018, section 144A.19, subdivision 1, is amended to read:

127.26 Subdivision 1. **Creation; membership.** There is hereby created the Board of ~~Examiners~~
127.27 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports which
127.28 shall consist of the following members:

127.29 (1) a designee of the commissioner of health who shall be a nonvoting member;

127.30 (2) a designee of the commissioner of human services who shall be a nonvoting member;
127.31 and

127.32 (3) the following members appointed by the governor:

128.1 (i) ~~two members~~ one licensed nursing home administrator member actively engaged in
 128.2 the management, operation, or ownership of ~~proprietary~~ nursing homes;

128.3 (ii) one licensed nursing home administrator or health services executive member actively
 128.4 engaged in the management, operation, or ownership of proprietary nursing homes or assisted
 128.5 living facilities;

128.6 ~~(ii) two members~~ (iii) one licensed nursing home administrator or health services
 128.7 executive member actively engaged in the management or operation of nonprofit nursing
 128.8 homes or assisted living facilities;

128.9 (iv) one licensed assisted living facility director member actively engaged in the
 128.10 management, operation, or ownership of assisted living facilities;

128.11 ~~(iii)~~ (v) one member actively engaged in the practice of medicine;

128.12 ~~(iv) one member~~ (vi) two members actively engaged in the practice of professional
 128.13 nursing, one practicing in nursing homes and one practicing in assisted living facilities; and

128.14 ~~(v)~~ (vii) three public members as defined in section 214.02. Public members may not
 128.15 be current health-related license holders.

128.16 **EFFECTIVE DATE.** This section is effective July 1, 2020.

128.17 Sec. 7. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

128.18 Subdivision 1. **Criteria.** The Board of ~~Examiners~~ Executives may issue licenses to
 128.19 qualified persons as nursing home administrators or assisted living directors, and shall
 128.20 establish qualification criteria for nursing home administrators and assisted living directors.

128.21 ~~No license shall be issued to a person as a nursing home administrator unless that person:~~

128.22 ~~(1) is at least 21 years of age and otherwise suitably qualified;~~

128.23 ~~(2) has satisfactorily met standards set by the Board of Examiners, which standards shall~~
 128.24 ~~be designed to assure that nursing home administrators will be individuals who, by training~~
 128.25 ~~or experience are qualified to serve as nursing home administrators; and~~

128.26 ~~(3) has passed an examination approved by the board and designed to test for competence~~
 128.27 ~~in the subject matters referred to in clause (2), or has been approved by the Board of~~
 128.28 ~~Examiners through the development and application of other appropriate techniques.~~

128.29 **EFFECTIVE DATE.** This section is effective July 1, 2020.

129.1 Sec. 8. Minnesota Statutes 2018, section 144A.20, is amended by adding a subdivision to
129.2 read:

129.3 Subd. 3. **Nursing home administrator qualifications.** The Board of Executives may
129.4 issue licenses to qualified persons as a nursing home administrator and shall approve training
129.5 and examinations. No license shall be issued to a person as a nursing home administrator
129.6 unless that person:

129.7 (1) is at least 21 years of age and otherwise suitably qualified;

129.8 (2) has satisfactorily met standards set by the Board of Executives. The standards shall
129.9 be designed to assure that nursing home administrators are individuals who, by training or
129.10 experience, are qualified to serve as nursing home administrators; and

129.11 (3) has passed an examination approved by the board and designed to test for competence
129.12 in the subject matters referred to in clause (2), or has been approved by the Board of
129.13 Executives through the development and application of other appropriate techniques.

129.14 **EFFECTIVE DATE.** This section is effective July 1, 2020.

129.15 Sec. 9. Minnesota Statutes 2018, section 144A.20, is amended by adding a subdivision to
129.16 read:

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

129.21 (1) is eligible for licensure;

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

129.23 (3) has satisfactorily met standards set by the board or is scheduled to complete the
129.24 training in paragraph (b) within one year of hire. The standards shall be designed to assure
129.25 that assisted living directors are individuals who, by training or experience, are qualified to
129.26 serve as assisted living directors.

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

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

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

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

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

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

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

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

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

130.14 (c) An assisted living director must receive at least 30 hours of training every two years
 130.15 on topics relevant to the operation of an assisted living facility and the needs of its residents.

130.16 An assisted living director must maintain records of the training required by this paragraph
 130.17 for at least the most recent three-year period and must provide these records to Department

130.18 of Health surveyors upon request. Continuing education earned to maintain another

130.19 professional license, such as a nursing home administrator license, nursing license, social

130.20 worker license, mental health professional license, or real estate license, may be used to

130.21 satisfy this requirement when the continuing education is relevant to the assisted living

130.22 services offered and residents served at the assisted living facility.

130.23 **EFFECTIVE DATE.** This section is effective July 1, 2020.

130.24 Sec. 10. Minnesota Statutes 2018, section 144A.21, is amended to read:

130.25 **144A.21 ADMINISTRATOR LICENSES.**

130.26 Subdivision 1. **Transferability.** A nursing home administrator's license shall not be
 130.27 transferable. An assisted living director's license shall not be transferable.

130.28 Subd. 2. **Rules; renewal.** The Board of ~~Examiners~~ Executives by rule shall establish
 130.29 forms and procedures for the processing of license renewals. A nursing home administrator's
 130.30 license or an assisted living director's license may be renewed only in accordance with the
 130.31 standards adopted by the Board of ~~Examiners~~ Executives pursuant to section 144A.24.

131.1 **EFFECTIVE DATE.** This section is effective July 1, 2020.

131.2 Sec. 11. Minnesota Statutes 2018, section 144A.23, is amended to read:

131.3 **144A.23 JURISDICTION OF BOARD.**

131.4 Except as provided in section 144A.04, subdivision 5, the Board of ~~examiners~~ Executives
131.5 shall have exclusive authority to determine the qualifications, skill and fitness required of
131.6 any person to serve as an administrator of a nursing home or an assisted living director of
131.7 an assisted living facility. The holder of a license shall be deemed fully qualified to serve
131.8 as the administrator of a nursing home or director of an assisted living facility under chapter
131.9 144I.

131.10 **EFFECTIVE DATE.** This section is effective July 1, 2020.

131.11 Sec. 12. Minnesota Statutes 2018, section 144A.24, is amended to read:

131.12 **144A.24 DUTIES OF THE BOARD.**

131.13 The Board of ~~Examiners~~ Executives shall:

131.14 (1) develop and enforce standards for licensing of nursing home administrator licensing,
131.15 ~~which~~ administrators and assisted living directors. The standards shall be designed to assure
131.16 that nursing home administrators and assisted living directors will be individuals of good
131.17 character who, by training or experience, are suitably qualified to serve as nursing home
131.18 administrators or assisted living directors;

131.19 (2) develop appropriate techniques, including examinations and investigations, for
131.20 determining whether applicants and licensees meet the board's standards;

131.21 (3) issue licenses and permits to those individuals who are found to meet the board's
131.22 standards;

131.23 (4) establish and implement procedures designed to assure that individuals licensed as
131.24 nursing home administrators and assisted living directors will comply with the board's
131.25 standards;

131.26 (5) receive and investigate complaints and take appropriate action consistent with chapter
131.27 214, to revoke or suspend the license or permit of a nursing home administrator or acting
131.28 administrator or an assisted living director or acting director who fails to comply with
131.29 sections 144A.18 to 144A.27 or the board's standards;

131.30 (6) conduct a continuing study and investigation of nursing homes and assisted living
131.31 facilities, and the administrators of nursing homes and assisted living directors within the

132.1 state, with a view to the improvement of the standards imposed for the licensing of
132.2 administrators and directors and improvement of the procedures and methods used for
132.3 enforcement of the board's standards; and

132.4 (7) approve or conduct courses of instruction or training designed to prepare individuals
132.5 for licensing in accordance with the board's standards. ~~Courses designed to meet license~~
132.6 ~~renewal requirements shall be designed solely to improve professional skills and shall not~~
132.7 ~~include classroom attendance requirements exceeding 50 hours per year.~~ The board may
132.8 approve courses conducted within or without this state.

132.9 **EFFECTIVE DATE.** This section is effective July 1, 2020.

132.10 Sec. 13. Minnesota Statutes 2018, section 144A.251, is amended to read:

132.11 **144A.251 MANDATORY PROCEEDINGS.**

132.12 In addition to its discretionary authority to initiate proceedings under section 144A.24
132.13 and chapter 214, the Board of ~~Examiners~~ Executives shall initiate proceedings to suspend
132.14 or revoke a nursing home administrator or assisted living director license or shall refuse to
132.15 renew a license if within the preceding two-year period the administrator or director was
132.16 employed at a nursing home or assisted living facility which during the period of employment
132.17 incurred the following number of uncorrected violations, which violations were in the
132.18 jurisdiction and control of the administrator or director and for which a fine was assessed
132.19 and allowed to be recovered:

132.20 (1) two or more uncorrected violations which created an imminent risk of harm to a
132.21 nursing home or assisted living facility resident; or

132.22 (2) ten or more uncorrected violations of any nature.

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

132.24 Sec. 14. Minnesota Statutes 2018, section 144A.2511, is amended to read:

132.25 **144A.2511 COSTS; PENALTIES.**

132.26 If the Board of ~~Examiners~~ Executives has initiated proceedings under section 144A.24
132.27 or 144A.251 or chapter 214, and upon completion of the proceedings has found that a nursing
132.28 home administrator or assisted living director has violated a provision or provisions of
132.29 sections 144A.18 to 144A.27, it may impose a civil penalty not exceeding \$10,000 for each
132.30 separate violation, with all violations related to a single event or incident considered as one
132.31 violation. The amount of the civil penalty shall be fixed so as to deprive the nursing home
132.32 administrator or assisted living director of any economic advantage gained by reason of the

133.1 violation charged or to reimburse the board for the cost of the investigation and proceeding.
 133.2 For purposes of this section, the cost of the investigation and proceeding may include, but
 133.3 is not limited to, fees paid for services provided by the Office of Administrative Hearings,
 133.4 legal and investigative services provided by the Office of the Attorney General, court
 133.5 reporters, witnesses, and reproduction of records.

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

133.7 Sec. 15. Minnesota Statutes 2018, section 144A.26, is amended to read:

133.8 **144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF**
 133.9 **HEALTH SERVICES EXECUTIVE.**

133.10 Subdivision 1. Reciprocity. The Board of ~~Examiners~~ Executives may issue a nursing
 133.11 home administrator's license, without examination, to any person who holds a current license
 133.12 as a nursing home administrator from another jurisdiction if the board finds that the standards
 133.13 for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing
 133.14 in this state and that the applicant is otherwise qualified.

133.15 Subd. 2. Health services executive license. The Board of Executives may issue a health
 133.16 services executive license to any person who (1) has been validated by the National
 133.17 Association of Long Term Care Administrator Boards as a health services executive, and
 133.18 (2) has met the education and practice requirements for the minimum qualifications of a
 133.19 nursing home administrator, assisted living director, and home and community-based service
 133.20 provider. Licensure decisions made by the board under this subdivision are final.

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

133.22 Sec. 16. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

133.23 Subdivision 1. **Statement of rights.** (a) A person client who receives home care services
 133.24 in the community or in an assisted living facility licensed under chapter 144I has these
 133.25 rights:

133.26 (1) ~~the right to~~ receive written information, in plain language, about rights before
 133.27 receiving services, including what to do if rights are violated;

133.28 (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan, and
 133.29 subject to accepted health care, medical or nursing standards and person-centered care, to
 133.30 take an active part in developing, modifying, and evaluating the plan and services;

134.1 (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who
134.2 will be providing the services, the frequency of visits proposed to be furnished, other choices
134.3 that are available for addressing home care needs, and the potential consequences of refusing
134.4 these services;

134.5 (4) ~~the right to~~ be told in advance of any recommended changes by the provider in the
134.6 service plan and to take an active part in any decisions about changes to the service plan;

134.7 (5) ~~the right to~~ refuse services or treatment;

134.8 (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to
134.9 the services available from a home care provider;

134.10 (7) ~~the right to~~ be told before services are initiated what the provider charges for the
134.11 services; to what extent payment may be expected from health insurance, public programs,
134.12 or other sources, if known; and what charges the client may be responsible for paying;

134.13 (8) ~~the right to~~ know that there may be other services available in the community,
134.14 including other home care services and providers, and to know where to find information
134.15 about these services;

134.16 (9) ~~the right to~~ choose freely among available providers and to change providers after
134.17 services have begun, within the limits of health insurance, long-term care insurance, medical
134.18 assistance, ~~or other health programs, or public programs~~;

134.19 (10) ~~the right to~~ have personal, financial, and medical information kept private, and to
134.20 be advised of the provider's policies and procedures regarding disclosure of such information;

134.21 (11) ~~the right to~~ access the client's own records and written information from those
134.22 records in accordance with sections 144.291 to 144.298;

134.23 (12) ~~the right to~~ be served by people who are properly trained and competent to perform
134.24 their duties;

134.25 (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property
134.26 treated with respect;

134.27 (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation,
134.28 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
134.29 of Minors Act;

134.30 (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;

134.31 (16) ~~the right to~~ know the provider's reason for termination of services;

135.1 (17) ~~the right to~~ at least ten calendar days' advance notice of the termination of a service
135.2 by a home care provider, except at least 30 calendar days' advance notice of the service
135.3 termination shall be given by a home care provider for services provided to a client residing
135.4 in an assisted living facility as defined in section 144I.01, subdivision 7. This clause does
135.5 not apply in cases where:

135.6 (i) the client engages in conduct that significantly alters the terms of the service plan
135.7 with the home care provider;

135.8 (ii) the client, person who lives with the client, or others create an abusive or unsafe
135.9 work environment for the person providing home care services; or

135.10 (iii) an emergency or a significant change in the client's condition has resulted in service
135.11 needs that exceed the current service plan and that cannot be safely met by the home care
135.12 provider;

135.13 (18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of
135.14 services;

135.15 (19) ~~the right to~~ complain to staff and others of the client's choice about services that
135.16 are provided, or fail to be provided, and the lack of courtesy or respect to the client or the
135.17 client's property and the right to recommend changes in policies and services, free from
135.18 retaliation including the threat of termination of services;

135.19 (20) ~~the right to~~ know how to contact an individual associated with the home care provider
135.20 who is responsible for handling problems and to have the home care provider investigate
135.21 and attempt to resolve the grievance or complaint;

135.22 (21) ~~the right to~~ know the name and address of the state or county agency to contact for
135.23 additional information or assistance; ~~and~~

135.24 (22) ~~the right to~~ assert these rights personally, or have them asserted by the client's
135.25 representative or by anyone on behalf of the client, without retaliation-; and

135.26 (23) place an electronic monitoring device in the client's or resident's space in compliance
135.27 with state requirements.

135.28 (b) When providers violate the rights in this section, they are subject to the fines and
135.29 license actions in sections 144A.474, subdivision 11, and 144A.475.

135.30 (c) Providers must do all of the following:

135.31 (1) encourage and assist in the fullest possible exercise of these rights;

136.1 (2) provide the names and telephone numbers of individuals and organizations that
136.2 provide advocacy and legal services for clients and residents seeking to assert their rights;

136.3 (3) make every effort to assist clients or residents in obtaining information regarding
136.4 whether Medicare, medical assistance, other health programs, or public programs will pay
136.5 for services;

136.6 (4) make reasonable accommodations for people who have communication disabilities,
136.7 or those who speak a language other than English; and

136.8 (5) provide all information and notices in plain language and in terms the client or
136.9 resident can understand.

136.10 (d) No provider may require or request a client or resident to waive any of the rights
136.11 listed in this section at any time or for any reasons, including as a condition of initiating
136.12 services or entering into an assisted living contract.

136.13 Sec. 17. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:

136.14 Subd. 7. **Comprehensive home care license provider.** Home care services that may
136.15 be provided with a comprehensive home care license include any of the basic home care
136.16 services listed in subdivision 6, and one or more of the following:

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

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

136.22 (3) medication management services;

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

136.24 (5) treatment and therapies;

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

136.29 ~~(6)~~ (7) providing other complex or specialty health care services.

- 137.1 Sec. 18. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:
- 137.2 Subd. 9. **Exclusions from home care licensure.** The following are excluded from home
137.3 care licensure and are not required to provide the home care bill of rights:
- 137.4 (1) an individual or business entity providing only coordination of home care that includes
137.5 one or more of the following:
- 137.6 (i) determination of whether a client needs home care services, or assisting a client in
137.7 determining what services are needed;
- 137.8 (ii) referral of clients to a home care provider;
- 137.9 (iii) administration of payments for home care services; or
- 137.10 (iv) administration of a health care home established under section 256B.0751;
- 137.11 (2) an individual who is not an employee of a licensed home care provider if the
137.12 individual:
- 137.13 (i) only provides services as an independent contractor to one or more licensed home
137.14 care providers;
- 137.15 (ii) provides no services under direct agreements or contracts with clients; and
- 137.16 (iii) is contractually bound to perform services in compliance with the contracting home
137.17 care provider's policies and service plans;
- 137.18 (3) a business that provides staff to home care providers, such as a temporary employment
137.19 agency, if the business:
- 137.20 (i) only provides staff under contract to licensed or exempt providers;
- 137.21 (ii) provides no services under direct agreements with clients; and
- 137.22 (iii) is contractually bound to perform services under the contracting home care provider's
137.23 direction and supervision;
- 137.24 (4) any home care services conducted by and for the adherents of any recognized church
137.25 or religious denomination for its members through spiritual means, or by prayer for healing;
- 137.26 (5) an individual who only provides home care services to a relative;
- 137.27 (6) an individual not connected with a home care provider that provides assistance with
137.28 basic home care needs if the assistance is provided primarily as a contribution and not as a
137.29 business;

138.1 (7) an individual not connected with a home care provider that shares housing with and
138.2 provides primarily housekeeping or homemaking services to an elderly or disabled person
138.3 in return for free or reduced-cost housing;

138.4 (8) an individual or provider providing home-delivered meal services;

138.5 (9) an individual providing senior companion services and other older American volunteer
138.6 programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United
138.7 States Code, title 42, chapter 66;

138.8 ~~(10) an employee of a nursing home or home care provider licensed under this chapter~~
138.9 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
138.10 ~~responding to occasional emergency calls from individuals residing in a residential setting~~
138.11 ~~that is attached to or located on property contiguous to the nursing home, boarding care~~
138.12 ~~home, or location where home care services are also provided;~~

138.13 ~~(11) an employee of a nursing home or home care provider licensed under this chapter~~
138.14 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
138.15 ~~providing occasional minor services free of charge to individuals residing in a residential~~
138.16 ~~setting that is attached to or located on property contiguous to the nursing home, boarding~~
138.17 ~~care home, or location where home care services are also provided;~~

138.18 (12) a member of a professional corporation organized under chapter 319B that does
138.19 not regularly offer or provide home care services as defined in section 144A.43, subdivision
138.20 3;

138.21 (13) the following organizations established to provide medical or surgical services that
138.22 do not regularly offer or provide home care services as defined in section 144A.43,
138.23 subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit
138.24 corporation organized under chapter 317A, a partnership organized under chapter 323, or
138.25 any other entity determined by the commissioner;

138.26 (14) an individual or agency that provides medical supplies or durable medical equipment,
138.27 except when the provision of supplies or equipment is accompanied by a home care service;

138.28 (15) a physician licensed under chapter 147;

138.29 (16) an individual who provides home care services to a person with a developmental
138.30 disability who lives in a place of residence with a family, foster family, or primary caregiver;

138.31 (17) a business that only provides services that are primarily instructional and not medical
138.32 services or health-related support services;

139.1 (18) an individual who performs basic home care services for no more than 14 hours
 139.2 each calendar week to no more than one client;

139.3 (19) an individual or business licensed as hospice as defined in sections 144A.75 to
 139.4 144A.755 who is not providing home care services independent of hospice service;

139.5 (20) activities conducted by the commissioner of health or a community health board
 139.6 as defined in section 145A.02, subdivision 5, including communicable disease investigations
 139.7 or testing; or

139.8 (21) administering or monitoring a prescribed therapy necessary to control or prevent a
 139.9 communicable disease, or the monitoring of an individual's compliance with a health directive
 139.10 as defined in section 144.4172, subdivision 6.

139.11 **EFFECTIVE DATE.** The amendments to clauses (10) and (11) are effective July 1,
 139.12 2021.

139.13 Sec. 19. Minnesota Statutes 2018, section 144A.472, subdivision 7, is amended to read:

139.14 Subd. 7. **Fees; application, change of ownership, ~~and~~ renewal, and failure to**
 139.15 **notify.** (a) An initial applicant seeking temporary home care licensure must submit the
 139.16 following application fee to the commissioner along with a completed application:

139.17 (1) for a basic home care provider, \$2,100; or

139.18 (2) for a comprehensive home care provider, \$4,200.

139.19 (b) A home care provider who is filing a change of ownership as required under
 139.20 subdivision 5 must submit the following application fee to the commissioner, along with
 139.21 the documentation required for the change of ownership:

139.22 (1) for a basic home care provider, \$2,100; or

139.23 (2) for a comprehensive home care provider, \$4,200.

139.24 (c) For the period ending June 30, 2018, a home care provider who is seeking to renew
 139.25 the provider's license shall pay a fee to the commissioner based on revenues derived from
 139.26 the provision of home care services during the calendar year prior to the year in which the
 139.27 application is submitted, according to the following schedule:

139.28 **License Renewal Fee**

139.29 Provider Annual Revenue	139.29 Fee
139.30 greater than \$1,500,000	\$6,625

140.1	greater than \$1,275,000 and no more than	
140.2	\$1,500,000	\$5,797
140.3	greater than \$1,100,000 and no more than	
140.4	\$1,275,000	\$4,969
140.5	greater than \$950,000 and no more than	
140.6	\$1,100,000	\$4,141
140.7	greater than \$850,000 and no more than \$950,000	\$3,727
140.8	greater than \$750,000 and no more than \$850,000	\$3,313
140.9	greater than \$650,000 and no more than \$750,000	\$2,898
140.10	greater than \$550,000 and no more than \$650,000	\$2,485
140.11	greater than \$450,000 and no more than \$550,000	\$2,070
140.12	greater than \$350,000 and no more than \$450,000	\$1,656
140.13	greater than \$250,000 and no more than \$350,000	\$1,242
140.14	greater than \$100,000 and no more than \$250,000	\$828
140.15	greater than \$50,000 and no more than \$100,000	\$500
140.16	greater than \$25,000 and no more than \$50,000	\$400
140.17	no more than \$25,000	\$200

140.18 (d) For the period between July 1, 2018, and June 30, 2020, a home care provider who
 140.19 is seeking to renew the provider's license shall pay a fee to the commissioner in an amount
 140.20 that is ten percent higher than the applicable fee in paragraph (c). A home care provider's
 140.21 fee shall be based on revenues derived from the provision of home care services during the
 140.22 calendar year prior to the year in which the application is submitted.

140.23 (e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's
 140.24 license shall pay a fee to the commissioner based on revenues derived from the provision
 140.25 of home care services during the calendar year prior to the year in which the application is
 140.26 submitted, according to the following schedule:

140.27 **License Renewal Fee**

140.28	Provider Annual Revenue	Fee
140.29	greater than \$1,500,000	\$7,651
140.30	greater than \$1,275,000 and no more than	
140.31	\$1,500,000	\$6,695
140.32	greater than \$1,100,000 and no more than	
140.33	\$1,275,000	\$5,739
140.34	greater than \$950,000 and no more than	
140.35	\$1,100,000	\$4,783
140.36	greater than \$850,000 and no more than \$950,000	\$4,304
140.37	greater than \$750,000 and no more than \$850,000	\$3,826
140.38	greater than \$650,000 and no more than \$750,000	\$3,347

141.1	greater than \$550,000 and no more than \$650,000	\$2,870
141.2	greater than \$450,000 and no more than \$550,000	\$2,391
141.3	greater than \$350,000 and no more than \$450,000	\$1,913
141.4	greater than \$250,000 and no more than \$350,000	\$1,434
141.5	greater than \$100,000 and no more than \$250,000	\$957
141.6	greater than \$50,000 and no more than \$100,000	\$577
141.7	greater than \$25,000 and no more than \$50,000	\$462
141.8	no more than \$25,000	\$231

141.9 (f) If requested, the home care provider shall provide the commissioner information to
 141.10 verify the provider's annual revenues or other information as needed, including copies of
 141.11 documents submitted to the Department of Revenue.

141.12 (g) At each annual renewal, a home care provider may elect to pay the highest renewal
 141.13 fee for its license category, and not provide annual revenue information to the commissioner.

141.14 (h) A temporary license or license applicant, or temporary licensee or licensee that
 141.15 knowingly provides the commissioner incorrect revenue amounts for the purpose of paying
 141.16 a lower license fee, shall be subject to a civil penalty in the amount of double the fee the
 141.17 provider should have paid.

141.18 (i) The fine for failure to comply with the notification requirements in section 144A.473,
 141.19 subdivision 2, paragraph (c), is \$1,000.

141.20 ~~(i)~~ (j) Fees and penalties collected under this section shall be deposited in the state
 141.21 treasury and credited to the state government special revenue fund. All fees are
 141.22 nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if
 141.23 received before July 1, 2017, for temporary licenses or licenses being issued effective July
 141.24 1, 2017, or later.

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

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

141.30 Sec. 20. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:

141.31 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under
 141.32 subdivision 11, or any violations determined to be widespread, the department shall conduct
 141.33 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up

142.1 survey, the surveyor will focus on whether the previous violations have been corrected and
142.2 may also address any new violations that are observed while evaluating the corrections that
142.3 have been made. ~~If a new violation is identified on a follow-up survey, no fine will be~~
142.4 ~~imposed unless it is not corrected on the next follow-up survey.~~

142.5 Sec. 21. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:

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

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

142.10 (2) Level 2, ~~fines ranging from \$0 to a fine of \$500 per violation~~, in addition to any of
142.11 the enforcement mechanisms authorized in section 144A.475 for widespread violations;

142.12 (3) Level 3, ~~fines ranging from \$500 to \$1,000~~ a fine of \$3,000 per incident, in addition
142.13 to any of the enforcement mechanisms authorized in section 144A.475; ~~and~~

142.14 (4) Level 4, ~~fines ranging from \$1,000 to a fine of \$5,000 per incident~~, in addition to
142.15 any of the enforcement mechanisms authorized in section 144A.475;

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

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

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

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

142.27 (1) level of violation:

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

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

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

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

143.8 (2) scope of violation:

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

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

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

143.16 (c) If the commissioner finds that the applicant or a home care provider ~~required to be~~
143.17 ~~licensed under sections 144A.43 to 144A.482~~ has not corrected violations by the date
143.18 specified in the correction order or conditional license resulting from a survey or complaint
143.19 investigation, the commissioner ~~may impose a fine. A~~ shall provide a notice of
143.20 noncompliance with a correction order ~~must be mailed~~ by e-mail to the applicant's or
143.21 provider's last known e-mail address. The noncompliance notice must list the violations not
143.22 corrected.

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

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

144.1 ~~(e)~~ (f) A license holder shall promptly notify the commissioner in writing when a violation
 144.2 specified in the order is corrected. If upon reinspection the commissioner determines that
 144.3 a violation has not been corrected as indicated by the order, the commissioner may issue a
 144.4 second fine. The commissioner shall notify the license holder by mail to the last known
 144.5 address in the licensing record that a second fine has been assessed. The license holder may
 144.6 appeal the second fine as provided under this subdivision.

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

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

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

144.15 ~~(i)~~ (j) Fines collected under ~~this subdivision~~ paragraph (a), clauses (1) to (4) shall be
 144.16 ~~deposited in the state government~~ a dedicated special revenue fund and credited to an account
 144.17 ~~separate from the revenue collected under section 144A.472. Subject to an appropriation~~
 144.18 ~~by the legislature, the revenue from the fines collected must be used by the commissioner~~
 144.19 ~~for special projects to improve home care in Minnesota as recommended by~~ account. On
 144.20 an annual basis, the balance in the special revenue account shall be appropriated to the
 144.21 commissioner to implement the recommendations of the advisory council established in
 144.22 section 144A.4799.

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

144.28 **EFFECTIVE DATE.** This section is effective July 1, 2019.

144.29 Sec. 22. Minnesota Statutes 2018, section 144A.474, is amended by adding a subdivision
 144.30 to read:

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

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

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

145.6 (2) the client accepts payment of compensation under this subdivision as payment in
145.7 full and agrees to waive any civil claims, including claims under section 626.557, subdivision
145.8 20, arising from the specific maltreatment incident that resulted in the fine.

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

145.11 (c) Except as provided in paragraph (a), Nothing in this subdivision affects the rights
145.12 available to clients under section 626.557 or prevents a client from filing a maltreatment
145.13 report in the future.

145.14 (d) This subdivision expires July 31, 2021.

145.15 **EFFECTIVE DATE.** This section is effective July 1, 2019.

145.16 Sec. 23. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

145.17 Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license
145.18 holder's timely appeal of a temporary suspension or issuance of a conditional license, the
145.19 commissioner shall request assignment of an administrative law judge. The request must
145.20 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
145.21 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
145.22 30 calendar days of the request for assignment, unless an extension is requested by either
145.23 party and granted by the administrative law judge for good cause. The commissioner shall
145.24 issue a notice of hearing by certified mail or personal service at least ten business days
145.25 before the hearing. Certified mail to the last known address is sufficient. The scope of the
145.26 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
145.27 of a conditional license should remain in effect and whether there is sufficient evidence to
145.28 conclude that the licensee's actions or failure to comply with applicable laws are level 3 or
145.29 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there
145.30 were violations that posed an imminent risk of harm to the health and safety of persons in
145.31 the provider's care.

145.32 (b) The administrative law judge shall issue findings of fact, conclusions, and a
145.33 recommendation within ten business days from the date of hearing. The parties shall have

146.1 ten calendar days to submit exceptions to the administrative law judge's report. The record
146.2 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
146.3 final order shall be issued within ten business days from the close of the record. When an
146.4 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
146.5 the commissioner shall issue a final order affirming the temporary immediate suspension
146.6 or conditional license within ten calendar days of the commissioner's receipt of the
146.7 withdrawal or dismissal. The license holder is prohibited from operation during the temporary
146.8 suspension period.

146.9 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
146.10 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
146.11 sanction, the licensee is prohibited from operation pending a final commissioner's order
146.12 after the contested case hearing conducted under chapter 14.

146.13 (d) A licensee whose license is temporarily suspended must comply with the requirements
146.14 for notification and transfer of clients in subdivision 5. These requirements remain if an
146.15 appeal is requested.

146.16 Sec. 24. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

146.17 Subd. 5. **Plan required.** (a) The process of suspending ~~or~~, revoking, or refusing to renew
146.18 a license must include a plan for transferring affected ~~clients~~ clients' care to other providers
146.19 by the home care provider, which will be monitored by the commissioner. Within three
146.20 business calendar days of being notified of the ~~final~~ revocation, refusal to renew, or
146.21 suspension ~~action~~, the home care provider shall provide the commissioner, the lead agencies
146.22 as defined in section 256B.0911, county adult protection and case managers, and the
146.23 ombudsman for long-term care with the following information:

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

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

146.27 (3) the location or current residence of each client;

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

146.29 (5) for each client, a copy of the client's service plan, and a list of the types of services
146.30 being provided.

146.31 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
146.32 by mailing the notice to the address in the license record. The home care provider shall

147.1 cooperate with the commissioner and the lead agencies, county adult protection and county
147.2 managers, and the ombudsman for long term care during the process of transferring care of
147.3 clients to qualified providers. Within three ~~business~~ calendar days of being notified of the
147.4 final revocation, refusal to renew, or suspension action, the home care provider must notify
147.5 and disclose to each of the home care provider's clients, or the client's representative or
147.6 emergency contact persons, that the commissioner is taking action against the home care
147.7 provider's license by providing a copy of the revocation, refusal to renew, or suspension
147.8 notice issued by the commissioner. If the provider does not comply with the disclosure
147.9 requirements in this section, the commissioner shall notify the clients, client representatives,
147.10 or emergency contact persons, about the action being taken. Lead agencies, county adult
147.11 protection and county managers, and the Office of Ombudsman for Long-Term Care may
147.12 also provide this information. The revocation, refusal to renew, or suspension notice is
147.13 public data except for any private data contained therein.

147.14 (c) A home care provider subject to this subdivision may continue operating during the
147.15 period of time home care clients are being transferred to other providers.

147.16 Sec. 25. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

147.17 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before
147.18 the commissioner issues a temporary license, issues a license as a result of an approved
147.19 change in ownership, or renews a license, an owner or managerial official is required to
147.20 complete a background study under section 144.057. No person may be involved in the
147.21 management, operation, or control of a home care provider if the person has been disqualified
147.22 under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C,
147.23 the individual may request reconsideration of the disqualification. If the individual requests
147.24 reconsideration and the commissioner sets aside or rescinds the disqualification, the individual
147.25 is eligible to be involved in the management, operation, or control of the provider. If an
147.26 individual has a disqualification under section 245C.15, subdivision 1, and the disqualification
147.27 is affirmed, the individual's disqualification is barred from a set aside, and the individual
147.28 must not be involved in the management, operation, or control of the provider.

147.29 (b) For purposes of this section, owners of a home care provider subject to the background
147.30 check requirement are those individuals whose ownership interest provides sufficient
147.31 authority or control to affect or change decisions related to the operation of the home care
147.32 provider. An owner includes a sole proprietor, a general partner, or any other individual
147.33 whose individual ownership interest can affect the management and direction of the policies
147.34 of the home care provider.

148.1 (c) For the purposes of this section, managerial officials subject to the background check
 148.2 requirement are individuals who provide direct contact as defined in section 245C.02,
 148.3 subdivision 11, or individuals who have the responsibility for the ongoing management or
 148.4 direction of the policies, services, or employees of the home care provider. Data collected
 148.5 under this subdivision shall be classified as private data on individuals under section 13.02,
 148.6 subdivision 12.

148.7 (d) The department shall not issue any license if the applicant or owner or managerial
 148.8 official has been unsuccessful in having a background study disqualification set aside under
 148.9 section 144.057 and chapter 245C; if the owner or managerial official, as an owner or
 148.10 managerial official of another home care provider, was substantially responsible for the
 148.11 other home care provider's failure to substantially comply with sections 144A.43 to
 148.12 144A.482; or if an owner that has ceased doing business, either individually or as an owner
 148.13 of a home care provider, was issued a correction order for failing to assist clients in violation
 148.14 of this chapter.

148.15 Sec. 26. Minnesota Statutes 2018, section 144A.4799, is amended to read:

148.16 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**
 148.17 **ADVISORY COUNCIL.**

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

148.20 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who
 148.21 are currently receiving home care services ~~or~~, persons who have received home care services
 148.22 within five years of the application date, persons who have family members receiving home
 148.23 care services, or persons who have family members who have received home care services
 148.24 within five years of the application date;

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

148.28 (3) one member representing the Minnesota Board of Nursing; ~~and~~

148.29 (4) one member representing the office of ombudsman for long-term care; and

148.30 (5) beginning July 1, 2021, one member of a county health and human services or county
 148.31 adult protection office.

149.1 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and
149.2 administered under section 15.059 with per diems and costs paid within the limits of available
149.3 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees
149.4 may be developed as necessary by the commissioner. Advisory council meetings are subject
149.5 to the Open Meeting Law under chapter 13D.

149.6 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide
149.7 advice regarding regulations of Department of Health licensed home care providers in this
149.8 chapter, including advice on the following:

149.9 (1) community standards for home care practices;

149.10 (2) enforcement of licensing standards and whether certain disciplinary actions are
149.11 appropriate;

149.12 (3) ways of distributing information to licensees and consumers of home care;

149.13 (4) training standards;

149.14 (5) identifying emerging issues and opportunities in the home care field, including;

149.15 (6) identifying the use of technology in home and telehealth capabilities;

149.16 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method
149.17 for an integrated license with an existing license for rural licensed nursing homes to provide
149.18 limited home care services in an adjacent independent living apartment building owned by
149.19 the licensed nursing home; and

149.20 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,
149.21 including but not limited to studies concerning costs related to dementia and chronic disease
149.22 among an elderly population over 60 and additional long-term care costs, as described in
149.23 section 62U.10, subdivision 6.

149.24 (b) The advisory council shall perform other duties as directed by the commissioner.

149.25 (c) The advisory council shall annually ~~review the balance of the account in the state~~
149.26 ~~government special revenue fund described in section 144A.474, subdivision 11, paragraph~~
149.27 ~~(i), and make annual recommendations by January 15 directly to the chairs and ranking~~
149.28 ~~minority members of the legislative committees with jurisdiction over health and human~~
149.29 ~~services regarding appropriations to the commissioner for the purposes in section 144A.474,~~
149.30 ~~subdivision 11, paragraph (i). The recommendations shall address ways the commissioner~~
149.31 may improve protection of the public under existing statutes and laws and include but are
149.32 not limited to projects that create and administer training of licensees and their employees

150.1 to improve residents lives, supporting ways that licensees can improve and enhance quality
150.2 care, ways to provide technical assistance to licensees to improve compliance; information
150.3 technology and data projects that analyze and communicate information about trends of
150.4 violations or lead to ways of improving client care; communications strategies to licensees
150.5 and the public; and other projects or pilots that benefit clients, families, and the public.

150.6 Sec. 27. Minnesota Statutes 2018, section 256.9741, subdivision 1, is amended to read:

150.7 Subdivision 1. **Long-term care facility.** "Long-term care facility" means a nursing home
150.8 licensed under sections 144A.02 to 144A.10; a boarding care home licensed under sections
150.9 144.50 to 144.56; an assisted living facility or an assisted living facility with dementia care
150.10 licensed under chapter 144I; or a licensed or registered residential setting that provides or
150.11 arranges for the provision of home care services.

150.12 Sec. 28. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

150.13 Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support~~
150.14 ~~services according to the continuum of care coordinated assessment system established~~
150.15 ~~under Code of Federal Regulations, title 24, section 578.3~~ that is not time-limited and
150.16 provides or coordinates services necessary for a resident to maintain housing stability.

150.17 Sec. 29. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

150.18 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph
150.19 (b), an agency may not enter into an agreement with an establishment to provide housing
150.20 support unless:

150.21 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;
150.22 a board and lodging establishment; a boarding care home before March 1, 1985; or a
150.23 supervised living facility, and the service provider for residents of the facility is licensed
150.24 under chapter 245A. However, an establishment licensed by the Department of Health to
150.25 provide lodging need not also be licensed to provide board if meals are being supplied to
150.26 residents under a contract with a food vendor who is licensed by the Department of Health;

150.27 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota
150.28 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior
150.29 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;
150.30 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,
150.31 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,

151.1 subdivision 4a, as a community residential setting by the commissioner of human services;
151.2 or

151.3 (3) the establishment facility is registered under chapter 144D or licensed under chapter
151.4 144I and provides three meals a day.

151.5 (b) The requirements under paragraph (a) do not apply to establishments exempt from
151.6 state licensure because they are:

151.7 (1) located on Indian reservations and subject to tribal health and safety requirements;
151.8 or

151.9 ~~(2) a supportive housing establishment that has an approved habitability inspection and~~
151.10 ~~an individual lease agreement and that serves people who have experienced long-term~~
151.11 ~~homelessness and were referred through a coordinated assessment in section 256I.03,~~
151.12 ~~subdivision 15~~ supportive housing establishments where an individual has an approved
151.13 habitability inspection and an individual lease agreement.

151.14 (c) Supportive housing establishments that serve individuals who have experienced
151.15 long-term homelessness and emergency shelters must participate in the homeless management
151.16 information system and a coordinated assessment system as defined by the commissioner.

151.17 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of
151.18 housing support unless all staff members who have direct contact with recipients:

151.19 (1) have skills and knowledge acquired through one or more of the following:

151.20 (i) a course of study in a health- or human services-related field leading to a bachelor
151.21 of arts, bachelor of science, or associate's degree;

151.22 (ii) one year of experience with the target population served;

151.23 (iii) experience as a mental health certified peer specialist according to section 256B.0615;

151.24 or

151.25 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to
151.26 144A.483;

151.27 (2) hold a current driver's license appropriate to the vehicle driven if transporting
151.28 recipients;

151.29 (3) complete training on vulnerable adults mandated reporting and child maltreatment
151.30 mandated reporting, where applicable; and

151.31 (4) complete housing support orientation training offered by the commissioner.

152.1 Sec. 30. [256M.42] ADULT PROTECTION GRANT ALLOCATIONS.

152.2 Subdivision 1. **Formula.** (a) The commissioner shall allocate state money appropriated
152.3 under this section to each county board and tribal government approved by the commissioner
152.4 to assume county agency duties for adult protective services or as a lead investigative agency
152.5 under section 626.557 on an annual basis in an amount determined according to the following
152.6 formula:

152.7 (1) 25 percent must be allocated on the basis of the number of reports of suspected
152.8 vulnerable adult maltreatment under sections 626.557 and 626.5572, when the county or
152.9 tribe is responsible as determined by the most recent data of the commissioner; and

152.10 (2) 75 percent must be allocated on the basis of the number of screened-in reports for
152.11 adult protective services or vulnerable adult maltreatment investigations under sections
152.12 626.557 and 626.5572, when the county or tribe is responsible as determined by the most
152.13 recent data of the commissioner.

152.14 (b) The commissioner is precluded from changing the formula under this subdivision
152.15 or recommending a change to the legislature without public review and input.

152.16 Subd. 2. **Payment.** The commissioner shall make allocations for the state fiscal year
152.17 starting July 1, 2019, and to each county board or tribal government on or before October
152.18 10, 2019. The commissioner shall make allocations under subdivision 1 to each county
152.19 board or tribal government each year thereafter on or before July 10.

152.20 Subd. 3. **Prohibition on supplanting existing money.** Money received under this section
152.21 must be used for staffing for protection of vulnerable adults or to expand adult protective
152.22 services. Money must not be used to supplant current county or tribe expenditures for these
152.23 purposes.

152.24 **EFFECTIVE DATE.** This section is effective July 1, 2019.

152.25 Sec. 31. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

152.26 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~
152.27 ~~establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide~~
152.28 ~~a special program or special unit for residents with a diagnosis of probable Alzheimer's~~
152.29 ~~disease or a related disorder or that advertise, market, or otherwise promote the establishment~~
152.30 ~~as providing specialized care for Alzheimer's disease or a related disorder are considered a~~
152.31 ~~"special care unit." All special care units~~ Only assisted living facilities with dementia care
152.32 licenses under chapter 144I may advertise, market, or otherwise promote the facility as

153.1 providing specialized care for dementia or related disorders. All assisted living facilities
 153.2 with dementia care licenses shall provide a written disclosure to the following:

153.3 (1) the commissioner of health, if requested;

153.4 (2) the Office of Ombudsman for Long-Term Care; and

153.5 (3) each person seeking placement within a residence, or the person's ~~authorized~~
 153.6 ~~representative~~ legal and designated representatives, as those terms are defined in section
 153.7 144I.01, before an agreement to provide the care is entered into.

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

153.9 Sec. 32. Minnesota Statutes 2018, section 325F.72, subdivision 2, is amended to read:

153.10 Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

153.11 (1) a statement of the overall philosophy and how it reflects the special needs of residents
 153.12 with Alzheimer's disease or other dementias;

153.13 (2) the criteria for determining who may reside in the ~~special care~~ secured dementia care
 153.14 unit as defined in section 144I.01, subdivision 62;

153.15 (3) the process used for assessment and establishment of the service plan ~~or agreement~~,
 153.16 including how the plan is responsive to changes in the resident's condition;

153.17 (4) staffing credentials, job descriptions, and staff duties and availability, including any
 153.18 training specific to dementia;

153.19 (5) physical environment as well as design and security features that specifically address
 153.20 the needs of residents with Alzheimer's disease or other dementias;

153.21 (6) frequency and type of programs and activities for residents of the ~~special care unit~~
 153.22 assisted living facility with dementia care;

153.23 (7) involvement of families in resident care and availability of family support programs;

153.24 (8) fee schedules for additional services to the residents of the ~~special~~ secured dementia
 153.25 care unit; and

153.26 (9) a statement that residents will be given a written notice 30 calendar days prior to
 153.27 changes in the fee schedule.

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

154.1 Sec. 33. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

154.2 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
154.3 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
154.4 under section 144A.02; a facility or service required to be licensed under chapter 245A; an
154.5 assisted living facility required to be licensed under chapter 144I; a home care provider
154.6 licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider
154.7 licensed under sections 144A.75 to 144A.755; or a person or organization that offers,
154.8 provides, or arranges for personal care assistance services under the medical assistance
154.9 program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654,
154.10 256B.0659, or 256B.85.

154.11 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
154.12 own home or in another unlicensed location, the term "facility" refers to the provider, person,
154.13 or organization that offers, provides, or arranges for personal care services, and does not
154.14 refer to the vulnerable adult's home or other location at which services are rendered.

154.15 Sec. 34. **REVISOR INSTRUCTION.**

154.16 The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home
154.17 Administrators" to "Board of Executives for Long Term Services and Supports" and "Board
154.18 of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes
154.19 and apply to the board established in Minnesota Statutes, section 144A.19.

154.20 Sec. 35. **REPEALER.**

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

154.22 (b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1,
154.23 2021.

154.24 ARTICLE 5

154.25 APPROPRIATIONS

154.26 Section 1. **COMMISSIONER OF HUMAN SERVICES.**

154.27 (a) \$7,687,000 in fiscal year 2020 and \$6,860,000 in fiscal year 2021 are appropriated
154.28 from the general fund to the commissioner of human services to implement administrative
154.29 and regulatory activities relating to vulnerable adults and assisted living licensure.

154.30 (b) Of the amount in paragraph (a), \$1,456,000 in fiscal year 2020 and \$2,023,000 in
154.31 fiscal year 2021 are for additional staff and support activities for the ombudsman for

155.1 long-term care. The base for this appropriation is \$2,512,000 in fiscal year 2022 and
155.2 \$2,512,000 in fiscal year 2023.

155.3 (c) Of the amount in paragraph (a), \$1,456,000 in fiscal year 2020 and \$635,000 in fiscal
155.4 year 2021 are for administrative and information technology costs to implement 24/7 capacity
155.5 for Minnesota Adult Abuse Reporting Center. The base for this appropriation is \$472,000
155.6 in fiscal year 2022 and \$472,000 in fiscal year 2023.

155.7 (d) Of the amount in paragraph (a), \$1,000,000 in fiscal year 2020 and \$1,500,000 in
155.8 fiscal year 2021 are for grants for adult abuse maltreatment investigations and adult protective
155.9 services to counties and tribes under Minnesota Statutes, section 256M.42. The base for
155.10 this appropriation is \$2,050,000 in fiscal year 2022 and \$2,655,000 in fiscal year 2023.

155.11 (e) Of the amount in paragraph (a), \$2,682,000 in fiscal year 2020 and \$2,702,000 in
155.12 fiscal year 2021 are for development and administration of a resident experience survey
155.13 and family survey for all housing with services establishments and assisted living facilities.
155.14 The base for this appropriation is \$2,593,000 in fiscal year 2022 and \$2,593,000 in fiscal
155.15 year 2023. These appropriations are available in either year of the biennium.

155.16 (f) Of the amount in paragraph (a), \$1,093,000 in fiscal year 2020 is for improvements
155.17 to the current operations of regulatory activities related to vulnerable adults. The base for
155.18 this appropriation is \$218,000 in fiscal year 2022 and \$218,000 in fiscal year 2023.

155.19 **Sec. 2. COMMISSIONER OF HEALTH.**

155.20 Subdivision 1. **General fund appropriation.** (a) \$9,656,000 in fiscal year 2020 and
155.21 \$9,416,000 in fiscal year 2021 are appropriated from the general fund to the commissioner
155.22 of health to implement regulatory activities relating to vulnerable adults and assisted living
155.23 licensure.

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

155.28 (c) Of the amount in paragraph (a), \$2,218,000 in fiscal year 2020 and \$5,114,000 in
155.29 fiscal year 2021 are to establish assisted living licensure under Minnesota Statutes, section
155.30 144I.01. This is a onetime appropriation.

155.31 Subd. 2. **State government special revenue fund appropriation.** \$1,103,000 in fiscal
155.32 year 2020 and \$1,103,000 in fiscal year 2021 are appropriated from the state government
155.33 special revenue fund to improve the frequency of home care provider inspections and to

156.1 implement assisted living licensure activities under Minnesota Statutes, section 144I.01.

156.2 The base for this appropriation is \$8,131,000 in fiscal year 2022 and \$8,339,000 in fiscal
156.3 year 2023.

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

144A.441 ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

Assisted living clients, as defined in section 144G.01, subdivision 3, 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 must include the following provision in place of the provision in section 144A.44, subdivision 1, clause (17):

"(17) the right to reasonable, advance notice of changes in services or charges, including at least 30 days' advance notice of the termination of a service by a provider, except in cases where:

(i) the recipient of services engages in conduct that alters the conditions of employment as specified in the employment contract between the home care provider and the individual providing home care services, or creates an abusive or unsafe work environment for the individual providing home care services;

(ii) an emergency for the informal caregiver or a significant change in the recipient's condition has resulted in service needs that exceed the current service provider agreement and that cannot be safely met by the home care provider; or

(iii) the provider has not received payment for services, for which at least ten days' advance notice of the termination of a service shall be provided."

144A.442 ASSISTED LIVING CLIENTS; SERVICE TERMINATION.

If an arranged home care provider, as defined in section 144D.01, subdivision 2a, who is not also Medicare certified terminates a service agreement or service plan with an assisted living client, as defined in section 144G.01, subdivision 3, the home care provider shall provide the assisted living client and the legal or designated representatives of the client, if any, with a written notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

(3) without extending the termination notice period, an affirmative offer to meet with the assisted living client or client representatives within no more than five business days of the date of the termination notice to discuss the termination;

(4) contact information for a reasonable number of other home care providers in the geographic area of the assisted living client, as required by section 144A.4791, subdivision 10;

(5) a statement that the provider will participate in a coordinated transfer of the care of the client 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.

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.

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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;
- (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

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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 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;

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(2) provides necessary assessments of the physical and cognitive needs of assisted living clients by a registered nurse, as required by applicable home care licensure requirements in chapter 144A and sections 148.171 to 148.285;

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

(4) provides staff access to an on-call registered nurse 24 hours per day, seven days per week;

(5) has and maintains a system to check on each assisted living client at least daily;

(6) provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements;

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

(i) awake;

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

(iii) capable of communicating with assisted living clients;

(iv) capable of recognizing the need for assistance;

(v) capable of providing either the assistance required or summoning the appropriate assistance; and

(vi) capable of following directions;

(8) offers to provide or make available at least the following supportive services to assisted living clients:

(i) two meals per day;

(ii) weekly housekeeping;

(iii) weekly laundry service;

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

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

(vi) periodic opportunities for socialization; and

(9) makes available to all prospective and current assisted living clients information consistent with the uniform format and the required components adopted by the commissioner under section 144G.06. This information must be made available beginning no later than six months after the commissioner makes the uniform format and required components available to providers according to section 144G.06.

Subd. 3. Exemption from awake-staff requirement. A housing with services establishment that offers or provides assisted living is exempt from the requirement in subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and responsible for responding to requests for assistance must be awake, if the establishment meets the following requirements:

(1) the establishment has a maximum capacity to serve 12 or fewer assisted living clients;

(2) the person or persons available and responsible for responding to requests for assistance are physically present within the housing with services establishment in which the assisted living clients reside;

(3) the establishment has a system in place that is compatible with the health, safety, and welfare of the establishment's assisted living clients;

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(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;

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(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.