

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4044

(SENATE AUTHORS: HOFFMAN)

DATE
02/22/2024

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Introduction and first reading
Referred to Human Services

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to health; expanding settings subject to assisted living licensure; modifying
1.3 requirements for settings exempt from assisted living licensure; amending
1.4 Minnesota Statutes 2022, sections 144G.08, subdivision 7; 325F.722, subdivision
1.5 1, by adding subdivisions; repealing Minnesota Statutes 2022, section 325F.722,
1.6 subdivisions 2, 3, 9.

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

1.8 Section 1. Minnesota Statutes 2022, section 144G.08, subdivision 7, is amended to read:

1.9 Subd. 7. **Assisted living facility.** "Assisted living facility" means a facility that provides
1.10 sleeping accommodations and assisted living services to one or more adults. Assisted living
1.11 facility includes assisted living facility with dementia care, and does not include:

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

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

1.15 (3) a hospital, certified boarding care, or supervised living facility licensed under sections
1.16 144.50 to 144.56;

1.17 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
1.18 9520.0500 to 9520.0670, or under chapter 245D, 245G, or 245I;

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

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

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

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

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

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

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

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

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

2.23 ~~(14)~~ (11) a covered setting as defined in section 325F.721, subdivision 1, paragraph (b);
 2.24 or

2.25 ~~(15)~~ (12) any establishment that exclusively or primarily serves as a shelter or temporary
 2.26 shelter for victims of domestic or any other form of violence.

2.27 **EFFECTIVE DATE.** This section is effective January 1, 2025.

2.28 Sec. 2. Minnesota Statutes 2022, section 325F.722, subdivision 1, is amended to read:

2.29 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
 2.30 the meanings given.

2.31 (b) "Assisted living services" has the meaning given in section 144G.08, subdivision 9.

3.1 (c) "Exempt setting" means a setting that in which assisted living services are provided
3.2 but which is exempted from assisted living facility licensure under section 144G.08,
3.3 subdivision 7, ~~clauses~~ clause (10) ~~to~~ (13).

3.4 ~~(c)~~ (d) "Resident" means a person residing in an exempt setting.

3.5 (e) "Subsidized assisted living contract" means a legal agreement between a resident
3.6 and an exempt setting for housing and, if applicable, assisted living services.

3.7 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.8 Sec. 3. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
3.9 to read:

3.10 Subd. 10. **Responsibility for housing and services.** An exempt setting must comply
3.11 with section 144G.40, subdivision 1.

3.12 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.13 Sec. 4. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
3.14 to read:

3.15 Subd. 11. **Facility restrictions.** An exempt setting must comply with section 144G.42,
3.16 subdivision 3, except this subdivision does not apply to an exempt setting owned or operated
3.17 by a county or other unit of government.

3.18 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.19 Sec. 5. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
3.20 to read:

3.21 Subd. 12. **Handling residents' finances and property.** An exempt setting must comply
3.22 with section 144G.42, subdivision 4.

3.23 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.24 Sec. 6. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
3.25 to read:

3.26 Subd. 13. **Contract requirements.** An exempt setting may not offer or provide housing
3.27 or assisted living services unless it has executed a written subsidized assisted living contract
3.28 that complies with section 144G.50, except for:

3.29 (1) section 144G.50, subdivision 2, paragraph (b), clause (2);

4.1 (2) section 144G.50, subdivision 2, paragraph (c), clause (1); and

4.2 (3) section 144G.50, subdivision 4.

4.3 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.4 Sec. 7. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
4.5 to read:

4.6 Subd. 14. **Contract terminations.** An exempt setting initiating a termination of a
4.7 subsidized assisted living contract must comply with section 144G.52, and Minnesota Rules,
4.8 part 4659.0120.

4.9 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.10 Sec. 8. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
4.11 to read:

4.12 Subd. 15. **Nonrenewal of housing.** An exempt setting that declines to renew a resident's
4.13 housing under a subsidized assisted living contract must comply with the provisions of
4.14 section 144G.53, and Minnesota Rules, part 4659.0200.

4.15 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.16 Sec. 9. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
4.17 to read:

4.18 Subd. 16. **Appeals of contract terminations.** A resident has the right to appeal a
4.19 termination of a subsidized assisted living contract and the provisions of section 144G.54,
4.20 and Minnesota Rules, part 4659.0210, subparts 1 to 3, apply to the appeal, except:

4.21 (1) the resident or an individual acting on the resident's behalf must submit the request
4.22 for an appeal directly to the Office of Administrative Hearings; and

4.23 (2) the administrative law judge shall decide on the appeal and issue an order.

4.24 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.25 Sec. 10. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
4.26 to read:

4.27 Subd. 17. **Coordinated moves.** An exempt setting that terminates a subsidized assisted
4.28 living contract, reduces services to the extent that a resident needs to move or obtain a new

5.1 service provider, or conducts a planned closure under subdivision 19, must comply with
5.2 section 144G.55, subdivisions 1 to 3 and 5.

5.3 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.4 Sec. 11. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
5.5 to read:

5.6 Subd. 18. **Transfer of resident within the facility.** If an exempt setting seeks to transfer
5.7 a resident to a different location within the exempt setting, the exempt setting must comply
5.8 with section 144G.56, subdivisions 2 to 7.

5.9 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.10 Sec. 12. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
5.11 to read:

5.12 Subd. 19. **Planned closure.** In the event that an exempt setting elects to voluntarily close
5.13 the setting, the exempt setting must comply with section 144G.57, subdivisions 1 to 5, and
5.14 Minnesota Rules, part 4659.0130, subpart 1, items A and B, and subpart 2, items A to D,
5.15 except:

5.16 (1) the exempt setting is not required to notify the commissioner of health of the planned
5.17 closure, submit a proposed closure plan to the commissioner, or receive approval of a closure
5.18 plan from the commissioner before closing; and

5.19 (2) the exempt setting must personally deliver or mail the notice required under section
5.20 144G.57, subdivision 5.

5.21 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.22 Sec. 13. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
5.23 to read:

5.24 Subd. 20. **Subsidized assisted living bill of rights.** Section 144G.91 applies to residents
5.25 of exempt settings.

5.26 **EFFECTIVE DATE.** This section is effective January 1, 2025.

5.27 Sec. 14. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
5.28 to read:

5.29 Subd. 21. **Retaliation prohibited.** An exempt setting must comply with section 144G.92.

6.1 **EFFECTIVE DATE.** This section is effective January 1, 2025.

6.2 Sec. 15. Minnesota Statutes 2022, section 325F.722, is amended by adding a subdivision
6.3 to read:

6.4 Subd. 22. **Notice of legal and advocacy services.** An exempt setting must comply with
6.5 section 144G.93.

6.6 **EFFECTIVE DATE.** This section is effective January 1, 2025.

6.7 Sec. 16. **REPEALER.**

6.8 Minnesota Statutes 2022, section 325F.722, subdivisions 2, 3, and 9, are repealed.

6.9 **EFFECTIVE DATE.** This section is effective January 1, 2025.

325F.722 CONSUMER PROTECTIONS FOR EXEMPT SETTINGS.

Subd. 2. **Contracts.** (a) Every exempt setting must execute a written contract with a resident or the resident's representative and must operate in accordance with the terms of the contract. The resident or the resident's representative must be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

(b) The contract must include at least the following elements in itself or through supporting documents or attachments:

(1) the name, street address, and mailing address of the exempt setting;

(2) the name and mailing address of the owner or owners of the exempt setting and, if the owner or owners are not natural persons, 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 exempt setting, 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 identifying the license number of the home care provider that provides services to some or all of the residents and that is either the setting itself or another entity with which the setting has an arrangement;

(6) the term of the contract;

(7) an itemization and description of the housing and, if applicable, services to be provided to the resident;

(8) a conspicuous notice informing the resident of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated;

(9) a description of the exempt setting's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;

(10) the individual designated as the resident's representative, if any;

(11) the exempt setting's referral procedures if the contract is terminated;

(12) a statement regarding the ability of a resident to receive services from providers with whom the exempt setting does not have an arrangement;

(13) a statement regarding the availability of public funds for payment for residence or services; and

(14) 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 exempt setting is located.

(c) The contract must include a statement regarding:

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

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

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

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

(5) a resident's right to have and use a lockable door to the resident's unit. The exempt setting must 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 by the staff member, when possible.

(d) A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by a home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people served under section 256B.49 and chapter 256S must be documented in the resident's support plan, as defined under sections 256B.49, subdivision 15, and 256S.10.

APPENDIX
Repealed Minnesota Statutes: 24-06252

(e) The contract and related documents executed by each resident or resident's representative must be maintained by the exempt setting in files from the date of execution until three years after the contract is terminated.

Subd. 3. **Termination of contract.** An exempt setting must include with notice of termination of contract 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.

Subd. 9. **Remedy.** A state agency must make a good faith effort to reasonably resolve any dispute with an exempt setting before seeking any additional enforcement actions regarding the exempt setting's compliance with the requirements of this section. No private right of action may be maintained as provided under section 8.31, subdivision 3a.