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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

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

1.11 144A.44, subdivision 1; 144A.471, subdivisions 7, 9; 144A.472, subdivision 7;

1.12 144A.474, subdivisions 9, 11; 144A.475, subdivisions 3b, 5; 144A.476, subdivision

1.13 1; 144A.4791, subdivision 10; 144A.4799; 256I.03, subdivision 15; 256I.04,

1.14 subdivision 2a; 325F.72, subdivisions 1, 2, 4; 626.5572, subdivision 6; proposing

1.15 coding for new law in Minnesota Statutes, chapters 144; 144A; 144G; proposing

1.16 coding for new law as Minnesota Statutes, chapters 144I; 144J; 144K; repealing

1.17 Minnesota Statutes 2018, sections 144A.441; 144A.442; 144A.472, subdivision

1.18 4; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045;

1.19 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10;

1.20 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06.

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

1.22 **ARTICLE 1**

1.23 **RESIDENT RIGHTS AND CONSUMER PROTECTIONS**

1.24 Section 1. **[144J.01] DEFINITIONS.**

1.25 Subdivision 1. **Applicability.** For the purposes of this chapter, the following terms have

1.26 the meanings given them unless the context clearly indicates otherwise.

1.27 Subd. 2. **Assisted living contract.** "Assisted living contract" means the legal agreement

1.28 between a resident and an assisted living facility for housing and assisted living services.

2.1 Subd. 3. **Assisted living facility.** "Assisted living facility" has the meaning given in
2.2 section 144I.01, subdivision 6.

2.3 Subd. 4. **Assisted living facility with dementia care.** "Assisted living facility with
2.4 dementia care" has the meaning given in section 144I.01, subdivision 8.

2.5 Subd. 5. **Assisted living services.** "Assisted living services" has the meaning given in
2.6 section 144I.01, subdivision 7.

2.7 Subd. 6. **Attorney-in-fact.** "Attorney-in-fact" means a person designated by a principal
2.8 to exercise the powers granted by a written and valid power of attorney under chapter 523.

2.9 Subd. 7. **Conservator.** "Conservator" means a court-appointed conservator acting in
2.10 accordance with the powers granted to the conservator under chapter 524.

2.11 Subd. 8. **Designated representative.** "Designated representative" means a person
2.12 designated in writing by the resident in an assisted living contract and identified in the
2.13 resident's records on file with the assisted living facility.

2.14 Subd. 9. **Facility.** "Facility" means an assisted living facility.

2.15 Subd. 10. **Guardian.** "Guardian" means a court-appointed guardian acting in accordance
2.16 with the powers granted to the guardian under chapter 524.

2.17 Subd. 11. **Health care agent.** "Health care agent" has the meaning given in section
2.18 145C.01, subdivision 2.

2.19 Subd. 12. **Legal representative.** "Legal representative" means one of the following in
2.20 the order of priority listed, to the extent the person may reasonably be identified and located:

2.21 (1) a guardian;

2.22 (2) a conservator;

2.23 (3) a health care agent; or

2.24 (4) an attorney-in-fact.

2.25 Subd. 13. **Licensed health care professional.** "Licensed health care professional" means:

2.26 (1) a physician licensed under chapter 147;

2.27 (2) an advanced practice registered nurse, as that term is defined in section 148.171,
2.28 subdivision 3;

2.29 (3) a licensed practical nurse, as that term is defined in section 148.171, subdivision 8;

2.30 or

3.1 (4) a registered nurse, as that term is defined in section 148.171, subdivision 20.

3.2 Subd. 14. **Resident.** "Resident" means a person living in an assisted living facility.

3.3 Subd. 15. **Resident record.** "Resident record" has the meaning given in section 144I.01,
3.4 subdivision 53.

3.5 Subd. 16. **Service plan.** "Service plan" has the meaning given in section 144I.01,
3.6 subdivision 57.

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

3.8 Sec. 2. **[144J.02] RESIDENT RIGHTS.**

3.9 Subdivision 1. **Applicability.** This section applies to assisted living facility residents.

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

3.14 Subd. 3. **Information about rights and facility policies.** (a) Before receiving services,
3.15 residents have the right to be informed by the facility of the rights granted under this section.
3.16 The information must be in plain language and in terms residents can understand. The
3.17 facility must make reasonable accommodations for residents who have communication
3.18 disabilities and those who speak a language other than English.

3.19 (b) Every facility must:

3.20 (1) indicate what recourse residents have if their rights are violated; and

3.21 (2) provide the information required under section 144J.10.

3.22 (c) Upon request, residents and their legal representatives and designated representatives
3.23 have the right to copies of current facility policies and inspection findings of state and local
3.24 health authorities, and to receive further explanation of the rights provided under this section,
3.25 consistent with chapter 13 and section 626.557.

3.26 Subd. 4. **Courteous treatment.** Residents have the right to be treated with courtesy and
3.27 respect, and to have the resident's property treated with respect.

3.28 Subd. 5. **Appropriate care and services.** (a) Residents have the right to care and services
3.29 that are appropriate based on the resident's needs and according to an up-to-date service
3.30 plan. All service plans must be designed to enable residents to achieve their highest level
3.31 of emotional, psychological, physical, medical, and functional well-being and safety.

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

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

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

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

4.11 (3) the right to include a family member or the resident's health care agent and designated
4.12 representative, or both; and

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

4.15 Subd. 7. **Information about individuals providing services.** Before receiving services,
4.16 residents have the right to be told the type and disciplines of staff who will be providing
4.17 the services, the frequency of visits proposed to be furnished, and other choices that are
4.18 available for addressing the resident's needs.

4.19 Subd. 8. **Information about health care treatment.** Where applicable, residents have
4.20 the right to be given by their attending physician complete and current information concerning
4.21 their diagnosis, cognitive functioning level, treatment, alternatives, risks, and prognosis as
4.22 required by the physician's legal duty to disclose. This information must be in terms and
4.23 language the residents can reasonably be expected to understand. This information must
4.24 include the likely medical or major psychological results of the treatment and its alternatives.

4.25 Subd. 9. **Information about other providers and services.** (a) Residents have the right
4.26 to be informed by the assisted living facility, prior to executing an assisted living contract,
4.27 that other public and private services may be available and the resident has the right to
4.28 purchase, contract for, or obtain services from a provider other than the assisted living
4.29 facility or related assisted living services provider.

4.30 (b) Assisted living facilities must make every effort to assist residents in obtaining
4.31 information regarding whether Medicare, medical assistance, or another public program
4.32 will pay for any of the services.

5.1 Subd. 10. **Information about charges.** Before services are initiated, residents have the
5.2 right to be notified:

5.3 (1) of all charges for services;

5.4 (2) whether payment may be expected from health insurance, public programs, or other
5.5 sources, if known, and the amount of such payments; and

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

5.7 Subd. 11. **Refusal of care or services.** (a) Residents have the right to refuse care or
5.8 services.

5.9 (b) A provider must document in the resident's record that the provider informed a
5.10 resident who refuses care, services, treatment, medication, or dietary restrictions of the
5.11 likely medical, health-related, or psychological consequences of the refusal.

5.12 (c) In cases where a resident lacks capacity but has not been adjudicated incompetent,
5.13 or when legal requirements limit the right to refuse medical treatment, the conditions and
5.14 circumstances must be fully documented by the attending physician in the resident's record.

5.15 Subd. 12. **Freedom from maltreatment.** Residents have the right to be free from
5.16 maltreatment. For the purposes of this subdivision, "maltreatment" means conduct described
5.17 in section 626.5572, subdivision 15, and includes the intentional and nontherapeutic infliction
5.18 of physical pain or injury, or any persistent course of conduct intended to produce mental
5.19 or emotional distress.

5.20 Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to every
5.21 consideration of their privacy, individuality, and cultural identity as related to their social,
5.22 religious, and psychological well-being. Staff must respect the privacy of a resident's space
5.23 by knocking on the door and seeking consent before entering, except in an emergency or
5.24 where clearly inadvisable.

5.25 (b) Residents have the right to respect and privacy regarding the resident's health care
5.26 and personal care program. Case discussion, consultation, examination, and treatment are
5.27 confidential and must be conducted discreetly. Privacy must be respected during toileting,
5.28 bathing, and other activities of personal hygiene, except as needed for resident safety or
5.29 assistance.

5.30 Subd. 14. **Communication privacy.** (a) Residents have the right to communicate
5.31 privately with persons of their choice. Assisted living facilities that are unable to provide a
5.32 private area for communication must make reasonable arrangements to accommodate the
5.33 privacy of residents' communications.

6.1 (b) Personal mail must be sent by the assisted living facility without interference and
6.2 received unopened unless medically or programmatically contraindicated and documented
6.3 by a licensed health care professional listed in the resident's record.

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

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

6.10 (b) Residents have the right to access their own records and written information from
6.11 those records in accordance with sections 144.291 to 144.298.

6.12 Subd. 16. **Grievances and inquiries.** (a) Residents have the right to make and receive
6.13 a timely response to a complaint or inquiry, without limitation. Residents have the right to
6.14 know and every facility must provide the name and contact information of the person
6.15 representing the facility who is designated to handle and resolve complaints and inquiries.

6.16 (b) A facility must promptly investigate, make a good faith attempt to resolve, and
6.17 provide a timely response to the complaint or inquiry.

6.18 (c) Residents have the right to recommend changes in policies and services to staff and
6.19 managerial officials, as that term is defined in section 144I.01, subdivision 31.

6.20 Subd. 17. **Visitors and social participation.** (a) Residents have the right to meet with
6.21 or receive visits at any time by the resident's family, guardian, conservator, health care
6.22 agent, attorney, advocate, or religious or social work counselor, or any person of the resident's
6.23 choosing.

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

6.27 Subd. 18. **Access to counsel and advocacy services.** Notwithstanding subdivision 15,
6.28 residents have the right to the immediate access by:

6.29 (1) the resident's legal counsel;

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

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

7.1 Subd. 19. **Right to come and go freely.** Residents have the right to enter and leave the
7.2 facility as they choose. This right may be restricted only as allowed by other law and
7.3 consistent with a resident's service plan.

7.4 Subd. 20. **Access to technology.** Residents have the right to access Internet service at
7.5 their expense, unless offered by the facility.

7.6 Subd. 21. **Resident councils.** Residents have the right to organize and participate in
7.7 resident councils. The facility must provide a resident council with space and privacy for
7.8 meetings, where doing so is reasonably achievable. Staff, visitors, or other guests may attend
7.9 resident council meetings only at the council's invitation. The facility must provide a
7.10 designated staff person who is approved by the resident council and the facility to be
7.11 responsible for providing assistance and responding to written requests that result from
7.12 meetings. The facility must consider the views of the resident council and must act promptly
7.13 upon the grievances and recommendations of the council, but a facility is not required to
7.14 implement as recommended every request of the council. The facility shall, with the approval
7.15 of the resident council, take reasonably achievable steps to make residents aware of upcoming
7.16 meetings in a timely manner.

7.17 Subd. 22. **Family councils.** Residents have the right to participate in family councils
7.18 formed by families or residents. The facility must provide a family council with space and
7.19 privacy for meetings, where doing so is reasonably achievable. The facility must provide a
7.20 designated staff person who is approved by the family council and the facility to be
7.21 responsible for providing assistance and responding to written requests that result from
7.22 meetings. The facility must consider the views of the family council and must act promptly
7.23 upon the grievances and recommendations of the council, but a facility is not required to
7.24 implement as recommended every request of the council. The facility shall, with the approval
7.25 of the family council, take reasonably achievable steps to make residents and family members
7.26 aware of upcoming meetings in a timely manner.

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

7.28 Sec. 3. **[144J.03] RETALIATION PROHIBITED.**

7.29 Subdivision 1. **Retaliation prohibited.** A facility or agent of a facility may not retaliate
7.30 against a resident or employee if the resident, employee, or any person acting on behalf of
7.31 the resident:

7.32 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

8.1 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
8.2 right;

8.3 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
8.4 voluntary, under section 626.557;

8.5 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
8.6 problems or concerns to the administrator or manager of the facility, the Office of
8.7 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
8.8 advocacy organization;

8.9 (5) advocates or seeks advocacy assistance for necessary or improved care or services
8.10 or enforcement of rights under this section or other law;

8.11 (6) takes or indicates an intention to take civil action;

8.12 (7) participates or indicates an intention to participate in any investigation or
8.13 administrative or judicial proceeding;

8.14 (8) contracts or indicates an intention to contract to receive services from a service
8.15 provider of the resident's choice other than the facility; or

8.16 (9) places or indicates an intention to place a camera or electronic monitoring device in
8.17 the resident's private space as provided under section 144J.05.

8.18 Subd. 2. **Retaliation against a resident.** For purposes of this section, to retaliate against
8.19 a resident includes but is not limited to any of the following actions taken or threatened by
8.20 a facility or an agent of the facility against a resident, or any person with a familial, personal,
8.21 legal, or professional relationship with the resident:

8.22 (1) the discharge, eviction, transfer, or termination of services;

8.23 (2) the imposition of discipline, punishment, or a sanction or penalty;

8.24 (3) any form of discrimination;

8.25 (4) restriction or prohibition of access:

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

8.27 (ii) to the resident by a family member or a person with a personal, legal, or professional
8.28 relationship with the resident;

8.29 (5) the imposition of involuntary seclusion or withholding food, care, or services;

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

9.1 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
9.2 living arrangements;

9.3 (8) an arbitrary increase in charges or fees;

9.4 (9) removing, tampering with, or deprivation of technology, communication, or electronic
9.5 monitoring devices; or

9.6 (10) any oral or written communication of false information about a person advocating
9.7 on behalf of the resident.

9.8 Subd. 3. **Retaliation against an employee.** For purposes of this section, to retaliate
9.9 against an employee includes but is not limited to any of the following actions taken or
9.10 threatened by the facility or an agent of the facility against an employee:

9.11 (1) discharge or transfer;

9.12 (2) demotion or refusal to promote;

9.13 (3) reduction in compensation, benefits, or privileges;

9.14 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

9.15 (5) any form of discrimination.

9.16 Subd. 4. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
9.17 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
9.18 2 or 3 and taken within 90 days of an initial action described in subdivision 1 is retaliatory.

9.19 (b) The presumption does not apply to actions described in subdivision 2, clause (4), if
9.20 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or
9.21 agent of the facility against the visitor, family member, or other person with a personal,
9.22 legal, or professional relationship that is subject to the restriction or prohibition of access.

9.23 (c) The presumption does not apply to any oral or written communication described in
9.24 subdivision 2, clause (10), that is associated with a good faith report of maltreatment pursuant
9.25 to section 626.557 made by the facility or agent of the facility against the person advocating
9.26 on behalf of the resident.

9.27 (d) The presumption does not apply to a discharge, eviction, transfer, or termination of
9.28 services that occurs for a reason permitted under section 144J.08, subdivision 3 or 6, provided
9.29 the assisted living facility has complied with the applicable requirements in sections 144J.08
9.30 and 144.10.

10.1 Subd. 5. **Other laws.** Nothing in this section affects the rights available to a resident
10.2 under section 626.557.

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

10.4 Sec. 4. **[144J.04] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
10.5 **PROHIBITED.**

10.6 (a) No employee or agent of any facility may make any false, fraudulent, deceptive, or
10.7 misleading statements or representations or material omissions in marketing, advertising,
10.8 or any other description or representation of care or services.

10.9 (b) No assisted living contract may include any provision that the facility knows or
10.10 should know to be deceptive, unlawful, or unenforceable under state or federal law, nor
10.11 include any provision that requires or implies a lesser standard of care or responsibility than
10.12 is required by law.

10.13 (c) No facility may advertise or represent that it is licensed as an assisted living facility
10.14 with dementia care without complying with disclosure requirements under section 325F.72
10.15 and any training requirements required under chapter 144I or in rule.

10.16 (d) A violation of this section constitutes a violation of section 325F.69, subdivision 1.
10.17 The attorney general or a county attorney may enforce this section using the remedies in
10.18 section 325F.70.

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

10.20 Sec. 5. **[144J.05] ELECTRONIC MONITORING IN CERTAIN FACILITIES.**

10.21 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this
10.22 subdivision have the meanings given.

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

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

10.25 (d) "Electronic monitoring" means the placement and use of an electronic monitoring
10.26 device by a resident in the resident's room or private living unit in accordance with this
10.27 section.

10.28 (e) "Electronic monitoring device" means a camera or other device that captures, records,
10.29 or broadcasts audio, video, or both, that is placed in a resident's room or private living unit
10.30 and is used to monitor the resident or activities in the room or private living unit.

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

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

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

11.4 (3) until August 1, 2021, a housing with services establishment registered under chapter

11.5 144D that is either subject to chapter 144G or has a disclosed special unit under section

11.6 325F.72; or

11.7 (4) on or after August 1, 2021, an assisted living facility.

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

11.9 (h) "Resident representative" means one of the following in the order of priority listed,

11.10 to the extent the person may reasonably be identified and located:

11.11 (1) a court-appointed guardian;

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

11.13 (3) a person who is not an agent of a facility or of a home care provider designated in

11.14 writing by the resident and maintained in the resident's records on file with the facility or

11.15 with the resident's executed housing with services contract or nursing home contract.

11.16 Subd. 2. **Electronic monitoring authorized.** (a) A resident or a resident representative
11.17 may conduct electronic monitoring of the resident's room or private living unit through the
11.18 use of electronic monitoring devices placed in the resident's room or private living unit as
11.19 provided in this section.

11.20 (b) Nothing in this section precludes the use of electronic monitoring of health care
11.21 allowed under other law.

11.22 (c) Electronic monitoring authorized under this section is not a covered service under
11.23 home and community-based waivers under sections 256B.0913, 256B.0915, 256B.092, and
11.24 256B.49.

11.25 (d) This section does not apply to monitoring technology authorized as a home and
11.26 community-based service under section 256B.0913, 256B.0915, 256B.092, or 256B.49.

11.27 Subd. 3. **Consent to electronic monitoring.** (a) Except as otherwise provided in this
11.28 subdivision, a resident must consent to electronic monitoring in the resident's room or private
11.29 living unit in writing on a notification and consent form. If the resident has not affirmatively
11.30 objected to electronic monitoring and the resident's medical professional determines that
11.31 the resident currently lacks the ability to understand and appreciate the nature and

12.1 consequences of electronic monitoring, the resident representative may consent on behalf
12.2 of the resident. For purposes of this subdivision, a resident affirmatively objects when the
12.3 resident orally, visually, or through the use of auxiliary aids or services declines electronic
12.4 monitoring. The resident's response must be documented on the notification and consent
12.5 form.

12.6 (b) Prior to a resident representative consenting on behalf of a resident, the resident must
12.7 be asked if the resident wants electronic monitoring to be conducted. The resident
12.8 representative must explain to the resident:

12.9 (1) the type of electronic monitoring device to be used;

12.10 (2) the standard conditions that may be placed on the electronic monitoring device's use,
12.11 including those listed in subdivision 6;

12.12 (3) with whom the recording may be shared under subdivision 10 or 11; and

12.13 (4) the resident's ability to decline all recording.

12.14 (c) A resident, or resident representative when consenting on behalf of the resident, may
12.15 consent to electronic monitoring with any conditions of the resident's or resident
12.16 representative's choosing, including the list of standard conditions provided in subdivision
12.17 6. A resident, or resident representative when consenting on behalf of the resident, may
12.18 request that the electronic monitoring device be turned off or the visual or audio recording
12.19 component of the electronic monitoring device be blocked at any time.

12.20 (d) Prior to implementing electronic monitoring, a resident, or resident representative
12.21 when acting on behalf of the resident, must obtain the written consent on the notification
12.22 and consent form of any other resident residing in the shared room or shared private living
12.23 unit. A roommate's or roommate's resident representative's written consent must comply
12.24 with the requirements of paragraphs (a) to (c). Consent by a roommate or a roommate's
12.25 resident representative under this paragraph authorizes the resident's use of any recording
12.26 obtained under this section, as provided under subdivision 10 or 11.

12.27 (e) Any resident conducting electronic monitoring must immediately remove or disable
12.28 an electronic monitoring device prior to a new roommate moving into a shared room or
12.29 shared private living unit, unless the resident obtains the roommate's or roommate's resident
12.30 representative's written consent as provided under paragraph (d) prior to the roommate
12.31 moving into the shared room or shared private living unit. Upon obtaining the new
12.32 roommate's signed notification and consent form and submitting the form to the facility as
12.33 required under subdivision 5, the resident may resume electronic monitoring.

13.1 (f) The resident or roommate, or the resident representative or roommate's resident
13.2 representative if the representative is consenting on behalf of the resident or roommate, may
13.3 withdraw consent at any time and the withdrawal of consent must be documented on the
13.4 original consent form as provided under subdivision 5, paragraph (d).

13.5 Subd. 4. **Refusal of roommate to consent.** If a resident of a facility who is residing in
13.6 a shared room or shared living unit, or the resident representative of such a resident when
13.7 acting on behalf of the resident, wants to conduct electronic monitoring and another resident
13.8 living in or moving into the same shared room or shared living unit refuses to consent to
13.9 the use of an electronic monitoring device, the facility shall make a reasonable attempt to
13.10 accommodate the resident who wants to conduct electronic monitoring. A facility has met
13.11 the requirement to make a reasonable attempt to accommodate a resident or resident
13.12 representative who wants to conduct electronic monitoring when, upon notification that a
13.13 roommate has not consented to the use of an electronic monitoring device in the resident's
13.14 room, the facility offers to move the resident to another shared room or shared living unit
13.15 that is available at the time of the request. If a resident chooses to reside in a private room
13.16 or private living unit in a facility in order to accommodate the use of an electronic monitoring
13.17 device, the resident must pay either the private room rate in a nursing home setting, or the
13.18 applicable rent in a housing with services establishment or assisted living facility. If a facility
13.19 is unable to accommodate a resident due to lack of space, the facility must reevaluate the
13.20 request every two weeks until the request is fulfilled. A facility is not required to provide
13.21 a private room, a single-bed room, or a private living unit to a resident who is unable to
13.22 pay.

13.23 Subd. 5. **Notice to facility; exceptions.** (a) Electronic monitoring may begin only after
13.24 the resident or resident representative who intends to place an electronic monitoring device
13.25 and any roommate or roommate's resident representative completes the notification and
13.26 consent form and submits the form to the facility.

13.27 (b) Notwithstanding paragraph (a), the resident or resident representative who intends
13.28 to place an electronic monitoring device may do so without submitting a notification and
13.29 consent form to the facility for up to 30 days:

13.30 (1) if the resident or the resident representative reasonably fears retaliation against the
13.31 resident by the facility, timely submits the completed notification and consent form to the
13.32 Office of Ombudsman for Long-Term Care, and timely submits a Minnesota Adult Abuse
13.33 Reporting Center report or police report, or both, upon evidence from the electronic
13.34 monitoring device that suspected maltreatment has occurred;

14.1 (2) if there has not been a timely written response from the facility to a written
14.2 communication from the resident or resident representative expressing a concern prompting
14.3 the desire for placement of an electronic monitoring device and if the resident or a resident
14.4 representative timely submits a completed notification and consent form to the Office of
14.5 Ombudsman for Long-Term Care; or

14.6 (3) if the resident or resident representative has already submitted a Minnesota Adult
14.7 Abuse Reporting Center report or police report regarding the resident's concerns prompting
14.8 the desire for placement and if the resident or a resident representative timely submits a
14.9 completed notification and consent form to the Office of Ombudsman for Long-Term Care.

14.10 (c) Upon receipt of any completed notification and consent form, the facility must place
14.11 the original form in the resident's file or file the original form with the resident's housing
14.12 with services contract. The facility must provide a copy to the resident and the resident's
14.13 roommate, if applicable.

14.14 (d) In the event that a resident or roommate, or the resident representative or roommate's
14.15 resident representative if the representative is consenting on behalf of the resident or
14.16 roommate, chooses to alter the conditions under which consent to electronic monitoring is
14.17 given or chooses to withdraw consent to electronic monitoring, the facility must make
14.18 available the original notification and consent form so that it may be updated. Upon receipt
14.19 of the updated form, the facility must place the updated form in the resident's file or file the
14.20 original form with the resident's signed housing with services contract. The facility must
14.21 provide a copy of the updated form to the resident and the resident's roommate, if applicable.

14.22 (e) If a new roommate, or the new roommate's resident representative when consenting
14.23 on behalf of the new roommate, does not submit to the facility a completed notification and
14.24 consent form and the resident conducting the electronic monitoring does not remove or
14.25 disable the electronic monitoring device, the facility must remove the electronic monitoring
14.26 device.

14.27 (f) If a roommate, or the roommate's resident representative when withdrawing consent
14.28 on behalf of the roommate, submits an updated notification and consent form withdrawing
14.29 consent and the resident conducting electronic monitoring does not remove or disable the
14.30 electronic monitoring device, the facility must remove the electronic monitoring device.

14.31 Subd. 6. **Form requirements.** (a) The notification and consent form completed by the
14.32 resident must include, at a minimum, the following information:

15.1 (1) the resident's signed consent to electronic monitoring or the signature of the resident
15.2 representative, if applicable. If a person other than the resident signs the consent form, the
15.3 form must document the following:

15.4 (i) the date the resident was asked if the resident wants electronic monitoring to be
15.5 conducted;

15.6 (ii) who was present when the resident was asked;

15.7 (iii) an acknowledgment that the resident did not affirmatively object; and

15.8 (iv) the source of authority allowing the resident representative to sign the notification
15.9 and consent form on the resident's behalf;

15.10 (2) the resident's roommate's signed consent or the signature of the roommate's resident
15.11 representative, if applicable. If a roommate's resident representative signs the consent form,
15.12 the form must document the following:

15.13 (i) the date the roommate was asked if the roommate wants electronic monitoring to be
15.14 conducted;

15.15 (ii) who was present when the roommate was asked;

15.16 (iii) an acknowledgment that the roommate did not affirmatively object; and

15.17 (iv) the source of authority allowing the resident representative to sign the notification
15.18 and consent form on the roommate's behalf;

15.19 (3) the type of electronic monitoring device to be used;

15.20 (4) a list of standard conditions or restrictions that the resident or a roommate may elect
15.21 to place on the use of the electronic monitoring device, including but not limited to:

15.22 (i) prohibiting audio recording;

15.23 (ii) prohibiting video recording;

15.24 (iii) prohibiting broadcasting of audio or video;

15.25 (iv) turning off the electronic monitoring device or blocking the visual recording
15.26 component of the electronic monitoring device for the duration of an exam or procedure by
15.27 a health care professional;

15.28 (v) turning off the electronic monitoring device or blocking the visual recording
15.29 component of the electronic monitoring device while dressing or bathing is performed; and

16.1 (vi) turning off the electronic monitoring device for the duration of a visit with a spiritual
16.2 adviser, ombudsman, attorney, financial planner, intimate partner, or other visitor;

16.3 (5) any other condition or restriction elected by the resident or roommate on the use of
16.4 an electronic monitoring device;

16.5 (6) a statement of the circumstances under which a recording may be disseminated under
16.6 subdivision 10;

16.7 (7) a signature box for documenting that the resident or roommate has withdrawn consent;
16.8 and

16.9 (8) an acknowledgment that the resident, in accordance with subdivision 3, consents to
16.10 the Office of Ombudsman for Long-Term Care and its representatives disclosing information
16.11 about the form. Disclosure under this clause shall be limited to:

16.12 (i) the fact that the form was received from the resident or resident representative;

16.13 (ii) if signed by a resident representative, the name of the resident representative and
16.14 the source of authority allowing the resident representative to sign the notification and
16.15 consent form on the resident's behalf; and

16.16 (iii) the type of electronic monitoring device placed.

16.17 (b) Facilities must make the notification and consent form available to the residents and
16.18 inform residents of their option to conduct electronic monitoring of their rooms or private
16.19 living unit.

16.20 (c) Notification and consent forms received by the Office of Ombudsman for Long-Term
16.21 Care are classified under section 256.9744.

16.22 Subd. 7. **Costs and installation.** (a) A resident or resident representative choosing to
16.23 conduct electronic monitoring must do so at the resident's own expense, including paying
16.24 purchase, installation, maintenance, and removal costs.

16.25 (b) If a resident chooses to place an electronic monitoring device that uses Internet
16.26 technology for visual or audio monitoring, the resident may be responsible for contracting
16.27 with an Internet service provider.

16.28 (c) The facility shall make a reasonable attempt to accommodate the resident's installation
16.29 needs, including allowing access to the facility's public-use Internet or Wi-Fi systems when
16.30 available for other public uses. A facility has the burden of proving that a requested
16.31 accommodation is not reasonable.

17.1 (d) All electronic monitoring device installations and supporting services must be
17.2 UL-listed.

17.3 Subd. 8. **Notice to visitors.** (a) A facility must post a sign at each facility entrance
17.4 accessible to visitors that states: "Electronic monitoring devices, including security cameras
17.5 and audio devices, may be present to record persons and activities."

17.6 (b) The facility is responsible for installing and maintaining the signage required in this
17.7 subdivision.

17.8 Subd. 9. **Obstruction of electronic monitoring devices.** (a) A person must not knowingly
17.9 hamper, obstruct, tamper with, or destroy an electronic monitoring device placed in a
17.10 resident's room or private living unit without the permission of the resident or resident
17.11 representative.

17.12 (b) It is not a violation of paragraph (a) if a person turns off the electronic monitoring
17.13 device or blocks the visual recording component of the electronic monitoring device at the
17.14 direction of the resident or resident representative, or if consent has been withdrawn.

17.15 Subd. 10. **Dissemination of recordings.** (a) No person may access any video or audio
17.16 recording created through authorized electronic monitoring without the written consent of
17.17 the resident or resident representative.

17.18 (b) Except as required under other law, a recording or copy of a recording made as
17.19 provided in this section may only be disseminated for the purpose of addressing health,
17.20 safety, or welfare concerns of one or more residents.

17.21 (c) A person disseminating a recording or copy of a recording made as provided in this
17.22 section in violation of paragraph (b) may be civilly or criminally liable.

17.23 Subd. 11. **Admissibility of evidence.** Subject to applicable rules of evidence and
17.24 procedure, any video or audio recording created through electronic monitoring under this
17.25 section may be admitted into evidence in a civil, criminal, or administrative proceeding.

17.26 Subd. 12. **Liability.** (a) For the purposes of state law, the mere presence of an electronic
17.27 monitoring device in a resident's room or private living unit is not a violation of the resident's
17.28 right to privacy under section 144.651 or 144A.44.

17.29 (b) For the purposes of state law, a facility or home care provider is not civilly or
17.30 criminally liable for the mere disclosure by a resident or a resident representative of a
17.31 recording.

18.1 Subd. 13. **Immunity from liability.** The Office of Ombudsman for Long-Term Care
18.2 and representatives of the office are immune from liability for conduct described in section
18.3 256.9742, subdivision 2.

18.4 Subd. 14. **Resident protections.** (a) A facility must not:

18.5 (1) refuse to admit a potential resident or remove a resident because the facility disagrees
18.6 with the decision of the potential resident, the resident, or a resident representative acting
18.7 on behalf of the resident regarding electronic monitoring;

18.8 (2) retaliate or discriminate against any resident for consenting or refusing to consent
18.9 to electronic monitoring, as provided in section 144.6512, 144G.07, or 144J.03; or

18.10 (3) prevent the placement or use of an electronic monitoring device by a resident who
18.11 has provided the facility or the Office of Ombudsman for Long-Term Care with notice and
18.12 consent as required under this section.

18.13 (b) Any contractual provision prohibiting, limiting, or otherwise modifying the rights
18.14 and obligations in this section is contrary to public policy and is void and unenforceable.

18.15 Subd. 15. **Employee discipline.** (a) An employee of the facility or an employee of a
18.16 contractor providing services at the facility who is the subject of proposed corrective or
18.17 disciplinary action based upon evidence obtained by electronic monitoring must be given
18.18 access to that evidence for purposes of defending against the proposed action.

18.19 (b) An employee who obtains a recording or a copy of the recording must treat the
18.20 recording or copy confidentially and must not further disseminate it to any other person
18.21 except as required under law. Any copy of the recording must be returned to the facility or
18.22 resident who provided the copy when it is no longer needed for purposes of defending
18.23 against a proposed action.

18.24 Subd. 16. **Penalties.** (a) The commissioner may issue a correction order as provided
18.25 under section 144A.10, 144A.45, or 144A.474, upon a finding that the facility has failed to
18.26 comply with:

18.27 (1) subdivision 5, paragraphs (c) to (f);

18.28 (2) subdivision 6, paragraph (b);

18.29 (3) subdivision 7, paragraph (c); and

18.30 (4) subdivisions 8 to 10 and 14.

18.31 (b) The commissioner may exercise the commissioner's authority under section 144D.05
18.32 to compel a housing with services establishment to meet the requirements of this section.

19.1 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to all contracts
19.2 in effect, entered into, or renewed on or after that date.

19.3 **Sec. 6. [144J.06] NO DISCRIMINATION BASED ON SOURCE OF PAYMENT.**

19.4 All facilities must, regardless of the source of payment and for all persons seeking to
19.5 reside or residing in the facility:

19.6 (1) provide equal access to quality care; and

19.7 (2) establish, maintain, and implement identical policies and practices regarding residency,
19.8 transfer, and provision and termination of services.

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

19.10 **Sec. 7. [144J.07] CONSUMER ADVOCACY AND LEGAL SERVICES.**

19.11 Upon execution of an assisted living contract, every facility must provide the resident
19.12 and the resident's legal and designated representatives with the names and contact
19.13 information, including telephone numbers and e-mail addresses, of:

19.14 (1) nonprofit organizations that provide advocacy or legal services to residents including
19.15 but not limited to the designated protection and advocacy organization in Minnesota that
19.16 provides advice and representation to individuals with disabilities; and

19.17 (2) the Office of Ombudsman for Long-Term Care, including both the state and regional
19.18 contact information.

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

19.20 **Sec. 8. [144J.08] INVOLUNTARY DISCHARGES AND SERVICE TERMINATIONS.**

19.21 Subdivision 1. **Definitions.** (a) For the purposes of this section and sections 144J.09 and
19.22 144J.10, the following terms have the meanings given them.

19.23 (b) "Facility" means:

19.24 (1) a housing with services establishment registered under section 144D.02 and operating
19.25 under title protection provided under chapter 144G; or

19.26 (2) on or after August 1, 2021, an assisted living facility.

19.27 (c) "Refusal to readmit" means a refusal by an assisted living facility, upon a request
19.28 from a resident or an agent of the resident, to allow the resident to return to the facility,
19.29 whether or not a notice of termination of housing or services has been issued.

20.1 (d) "Termination of housing or services" or "termination" means an involuntary
20.2 facility-initiated discharge, eviction, transfer, or service termination not initiated at the oral
20.3 or written request of the resident or to which the resident objects.

20.4 Subd. 2. Prerequisite to termination of housing or services. Before issuing a notice
20.5 of termination, a facility must explain in person and in detail the reasons for the termination,
20.6 and must convene a conference with the resident, the resident's legal representatives, the
20.7 resident's designated representative, the resident's family, applicable state and social services
20.8 agencies, and relevant health professionals to identify and offer reasonable accommodations
20.9 and modifications, interventions, or alternatives to avoid the termination.

20.10 Subd. 3. Permissible reasons to terminate housing or services. (a) A facility is
20.11 prohibited from terminating housing or services for grounds other than those specified in
20.12 paragraphs (b) and (c). A facility initiating a termination under paragraph (b) or (c) must
20.13 comply with subdivision 2.

20.14 (b) A facility may not initiate a termination unless the termination is necessary and the
20.15 facility produces a written determination, supported by documentation, of the necessity of
20.16 the termination. A termination is necessary only if:

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

20.19 (2) the resident has committed any of the acts enumerated under section 504B.171 that
20.20 substantially interfere with the rights, health, or safety of other residents; or

20.21 (3) the facility can demonstrate that the resident's needs exceed the scope of services for
20.22 which the resident contracted or which are included in the resident's service plan.

20.23 (c) A facility may initiate a termination for nonpayment, provided the facility:

20.24 (1) makes reasonable efforts to accommodate temporary financial hardship;

20.25 (2) informs the resident of private subsidies and public benefits options that may be
20.26 available, including but not limited to benefits available under sections 256B.0915 and
20.27 256B.49; and

20.28 (3) if the resident applies for public benefits, timely responds to state or county agency
20.29 questions regarding the application.

20.30 (d) A facility may not initiate a termination of housing or services to a resident receiving
20.31 public benefits in the event of a temporary interruption in benefits. A temporary interruption
20.32 of benefits does not constitute nonpayment.

21.1 Subd. 4. **Notice of termination required.** (a) A facility initiating a termination of housing
21.2 or services must issue a written notice that complies with subdivision 5 at least 30 days
21.3 prior to the effective date of the termination to the resident, to the resident's legal
21.4 representative and designated representative, or if none, to a family member if known, and
21.5 to the Ombudsman for Long-Term Care.

21.6 (b) A facility may relocate a resident with less than 30 days' notice only in the event of
21.7 emergencies, as provided in subdivision 6.

21.8 (c) The notice requirements in paragraph (a) do not apply if the facility's license is
21.9 restricted by the commissioner or the facility ceases operations. In the event of a license
21.10 restriction or cessation of operations, the facility must follow the commissioner's directions
21.11 for resident relocations contained in section 144J.10.

21.12 Subd. 5. **Content of notice.** The notice required under subdivision 4 must contain, at a
21.13 minimum:

21.14 (1) the effective date of the termination;

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

21.17 (3) contact information for, and a statement that the resident has the right to appeal the
21.18 termination to, the Office of Administrative Hearings;

21.19 (4) contact information for the Ombudsman for Long-Term Care;

21.20 (5) the name and contact information of a person employed by the facility with whom
21.21 the resident may discuss the notice of termination of housing or services;

21.22 (6) if the termination is for services, a statement that the notice of termination of services
21.23 does not constitute a termination of housing or an eviction from the resident's home, and
21.24 that the resident has the right to remain in the facility if the resident can secure necessary
21.25 services from another provider of the resident's choosing; and

21.26 (7) if the resident must relocate:

21.27 (i) a statement that the facility must actively participate in a coordinated transfer of the
21.28 resident's care to a safe and appropriate service provider; and

21.29 (ii) the name of and contact information for the new location or provider, or a statement
21.30 that the location or provider must be identified prior to the effective date of the termination.

21.31 Subd. 6. **Exception for emergencies.** (a) A facility may relocate a resident from a facility
21.32 with less than 30 days' notice if relocation is required:

22.1 (1) due to a resident's urgent medical needs and is ordered by a licensed health care
 22.2 professional; or

22.3 (2) because of an imminent risk to the health or safety of another resident or a staff
 22.4 member of the facility.

22.5 (b) A facility relocating a resident under this subdivision must:

22.6 (1) remove the resident to an appropriate location. A private home where the occupant
 22.7 is unwilling or unable to care for the resident, a homeless shelter, a hotel, or a motel is not
 22.8 an appropriate location; and

22.9 (2) provide notice of the contact information for and location to which the resident has
 22.10 been relocated, contact information for any new service provider and for the Ombudsman
 22.11 for Long-Term Care, the reason for the relocation, a statement that, if the resident is refused
 22.12 readmission to the facility, the resident has the right to appeal any refusal to readmit to the
 22.13 Office of Administrative Hearings, and, if ascertainable, the approximate date or range of
 22.14 dates when the resident is expected to return to the facility or a statement that such date is
 22.15 not currently ascertainable, to:

22.16 (i) the resident, the resident's legal representative and designated representative, or if
 22.17 none, a family member if known immediately upon relocation of the resident; and

22.18 (ii) the Office of Ombudsman for Long-Term Care as soon as practicable if the resident
 22.19 has been relocated from the facility for more than 48 hours.

22.20 (c) The resident has the right to return to the facility if the conditions under paragraph
 22.21 (a) no longer exist.

22.22 (d) If the facility determines that the resident cannot return to the facility or the facility
 22.23 cannot provide the necessary services to the resident upon return, the facility must as soon
 22.24 as practicable but in no event later than 24 hours after the refusal or determination, comply
 22.25 with subdivision 4, and section 144J.10.

22.26 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
 22.27 2021, for housing with services establishments registered under section 144D.02 and
 22.28 operating under title protection provided by and subject to chapter 144G.

22.29 (b) This section is effective for assisted living facilities August 1, 2021.

22.30 **Sec. 9. [144J.09] APPEAL OF TERMINATION OF HOUSING OR SERVICES.**

22.31 **Subdivision 1. Right to appeal termination of housing or services.** A resident, the
 22.32 resident's legal representative or designated representative, or a family member, has the

23.1 right to appeal a termination of housing or services or a facility's refusal to readmit the
23.2 resident after an emergency relocation and to request a contested case hearing with the
23.3 Office of Administrative Hearings.

23.4 Subd. 2. Appeals process. (a) An appeal and request for a contested case hearing must
23.5 be filed in writing or electronically as authorized by the chief administrative law judge.

23.6 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon
23.7 as practicable, and in any event no later than 14 calendar days after the office receives the
23.8 request and within three business days in the event of an appeal of a refusal to readmit. The
23.9 hearing must be held at the facility where the resident lives, unless it is impractical or the
23.10 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing
23.11 may also be attended by telephone as allowed by the administrative law judge, after
23.12 considering how a telephonic hearing will affect the resident's ability to participate. The
23.13 hearing shall be limited to the amount of time necessary for the participants to expeditiously
23.14 present the facts about the proposed termination or refusal to readmit. The administrative
23.15 law judge shall issue a recommendation to the commissioner as soon as practicable, and in
23.16 any event no later than ten calendar days after the hearing or within two calendar days after
23.17 the hearing in the case of a refusal to readmit.

23.18 (c) The facility bears the burden of proof to establish by a preponderance of the evidence
23.19 that the termination of housing or services or the refusal to readmit is permissible under law
23.20 and does not constitute retaliation under section 144G.07 or 144J.03.

23.21 (d) Appeals from final determinations issued by the Office of Administrative Hearings
23.22 shall be as provided in sections 14.63 to 14.68.

23.23 (e) The Office of Administrative Hearings must grant the appeal and the commissioner
23.24 of health may order the assisted living facility to rescind the termination of housing and
23.25 services or readmit the resident if:

23.26 (1) the termination or refusal to readmit was in violation of state or federal law;

23.27 (2) the resident cures or demonstrates the ability to cure the reason for the termination
23.28 or refusal to readmit, or has identified any reasonable accommodation or modification,
23.29 intervention, or alternative to the termination;

23.30 (3) termination would result in great harm or potential great harm to the resident as
23.31 determined by a totality of the circumstances; or

23.32 (4) the facility has failed to identify a safe and appropriate location to which the resident
23.33 is to be relocated as required under section 144J.10.

24.1 (f) The Office of Administrative Hearings has the authority to make any other
24.2 determinations or orders regarding any conditions that may be placed upon the resident's
24.3 readmission or continued residency, including but not limited to changes to the service plan
24.4 or required increases in services.

24.5 (g) Nothing in this section limits the right of a resident or the resident's designated
24.6 representative to request or receive assistance from the Office of Ombudsman for Long-Term
24.7 Care and the protection and advocacy agency protection and advocacy system designated
24.8 by the state under Code of Federal Regulations, title 45, section 1326.21, concerning the
24.9 termination of housing or services.

24.10 Subd. 3. **Representation at the hearing.** Parties may, but are not required to, be
24.11 represented by counsel at a contested case hearing on an appeal. The appearance of a party
24.12 without counsel does not constitute the unauthorized practice of law.

24.13 Subd. 4. **Service provision while appeal pending.** Housing or services may not be
24.14 terminated during the pendency of an appeal and until a final determination is made by the
24.15 Office of Administrative Hearings.

24.16 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
24.17 2021, for housing with services establishments registered under section 144D.02 and
24.18 operating under title protection provided by and subject to chapter 144G.

24.19 (b) This section is effective for assisted living facilities August 1, 2021.

24.20 Sec. 10. **[144J.10] HOUSING AND SERVICE TERMINATION; RELOCATION**
24.21 **PLANNING.**

24.22 Subdivision 1. **Duties of the facility.** If a facility terminates housing or services, if a
24.23 facility intends to cease operations, or if a facility's license is restricted by the commissioner
24.24 requiring termination of housing or services to residents, the facility:

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

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

25.1 (3) must consult and cooperate with the resident; the resident's legal representatives,
25.2 designated representative, and family members; any interested professionals, including case
25.3 managers; and applicable agencies to consider the resident's goals and make arrangements
25.4 to relocate the resident.

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

25.11 Subd. 3. **Written relocation plan required.** The facility must prepare a written relocation
25.12 plan for a resident being relocated. The plan must:

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

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

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

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

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

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

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

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

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

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

- 26.1 (6) all medication administration records that are relevant to the services being provided;
26.2 (7) the most recent resident assessment, if relevant to the services being provided; and
26.3 (8) copies of health care directives, "do not resuscitate" orders, and any guardianship
26.4 orders or powers of attorney.

26.5 Subd. 7. **Final accounting; return of money and property.** (a) Within 30 days of the
26.6 effective date of the termination of housing or services, the facility must:

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

26.9 (2) provide any refunds due;

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

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

26.13 **EFFECTIVE DATE.** (a) This section is effective August 1, 2019, and expires July 31,
26.14 2021, for housing with services establishments registered under section 144D.02 and
26.15 operating under title protection provided by and subject to chapter 144G.

26.16 (b) This section is effective for assisted living facilities August 1, 2021.

26.17 Sec. 11. **[144J.11] FORCED ARBITRATION.**

26.18 (a) An assisted living facility must affirmatively disclose, orally and conspicuously in
26.19 writing in an assisted living contract, any arbitration provision in the contract that precludes,
26.20 limits, or delays the ability of a resident from taking a civil action.

26.21 (b) A forced arbitration requirement must not include a choice of law or choice of venue
26.22 provision. Assisted living contracts must adhere to Minnesota law and any other applicable
26.23 federal or local law. Any civil actions by any litigant must be taken in Minnesota judicial
26.24 or administrative courts.

26.25 (c) A forced arbitration provision must not be unconscionable. All or the portion of a
26.26 forced arbitration provision found by a court to be unconscionable shall have no effect on
26.27 the remaining provisions, terms, or conditions of the contract.

26.28 **EFFECTIVE DATE.** This section is effective August 1, 2019, for contracts entered
26.29 into on or after that date.

27.1 **Sec. 12. [144J.12] VIOLATION OF RIGHTS.**

27.2 (a) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
 27.3 of action under section 325F.71, subdivision 4, for the violation of section 144J.02,
 27.4 subdivisions 12, 15, and 18, or section 144J.04.

27.5 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
 27.6 of action under section 325F.71, subdivision 4, for the violation of section 144J.03, unless
 27.7 the resident otherwise has a cause of action under section 626.557, subdivision 17.

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

27.9 **Sec. 13. [144J.13] APPLICABILITY OF OTHER LAWS.**

27.10 Assisted living facilities:

27.11 (1) are subject to and must comply with chapter 504B;

27.12 (2) must comply with section 325F.72; and

27.13 (3) are not required to obtain a lodging license under chapter 157 and related rules.

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

27.15 Sec. 14. Minnesota Statutes 2018, section 325F.72, subdivision 4, is amended to read:

27.16 Subd. 4. **Remedy.** The attorney general may seek the remedies set forth in section 8.31
 27.17 for repeated and intentional violations of this section. ~~However, no private right of action~~
 27.18 ~~may be maintained as provided under section 8.31, subdivision 3a.~~

27.19 **ARTICLE 2**

27.20 **NURSING HOMES**

27.21 **Section 1. [144.6512] RETALIATION IN NURSING HOMES PROHIBITED.**

27.22 Subdivision 1. **Definitions.** For the purposes of this section:

27.23 (1) "nursing home" means a facility licensed as a nursing home under chapter 144A;

27.24 and

27.25 (2) "resident" means a person residing in a nursing home.

27.26 Subd. 2. **Retaliation prohibited.** A nursing home or agent of the nursing home may not
 27.27 retaliate against a resident or employee if the resident, employee, or any person acting on
 27.28 behalf of the resident:

- 28.1 (1) files a complaint or grievance, makes an inquiry, or asserts any right;
- 28.2 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
- 28.3 right;
- 28.4 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
- 28.5 voluntary, under section 626.557;
- 28.6 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
- 28.7 problems or concerns to the administrator or manager of the nursing home, the Office of
- 28.8 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
- 28.9 advocacy organization;
- 28.10 (5) advocates or seeks advocacy assistance for necessary or improved care or services
- 28.11 or enforcement of rights under this section or other law;
- 28.12 (6) takes or indicates an intention to take civil action;
- 28.13 (7) participates or indicates an intention to participate in any investigation or
- 28.14 administrative or judicial proceeding;
- 28.15 (8) contracts or indicates an intention to contract to receive services from a service
- 28.16 provider of the resident's choice other than the nursing home; or
- 28.17 (9) places or indicates an intention to place a camera or electronic monitoring device in
- 28.18 the resident's private space as provided under section 144J.05.
- 28.19 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
- 28.20 a resident includes but is not limited to any of the following actions taken or threatened by
- 28.21 a nursing home or an agent of the nursing home against a resident, or any person with a
- 28.22 familial, personal, legal, or professional relationship with the resident:
- 28.23 (1) the discharge, eviction, transfer, or termination of services;
- 28.24 (2) the imposition of discipline, punishment, or a sanction or penalty;
- 28.25 (3) any form of discrimination;
- 28.26 (4) restriction or prohibition of access:
- 28.27 (i) of the resident to the nursing home or visitors; or
- 28.28 (ii) to the resident by a family member or a person with a personal, legal, or professional
- 28.29 relationship with the resident;
- 28.30 (5) the imposition of involuntary seclusion or withholding food, care, or services;

- 29.1 (6) restriction of any of the rights granted to residents under state or federal law;
29.2 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
29.3 living arrangements;
29.4 (8) an arbitrary increase in charges or fees;
29.5 (9) removing, tampering with, or deprivation of technology, communication, or electronic
29.6 monitoring devices; or
29.7 (10) any oral or written communication of false information about a person advocating
29.8 on behalf of the resident.

29.9 **Subd. 4. Retaliation against an employee.** For purposes of this section, to retaliate
29.10 against an employee includes but is not limited to any of the following actions taken or
29.11 threatened by the nursing home or an agent of the nursing home against an employee:

- 29.12 (1) discharge or transfer;
29.13 (2) demotion or refusal to promote;
29.14 (3) reduction in compensation, benefits, or privileges;
29.15 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or
29.16 (5) any form of discrimination.

29.17 **Subd. 5. Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
29.18 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
29.19 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

29.20 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if
29.21 a good faith report of maltreatment pursuant to section 626.557 is made by the nursing home
29.22 or agent of the nursing home against the visitor, family member, or other person with a
29.23 personal, legal, or professional relationship that is subject to the restriction or prohibition
29.24 of access.

29.25 (c) The presumption does not apply to any oral or written communication described in
29.26 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant
29.27 to section 626.557 made by the nursing home or agent of the nursing home against the
29.28 person advocating on behalf of the resident.

29.29 (d) The presumption does not apply to a termination of a contract of admission, as that
29.30 term is defined under section 144.6501, subdivision 1, for a reason permitted under state
29.31 or federal law.

30.1 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision
30.2 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,
30.3 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

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

30.5 **ARTICLE 3**

30.6 **HOUSING WITH SERVICES ESTABLISHMENTS**

30.7 Section 1. **[144G.07] RETALIATION PROHIBITED.**

30.8 Subdivision 1. **Definitions.** For the purposes of this section and section 144G.08:

30.9 (1) "facility" means a housing with services establishment registered under section
30.10 144D.02 and operating under title protection under this chapter; and

30.11 (2) "resident" means a resident of a facility.

30.12 Subd. 2. **Retaliation prohibited.** A facility or agent of the facility may not retaliate
30.13 against a resident or employee if the resident, employee, or any person on behalf of the
30.14 resident:

30.15 (1) files a complaint or grievance, makes an inquiry, or asserts any right;

30.16 (2) indicates an intention to file a complaint or grievance, make an inquiry, or assert any
30.17 right;

30.18 (3) files or indicates an intention to file a maltreatment report, whether mandatory or
30.19 voluntary, under section 626.557;

30.20 (4) seeks assistance from or reports a reasonable suspicion of a crime or systemic
30.21 problems or concerns to the administrator or manager of the facility, the Office of
30.22 Ombudsman for Long-Term Care, a regulatory or other government agency, or a legal or
30.23 advocacy organization;

30.24 (5) advocates or seeks advocacy assistance for necessary or improved care or services
30.25 or enforcement of rights under this section or other law;

30.26 (6) takes or indicates an intention to take civil action;

30.27 (7) participates or indicates an intention to participate in any investigation or
30.28 administrative or judicial proceeding;

30.29 (8) contracts or indicates an intention to contract to receive services from a service
30.30 provider of the resident's choice other than the facility; or

31.1 (9) places or indicates an intention to place a camera or electronic monitoring device in
31.2 the resident's private space as provided under section 144J.05.

31.3 Subd. 3. **Retaliation against a resident.** For purposes of this section, to retaliate against
31.4 a resident includes but is not limited to any of the following actions taken or threatened by
31.5 a facility or an agent of the facility against a resident, or any person with a familial, personal,
31.6 legal, or professional relationship with the resident:

31.7 (1) the discharge, eviction, transfer, or termination of services;

31.8 (2) the imposition of discipline, punishment, or a sanction or penalty;

31.9 (3) any form of discrimination;

31.10 (4) restriction or prohibition of access:

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

31.12 (ii) to the resident by a family member or a person with a personal, legal, or professional
31.13 relationship with the resident;

31.14 (5) the imposition of involuntary seclusion or withholding food, care, or services;

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

31.16 (7) restriction or reduction of access to or use of amenities, care, services, privileges, or
31.17 living arrangements;

31.18 (8) an arbitrary increase in charges or fees;

31.19 (9) removing, tampering with, or deprivation of technology, communication, or electronic
31.20 monitoring devices; or

31.21 (10) any oral or written communication of false information about a person advocating
31.22 on behalf of the resident.

31.23 Subd. 4. **Retaliation against an employee.** For purposes of this section, to retaliate
31.24 against an employee includes but is not limited to any of the following actions taken or
31.25 threatened by the facility or an agent of the facility against an employee:

31.26 (1) discharge or transfer;

31.27 (2) demotion or refusal to promote;

31.28 (3) reduction in compensation, benefits, or privileges;

31.29 (4) the unwarranted imposition of discipline, punishment, or a sanction or penalty; or

31.30 (5) any form of discrimination.

32.1 Subd. 5. **Rebuttable presumption of retaliation.** (a) Except as provided in paragraphs
32.2 (b), (c), and (d), there is a rebuttable presumption that any action described in subdivision
32.3 3 or 4 and taken within 90 days of an initial action described in subdivision 2 is retaliatory.

32.4 (b) The presumption does not apply to actions described in subdivision 3, clause (4), if
32.5 a good faith report of maltreatment pursuant to section 626.557 is made by the facility or
32.6 agent of the facility against the visitor, family member, or other person with a personal,
32.7 legal, or professional relationship that is subject to the restriction or prohibition of access.

32.8 (c) The presumption does not apply to any oral or written communication described in
32.9 subdivision 3, clause (10), that is associated with a good faith report of maltreatment pursuant
32.10 to section 626.557 made by the facility or agent of the facility against the person advocating
32.11 on behalf of the resident.

32.12 (d) The presumption does not apply to a termination of a contract of admission, as that
32.13 term is defined under section 144.6501, subdivision 1, for a reason permitted under state
32.14 or federal law.

32.15 Subd. 6. **Remedy.** A resident who meets the criteria under section 325F.71, subdivision
32.16 1, has a cause of action under section 325F.71, subdivision 4, for the violation of this section,
32.17 unless the resident otherwise has a cause of action under section 626.557, subdivision 17.

32.18 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,
32.19 2021.

32.20 Sec. 2. **[144G.08] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
32.21 **PROHIBITED.**

32.22 Subdivision 1. **Prohibitions.** (a) No employee or agent of any facility may make any
32.23 false, fraudulent, deceptive, or misleading statements or representations or material omissions
32.24 in marketing, advertising, or any other description or representation of care or services.

32.25 (b) No housing with services contract as required under section 144D.04, subdivision
32.26 1, may include any provision that the facility knows or should know to be deceptive,
32.27 unlawful, or unenforceable under state or federal law, nor include any provision that requires
32.28 or implies a lesser standard of care or responsibility than is required by law.

32.29 (c) No facility may advertise or represent that the facility has a dementia care unit without
32.30 complying with disclosure requirements under section 325F.72 and any training requirements
32.31 required by law or rule.

33.1 Subd. 2. Remedies. (a) A violation of this section constitutes a violation of section
33.2 325F.69, subdivision 1. The attorney general or a county attorney may enforce this section
33.3 using the remedies in section 325F.70.

33.4 (b) A resident who meets the criteria under section 325F.71, subdivision 1, has a cause
33.5 of action under section 325F.71, subdivision 4, for the violation of this section, unless the
33.6 resident otherwise has a cause of action under section 626.557, subdivision 17.

33.7 **EFFECTIVE DATE.** This section is effective August 1, 2019, and expires July 31,
33.8 2021.

33.9 **ARTICLE 4**

33.10 **INDEPENDENT SENIOR LIVING FACILITIES**

33.11 Section 1. **[144K.01] DEFINITIONS.**

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

33.14 Subd. 2. Dementia. "Dementia" has the meaning given in section 144I.01, subdivision
33.15 16.

33.16 Subd. 3. Designated representative. "Designated representative" means a person
33.17 designated in writing by the resident in a residency and services contract and identified in
33.18 the resident's records on file with the independent senior living facility.

33.19 Subd. 4. Facility. "Facility" means an independent senior living facility.

33.20 Subd. 5. Independent senior living facility. "Independent senior living facility" means
33.21 a facility that for a fee provides sleeping accommodations to one or more adults and offers
33.22 or provides one or more supportive services directly or through a related supportive services
33.23 provider. For purposes of this chapter, independent senior living facility does not include:

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

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

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

33.29 (4) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
33.30 9520.0500 to 9520.0670, or under chapter 245D or 245G;

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

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

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

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

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

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

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

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

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

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

34.25 (15) an assisted living facility or assisted living facility with dementia care licensed
34.26 under chapter 144I.

34.27 Subd. 6. **Manager.** "Manager" means a manager of an independent senior living facility.

34.28 Subd. 7. **Residency and services contract or contract.** "Residency and services contract"
34.29 or "contract" means the legal agreement between an independent senior living facility and
34.30 a resident for the provision of housing and supportive services.

35.1 Subd. 8. **Related supportive services provider.** "Related supportive services provider"
35.2 means a service provider that provides supportive services to a resident under a business
35.3 relationship or other affiliation with the independent senior living facility.

35.4 Subd. 9. **Resident.** "Resident" means a person residing in an independent senior living
35.5 facility.

35.6 Subd. 10. **Supportive services.** "Supportive services" means:

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

35.8 (2) housekeeping services;

35.9 (3) provision of meals or assistance with meals or food preparation;

35.10 (4) help with arranging, or arranging transportation to, medical, social, recreational,
35.11 personal, or social services appointments; or

35.12 (5) provision of social or recreational services.

35.13 Arranging for services does not include making referrals or contacting a service provider
35.14 in an emergency.

35.15 Subd. 11. **Wellness check services.** "Wellness check services" means having,
35.16 maintaining, and documenting a system to, by any means, check on the health, safety, and
35.17 well-being of a resident.

35.18 Sec. 2. **[144K.02] DECEPTIVE MARKETING AND BUSINESS PRACTICES**
35.19 **PROHIBITED.**

35.20 (a) No employee or agent of any independent senior living facility may make any false,
35.21 fraudulent, deceptive, or misleading statements or representations or material omissions in
35.22 marketing, advertising, or any other description or representation of care or services.

35.23 (b) No residency and services contract required under section 144K.03, subdivision 1,
35.24 may include any provision that the facility knows or should know to be deceptive, unlawful,
35.25 or unenforceable under state or federal law.

35.26 (c) No facility may advertise or represent that the facility is an assisted living facility as
35.27 defined in section 144I.01, subdivision 6, or an assisted living facility with dementia care
35.28 as defined in section 144I.01, subdivision 8.

36.1 Sec. 3. [144K.025] REQUIRED DISCLOSURE BY FACILITY.

36.2 An independent senior living facility must disclose to prospective residents and residents
36.3 that the facility is not licensed as an assisted living facility and is not permitted to provide
36.4 assisted living services, as defined in section 144I.01, subdivision 7, either directly or through
36.5 a provider under a business relationship or other affiliation with the facility.

36.6 Sec. 4. [144K.03] RESIDENCY AND SERVICES CONTRACT.

36.7 Subdivision 1. Contract required. (a) No independent senior living facility may operate
36.8 in this state unless a written contract that meets the requirements of subdivision 2 is executed
36.9 between the facility and each resident and unless the establishment operates in accordance
36.10 with the terms of the contract.

36.11 (b) The facility must give a complete copy of any signed contract and any addendums,
36.12 and all supporting documents and attachments, to the resident promptly after a contract and
36.13 any addendums have been signed by the resident.

36.14 (c) The contract must contain all the terms concerning the provision of housing and
36.15 supportive services, whether the services are provided directly or through a related supportive
36.16 services provider.

36.17 Subd. 2. Contents of contract. A residency and services contract must include at least
36.18 the following elements in itself or through supporting documents or attachments:

36.19 (1) the name, telephone number, and physical mailing address, which may not be a
36.20 public or private post office box, of:

36.21 (i) the facility and, where applicable, the related supportive services provider;

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

36.23 (iii) at least one natural person who is authorized to accept service of process on behalf
36.24 of the facility;

36.25 (2) the term of the contract;

36.26 (3) a description of all the terms and conditions of the contract, including a description
36.27 of the services to be provided and any limitations to the services provided to the resident
36.28 for the contracted amount;

36.29 (4) a delineation of the grounds under which the resident may be evicted or have services
36.30 terminated;

36.31 (5) billing and payment procedures and requirements;

37.1 (6) a statement regarding the ability of a resident to receive services from service
37.2 providers with whom the facility does not have a business relationship;

37.3 (7) a description of the facility's complaint resolution process available to residents,
37.4 including the name and contact information of the person representing the facility who is
37.5 designated to handle and resolve complaints;

37.6 (8) the toll-free complaint line for the Office of Ombudsman for Long-Term Care; and

37.7 (9) a statement regarding the availability of and contact information for long-term care
37.8 consultation services under section 256B.0911 in the county in which the facility is located.

37.9 Subd. 3. **Designation of representative.** (a) Before or at the time of execution of a
37.10 residency and services contract, every facility must offer the resident the opportunity to
37.11 identify a designated representative in writing in the contract and provide the following
37.12 verbatim notice on a document separate from the contract:

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

37.14 You have the right to name anyone as your "Designated Representative" to assist you
37.15 or, if you are unable, advocate on your behalf. A "Designated Representative" does not take
37.16 the place of your guardian, conservator, power of attorney ("attorney-in-fact"), or health
37.17 care power of attorney ("health care agent").

37.18 (b) The contract must contain a page or space for the name and contact information of
37.19 the designated representative and a box the resident must initial if the resident declines to
37.20 name a designated representative. Notwithstanding subdivision 5, the resident has the right
37.21 at any time to add or change the name and contact information of the designated
37.22 representative.

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

37.25 Subd. 5. **Additions and amendments to contract.** The resident must agree in writing
37.26 to any additions or amendments to the contract. Upon agreement between the resident or
37.27 resident's designated representative and the facility, a new contract or an addendum to the
37.28 existing contract must be executed and signed and provided to the resident and the resident's
37.29 legal representative.

37.30 Subd. 6. **Contracts in permanent files.** Residency and services contracts and related
37.31 documents executed by each resident must be maintained by the facility in files from the
37.32 date of execution until three years after the contract is terminated.

38.1 Subd. 7. **Waivers of liability prohibited.** The contract must not include a waiver of
38.2 facility liability for the health and safety or personal property of a resident. The contract
38.3 must not include any provision that the facility knows or should know to be deceptive,
38.4 unlawful, or unenforceable under state or federal law, and must not include any provision
38.5 that requires or implies a lesser standard of responsibility than is required by law.

38.6 Subd. 8. **Contract restriction.** No independent senior living facility may offer wellness
38.7 check services.

38.8 **Sec. 5. [144K.04] TERMINATION OF RESIDENCY AND SERVICES CONTRACT.**

38.9 Subdivision 1. **Notice required.** An independent senior living facility must provide at
38.10 least 30 days prior notice of a termination of the residency and services contract.

38.11 Subd. 2. **Content of notice.** The notice required under subdivision 1 must contain, at a
38.12 minimum:

38.13 (1) the effective date of termination of the contract;

38.14 (2) a detailed explanation of the basis for the termination;

38.15 (3) a list of known facilities in the immediate geographic area;

38.16 (4) information on how to contact the Office of Ombudsman for Long-Term Care and
38.17 the Ombudsman for Mental Health and Developmental Disabilities;

38.18 (6) a statement of any steps the resident can take to avoid termination;

38.19 (7) the name and contact information of a person employed by the facility with whom
38.20 the resident may discuss the notice of termination and, without extending the termination
38.21 notice period, an affirmative offer to meet with the resident and any person or persons of
38.22 the resident's choosing to discuss the termination;

38.23 (8) a statement that, with respect to the notice of termination, reasonable accommodation
38.24 is available for a resident with a disability; and

38.25 (9) an explanation that:

38.26 (i) the resident must vacate the apartment, along with all personal possessions, on or
38.27 before the effective date of termination;

38.28 (ii) failure to vacate the apartment by the date of termination may result in the filing of
38.29 an eviction action in court by the facility, and that the resident may present a defense, if
38.30 any, to the court at that time; and

38.31 (iii) the resident may seek legal counsel in connection with the notice of termination.

39.1 **Sec. 6. [144K.05] MANAGER REQUIREMENTS.**

39.2 (a) The manager of an independent senior living facility must obtain at least 30 hours
39.3 of continuing education every two years of employment as the manager in topics relevant
39.4 to the operations of the facility and the needs of its residents. Continuing education earned
39.5 to maintain a professional license, such as a nursing home administrator license, nursing
39.6 license, social worker license, or real estate license, may be used to satisfy this requirement.
39.7 The continuing education must include at least four hours of documented training on dementia
39.8 and related disorders, activities of daily living, problem solving with challenging behaviors,
39.9 and communication skills within 160 working hours of hire and two hours of training on
39.10 these topics for each 12 months of employment thereafter.

39.11 (b) The facility must maintain records for at least three years demonstrating that the
39.12 manager has attended educational programs as required by this section. New managers may
39.13 satisfy the initial dementia training requirements by producing written proof of having
39.14 previously completed required training within the past 18 months.

39.15 **Sec. 7. [144K.06] FIRE PROTECTION AND PHYSICAL ENVIRONMENT.**

39.16 Subdivision 1. **Comprehensive fire protection system required.** Every independent
39.17 senior living facility must have a comprehensive fire protection system that includes:

39.18 (1) protection throughout the facility by an approved supervised automatic sprinkler
39.19 system according to building code requirements established in Minnesota Rules, part
39.20 1305.0903, or smoke detectors in each occupied room installed and maintained in accordance
39.21 with the National Fire Protection Association (NFPA) Standard 72;

39.22 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
39.23 10; and

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

39.28 Subd. 2. **Fire drills.** Fire drills shall be conducted in accordance with the residential
39.29 board and care requirements in the Life Safety Code.

39.30 **Sec. 8. [144K.07] EMERGENCY PLANNING.**

39.31 Subdivision 1. **Requirements.** Each independent senior living facility must meet the
39.32 following requirements:

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

40.4 (2) post an emergency disaster plan prominently;

40.5 (3) provide building emergency exit diagrams to all residents upon signing a residency
40.6 and services contract;

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

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

40.9 Subd. 2. **Emergency and disaster training.** Each independent senior living facility
40.10 must provide emergency and disaster training to all staff during the initial staff orientation
40.11 and annually thereafter and must make emergency and disaster training available to all
40.12 residents annually. Staff who have not received emergency and disaster training are allowed
40.13 to work only when trained staff are also working on site.

40.14 Sec. 9. **[144K.08] OTHER LAWS.**

40.15 An independent senior living facility must comply with chapter 504B and must obtain
40.16 and maintain all other licenses, permits, registrations, or other governmental approvals
40.17 required of it.

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

40.19 Sec. 10. **[144K.09] ENFORCEMENT.**

40.20 (a) A violation of this chapter constitutes a violation of section 325F.69, subdivision 1.
40.21 The attorney general may enforce this section using the remedies in section 325F.70.

40.22 (b) A resident who meets the criteria in section 325F.71, subdivision 1, has a cause of
40.23 action under section 325F.71, subdivision 4, for a violation of this chapter.

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

ARTICLE 5**ASSISTED LIVING LICENSURE**

41.1

41.2

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

41.4 144.122 LICENSE, PERMIT, AND SURVEY FEES.

41.5 (a) The state commissioner of health, by rule, may prescribe procedures and fees for
41.6 filing with the commissioner as prescribed by statute and for the issuance of original and
41.7 renewal permits, licenses, registrations, and certifications issued under authority of the
41.8 commissioner. The expiration dates of the various licenses, permits, registrations, and
41.9 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include
41.10 application and examination fees and a penalty fee for renewal applications submitted after
41.11 the expiration date of the previously issued permit, license, registration, and certification.
41.12 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,
41.13 registrations, and certifications when the application therefor is submitted during the last
41.14 three months of the permit, license, registration, or certification period. Fees proposed to
41.15 be prescribed in the rules shall be first approved by the Department of Management and
41.16 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be
41.17 in an amount so that the total fees collected by the commissioner will, where practical,
41.18 approximate the cost to the commissioner in administering the program. All fees collected
41.19 shall be deposited in the state treasury and credited to the state government special revenue
41.20 fund unless otherwise specifically appropriated by law for specific purposes.

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

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

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

- 42.1 Joint Commission on Accreditation of \$7,655 plus \$16 per bed
- 42.2 Healthcare Organizations (JCAHO) and
- 42.3 American Osteopathic Association (AOA)
- 42.4 hospitals
- 42.5 Non-JCAHO and non-AOA hospitals \$5,280 plus \$250 per bed
- 42.6 Nursing home \$183 plus \$91 per bed until June 30, 2018.
- 42.7 \$183 plus \$100 per bed between July 1, 2018,
- 42.8 and June 30, 2020. \$183 plus \$105 per bed
- 42.9 beginning July 1, 2020.

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

- 42.13 Outpatient surgical centers \$3,712
- 42.14 Boarding care homes \$183 plus \$91 per bed
- 42.15 Supervised living facilities \$183 plus \$91 per bed.
- 42.16 Assisted living facilities with dementia care \$..... plus \$..... per bed.
- 42.17 Assisted living facilities \$..... plus \$..... per bed.

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

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

- 42.24 Prospective payment surveys for hospitals \$ 900
- 42.25 Swing bed surveys for nursing homes \$ 1,200
- 42.26 Psychiatric hospitals \$ 1,400
- 42.27 Rural health facilities \$ 1,100
- 42.28 Portable x-ray providers \$ 500
- 42.29 Home health agencies \$ 1,800
- 42.30 Outpatient therapy agencies \$ 800
- 42.31 End stage renal dialysis providers \$ 2,100
- 42.32 Independent therapists \$ 800
- 42.33 Comprehensive rehabilitation outpatient facilities \$ 1,200
- 42.34 Hospice providers \$ 1,700
- 42.35 Ambulatory surgical providers \$ 1,800

43.1	Hospitals	\$ 4,200
43.2	Other provider categories or additional	Actual surveyor costs: average surveyor cost x number of hours for the survey process.
43.3	resurveys required to complete initial	
43.4	certification	

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

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

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

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

43.13 Subd. 3. **Agent.** "Agent" means the person upon whom all notices and orders shall be
 43.14 served and who is authorized to accept service of notices and orders on behalf of the facility.

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

43.17 Subd. 5. **Assisted living administrator.** "Assisted living administrator" means a person
 43.18 who administers, manages, supervises, or is in general administrative charge of an assisted
 43.19 living facility, whether or not the individual has an ownership interest in the facility, and
 43.20 whether or not the person's functions or duties are shared with one or more individuals and
 43.21 who is licensed by the Board of Executives for Long Term Services and Supports pursuant
 43.22 to section 144I.31.

43.23 Subd. 6. **Assisted living facility.** "Assisted living facility" means a licensed facility that:
 43.24 (1) provides sleeping accommodations to one or more adults; and (2) provides basic care
 43.25 services and comprehensive assisted living services. For purposes of this chapter, assisted
 43.26 living facility does not include:

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

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

43.30 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections
 43.31 144.50 to 144.56;

- 44.1 (iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts
44.2 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments
44.3 that provide dementia care services;
- 44.4 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;
- 44.5 (vi) services and residential settings licensed under chapter 245A, including adult foster
44.6 care and services and settings governed under the standards in chapter 245D;
- 44.7 (vii) private homes where the residents own or rent the home and control all aspects of
44.8 the property and building;
- 44.9 (viii) a duly organized condominium, cooperative, and common interest community, or
44.10 owners' association of the condominium, cooperative, and common interest community
44.11 where at least 80 percent of the units that comprise the condominium, cooperative, or
44.12 common interest community are occupied by individuals who are the owners, members, or
44.13 shareholders of the units;
- 44.14 (ix) temporary family health care dwellings as defined in sections 394.307 and 462.3593;
- 44.15 (x) settings offering services conducted by and for the adherents of any recognized
44.16 church or religious denomination for its members through spiritual means or by prayer for
44.17 healing;
- 44.18 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with
44.19 low-income housing tax credits pursuant to United States Code, title 26, section 42, and
44.20 units financed by the Minnesota Housing Finance Agency that are intended to serve
44.21 individuals with disabilities or individuals who are homeless;
- 44.22 (xii) rental housing developed under United States Code, title 42, section 1437, or United
44.23 States Code, title 12, section 1701q;
- 44.24 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled
44.25 residents under United States Code, title 42, section 1437e, or rental housing for qualifying
44.26 families under Code of Federal Regulations, title 24, section 983.56; or
- 44.27 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United
44.28 States Code, title 42, section 8011.
- 44.29 Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic
44.30 care services and one or more of the following:

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

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

45.6 (3) medication management services;

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

45.8 (5) treatment and therapies;

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

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

45.14 Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with
45.15 dementia care" means a licensed assisted living facility that also provides dementia care
45.16 services. An assisted living facility with dementia care may also have a secured dementia
45.17 care unit.

45.18 Subd. 9. **Assisted living facility contract.** "Assisted living facility contract" means the
45.19 legal agreement between an assisted living facility and a resident for the provision of housing
45.20 and services.

45.21 Subd. 10. **Basic care services.** "Basic care services" means assistive tasks provided by
45.22 licensed or unlicensed personnel that include:

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

45.25 (2) providing standby assistance;

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

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

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

46.1 (6) having, maintaining, and documenting a system to, by any means, check on the
46.2 health, safety, and well-being of a resident; and

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

46.5 Subd. 11. **Change of ownership.** "Change of ownership" means a change in the individual
46.6 or legal entity that is responsible for the operation of a facility.

46.7 Subd. 12. **Commissioner.** "Commissioner" means the commissioner of health.

46.8 Subd. 13. **Compliance officer.** "Compliance officer" means a designated individual
46.9 who is qualified by knowledge, training, and experience in health care or risk management
46.10 to promote, implement, and oversee the facility's compliance program. The compliance
46.11 officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance
46.12 processes; and address fraud, abuse, and waste under this chapter and state and federal law.

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

46.15 Subd. 15. **Controlling individual.** (a) "Controlling individual" means an owner of a
46.16 facility licensed under this chapter and the following individuals, if applicable:

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

46.19 (2) the individual designated as the authorized agent under section 245A.04, subdivision
46.20 1, paragraph (b);

46.21 (3) the individual designated as the compliance officer under section 256B.04, subdivision
46.22 21, paragraph (b); and

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

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

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

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

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

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

47.2 (c) Controlling individual does not include:

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

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

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

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

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

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

47.19 (5) an individual who is a member of an organization exempt from taxation under section
47.20 290.05, unless the individual is also an officer, owner, or managerial official of the license
47.21 or owns any of the beneficial interests not excluded in this subdivision. This clause does
47.22 not exclude from the definition of controlling individual an organization that is exempt from
47.23 taxation; or

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

47.27 Subd. 16. **Dementia.** "Dementia" means the loss of intellectual function of sufficient
47.28 severity that interferes with an individual's daily functioning. Dementia affects an individual's
47.29 memory and ability to think, reason, speak, and move. Symptoms may also include changes
47.30 in personality, mood, and behavior. Irreversible dementias include but are not limited to:

47.31 (1) Alzheimer's disease;

47.32 (2) vascular dementia;

48.1 (3) Lewy body dementia;

48.2 (4) frontal-temporal lobe dementia;

48.3 (5) alcohol dementia;

48.4 (6) Huntington's disease; and

48.5 (7) Creutzfeldt-Jakob disease.

48.6 Subd. 17. **Dementia care services.** "Dementia care services" means a distinct form of
48.7 long-term care designed to meet the specific needs of an individual with dementia.

48.8 Subd. 18. **Dementia-trained staff.** "Dementia-trained staff" means any employee that
48.9 has completed the minimum training requirements and has demonstrated knowledge and
48.10 understanding in supporting individuals with dementia.

48.11 Subd. 19. **Designated representative.** "Designated representative" means one of the
48.12 following in the order of priority listed, to the extent the person may reasonably be identified
48.13 and located:

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

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

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

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

48.22 (5) the resident representative.

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

48.27 Subd. 21. **Direct contact.** "Direct contact" means providing face-to-face care, training,
48.28 supervision, counseling, consultation, or medication assistance to residents of a facility.

48.29 Subd. 22. **Direct ownership interest.** "Direct ownership interest" means an individual
48.30 or organization with the possession of at least five percent equity in capital, stock, or profits
48.31 of an organization, or who is a member of a limited liability company. An individual with

49.1 a five percent or more direct ownership is presumed to have an effect on the operation of
49.2 the facility with respect to factors affecting the care or training provided.

49.3 Subd. 23. **Facility.** "Facility" means an assisted living facility and an assisted living
49.4 facility with dementia care.

49.5 Subd. 24. **Hands-on assistance.** "Hands-on assistance" means physical help by another
49.6 person without which the resident is not able to perform the activity.

49.7 Subd. 25. **Indirect ownership interest.** "Indirect ownership interest" means an individual
49.8 or organization with a direct ownership interest in an entity that has a direct or indirect
49.9 ownership interest in a facility of at least five percent or more. An individual with a five
49.10 percent or more indirect ownership is presumed to have an effect on the operation of the
49.11 facility with respect to factors affecting the care or training provided.

49.12 Subd. 26. **Licensed health professional.** "Licensed health professional" means a person
49.13 licensed in Minnesota to practice the professions described in section 214.01, subdivision
49.14 2.

49.15 Subd. 27. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the
49.16 resident occupancy level requested by a licensee and approved by the commissioner.

49.17 Subd. 28. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner
49.18 issues a license for a facility and who is responsible for the management, control, and
49.19 operation of a facility. A facility must be managed, controlled, and operated in a manner
49.20 that enables it to use its resources effectively and efficiently to attain or maintain the highest
49.21 practicable physical, mental, and psychosocial well-being of each resident.

49.22 Subd. 29. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,
49.23 subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or
49.24 any persistent course of conduct intended to produce mental or emotional distress.

49.25 Subd. 30. **Management agreement.** "Management agreement" means a written, executed
49.26 agreement between a licensee and manager regarding the provision of certain services on
49.27 behalf of the licensee.

49.28 Subd. 31. **Managerial official.** "Managerial official" means an individual who has the
49.29 decision-making authority related to the operation of the facility and the responsibility for
49.30 the ongoing management or direction of the policies, services, or employees of the facility.

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

50.1 Subd. 33. **Medication administration.** "Medication administration" means performing
50.2 a set of tasks that includes the following:

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

50.4 (2) preparing the medication as necessary;

50.5 (3) administering the medication to the resident;

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

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

50.9 Subd. 34. **Medication management.** "Medication management" means the provision
50.10 of any of the following medication-related services to a resident:

50.11 (1) performing medication setup;

50.12 (2) administering medications;

50.13 (3) storing and securing medications;

50.14 (4) documenting medication activities;

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

50.17 (6) coordinating refills;

50.18 (7) handling and implementing changes to prescriptions;

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

50.20 (9) coordinating and communicating with the prescriber.

50.21 Subd. 35. **Medication reconciliation.** "Medication reconciliation" means the process
50.22 of identifying the most accurate list of all medications the resident is taking, including the
50.23 name, dosage, frequency, and route by comparing the resident record to an external list of
50.24 medications obtained from the resident, hospital, prescriber or other provider.

50.25 Subd. 36. **Medication setup.** "Medication setup" means arranging medications by a
50.26 nurse, pharmacy, or authorized prescriber for later administration by the resident or by
50.27 facility staff.

50.28 Subd. 37. **New construction.** "New construction" means a new building, renovation,
50.29 modification, reconstruction, physical changes altering the use of occupancy, or an addition
50.30 to a building.

51.1 Subd. 38. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to
51.2 148.285.

51.3 Subd. 39. **Occupational therapist.** "Occupational therapist" means a person who is
51.4 licensed under sections 148.6401 to 148.6449.

51.5 Subd. 40. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

51.6 Subd. 41. **Owner.** "Owner" means an individual or organization that has a direct or
51.7 indirect ownership interest of five percent or more in a facility. For purposes of this chapter,
51.8 "owner of a nonprofit corporation" means the president and treasurer of the board of directors
51.9 or, for an entity owned by an employee stock ownership plan, means the president and
51.10 treasurer of the entity. A government entity that is issued a license under this chapter shall
51.11 be designated the owner. An individual with a five percent or more direct or indirect
51.12 ownership is presumed to have an effect on the operation of the facility with respect to
51.13 factors affecting the care or training provided.

51.14 Subd. 42. **Over-the-counter drug.** "Over-the-counter drug" means a drug that is not
51.15 required by federal law to bear the symbol "Rx only."

51.16 Subd. 43. **Person-centered planning and service delivery.** "Person-centered planning
51.17 and service delivery" means services as defined in section 245D.07, subdivision 1a, paragraph
51.18 (b).

51.19 Subd. 44. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision
51.20 3.

51.21 Subd. 45. **Physical therapist.** "Physical therapist" means a person who is licensed under
51.22 sections 148.65 to 148.78.

51.23 Subd. 46. **Physician.** "Physician" means a person who is licensed under chapter 147.

51.24 Subd. 47. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;
51.25 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

51.26 Subd. 48. **Prescription.** "Prescription" has the meaning given in section 151.01,
51.27 subdivision 16a.

51.28 Subd. 49. **Provisional license.** "Provisional license" means the initial license the
51.29 department issues after approval of a complete written application and before the department
51.30 completes the provisional license survey and determines that the provisional licensee is in
51.31 substantial compliance.

52.1 Subd. 50. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be
52.2 completed at predetermined times or according to a predetermined routine.

52.3 Subd. 51. **Reminder.** "Reminder" means providing a verbal or visual reminder to a
52.4 resident.

52.5 Subd. 52. **Resident.** "Resident" means a person living in an assisted living facility.

52.6 Subd. 53. **Resident record.** "Resident record" means all records that document
52.7 information about the services provided to the resident.

52.8 Subd. 54. **Resident representative.** "Resident representative" means a person designated
52.9 in writing by the resident and identified in the resident's records on file with the facility.

52.10 Subd. 55. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed
52.11 under chapter 147C.

52.12 Subd. 56. **Revenues.** "Revenues" means all money received by a licensee derived from
52.13 the provision of home care services, including fees for services and appropriations of public
52.14 money for home care services.

52.15 Subd. 57. **Service plan.** "Service plan" means the written plan between the resident or
52.16 the resident's representative and the provisional licensee or licensee about the services that
52.17 will be provided to the resident.

52.18 Subd. 58. **Social worker.** "Social worker" means a person who is licensed under chapter
52.19 148D or 148E.

52.20 Subd. 59. **Speech-language pathologist.** "Speech-language pathologist" has the meaning
52.21 given in section 148.512.

52.22 Subd. 60. **Standby assistance.** "Standby assistance" means the presence of another
52.23 person within arm's reach to minimize the risk of injury while performing daily activities
52.24 through physical intervention or cueing to assist a resident with an assistive task by providing
52.25 cues, oversight, and minimal physical assistance.

52.26 Subd. 61. **Substantial compliance.** "Substantial compliance" means complying with
52.27 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks
52.28 to residents.

52.29 Subd. 62. **Supportive services.** "Supportive services" means:

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

52.31 (2) housekeeping services;

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

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

53.4 (5) provision of social or recreational services.

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

53.7 Subd. 63. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure
53.8 for compliance with this chapter.

53.9 Subd. 64. **Surveyor.** "Surveyor" means a staff person of the department who is authorized
53.10 to conduct surveys of assisted living facilities and applicants.

53.11 Subd. 65. **Termination of housing or services.** "Termination of housing or services"
53.12 means a discharge, eviction, transfer, or service termination initiated by the facility. A
53.13 facility-initiated termination is one which the resident objects to and did not originate through
53.14 a resident's verbal or written request. A resident-initiated termination is one where a resident
53.15 or, if appropriate, a designated representative provided a verbal or written notice of intent
53.16 to leave the facility. A resident-initiated termination does not include the general expression
53.17 of a desire to return home or the elopement of residents with cognitive impairment.

53.18 Subd. 66. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care,
53.19 other than medications, ordered or prescribed by a licensed health professional and provided
53.20 to a resident to cure, rehabilitate, or ease symptoms.

53.21 Subd. 67. **Unit of government.** "Unit of government" means a city, county, town, school
53.22 district, other political subdivision of the state, or an agency of the state or federal
53.23 government, that includes any instrumentality of a unit of government.

53.24 Subd. 68. **Unlicensed personnel.** "Unlicensed personnel" means individuals not otherwise
53.25 licensed or certified by a governmental health board or agency who provide services to a
53.26 resident.

53.27 Subd. 69. **Verbal.** "Verbal" means oral and not in writing.

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

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

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

54.3 (b) An assisted living category is an assisted living facility that provides basic care
54.4 services and comprehensive assisted living services.

54.5 (c) An assisted living facility with dementia care category is an assisted living facility
54.6 that provides basic care services, comprehensive assisted living services, and dementia care
54.7 services. An assisted living facility with dementia care may also provide dementia care
54.8 services in a secure dementia care unit.

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

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

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

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

54.16 Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants,
54.17 the commissioner shall issue a provisional license to each of the licensure categories specified
54.18 in section 144I.02, subdivision 2, which is effective for up to one year from the license
54.19 effective date, except that a provisional license may be extended according to subdivision
54.20 2, paragraph (c).

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

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

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

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

55.5 (d) If the provisional licensee is in substantial compliance with the survey, the
55.6 commissioner shall issue a facility license. If the provisional licensee is not in substantial
55.7 compliance with the initial survey, the commissioner shall either: (1) not issue the facility
55.8 license and terminate the provisional license; or (2) extend the provisional license for a
55.9 period not to exceed 90 days and apply conditions necessary to bring the facility into
55.10 substantial compliance. If the provisional licensee is not in substantial compliance with the
55.11 survey within the time period of the extension or if the provisional licensee does not satisfy
55.12 the license conditions, the commissioner may deny the license.

55.13 Subd. 3. **Reconsideration.** (a) If a provisional licensee whose facility license has been
55.14 denied or extended with conditions disagrees with the conclusions of the commissioner,
55.15 then the provisional licensee may request a reconsideration by the commissioner or
55.16 commissioner's designee. The reconsideration request process must be conducted internally
55.17 by the commissioner or designee and chapter 14 does not apply.

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

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

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

55.27 (1) a reconsideration is in process;

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

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

56.1 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license
56.2 is denied must comply with the requirements for notification and transfer of residents in
56.3 section 144J.08.

56.4 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section
56.5 144J.08, subdivision 6, paragraph (b), is \$1,000.

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

56.7 Subdivision 1. **License applications.** (a) Each application for a facility license, including
56.8 a provisional license, must include information sufficient to show that the applicant meets
56.9 the requirements of licensure, including:

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

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

56.15 (3) the licensed bed capacity and the license category;

56.16 (4) the license fee in the amount specified in section 144.122;

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

56.21 (6) documentation of compliance with the background study requirements in section
56.22 144I.06 for the owner, controlling individuals, and managerial officials. Each application
56.23 for a new license must include documentation for the applicant and for each individual with
56.24 five percent or more direct or indirect ownership in the applicant;

56.25 (7) evidence of workers' compensation coverage as required by sections 176.181 and
56.26 176.182;

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

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

56.30 (10) a copy of the management agreement if applicable;

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

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

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

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

57.14 (15) whether the applicant or any owner, controlling individual, managerial official, or
57.15 assisted living administrator of the facility has a record of defaulting in the payment of
57.16 money collected for others, including the discharge of debts through bankruptcy proceedings;

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

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

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

57.29 (19) any other information required by the commissioner.

57.30 Subd. 2. **Agents.** (a) An application for a facility license or for renewal of a facility
57.31 license must specify one or more owners, controlling individuals, or employees as agents:

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

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

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

58.11 Subd. 3. Fees. (a) An initial applicant, renewal applicant, or applicant filing a change
58.12 of ownership for assisted living facility licensure must submit the application fee required
58.13 in section 144I.122 to the commissioner along with a completed application.

58.14 (b) The penalty for late submission of the renewal application after expiration of the
58.15 license is \$200. The penalty for operating a facility after expiration of the license and before
58.16 a renewal license is issued, is \$250 each day after expiration of the license until the renewal
58.17 license issuance date. The facility is still subject to the criminal gross misdemeanor penalties
58.18 for operating after license expiration.

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

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

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

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

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

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

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

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

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

59.8 (i) a different person; or

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

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

59.13 (b) As used in this section, "control" means the possession, directly or indirectly, of the
59.14 power to direct the management, operation, and policies of the licensee or facility, whether
59.15 through ownership, voting control, by agreement, by contract, or otherwise.

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

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

59.21 **Sec. 7. [144L.06] BACKGROUND STUDIES.**

59.22 Subdivision 1. **Background studies required.** (a) Before the commissioner issues a
59.23 provisional license, issues a license as a result of an approved change of ownership, or
59.24 renews a license, a controlling individual or managerial official is required to complete a
59.25 background study under section 144.057. No person may be involved in the management,
59.26 operation, or control of a facility if the person has been disqualified under chapter 245C.
59.27 For the purposes of this section, managerial officials subject to the background check
59.28 requirement are individuals who provide direct contact.

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

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

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

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

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

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

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

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

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

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

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

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

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

61.2 A provisional licensee or licensee shall notify the commissioner in writing prior to any
61.3 financial or contractual change and within 60 calendar days after any change in the
61.4 information required in section 144I.04, subdivision 1.

61.5 Sec. 10. [144I.09] CONSIDERATION OF APPLICATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

62.5 (1) distribute to residents, families, and resident representatives the assisted living bill
62.6 of rights in section 144J.02;

62.7 (2) provide health-related services in a manner that complies with the Nurse Practice
62.8 Act in sections 148.171 to 148.285;

62.9 (3) utilize person-centered planning and service delivery process as defined in section
62.10 245D.07;

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

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

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

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

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

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

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

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

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

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

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

63.4 (12) ensures that a person or persons are available 24 hours per day, seven days per
63.5 week, who are responsible for responding to the requests of residents for assistance with
63.6 health or safety needs, who shall be:

63.7 (i) awake;

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

63.10 (iii) capable of communicating with residents;

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

63.12 (v) capable of following directions. For an assisted living facility providing dementia
63.13 care, the awake person must be physically present in the locked or secure unit; and

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

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

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

63.20 (B) menus prepared at least one week in advance, and made available to all residents.

63.21 The facility must encourage residents' involvement in menu planning. Meal substitutions
63.22 must be of similar nutritional value if a resident refuses a food that is served. Residents
63.23 must be informed in advance of menu changes;

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

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

63.27 (ii) weekly housekeeping;

63.28 (iii) weekly laundry service;

63.29 (iv) upon the request of the resident, provide direct or reasonable assistance with arranging
63.30 for transportation to medical and social services appointments, shopping, and other recreation,

64.1 and provide the name of or other identifying information about the person or persons
64.2 responsible for providing this assistance;

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

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

64.10 Subd. 2. **Policies and procedures.** (a) Each facility must have policies and procedures
64.11 in place to address the following and keep them current:

64.12 (1) requirements in section 626.557, reporting of maltreatment of vulnerable adults;

64.13 (2) conducting and handling background studies on employees;

64.14 (3) orientation, training, and competency evaluations of staff, and a process for evaluating
64.15 staff performance;

64.16 (4) handling complaints from residents, family members, or designated representatives
64.17 regarding staff or services provided by staff;

64.18 (5) conducting initial evaluation of residents' needs and the providers' ability to provide
64.19 those services;

64.20 (6) conducting initial and ongoing resident evaluations and assessments and how changes
64.21 in a resident's condition are identified, managed, and communicated to staff and other health
64.22 care providers as appropriate;

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

64.24 (8) infection control practices;

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

64.26 (10) conducting appropriate screenings, or documentation of prior screenings, to show
64.27 that staff are free of tuberculosis, consistent with current United States Centers for Disease
64.28 Control and Prevention standards.

64.29 (b) For assisted living facilities and assisted living facilities with dementia care, the
64.30 following are also required:

65.1 (1) conducting initial and ongoing assessments of the resident's needs by a registered
65.2 nurse or appropriate licensed health professional, including how changes in the resident's
65.3 conditions are identified, managed, and communicated to staff and other health care
65.4 providers, as appropriate;

65.5 (2) ensuring that nurses and licensed health professionals have current and valid licenses
65.6 to practice;

65.7 (3) medication and treatment management;

65.8 (4) delegation of tasks by registered nurses or licensed health professionals;

65.9 (5) supervision of registered nurses and licensed health professionals; and

65.10 (6) supervision of unlicensed personnel performing delegated tasks.

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

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

65.15 Subd. 5. **Resident and family or resident representative councils.** (a) If a resident,
65.16 family, or designated representative chooses to establish a council, the licensee shall support
65.17 the council's establishment. The facility must provide assistance and space for meetings and
65.18 afford privacy. Staff or visitors may attend meetings only upon the council's invitation. A
65.19 staff person must be designated the responsibility of providing this assistance and responding
65.20 to written requests that result from council meetings. Resident council minutes are public
65.21 data and shall be available to all residents in the facility. Family or resident representatives
65.22 may attend resident councils upon invitation by a resident on the council.

65.23 (b) All assisted living facilities shall engage their residents and families or designated
65.24 representatives in the operation of their community and document the methods and results
65.25 of this engagement.

65.26 Subd. 6. **Resident grievances.** All facilities must post in a conspicuous place information
65.27 about the facilities' grievance procedure, and the name, telephone number, and e-mail contact
65.28 information for the individuals who are responsible for handling resident grievances. The
65.29 notice must also have the contact information for the state and applicable regional Office
65.30 of Ombudsman for Long-Term Care.

65.31 Subd. 7. **Protecting resident rights.** A facility shall ensure that every resident has access
65.32 to consumer advocacy or legal services by:

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

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

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

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

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

66.12 Subd. 8. **Protection-related rights.** (a) In addition to the rights required in the assisted
66.13 living bill of rights under section 144J.02, the following rights must be provided to all
66.14 residents. The facility must promote and protect these rights for each resident by making
66.15 residents aware of these rights and ensuring staff are trained to support these rights:

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

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

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

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

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

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

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

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

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

66.29 (b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for
66.30 an individual resident only if determined necessary for health and safety reasons identified
66.31 by the facility through an initial assessment or reassessment under section 144I.15,

67.1 subdivision 9, and documented in the written service plan under section 144I.15, subdivision
67.2 10. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49
67.3 must be documented by the case manager in the resident's coordinated service and support
67.4 plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49, subdivision
67.5 15.

67.6 Subd. 9. **Payment for services under disability waivers.** For new facilities, home and
67.7 community-based services under section 256B.49 are not available when the new facility
67.8 setting is adjoined to, or on the same property as, an institution as defined in Code of Federal
67.9 Regulations, title 42, section 441.301(c).

67.10 Subd. 10. **No discrimination based on source of payment.** All facilities must, regardless
67.11 of the source of payment and for all persons seeking to reside or residing in the facility:

67.12 (1) provide equal access to quality care; and

67.13 (2) establish, maintain, and implement identical policies and practices regarding residency,
67.14 transfer, and provision and termination of services.

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

67.16 Sec. 12. **[144I.11] FACILITY RESPONSIBILITIES; HOUSING AND**
67.17 **SERVICE-RELATED MATTERS.**

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

67.23 Subd. 2. **Uniform checklist disclosure of services.** (a) On and after August 1, 2021, a
67.24 facility must provide to prospective residents, the prospective resident's designated
67.25 representative, and any other person or persons the resident chooses:

67.26 (1) a written checklist listing all services permitted under the facility's license, identifying
67.27 all services the facility offers to provide under the assisted living facility contract, and
67.28 identifying all services allowed under the license that the facility does not provide; and

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

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

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

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

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

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

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

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

68.15 **Sec. 13. [144L.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

68.16 (a) A facility must provide for the safe, orderly, and appropriate transfer of residents
68.17 within the facility.

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

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

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

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

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

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

69.3 Sec. 14. **[144L.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.**

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

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

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

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

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

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

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

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

70.1 Subd. 5. Reporting maltreatment of vulnerable adults; abuse prevention plan. (a)
70.2 All facilities must comply with the requirements for the reporting of maltreatment of
70.3 vulnerable adults in section 626.557. Each facility must establish and implement a written
70.4 procedure to ensure that all cases of suspected maltreatment are reported.

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

70.11 Subd. 6. Reporting suspected crime and maltreatment. (a) A facility shall support
70.12 protection and safety through access to the state's systems for reporting suspected criminal
70.13 activity and suspected vulnerable adult maltreatment by:

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

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

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

70.19 Subd. 7. Employee records. (a) The facility must maintain current records of each paid
70.20 employee, regularly scheduled volunteers providing services, and each individual contractor
70.21 providing services. The records must include the following information:

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

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

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

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

70.30 (5) for individuals providing facility services, verification that required health screenings
70.31 under section 144I.034, subdivision 7, have taken place and the dates of those screenings;
70.32 and

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

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

71.6 Subd. 8. **Compliance officer.** Every assisted living facility shall have a compliance
71.7 officer who is a licensed assisted living administrator. An individual licensed as a nursing
71.8 home administrator, an assisted living administrator, or a health services executive shall
71.9 automatically meet the qualifications of a compliance officer.

71.10 Sec. 15. **[144I.14] FACILITY RESPONSIBILITIES; STAFF.**

71.11 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing
71.12 services must be trained and competent in the provision of services consistent with current
71.13 practice standards appropriate to the resident's needs and be informed of the assisted living
71.14 bill of rights under section 144J.02.

71.15 Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals
71.16 and nurses providing services as employees of a licensed facility must possess a current
71.17 Minnesota license or registration to practice.

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

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

71.24 Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

71.25 (1) successfully completed a training and competency evaluation appropriate to the
71.26 services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

71.27 (2) demonstrated competency by satisfactorily completing a written or oral test on the
71.28 tasks the unlicensed personnel will perform and on the topics listed in subdivision 6,
71.29 paragraph (b); and successfully demonstrated competency of topics in subdivision 6,
71.30 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

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

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

72.2 must:

72.3 (1) have successfully completed training and demonstrated competency by successfully

72.4 completing a written or oral test of the topics in subdivision 6, paragraphs (b) and (c), and

72.5 a practical skills test on tasks listed in subdivision 6, paragraphs (b), clauses (5) and (7),

72.6 and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform;

72.7 (2) satisfy the current requirements of Medicare for training or competency of home

72.8 health aides or nursing assistants, as provided by Code of Federal Regulations, title 42,

72.9 section 483 or 484.36; or

72.10 (3) have, before April 19, 1993, completed a training course for nursing assistants that

72.11 was approved by the commissioner.

72.12 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned

72.13 by a licensed health professional must meet the requirements for delegated tasks in

72.14 subdivision 4 and any other training or competency requirements within the licensed health

72.15 professional's scope of practice relating to delegation or assignment of tasks to unlicensed

72.16 personnel.

72.17 Subd. 4. **Delegation of assisted living services.** A registered nurse or licensed health

72.18 professional may delegate tasks only to staff who are competent and possess the knowledge

72.19 and skills consistent with the complexity of the tasks and according to the appropriate

72.20 Minnesota practice act. The assisted living facility must establish and implement a system

72.21 to communicate up-to-date information to the registered nurse or licensed health professional

72.22 regarding the current available staff and their competency so the registered nurse or licensed

72.23 health professional has sufficient information to determine the appropriateness of delegating

72.24 tasks to meet individual resident needs and preferences.

72.25 Subd. 5. **Temporary staff.** When a facility contracts with a temporary staffing agency,

72.26 those individuals must meet the same requirements required by this section for personnel

72.27 employed by the facility and shall be treated as if they are staff of the facility.

72.28 Subd. 6. **Requirements for instructors, training content, and competency evaluations**

72.29 **for unlicensed personnel.** (a) Instructors and competency evaluators must meet the following

72.30 requirements:

72.31 (1) training and competency evaluations of unlicensed personnel providing basic care

72.32 services must be conducted by individuals with work experience and training in providing

72.33 basic care services; and

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

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

73.6 (1) documentation requirements for all services provided;

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

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

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

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

73.12 (i) hair care and bathing;

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

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

73.15 (iv) dressing and assisting with toileting;

73.16 (6) training on the prevention of falls;

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

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

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

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

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

73.23 (12) awareness of confidentiality and privacy;

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

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

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

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

- 74.1 (1) observing, reporting, and documenting resident status;
74.2 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
74.3 other observed changes that must be reported to appropriate personnel;
74.4 (3) reading and recording temperature, pulse, and respirations of the resident;
74.5 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
74.6 (5) safe transfer techniques and ambulation;
74.7 (6) range of motioning and positioning; and
74.8 (7) administering medications or treatments as required.
- 74.9 (d) When the registered nurse or licensed health professional delegates tasks, that person
74.10 must ensure that prior to the delegation the unlicensed personnel is trained in the proper
74.11 methods to perform the tasks or procedures for each resident and are able to demonstrate
74.12 the ability to competently follow the procedures and perform the tasks. If an unlicensed
74.13 personnel has not regularly performed the delegated assisted living task for a period of 24
74.14 consecutive months, the unlicensed personnel must demonstrate competency in the task to
74.15 the registered nurse or appropriate licensed health professional. The registered nurse or
74.16 licensed health professional must document instructions for the delegated tasks in the
74.17 resident's record.

74.18 Subd. 7. **Tuberculosis prevention and control.** A facility must establish and maintain
74.19 a comprehensive tuberculosis infection control program according to the most current
74.20 tuberculosis infection control guidelines issued by the United States Centers for Disease
74.21 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the
74.22 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a
74.23 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,
74.24 students, and volunteers. The Department of Health shall provide technical assistance
74.25 regarding implementation of the guidelines.

74.26 Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility must
74.27 meet the following requirements:

- 74.28 (1) have a written emergency disaster plan that contains a plan for evacuation, addresses
74.29 elements of sheltering in place, identifies temporary relocation sites, and details staff
74.30 assignments in the event of a disaster or an emergency;
74.31 (2) post an emergency disaster plan prominently;
74.32 (3) provide building emergency exit diagrams to all residents;

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

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

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

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

75.8 Sec. 16. **[144I.15] FACILITY RESPONSIBILITIES WITH RESPECT TO**
75.9 **RESIDENTS.**

75.10 Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) A facility
75.11 shall provide the resident and the designated representative a written notice of the rights
75.12 under section 144J.02 before the initiation of services to that resident. The facility shall
75.13 make all reasonable efforts to provide notice of the rights to the resident and the designated
75.14 representative in a language the resident and designated representative can understand.

75.15 (b) In addition to the text of the bill of rights in section 144J.02, the notice shall also
75.16 contain the following statement describing how to file a complaint.

75.17 "If you want to report suspected maltreatment of a vulnerable adult, you may call the
75.18 Minnesota Adult Abuse Reporting Center at 1-844-880-1574. If you have a complaint about
75.19 the facility or person providing your services, you may contact the Office of Health Facility
75.20 Complaints, Minnesota Department of Health. You may also contact the Office of
75.21 Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and
75.22 Developmental Disabilities."

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

75.30 (d) A facility must obtain written acknowledgment of the resident's receipt of the bill of
75.31 rights or shall document why an acknowledgment cannot be obtained. The acknowledgment
75.32 may be obtained from the resident and the designated representative. Acknowledgment of
75.33 receipt shall be retained in the resident's record.

76.1 Subd. 2. **Notices in plain language; language accommodations.** A facility must provide
76.2 all notices in plain language that residents can understand and make reasonable
76.3 accommodations for residents who have communication disabilities and those whose primary
76.4 language is a language other than English.

76.5 Subd. 3. **Notice of services for dementia, Alzheimer's disease, or related disorders.** A
76.6 facility that provides services to residents with dementia shall provide in written or electronic
76.7 form, to residents and families or other persons who request it, a description of the training
76.8 program and related training it provides, including the categories of employees trained, the
76.9 frequency of training, and the basic topics covered.

76.10 Subd. 4. **Services oversight and information.** A facility shall provide each resident
76.11 with identifying and contact information about the persons who can assist with health care
76.12 or supportive services being provided. A facility shall keep each resident informed of changes
76.13 in the personnel referenced in this subdivision.

76.14 Subd. 5. **Notice to residents; change in ownership or management.** A facility must
76.15 provide prompt written notice to the resident or designated representative of any change of
76.16 legal name, telephone number, and physical mailing address, which may not be a public or
76.17 private post office box, of:

76.18 (1) the licensee of the facility;

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

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

76.21 Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless
76.22 the facility has staff, sufficient in qualifications, competency, and numbers, to adequately
76.23 provide the services agreed to in the service plan and that are within the facility's scope of
76.24 practice.

76.25 Subd. 7. **Referrals.** If a facility reasonably believes that a resident is in need of another
76.26 medical or health service, including a licensed health professional, or social service provider,
76.27 the facility shall:

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

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

77.1 Subd. 8. **Initiation of services.** When a facility initiates services and the individualized
77.2 assessment required in subdivision 9 has not been completed, the facility must complete a
77.3 temporary plan and agreement with the resident for services.

77.4 Subd. 9. **Initial assessments and monitoring.** (a) An assisted living facility shall conduct
77.5 a nursing assessment by a registered nurse of the physical and cognitive needs of the
77.6 prospective resident and propose a temporary service plan prior to the date on which a
77.7 prospective resident executes a contract with a facility or the date on which a prospective
77.8 resident moves in, whichever is earlier. If necessitated by either the geographic distance
77.9 between the prospective resident and the facility, or urgent or unexpected circumstances,
77.10 the assessment may be conducted using telecommunication methods based on practice
77.11 standards that meet the resident's needs and reflect person-centered planning and care
77.12 delivery. The nursing assessment must be completed within five days of the start of services.

77.13 (b) Resident reassessment and monitoring must be conducted no more than 14 days after
77.14 initiation of services. Ongoing resident reassessment and monitoring must be conducted as
77.15 needed based on changes in the needs of the resident and cannot exceed 90 days from the
77.16 last date of the assessment.

77.17 (c) Residents who are not receiving any services shall not be required to undergo an
77.18 initial nursing assessment.

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

77.23 Subd. 10. **Service plan, implementation, and revisions to service plan.** (a) No later
77.24 than 14 days after the date that services are first provided, a facility shall finalize a current
77.25 written service plan.

77.26 (b) The service plan and any revisions must include a signature or other authentication
77.27 by the facility and by the resident or the designated representative documenting agreement
77.28 on the services to be provided. The service plan must be revised, if needed, based on resident
77.29 reassessment under subdivision 9. The facility must provide information to the resident
77.30 about changes to the facility's fee for services and how to contact the Office of Ombudsman
77.31 for Long-Term Care.

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

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

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

78.4 (f) The service plan must include:

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

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

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

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

78.10 (5) a contingency plan that includes:

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

78.13 (ii) information and a method for a resident and the designated representative to contact
78.14 the facility;

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

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

78.22 Subd. 11. **Use of restraints.** Residents of assisted living facilities must be free from any
78.23 physical or chemical restraints. Restraints are only permissible if determined necessary for
78.24 health and safety reasons identified by the facility through an initial assessment or
78.25 reassessment, under subdivision 9, and documented in the written service plan under
78.26 subdivision 10.

78.27 Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,
78.28 family member, or other caregiver of the resident requests that an employee or other agent
78.29 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the
78.30 request:

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

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

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

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

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

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

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

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

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

79.17 Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to
79.18 the protections in section 152.34.

79.19 Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter
79.20 504B.

79.21 Sec. 17. **[144L.16] PROVISION OF SERVICES.**

79.22 Subdivision 1. **Availability of contact person to staff.** (a) Assisted living facilities and
79.23 assisted living facilities that provide dementia care must have a registered nurse available
79.24 for consultation to staff performing delegated nursing tasks and must have an appropriate
79.25 licensed health professional available if performing other delegated services such as therapies.

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

79.28 Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care
79.29 services must be supervised periodically where the services are being provided to verify
79.30 that the work is being performed competently and to identify problems and solutions to
79.31 address issues relating to the staff's ability to provide the services. The supervision of the

80.1 unlicensed personnel must be done by staff of the facility having the authority, skills, and
80.2 ability to provide the supervision of unlicensed personnel and who can implement changes
80.3 as needed, and train staff.

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

80.8 Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff
80.9 who perform delegated nursing or therapy tasks must be supervised by an appropriate
80.10 licensed health professional or a registered nurse per the assisted living facility's policy
80.11 where the services are being provided to verify that the work is being performed competently
80.12 and to identify problems and solutions related to the staff person's ability to perform the
80.13 tasks. Supervision of staff performing medication or treatment administration shall be
80.14 provided by a registered nurse or appropriate licensed health professional and must include
80.15 observation of the staff administering the medication or treatment and the interaction with
80.16 the resident.

80.17 (b) The direct supervision of staff performing delegated tasks must be provided within
80.18 30 days after the date on which the individual begins working for the facility and first
80.19 performs the delegated tasks for residents and thereafter as needed based on performance.
80.20 This requirement also applies to staff who have not performed delegated tasks for one year
80.21 or longer.

80.22 Subd. 4. **Documentation.** A facility must retain documentation of supervision activities
80.23 in the personnel records.

80.24 Sec. 18. **[144I.17] MEDICATION MANAGEMENT.**

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

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

80.32 (c) The written policies and procedures must address requesting and receiving
80.33 prescriptions for medications; preparing and giving medications; verifying that prescription

81.1 drugs are administered as prescribed; documenting medication management activities;
81.2 controlling and storing medications; monitoring and evaluating medication use; resolving
81.3 medication errors; communicating with the prescriber, pharmacist, and resident and
81.4 designated representative, if any; disposing of unused medications; and educating residents
81.5 and designated representatives about medications. When controlled substances are being
81.6 managed, the policies and procedures must also identify how the provider will ensure security
81.7 and accountability for the overall management, control, and disposition of those substances
81.8 in compliance with state and federal regulations and with subdivision 23.

81.9 Subd. 2. **Provision of medication management services.** (a) For each resident who
81.10 requests medication management services, the assisted living facility shall, prior to providing
81.11 medication management services, have a registered nurse, licensed health professional, or
81.12 authorized prescriber under section 151.37 conduct an assessment to determine what
81.13 medication management services will be provided and how the services will be provided.
81.14 This assessment must be conducted face-to-face with the resident. The assessment must
81.15 include an identification and review of all medications the resident is known to be taking.
81.16 The review and identification must include indications for medications, side effects,
81.17 contraindications, allergic or adverse reactions, and actions to address these issues.

81.18 (b) The assessment must identify interventions needed in management of medications
81.19 to prevent diversion of medication by the resident or others who may have access to the
81.20 medications and provide instructions to the resident and designated representative on
81.21 interventions to manage the resident's medications and prevent diversion of medications.
81.22 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or
81.23 improper disposition of medications.

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

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

81.32 Subd. 5. **Individualized medication management plan.** (a) For each resident receiving
81.33 medication management services, the assisted living facility must prepare and include in
81.34 the service plan a written statement of the medication management services that will be

82.1 provided to the resident. The assisted living facility must develop and maintain a current
82.2 individualized medication management record for each resident based on the resident's
82.3 assessment that must contain the following:

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

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

82.7 (3) documentation of specific resident instructions relating to the administration of
82.8 medications;

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

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

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

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

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

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

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

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

82.29 (1) instructed the unlicensed personnel in the proper methods to administer the
82.30 medications, and the unlicensed personnel has demonstrated the ability to competently
82.31 follow the procedures;

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

83.3 (3) communicated with the unlicensed personnel about the individual needs of the
83.4 resident.

83.5 **Subd. 8. Documentation of administration of medications.** Each medication
83.6 administered by the assisted living facility staff must be documented in the resident's record.
83.7 The documentation must include the signature and title of the person who administered the
83.8 medication. The documentation must include the medication name, dosage, date and time
83.9 administered, and method and route of administration. The staff must document the reason
83.10 why medication administration was not completed as prescribed and document any follow-up
83.11 procedures that were provided to meet the resident's needs when medication was not
83.12 administered as prescribed and in compliance with the resident's medication management
83.13 plan.

83.14 **Subd. 9. Documentation of medication setup.** Documentation of dates of medication
83.15 setup, name of medication, quantity of dose, times to be administered, route of administration,
83.16 and name of person completing medication setup must be done at the time of setup.

83.17 **Subd. 10. Medication management for residents who will be away from home.** (a)
83.18 An assisted living facility that is providing medication management services to the resident
83.19 must develop and implement policies and procedures for giving accurate and current
83.20 medications to residents for planned or unplanned times away from home according to the
83.21 resident's individualized medication management plan. The policies and procedures must
83.22 state that:

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

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

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

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

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

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

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

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

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

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

84.16 (iii) written information about the medications to be given to the resident or designated
84.17 representative;

84.18 (iv) how the unlicensed staff must document in the resident's record that medications
84.19 have been given to the resident and the designated representative, including documenting
84.20 the date the medications were given to the resident or the designated representative and who
84.21 received the medications, the person who gave the medications to the resident, the number
84.22 of medications that were given to the resident, and other required information;

84.23 (v) how the registered nurse shall be notified that medications have been given to the
84.24 resident or designated representative and whether the registered nurse needs to be contacted
84.25 before the medications are given to the resident or the designated representative;

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

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

84.31 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must
84.32 determine whether the facility shall require a prescription for all medications the provider

85.1 manages. The assisted living facility must inform the resident or the designated representative
85.2 whether the facility requires a prescription for all over-the-counter and dietary supplements
85.3 before the facility agrees to manage those medications.

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

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

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

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

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

85.21 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,
85.22 or electronically must be kept confidential according to sections 144.291 to 144.298 and
85.23 144A.44.

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

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

85.31 Subd. 20. **Prescription drugs.** A prescription drug, prior to being set up for immediate
85.32 or later administration, must be kept in the original container in which it was dispensed by

86.1 the pharmacy bearing the original prescription label with legible information including the
86.2 expiration or beyond-use date of a time-dated drug.

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

86.5 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by
86.6 the assisted living facility must be given to the resident or the designated representative
86.7 when the resident's service plan ends or medication management services are no longer part
86.8 of the service plan. Medications for a resident who is deceased or that have been discontinued
86.9 or have expired may be given to the resident or the designated representative for disposal.

86.10 (b) The assisted living facility shall dispose of any medications remaining with the
86.11 facility that are discontinued or expired or upon the termination of the service contract or
86.12 the resident's death according to state and federal regulations for disposition of medications
86.13 and controlled substances.

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

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

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

86.28 Sec. 19. **[144L.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

86.29 Subdivision 1. **Treatment and therapy management services.** This section applies
86.30 only to assisted living facilities that provide comprehensive assisted living services.

86.31 Subd. 2. **Policies and procedures.** (a) An assisted living facility that provides treatment
86.32 and therapy management services must develop, implement, and maintain up-to-date written
86.33 treatment or therapy management policies and procedures. The policies and procedures

87.1 must be developed under the supervision and direction of a registered nurse or appropriate
87.2 licensed health professional consistent with current practice standards and guidelines.

87.3 (b) The written policies and procedures must address requesting and receiving orders
87.4 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting
87.5 treatment or therapy activities, educating and communicating with residents about treatments
87.6 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and
87.7 communicating with the prescriber.

87.8 Subd. 3. **Individualized treatment or therapy management plan.** For each resident
87.9 receiving management of ordered or prescribed treatments or therapy services, the assisted
87.10 living facility must prepare and include in the service plan a written statement of the treatment
87.11 or therapy services that will be provided to the resident. The facility must also develop and
87.12 maintain a current individualized treatment and therapy management record for each resident
87.13 which must contain at least the following:

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

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

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

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

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

87.26 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments
87.27 or therapies must be administered by a nurse, physician, or other licensed health professional
87.28 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed
87.29 personnel by the licensed health professional according to the appropriate practice standards
87.30 for delegation or assignment. When administration of a treatment or therapy is delegated
87.31 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or
87.32 authorized licensed health professional has:

88.1 (1) instructed the unlicensed personnel in the proper methods with respect to each resident
88.2 and the unlicensed personnel has demonstrated the ability to competently follow the
88.3 procedures;

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

88.6 (3) communicated with the unlicensed personnel about the individual needs of the
88.7 resident.

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

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

88.21 Subd. 7. **Right to outside service provider; other payors.** Under section 144J.02, a
88.22 resident is free to retain therapy and treatment services from an off-site service provider.
88.23 Assisted living facilities must make every effort to assist residents in obtaining information
88.24 regarding whether the Medicare program, the medical assistance program under chapter
88.25 256B, or another public program will pay for any or all of the services.

88.26 **Sec. 20. [144L.19] RESIDENT RECORD REQUIREMENTS.**

88.27 Subdivision 1. **Resident record.** (a) The facility must maintain records for each resident
88.28 for whom it is providing services. Entries in the resident records must be current, legible,
88.29 permanently recorded, dated, and authenticated with the name and title of the person making
88.30 the entry.

88.31 (b) Resident records, whether written or electronic, must be protected against loss,
88.32 tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable
88.33 relevant federal and state laws. The facility shall establish and implement written procedures

89.1 to control use, storage, and security of resident's records and establish criteria for release
89.2 of resident information.

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

89.5 (1) as may be required by law;

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

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

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

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

89.18 Subd. 3. **Contents of resident record.** Contents of a resident record include the following
89.19 for each resident:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90.17 Subd. 4. **Transfer of resident records.** If a resident transfers to another facility or
 90.18 another health care practitioner or provider, or is admitted to an inpatient facility, the facility,
 90.19 upon request of the resident or the resident's representative, shall take steps to ensure a
 90.20 coordinated transfer including sending a copy or summary of the resident's record to the
 90.21 new facility or the resident, as appropriate.

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

90.26 Sec. 21. **[144I.20] ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

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

- 91.1 Subd. 2. Content. (a) The orientation must contain the following topics:
- 91.2 (1) an overview of this chapter;
- 91.3 (2) an introduction and review of the facility's policies and procedures related to the
91.4 provision of assisted living services by the individual staff person;
- 91.5 (3) handling of emergencies and use of emergency services;
- 91.6 (4) compliance with and reporting of the maltreatment of vulnerable adults under section
91.7 626.557, including information on the Minnesota Adult Abuse Reporting Center;
- 91.8 (5) assisted living bill of rights under section 144J.02;
- 91.9 (6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities
91.10 related to ensuring the exercise and protection of those rights;
- 91.11 (7) the principles of person-centered service planning and delivery and how they apply
91.12 to direct support services provided by the staff person;
- 91.13 (8) handling of residents' complaints, reporting of complaints, and where to report
91.14 complaints, including information on the Office of Health Facility Complaints;
- 91.15 (9) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
91.16 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care
91.17 Ombudsman at the Department of Human Services, county-managed care advocates, or
91.18 other relevant advocacy services; and
- 91.19 (10) a review of the types of assisted living services the employee will be providing and
91.20 the facility's category of licensure.
- 91.21 (b) In addition to the topics in paragraph (a), orientation may also contain training on
91.22 providing services to residents with hearing loss. Any training on hearing loss provided
91.23 under this subdivision must be high quality and research based, may include online training,
91.24 and must include training on one or more of the following topics:
- 91.25 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
91.26 and the challenges it poses to communication;
- 91.27 (2) health impacts related to untreated age-related hearing loss, such as increased
91.28 incidence of dementia, falls, hospitalizations, isolation, and depression; or
- 91.29 (3) information about strategies and technology that may enhance communication and
91.30 involvement, including communication strategies, assistive listening devices, hearing aids,
91.31 visual and tactile alerting devices, communication access in real time, and closed captions.

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

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

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

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

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

92.17 (2) review of the assisted living bill of rights in section 144J.02;

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

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

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

92.28 (6) review of protection-related rights as stated in section 144I.10, subdivision 8, and
92.29 staff responsibilities related to ensuring the exercise and protection of those rights; and

92.30 (7) the principles of person-centered service planning and delivery and how they apply
92.31 to direct support services provided by the staff person.

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

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

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

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

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

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

93.16 **Sec. 22. [144L.21] TRAINING IN DEMENTIA CARE REQUIRED.**

93.17 (a) Assisted living facilities and assisted living facilities with dementia care must meet
93.18 the following training requirements:

93.19 (1) supervisors of direct-care staff must have at least eight hours of initial training on
93.20 topics specified under paragraph (b) within 120 working hours of the employment start
93.21 date, and must have at least two hours of training on topics related to dementia care for each
93.22 12 months of employment thereafter;

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

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

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

94.8 (b) Areas of required training include:

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

94.10 (2) assistance with activities of daily living;

94.11 (3) problem solving with challenging behaviors; and

94.12 (4) communication skills.

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

94.16 **Sec. 23. [144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

94.17 Subdivision 1. **Restrictions.** The controlling individual of a facility may not include
94.18 any person who was a controlling individual of any other nursing home, assisted living
94.19 facility, or assisted living facility with dementia care during any period of time in the previous
94.20 two-year period:

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

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

94.26 (ii) four or more uncorrected violations or two or more repeated violations of any nature,
94.27 including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

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

95.1 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the
95.2 facility who had no legal authority to affect or change decisions related to the operation of
95.3 the nursing home, assisted living facility, or assisted living facility with dementia care that
95.4 incurred the uncorrected violations.

95.5 Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a)
95.6 In lieu of revoking, suspending, or refusing to renew the license of a facility where a
95.7 controlling individual was disqualified by subdivision 1, clause (1), the commissioner may
95.8 issue an order staying the revocation, suspension, or nonrenewal of the facility's license.
95.9 The order may but need not be contingent upon the facility's compliance with restrictions
95.10 and conditions imposed on the license to ensure the proper operation of the facility and to
95.11 protect the health, safety, comfort, treatment, and well-being of the residents in the facility.
95.12 The decision to issue an order for a stay must be made within 90 days of the commissioner's
95.13 determination that a controlling individual of the facility is disqualified by subdivision 1,
95.14 clause (1), from operating a facility.

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

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

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

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

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

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

95.31 (e) Prior to issuing an order for stay of revocation, suspension, or nonrenewal, the
95.32 commissioner shall inform the controlling individual in writing of any conditions and
95.33 restrictions that will be imposed. The controlling individual shall, within ten working days,

96.1 notify the commissioner in writing of a decision to accept or reject the conditions and
96.2 restrictions. If the facility rejects any of the conditions and restrictions, the commissioner
96.3 must either modify the conditions and restrictions or take action to suspend, revoke, or not
96.4 renew the facility's license.

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

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

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

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

96.22 **Sec. 24. [144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.**

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

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

96.27 (1) initial application for a license;

96.28 (2) retention of a manager following initial application;

96.29 (3) change of managers; and

96.30 (4) modification of an existing management agreement.

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

97.4 (d) The written management agreement must be submitted:

97.5 (1) 60 days before:

97.6 (i) the initial licensure date;

97.7 (ii) the proposed change of ownership date; or

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

97.9 (2) 30 days before the effective date of any amendment to an existing management
97.10 agreement.

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

97.13 (f) A proposed licensee must submit a management agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

98.30 (2) any changes necessary to:

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

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

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

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

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

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

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

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

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

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

99.17 Sec. 25. **[144L.24] MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE**
99.18 **SAFETY REQUIREMENTS.**

99.19 Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required
99.20 for all assisted living facilities and assisted living facilities with dementia care:

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

99.23 (2) the location is publicly accessible to fire department services and emergency medical
99.24 services;

99.25 (3) the location's topography provides sufficient natural drainage and is not subject to
99.26 flooding;

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

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

100.1 (b) An assisted living facility with a dementia care unit must also meet the following
100.2 requirements:

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

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

100.8 Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2019,
100.9 each assisted living facility and assisted living facility with dementia care must have a
100.10 comprehensive fire protection system that includes:

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

100.15 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard
100.16 10; and

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

100.21 (b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the
100.22 residential board and care requirements in the Life Safety Code.

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

100.26 Subd. 4. **Assisted living facilities; design.** (a) After July 31, 2021, all assisted living
100.27 facilities with six or more residents must meet the provisions relevant to assisted living
100.28 facilities of the most current edition of the Facility Guidelines Institute "Guidelines for
100.29 Design and Construction of Residential Health, Care and Support Facilities" and of adopted
100.30 rules. This minimum design standard shall be met for all new licenses, new construction,
100.31 modifications, renovations, alterations, change of use, or additions. In addition to the
100.32 guidelines, assisted living facilities, and assisted living facilities with dementia care shall
100.33 provide the option of a bath in addition to a shower for all residents.

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

101.4 Subd. 5. **Assisted living facilities; life safety code.** (a) After August 1, 2021, all assisted
101.5 living facilities with six or more residents shall meet the applicable provisions of the most
101.6 current edition of the NFPA Standard 101, Life Safety Code, Residential Board and Care
101.7 Occupancies chapter. This minimum design standard shall be met for all new licenses, new
101.8 construction, modifications, renovations, alterations, change of use, or additions.

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

101.12 Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a)
101.13 Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet
101.14 the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety
101.15 Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all
101.16 new licenses, new construction, modifications, renovations, alterations, change of use or
101.17 additions.

101.18 (b) The commissioner shall establish an implementation timeline for mandatory usage
101.19 of the newest-published Life Safety Code. However, the commissioner shall not enforce
101.20 the newly-published guidelines before 6 months after the date of publication.

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

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

101.27 (2) final architectural plans and specifications must include elevations and sections
101.28 through the building showing types of construction, and must indicate dimensions and
101.29 assignments of rooms and areas, room finishes, door types and hardware, elevations and
101.30 details of nurses' work areas, utility rooms, toilet and bathing areas, and large-scale layouts
101.31 of dietary and laundry areas. Plans must show the location of fixed equipment and sections
101.32 and details of elevators, chutes, and other conveying systems. Fire walls and smoke partitions
101.33 must be indicated. The roof plan must show all mechanical installations. The site plan must

102.1 indicate the proposed and existing buildings, topography, roadways, walks and utility service
102.2 lines; and

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

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

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

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

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

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

102.24 (2) the reasons for the request;

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

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

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

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

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

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

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

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

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

103.14 (e) A request for the renewal of a variance or waiver must be submitted in writing at
103.15 least 45 days before its expiration date. Renewal requests must contain the information
103.16 specified in paragraph (b). A variance or waiver must be renewed by the department if the
103.17 applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance
103.18 with the alternative measures or conditions imposed at the time the original variance or
103.19 waiver was granted.

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

103.23 (g) An applicant may contest the denial, revocation, or refusal to renew a variance or
103.24 waiver by requesting a contested case hearing under chapter 14. The applicant must submit,
103.25 within 15 days of the receipt of the department's decision, a written request for a hearing.
103.26 The request for hearing must set forth in detail the reasons why the applicant contends the
103.27 decision of the department should be reversed or modified. At the hearing, the applicant
103.28 has the burden of proving by a preponderance of the evidence that the applicant satisfied
103.29 the criteria specified in paragraph (b), except in a proceeding challenging the revocation of
103.30 a variance or waiver.

- 104.1 Sec. 26. [144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.
- 104.2 Subdivision 1. Contract required. (a) An assisted living facility or assisted living facility
- 104.3 with dementia care may not offer or provide housing or services to a resident unless it has
- 104.4 executed a written contract with the resident.
- 104.5 (b) The contract must:
- 104.6 (1) be signed by both:
- 104.7 (i) the resident or the designated representative; and
- 104.8 (ii) the licensee or an agent of the facility; and
- 104.9 (2) contain all the terms concerning the provision of:
- 104.10 (i) housing; and
- 104.11 (ii) services, whether provided directly by the facility or by management agreement.
- 104.12 (c) A facility must:
- 104.13 (1) offer to prospective residents and provide to the Office of Ombudsman for Long-Term
- 104.14 Care a complete unsigned copy of its contract; and
- 104.15 (2) give a complete copy of any signed contract and any addendums, and all supporting
- 104.16 documents and attachments, to the resident or the designated representative promptly after
- 104.17 a contract and any addendum has been signed by the resident or the designated representative.
- 104.18 (d) A contract under this section is a consumer contract under sections 325G.29 to
- 104.19 325G.37.
- 104.20 (e) Before or at the time of execution of the contract, the facility must offer the resident
- 104.21 the opportunity to identify a designated or resident representative or both in writing in the
- 104.22 contract. The contract must contain a page or space for the name and contact information
- 104.23 of the designated or resident representative or both and a box the resident must initial if the
- 104.24 resident declines to name a designated or resident representative. Notwithstanding paragraph
- 104.25 (f), the resident has the right at any time to rescind the declination or add or change the
- 104.26 name and contact information of the designated or resident representative.
- 104.27 (f) The resident must agree in writing to any additions or amendments to the contract.
- 104.28 Upon agreement between the resident or resident's designated representative and the facility,
- 104.29 a new contract or an addendum to the existing contract must be executed and signed.

105.1 Subd. 2. Contents and contract; contact information. (a) The contract must include
105.2 in a conspicuous place and manner on the contract the legal name and the license number
105.3 of the facility.

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

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

105.7 (2) the licensee of the facility;

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

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

105.11 (c) The contract must include:

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

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

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

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

105.21 (5) billing and payment procedures and requirements.

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

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

105.26 (1) the right under section 144J.09 to challenge a discharge, eviction, or transfer or
105.27 service termination;

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

- 106.1 (3) contact information for the Office of Ombudsman for Long-Term Care, the
106.2 Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health
106.3 Facility Complaints;
- 106.4 (4) the resident's right to obtain services from an unaffiliated service provider;
- 106.5 (5) a description of the assisted living facility's policies related to medical assistance
106.6 waivers under sections 256B.0915 and 256B.49, including:
- 106.7 (i) whether the provider is enrolled with the commissioner of human services to provide
106.8 customized living services under medical assistance waivers;
- 106.9 (ii) whether there is a limit on the number of people residing at the assisted living facility
106.10 who can receive customized living services at any point in time. If so, the limit must be
106.11 provided;
- 106.12 (iii) whether the assisted living facility requires a resident to pay privately for a period
106.13 of time prior to accepting payment under medical assistance waivers, and if so, the length
106.14 of time that private payment is required;
- 106.15 (iv) a statement that medical assistance waivers provide payment for services, but do
106.16 not cover the cost of rent;
- 106.17 (v) a statement that residents may be eligible for assistance with rent through the housing
106.18 support program; and
- 106.19 (vi) a description of the rent requirements for people who are eligible for medical
106.20 assistance waivers but who are not eligible for assistance through the housing support
106.21 program;
- 106.22 (6) the contact information to obtain long-term care consulting services under section
106.23 256B.0911; and
- 106.24 (7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.
- 106.25 (f) The contract must include a description of the facility's complaint resolution process
106.26 available to residents, including the name and contact information of the person representing
106.27 the facility who is designated to handle and resolve complaints.
- 106.28 Subd. 3. **Additional contract requirements.** (a) Assisted living facility and assisted
106.29 living facility with dementia care contracts must include the requirements in paragraph (b).
106.30 A restriction of a resident's rights under this subdivision is allowed only if determined
106.31 necessary for health and safety reasons identified by the facility's registered nurse in an
106.32 initial assessment or reassessment, under section 144I.15, subdivision 9, and documented

107.1 in the written service plan under section 144I.15, subdivision 10. Any restrictions of those
107.2 rights for individuals served under sections 256B.0915 and 256B.49 must be documented
107.3 in the resident's coordinated service and support plan (CSSP), as defined under sections
107.4 256B.0915, subdivision 6, and 256B.49, subdivision 15.

107.5 (b) The contract must include a statement:

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

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

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

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

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

107.15 Subd. 4. **Filing.** The contract and related documents executed by each resident or the
107.16 designated representative must be maintained by the facility in files from the date of execution
107.17 until three years after the contract is terminated or expires. The contracts and all associated
107.18 documents will be available for on-site inspection by the commissioner at any time. The
107.19 documents shall be available for viewing or copies shall be made available to the resident
107.20 and the designated representative at any time.

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

107.26 Sec. 27. **[144I.27] PLANNED CLOSURES.**

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

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

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

108.4 (2) the procedures and actions the facility will implement to ensure all residents receive
108.5 appropriate termination planning in accordance with section 144J.10, subdivisions 1 to 6,
108.6 and final accountings and returns under section 144J.10, subdivision 7;

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

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

108.10 Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan
108.11 shall be subject to the commissioner's approval and subdivision 6. The facility shall take
108.12 no action to close the residence prior to the commissioner's approval of the plan. The
108.13 commissioner shall approve or otherwise respond to the plan as soon as practicable.

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

108.18 Subd. 4. **Termination planning and final accounting requirements.** Prior to
108.19 termination, the facility must follow the termination planning requirements under section
108.20 144J.10, subdivisions 1 to 6, and final accounting and return requirements under section
108.21 144J.10, subdivision 7, for residents. The facility must implement the plan approved by the
108.22 commissioner and ensure that arrangements for relocation and continued care that meet
108.23 each resident's social, emotional, and health needs are effectuated prior to closure.

108.24 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan
108.25 and at least 60 calendar days before closing, except as provided under subdivision 6, the
108.26 facility must notify residents, designated representatives, and resident representatives or, if
108.27 a resident has no designated representative or resident representative, a family member, if
108.28 known, of the closure, the proposed date of closure, the contact information of the
108.29 ombudsman for long-term care, and that the facility will follow the termination planning
108.30 requirements under section 144J.10, subdivisions 1 to 6, and final accounting and return
108.31 requirements under section 144J.10, subdivision 7.

108.32 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the
108.33 commissioner deems the facility can no longer remain open, the facility must meet all

109.1 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds
109.2 would endanger the health and safety of residents. In the event the commissioner determines
109.3 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice
109.4 to residents as soon as practicable or as directed by the commissioner.

109.5 (b) Upon request from the commissioner, a facility must provide the commissioner with
109.6 any documentation related to the appropriateness of its relocation plan, or to any assertion
109.7 that the facility lacks the funds to comply with subdivision 1 to 5, or that remaining open
109.8 would otherwise endanger the health and safety of residents pursuant to paragraph (a).

109.9 Subd. 7. **Other rights.** Nothing in this section or section 144J.08 or 144J.10 affects the
109.10 rights and remedies available under chapter 504B, except to the extent those rights or
109.11 remedies are inconsistent with this section.

109.12 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements
109.13 of this section or section 144J.08 or 144J.10.

109.14 Sec. 28. **[144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.**

109.15 Subdivision 1. **Notice required before relocation within location.** (a) A facility must:

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

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

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

109.22 Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before
109.23 deciding whether the room the resident will be moved to fits the resident's psychological,
109.24 cognitive, and health care needs, including the accessibility of the bathroom.

109.25 Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for
109.26 at least one year and resides in a private room, and whose payments subsequently will be
109.27 made under the medical assistance program under chapter 256B, may not be relocated to a
109.28 shared room without the consent of the resident or the resident's representative, if any.

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

110.1 Sec. 29. [144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.

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

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

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

110.8 (3) standards of training of facility personnel;

110.9 (4) standards for provision of services;

110.10 (5) standards for medication management;

110.11 (6) standards for supervision of services;

110.12 (7) standards for resident evaluation or assessment;

110.13 (8) standards for treatments and therapies;

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

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

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

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

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

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

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

110.25 (3) survey facility licensees annually;

110.26 (4) investigate complaints of facilities;

110.27 (5) issue correction orders and assess civil penalties;

110.28 (6) take action as authorized in section 144I.33; and

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

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

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

111.5 **Sec. 30. [144I.30] SURVEYS AND INVESTIGATIONS.**

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

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

111.17 Subd. 2. **Surveys.** The commissioner shall conduct surveys of each assisted living facility
111.18 and assisted living facility with dementia care. The commissioner shall conduct a survey
111.19 of each facility on a frequency of at least once each year. The commissioner may conduct
111.20 surveys more frequently than once a year based on the license level, the provider's compliance
111.21 history, the number of clients served, or other factors as determined by the department
111.22 deemed necessary to ensure the health, safety, and welfare of residents and compliance with
111.23 the law.

111.24 Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to
111.25 determine if the facility has corrected deficient issues and systems identified during a survey
111.26 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,
111.27 mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be
111.28 concluded with an exit conference and written information provided on the process for
111.29 requesting a reconsideration of the survey results.

111.30 Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without
111.31 advance notice to the facilities. Surveyors may contact the facility on the day of a survey
111.32 to arrange for someone to be available at the survey site. The contact does not constitute

112.1 advance notice. The surveyor must provide presurvey notification to the Office of
112.2 Ombudsman for Long-Term Care.

112.3 Subd. 5. **Information provided by facility.** The facility shall provide accurate and
112.4 truthful information to the department during a survey, investigation, or other licensing
112.5 activities.

112.6 Subd. 6. **Providing resident records.** Upon request of a surveyor, facilities shall provide
112.7 a list of current and past residents or designated representatives that includes addresses and
112.8 telephone numbers and any other information requested about the services to residents
112.9 within a reasonable period of time.

112.10 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the
112.11 commissioner finds upon survey or during a complaint investigation that a facility, a
112.12 managerial official, or an employee of the provider is not in compliance with this chapter.
112.13 The correction order shall cite the specific statute and document areas of noncompliance
112.14 and the time allowed for correction.

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

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

112.24 Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4
112.25 violations under section 144I.31, the department shall conduct a follow-up survey within
112.26 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall
112.27 focus on whether the previous violations have been corrected and may also address any
112.28 new violations that are observed while evaluating the corrections that have been made.

112.29 Sec. 31. **[144I.31] VIOLATIONS AND FINES.**

112.30 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision
112.31 may be assessed based on the level and scope of the violations described in subdivision 2
112.32 as follows and imposed immediately with no opportunity to correct the violation prior to
112.33 imposition:

- 113.1 (1) Level 1, no fines or enforcement;
113.2 (2) Level 2, a fine of \$500 per violation;
113.3 (3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected
113.4 by the violation;
113.5 (4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident; and
113.6 (5) for maltreatment violations as defined in the Minnesota Vulnerable Adults Act in
113.7 section 626.557 including abuse, neglect, financial exploitation, and drug diversion that are
113.8 determined against the facility, an immediate fine shall be imposed of \$5,000 per incident,
113.9 plus \$200 for each resident affected by the violation.

113.10 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized
113.11 by both level and scope, and fines shall be assessed as follows:

113.12 (1) level of violation:

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

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

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

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

113.22 (2) scope of violation:

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

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

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

113.30 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a
113.31 facility has not corrected violations by the date specified in the correction order or conditional

114.1 license resulting from a survey or complaint investigation, the commissioner shall provide
114.2 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance
114.3 to the facility. The noncompliance notice must list the violations not corrected.

114.4 Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may
114.5 issue an immediate fine. The licensee must still correct the violation in the time specified.
114.6 The issuance of an immediate fine may occur in addition to any enforcement mechanism
114.7 authorized under section 144I.33. The immediate fine may be appealed as allowed under
114.8 this section.

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

114.13 (c) A licensee shall promptly notify the commissioner in writing when a violation
114.14 specified in the order is corrected. If upon reinspection the commissioner determines that
114.15 a violation has not been corrected as indicated by the order, the commissioner may issue
114.16 an additional fine. The commissioner shall notify the licensee by mail to the last known
114.17 address in the licensing record that a second fine has been assessed. The licensee may appeal
114.18 the second fine as provided under this subdivision.

114.19 (d) A facility that has been assessed a fine under this section has a right to a
114.20 reconsideration or hearing under this section and chapter 14.

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

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

114.27 Subd. 7. **Deposit of fines.** Fines collected under this section shall be deposited in the
114.28 state government special revenue fund and credited to an account separate from the revenue
114.29 collected under section 144A.472. Subject to an appropriation by the legislature, the revenue
114.30 from the fines collected must be used by the commissioner for special projects to improve
114.31 home care in Minnesota as recommended by the advisory council established in section
114.32 144A.4799.

115.1 Sec. 32. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

115.2 Subdivision 1. **Reconsideration process required.** The commissioner shall make
115.3 available to facilities a correction order reconsideration process. This process may be used
115.4 to challenge the correction order issued, including the level and scope described in section
115.5 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction
115.6 order, the correction order is not stayed while it is under reconsideration. The department
115.7 shall post information on its website that the licensee requested reconsideration of the
115.8 correction order and that the review is pending.

115.9 Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in
115.10 writing, a correction order reconsideration regarding any correction order issued to the
115.11 facility. The written request for reconsideration must be received by the commissioner
115.12 within 15 calendar days of the correction order receipt date. The correction order
115.13 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that
115.14 participated in writing or reviewing the correction order being disputed. The correction
115.15 order reconsiderations may be conducted in person, by telephone, by another electronic
115.16 form, or in writing, as determined by the commissioner. The commissioner shall respond
115.17 in writing to the request from a facility for a correction order reconsideration within 60 days
115.18 of the date the facility requests a reconsideration. The commissioner's response shall identify
115.19 the commissioner's decision regarding each citation challenged by the facility.

115.20 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be
115.21 one or more of the following:

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

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

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

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

115.30 (5) the correction order is rescinded;

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

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

116.1 Subd. 4. Updating the correction order website. If the correction order findings are
116.2 changed by the commissioner, the commissioner shall update the correction order website.

116.3 Subd. 5. Provisional licensees. This section does not apply to provisional licensees.

116.4 Sec. 33. [144I.33] ENFORCEMENT.

116.5 Subdivision 1. Conditions. (a) The commissioner may refuse to grant a provisional
116.6 license, refuse to grant a license as a result of a change in ownership, renew a license,
116.7 suspend or revoke a license, or impose a conditional license if the owner, controlling
116.8 individual, or employee of an assisted living facility or assisted living facility with dementia
116.9 care:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

117.6 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional
117.7 license designation may include terms that must be completed or met before a suspension
117.8 or conditional license designation is lifted. A conditional license designation may include
117.9 restrictions or conditions that are imposed on the facility. Terms for a suspension or
117.10 conditional license may include one or more of the following and the scope of each will be
117.11 determined by the commissioner:

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

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

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

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

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

117.21 (6) any other action reasonably required to accomplish the purpose of this subdivision
117.22 and subdivision 1.

117.23 (b) A facility subject to this subdivision may continue operating during the period of
117.24 time residents are being transferred to another service provider.

117.25 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies
117.26 provided by law, the commissioner may, without a prior contested case hearing, immediately
117.27 temporarily suspend a license or prohibit delivery of housing or services by a facility for
117.28 not more than 90 calendar days or issue a conditional license, if the commissioner determines
117.29 that there are:

117.30 (1) Level 4 violations; or

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

118.1 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

118.2 (c) A notice stating the reasons for the immediate temporary suspension or conditional
118.3 license and informing the licensee of the right to an expedited hearing under subdivision
118.4 11 must be delivered by personal service to the address shown on the application or the last
118.5 known address of the licensee. The licensee may appeal an order immediately temporarily
118.6 suspending a license or issuing a conditional license. The appeal must be made in writing
118.7 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
118.8 the commissioner within five calendar days after the licensee receives notice. If an appeal
118.9 is made by personal service, it must be received by the commissioner within five calendar
118.10 days after the licensee received the order.

118.11 (d) A licensee whose license is immediately temporarily suspended must comply with
118.12 the requirements for notification and transfer of residents in subdivision 9. The requirements
118.13 in subdivision 9 remain if an appeal is requested.

118.14 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,
118.15 paragraph (a), the commissioner must revoke a license if a controlling individual of the
118.16 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility
118.17 or directly affects resident safety or care. The commissioner shall notify the facility and the
118.18 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of
118.19 revocation.

118.20 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings
118.21 within 60 calendar days of notification to suspend or revoke a facility's license or must
118.22 refuse to renew a facility's license if within the preceding two years the facility has incurred
118.23 the following number of uncorrected or repeated violations:

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

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

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

118.30 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated
118.31 by the commissioner to revoke or suspend a facility's license, or a decision by the
118.32 commissioner not to renew a living facility's license, the controlling individual of the facility
118.33 or a designee must provide to the commissioner and the ombudsman for long-term care the

119.1 names of residents and the names and addresses of the residents' guardians, designated
119.2 representatives, and family contacts.

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

119.7 (1) a correction order; and

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

119.9 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this
119.10 subdivision must require that the facility immediately comply with the request for information
119.11 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the
119.12 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100
119.13 increments for each day the noncompliance continues.

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

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

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

119.24 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew
119.25 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57
119.26 to 14.69. The hearing must commence within 60 calendar days after the proceedings are
119.27 initiated. In addition to any other remedy provided by law, the commissioner may, without
119.28 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services
119.29 by a provider for not more than 90 calendar days, or issue a conditional license if the
119.30 commissioner determines that there are Level 3 violations that do not pose an imminent
119.31 risk of harm to the health or safety of the facility residents, provided:

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

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

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

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

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

120.10 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in
120.11 section 144I.31.

120.12 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

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

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

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

120.17 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew
120.18 a license must include a plan for transferring affected residents' cares to other providers by
120.19 the facility that will be monitored by the commissioner. Within three calendar days of being
120.20 notified of the final revocation, refusal to renew, or suspension, the licensee shall provide
120.21 the commissioner, the lead agencies as defined in section 256B.0911, county adult protection
120.22 and case managers, and the ombudsman for long-term care with the following information:

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

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

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

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

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

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

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

121.17 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal
121.18 of a sanction under this section, other than for a temporary suspension, the commissioner
121.19 shall request assignment of an administrative law judge. The commissioner's request must
121.20 include a proposed date, time, and place of hearing. A hearing must be conducted by an
121.21 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
121.22 90 calendar days of the request for assignment, unless an extension is requested by either
121.23 party and granted by the administrative law judge for good cause or for purposes of discussing
121.24 settlement. In no case shall one or more extensions be granted for a total of more than 90
121.25 calendar days unless there is a criminal action pending against the licensee. If, while a
121.26 licensee continues to operate pending an appeal of an order for revocation, suspension, or
121.27 refusal to renew a license, the commissioner identifies one or more new violations of law
121.28 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,
121.29 the commissioner shall act immediately to temporarily suspend the license.

121.30 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's
121.31 timely appeal of a temporary suspension or issuance of a conditional license, the
121.32 commissioner shall request assignment of an administrative law judge. The request must
121.33 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
121.34 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
121.35 30 calendar days of the request for assignment, unless an extension is requested by either

122.1 party and granted by the administrative law judge for good cause. The commissioner shall
122.2 issue a notice of hearing by certified mail or personal service at least ten business days
122.3 before the hearing. Certified mail to the last known address is sufficient. The scope of the
122.4 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
122.5 of a conditional license should remain in effect and whether there is sufficient evidence to
122.6 conclude that the licensee's actions or failure to comply with applicable laws are Level 3
122.7 or Level 4 violations as defined in section 144I.31, or that there were violations that posed
122.8 an imminent risk of harm to the resident's health and safety.

122.9 (b) The administrative law judge shall issue findings of fact, conclusions, and a
122.10 recommendation within ten business days from the date of hearing. The parties shall have
122.11 ten calendar days to submit exceptions to the administrative law judge's report. The record
122.12 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
122.13 final order shall be issued within ten business days from the close of the record. When an
122.14 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
122.15 the commissioner shall issue a final order affirming the temporary immediate suspension
122.16 or conditional license within ten calendar days of the commissioner's receipt of the
122.17 withdrawal or dismissal. The licensee is prohibited from operation during the temporary
122.18 suspension period.

122.19 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
122.20 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
122.21 sanction, the licensee is prohibited from operation pending a final commissioner's order
122.22 after the contested case hearing conducted under chapter 14.

122.23 (d) A licensee whose license is temporarily suspended must comply with the requirements
122.24 for notification and transfer of residents under subdivision 9. These requirements remain if
122.25 an appeal is requested.

122.26 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under
122.27 section 144I.31, and an action against a license under this section, a licensee must request
122.28 a hearing no later than 15 business days after the licensee receives notice of the action.

122.29 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner
122.30 and managerial officials of a facility whose Minnesota license has not been renewed or that
122.31 has been revoked because of noncompliance with applicable laws or rules shall not be
122.32 eligible to apply for nor will be granted an assisted living facility license or an assisted
122.33 living facility with dementia care license, or be given status as an enrolled personal care
122.34 assistance provider agency or personal care assistant by the Department of Human Services

123.1 under section 256B.0659, for five years following the effective date of the nonrenewal or
123.2 revocation. If the owner and/or managerial officials already have enrollment status, the
123.3 enrollment will be terminated by the Department of Human Services.

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

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

123.14 (d) The commissioner shall notify the facility 30 calendar days in advance of the date
123.15 of nonrenewal, suspension, or revocation of the license. Within ten business days after the
123.16 receipt of the notification, the facility may request, in writing, that the commissioner stay
123.17 the nonrenewal, revocation, or suspension of the license. The facility shall specify the
123.18 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance
123.19 with the licensure laws and regulations; any limits on the authority or responsibility of the
123.20 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,
123.21 or suspension; and any other information to establish that the continuing affiliation with
123.22 these individuals will not jeopardize resident health, safety, or well-being. The commissioner
123.23 shall determine whether the stay will be granted within 30 calendar days of receiving the
123.24 facility's request. The commissioner may propose additional restrictions or limitations on
123.25 the facility's license and require that granting the stay be contingent upon compliance with
123.26 those provisions. The commissioner shall take into consideration the following factors when
123.27 determining whether the stay should be granted:

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

123.30 (2) the compliance history of the facility; and

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

123.32 If the commissioner grants the stay, the order shall include any restrictions or limitation on
123.33 the provider's license. The failure of the facility to comply with any restrictions or limitations

124.1 shall result in the immediate removal of the stay and the commissioner shall take immediate
124.2 action to suspend, revoke, or not renew the license.

124.3 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may
124.4 be considered by the commissioner when the conditions upon which the revocation was
124.5 based have been corrected and satisfactory evidence of this fact has been furnished to the
124.6 commissioner. A new license may be granted after an inspection has been made and the
124.7 facility has complied with all provisions of this chapter and adopted rules.

124.8 Subd. 15. **Informal conference.** At any time, the applicant or facility and the
124.9 commissioner may hold an informal conference to exchange information, clarify issues, or
124.10 resolve issues.

124.11 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the
124.12 commissioner may bring an action in district court to enjoin a person who is involved in
124.13 the management, operation, or control of a facility or an employee of the facility from
124.14 illegally engaging in activities regulated by sections under this chapter. The commissioner
124.15 may bring an action under this subdivision in the district court in Ramsey County or in the
124.16 district in which the facility is located. The court may grant a temporary restraining order
124.17 in the proceeding if continued activity by the person who is involved in the management,
124.18 operation, or control of a facility, or by an employee of the facility, would create an imminent
124.19 risk of harm to a resident.

124.20 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,
124.21 the commissioner may issue subpoenas and compel the attendance of witnesses and the
124.22 production of all necessary papers, books, records, documents, and other evidentiary material.
124.23 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear
124.24 or testify regarding any matter about which the person may be lawfully questioned or to
124.25 produce any papers, books, records, documents, or evidentiary materials in the matter to be
124.26 heard, the commissioner may apply to the district court in any district, and the court shall
124.27 order the person to comply with the commissioner's order or subpoena. The commissioner
124.28 of health may administer oaths to witnesses or take their affirmation. Depositions may be
124.29 taken in or outside the state in the manner provided by law for taking depositions in civil
124.30 actions. A subpoena or other process or paper may be served on a named person anywhere
124.31 in the state by an officer authorized to serve subpoenas in civil actions, with the same fees
124.32 and mileage and in the same manner as prescribed by law for a process issued out of a
124.33 district court. A person subpoenaed under this subdivision shall receive the same fees,
124.34 mileage, and other costs that are paid in proceedings in district court.

125.1 Sec. 34. [144I.34] INNOVATION VARIANCE.

125.2 Subdivision 1. Definition; granting variances. (a) For purposes of this section,
125.3 "innovation variance" means a specified alternative to a requirement of this chapter.

125.4 (b) An innovation variance may be granted to allow a facility to offer services of a type
125.5 or in a manner that is innovative, will not impair the services provided, will not adversely
125.6 affect the health, safety, or welfare of the residents, and is likely to improve the services
125.7 provided. The innovative variance cannot change any of the resident's rights under the
125.8 assisted living bill of rights under section 144J.02.

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

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

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

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

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

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

125.19 (4) the reasons for the request; and

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

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

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

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

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

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

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

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

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

126.9 Sec. 35. **[144I.35] RESIDENT QUALITY OF CARE AND OUTCOMES**
126.10 **IMPROVEMENT TASK FORCE.**

126.11 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of
126.12 care and outcomes improvement task force to examine and make recommendations, on an
126.13 ongoing basis, on how to apply proven safety and quality improvement practices and
126.14 infrastructure to settings and providers that provide long-term services and supports.

126.15 Subd. 2. **Membership.** The task force shall include representation from:

126.16 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation
126.17 in health care safety and quality;

126.18 (2) Department of Health staff with expertise in issues related to safety and adverse
126.19 health events;

126.20 (3) consumer organizations;

126.21 (4) direct care providers or their representatives;

126.22 (5) organizations representing long-term care providers and home care providers in
126.23 Minnesota;

126.24 (6) the ombudsman for long-term care or a designee;

126.25 (7) national patient safety experts; and

126.26 (8) other experts in the safety and quality improvement field.

126.27 The task force shall have at least one public member who either is or has been a resident in
126.28 an assisted living setting and one public member who has or had a family member living
126.29 in an assisted living setting. The membership shall be voluntary except that public members
126.30 may be reimbursed under section 15.059, subdivision 3.

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

127.6 Sec. 36. [144I.36] EXPEDITED RULEMAKING AUTHORIZED.

127.7 (a) The commissioner shall adopt rules for all assisted living facilities that promote
127.8 person-centered planning and service and optimal quality of life, and that ensure resident
127.9 rights are protected, resident choice is allowed, and public health and safety is ensured.

127.10 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process
127.11 in section 14.389, except that the rulemaking process is exempt from section 14.389,
127.12 subdivision 5.

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

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

127.16 (2) training prerequisites and ongoing training for administrators and caregiving staff;

127.17 (3) requirements for licensees to ensure minimum nutrition and dietary standards required
127.18 by section 144I.10 are provided;

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

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

127.21 (6) requirements for assisted living facilities with dementia care in terms of training,
127.22 care standards, noticing changes of condition, assessments, and health care;

127.23 (7) preadmission criteria, initial assessments, and continuing assessments;

127.24 (8) emergency disaster and preparedness plans;

127.25 (9) uniform checklist disclosure of services;

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

127.27 (11) uniform assessment tool.

127.28 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall
127.29 publish final rules by December 31, 2020.

128.1 Sec. 37. **TRANSITION PERIOD.**

128.2 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited
128.3 rulemaking process.

128.4 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new
128.5 assisted living facility and assisted living facility with dementia care licensure by hiring
128.6 staff, developing forms, and communicating with stakeholders about the new facility
128.7 licensing.

128.8 (c) Effective August 1, 2021, all existing housing with services establishments providing
128.9 home care services under Minnesota Statutes, chapter 144A, must convert their registration
128.10 to licensure under Minnesota Statutes, chapter 144I.

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

128.13 (e) Effective August 1, 2021, all assisted living facilities and assisted living facilities
128.14 with dementia care must be licensed by the commissioner.

128.15 Sec. 38. **REPEALER.**

128.16 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;
128.17 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;
128.18 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are
128.19 repealed effective August 1, 2021.

128.20 **ARTICLE 6**128.21 **DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH**
128.22 **DEMENTIA CARE**128.23 **Section 1. [144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING**
128.24 **FACILITIES WITH DEMENTIA CARE.**

128.25 Subdivision 1. **Applicability.** This section applies only to assisted living facilities with
128.26 dementia care.

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

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

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

129.3 (b) If the applicant does not have experience in managing residents with dementia, the
129.4 applicant must employ a consultant for at least the first six months of operation. The
129.5 consultant must meet the requirements in paragraph (a), clause (1), and make
129.6 recommendations on providing dementia care services consistent with the requirements of
129.7 this chapter. The consultant must have experience in dementia care operations. The applicant
129.8 must implement the recommendations of the consultant and document an acceptable plan
129.9 which may be reviewed by the commissioner upon request to address the consultant's
129.10 identified concerns. The commissioner may review and approve the selection of the
129.11 consultant.

129.12 (c) The commissioner shall conduct an on-site inspection prior to the issuance of an
129.13 assisted living facility with dementia care license to ensure compliance with the physical
129.14 environment requirements.

129.15 (d) The label "Assisted Living Facility with Dementia Care" must be identified on the
129.16 license.

129.17 Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing
129.18 at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility
129.19 with dementia care license. For voluntary relinquishment, the facility must:

129.20 (1) give all residents and their designated representatives 45 calendar days' notice. The
129.21 notice must include:

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

129.23 (ii) changes in staffing;

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

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

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

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

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

130.1 (5) revise advertising materials and disclosure information to remove any reference that
130.2 the facility is an assisted living facility with dementia care.

130.3 Sec. 2. [144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED
130.4 LIVING FACILITIES WITH DEMENTIA CARE.

130.5 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care
130.6 is responsible for the care and housing of the persons with dementia and the provision of
130.7 person-centered care that promotes each resident's dignity, independence, and comfort. This
130.8 includes the supervision, training, and overall conduct of the staff.

130.9 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living
130.10 license requirements and the criteria in this section.

130.11 (b) The administrator of an assisted living facility with dementia care license must
130.12 complete and document that at least ten hours of the required annual continuing educational
130.13 requirements relate to the care of individuals with dementia. Continuing education credits
130.14 must be obtained through commissioner-approved sources that may include college courses,
130.15 preceptor credits, self-directed activities, course instructor credits, corporate training,
130.16 in-service training, professional association training, web-based training, correspondence
130.17 courses, telecourses, seminars, and workshops.

130.18 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing
130.19 of assisted living facilities, the assisted living facility with dementia care licensee must
130.20 develop and implement policies and procedures that address the:

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

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

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

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

130.29 (5) staff training specific to dementia care;

130.30 (6) description of life enrichment programs and how activities are implemented;

130.31 (7) description of family support programs and efforts to keep the family engaged;

131.1 (8) limiting the use of public address and intercom systems for emergencies and
131.2 evacuation drills only;

131.3 (9) transportation coordination and assistance to and from outside medical appointments;
131.4 and

131.5 (10) safekeeping of resident's possessions.

131.6 (b) The policies and procedures must be provided to residents and the resident's
131.7 representative at the time of move-in.

131.8 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

131.9 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide
131.10 residents with dementia-trained staff who have been instructed in the person-centered care
131.11 approach. All direct care and other community staff assigned to care for dementia residents
131.12 must be specially trained to work with residents with Alzheimer's disease and other
131.13 dementias.

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

131.16 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of
131.17 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and
131.18 needs of residents.

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

131.22 (1) the nature of the emergency;

131.23 (2) how long the emergency lasted; and

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

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

132.1 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under
132.2 section 144I.31.

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

132.5 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may
132.6 include various methods of instruction, such as classroom style, web-based training, video,
132.7 or one-to-one training. The licensee must have a method for determining and documenting
132.8 each staff person's knowledge and understanding of the training provided. All training must
132.9 be documented.

132.10 Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

132.11 (a) In addition to the minimum services required of assisted living facilities, an assisted
132.12 living facility with dementia care must also provide the following services:

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

132.18 (2) health care services provided according to the licensing statutes and rules of the
132.19 facility;

132.20 (3) a daily meal program for nutrition and hydration must be provided and available
132.21 throughout each resident's waking hours. The individualized nutritional plan for each resident
132.22 must be documented in the resident's service or care plan. In addition, an assisted living
132.23 facility with dementia care must provide meaningful activities that promote or help sustain
132.24 the physical and emotional well-being of residents. The activities must be person-directed
132.25 and available during residents' waking hours.

132.26 (b) Each resident must be evaluated for activities according to the licensing rules of the
132.27 facility. In addition, the evaluation must address the following:

132.28 (1) past and current interests;

132.29 (2) current abilities and skills;

132.30 (3) emotional and social needs and patterns;

132.31 (4) physical abilities and limitations;

- 133.1 (5) adaptations necessary for the resident to participate; and
- 133.2 (6) identification of activities for behavioral interventions.
- 133.3 (c) An individualized activity plan must be developed for each resident based on their
- 133.4 activity evaluation. The plan must reflect the resident's activity preferences and needs.
- 133.5 (d) A selection of daily structured and non-structured activities must be provided and
- 133.6 included on the resident's activity service or care plan as appropriate. Daily activity options
- 133.7 based on resident evaluation may include but are not limited to:
- 133.8 (1) occupation or chore related tasks;
- 133.9 (2) scheduled and planned events such as entertainment or outings;
- 133.10 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;
- 133.11 (4) one-to-one activities that encourage positive relationships between residents and
- 133.12 staff such as telling a life story, reminiscing, or playing music;
- 133.13 (5) spiritual, creative, and intellectual activities;
- 133.14 (6) sensory stimulation activities;
- 133.15 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;
- 133.16 and
- 133.17 (8) outdoor activities.
- 133.18 (e) Behavioral symptoms that negatively impact the resident and others in the assisted
- 133.19 living facility must be evaluated and included on the service or care plan. The staff must
- 133.20 initiate and coordinate outside consultation or acute care when indicated.
- 133.21 (f) Support must be offered to family and other significant relationships on a regularly
- 133.22 scheduled basis but not less than quarterly.
- 133.23 (g) Access to secured outdoor space and walkways that allow residents to enter and
- 133.24 return without staff assistance must be provided.

ARTICLE 7

ADMINISTRATOR QUALIFICATIONS

133.27 Section 1. Minnesota Statutes 2018, section 144A.04, subdivision 5, is amended to read:

133.28 Subd. 5. **Administrators.** ~~(a)~~ Each nursing home must employ an administrator who

133.29 must be licensed or permitted as a nursing home administrator by the Board of ~~Examiners~~

133.30 ~~for Nursing Home Administrators~~ Executives for Long Term Services and Supports. The

134.1 nursing home may share the services of a licensed administrator. The administrator must
134.2 maintain a ~~sufficient~~ an on-site presence in the facility to effectively manage the facility in
134.3 compliance with applicable rules and regulations. The administrator must establish procedures
134.4 and delegate authority for on-site operations in the administrator's absence, but is ultimately
134.5 responsible for the management of the facility. Each nursing home must have posted at all
134.6 times the name of the administrator and the name of the person in charge on the premises
134.7 in the absence of the licensed administrator.

134.8 ~~(b) Notwithstanding sections 144A.18 to 144A.27, a nursing home with a director of~~
134.9 ~~nursing serving as an unlicensed nursing home administrator as of March 1, 2001, may~~
134.10 ~~continue to have a director of nursing serve in that capacity, provided the director of nursing~~
134.11 ~~has passed the state law and rules examination administered by the Board of Examiners for~~
134.12 ~~Nursing Home Administrators and maintains evidence of completion of 20 hours of~~
134.13 ~~continuing education each year on topics pertinent to nursing home administration.~~

134.14 Sec. 2. Minnesota Statutes 2018, section 144A.20, subdivision 1, is amended to read:

134.15 Subdivision 1. **Criteria.** The Board of ~~Examiners~~ Executives may issue licenses to
134.16 qualified persons as nursing home administrators, and shall establish qualification criteria
134.17 for nursing home administrators. No license shall be issued to a person as a nursing home
134.18 administrator unless that person:

134.19 (1) is at least 21 years of age ~~and otherwise suitably qualified;~~

134.20 (2) has satisfactorily met standards set by the Board of ~~Examiners~~ Executives, which
134.21 standards shall be designed to assure that nursing home administrators will be individuals
134.22 who, by training or experience are qualified to serve as nursing home administrators; and

134.23 (3) has passed an examination approved by the board and designed to test for competence
134.24 in the ~~subject matters~~ standards referred to in clause (2), or has been approved by the Board
134.25 of ~~Examiners~~ Executives through the development and application of other appropriate
134.26 techniques.

134.27 Sec. 3. Minnesota Statutes 2018, section 144A.24, is amended to read:

134.28 **144A.24 DUTIES OF THE BOARD.**

134.29 The Board of ~~Examiners~~ Executives shall:

134.30 (1) develop and enforce standards for nursing home administrator licensing, which
134.31 standards shall be designed to assure that nursing home administrators will be individuals

135.1 of good character who, by training or experience, are suitably qualified to serve as nursing
 135.2 home administrators;

135.3 (2) develop appropriate techniques, including examinations and investigations, for
 135.4 determining whether applicants and licensees meet the board's standards;

135.5 (3) issue licenses and permits to those individuals who are found to meet the board's
 135.6 standards;

135.7 (4) establish and implement procedures designed to assure that individuals licensed as
 135.8 nursing home administrators will comply with the board's standards;

135.9 (5) receive and investigate complaints and take appropriate action consistent with chapter
 135.10 214, to revoke or suspend the license or permit of a nursing home administrator or acting
 135.11 administrator who fails to comply with sections 144A.18 to 144A.27 or the board's standards;

135.12 (6) conduct a continuing study and investigation of nursing homes, and the administrators
 135.13 of nursing homes within the state, with a view to the improvement of the standards imposed
 135.14 for the licensing of administrators and improvement of the procedures and methods used
 135.15 for enforcement of the board's standards; and

135.16 (7) approve or conduct courses of instruction or training designed to prepare individuals
 135.17 for licensing in accordance with the board's standards. ~~Courses designed to meet license~~
 135.18 ~~renewal requirements shall be designed solely to improve professional skills and shall not~~
 135.19 ~~include classroom attendance requirements exceeding 50 hours per year.~~ The board may
 135.20 approve courses conducted within or without this state.

135.21 Sec. 4. Minnesota Statutes 2018, section 144A.26, is amended to read:

135.22 **144A.26 RECIPROCITY WITH OTHER STATES AND EQUIVALENCY OF**
 135.23 **HEALTH SERVICES EXECUTIVE.**

135.24 Subdivision 1. Reciprocity. The Board of ~~Examiners~~ Executives may issue a nursing
 135.25 home administrator's license, without examination, to any person who holds a current license
 135.26 as a nursing home administrator from another jurisdiction if the board finds that the standards
 135.27 for licensure in the other jurisdiction are at least the substantial equivalent of those prevailing
 135.28 in this state and that the applicant is otherwise qualified.

135.29 Subd. 2. Health services executive license. The Board of Executives may issue a health
 135.30 services executive license to any person who (1) has been validated by the National
 135.31 Association of Long Term Care Administrator Boards as a health services executive, and
 135.32 (2) has met the education and practice requirements for the minimum qualifications of a

136.1 nursing home administrator, assisted living administrator, and home and community-based
136.2 service provider. Licensure decisions made by the board under this subdivision are final.

136.3 **Sec. 5. [144A.291] FEES.**

136.4 Subdivision 1. **Payment types and nonrefundability.** The fees imposed in this section
136.5 shall be paid by cash, personal check, bank draft, cashier's check, or money order made
136.6 payable to the Board of Executives for Long Term Services and Supports. All fees are
136.7 nonrefundable.

136.8 Subd. 2. **Amount.** The amount of fees may be set by the board with the approval of
136.9 Minnesota Management and Budget up to the limits provided in this section depending
136.10 upon the total amount required to sustain board operations under section 16A.1285,
136.11 subdivision 2. Information about fees in effect at any time is available from the board office.
136.12 The maximum amounts of fees are:

136.13 (1) application for licensure, \$150;

136.14 (2) for a prospective applicant for a review of education and experience advisory to the
136.15 license application, \$50, to be applied to the fee for application for licensure if the latter is
136.16 submitted within one year of the request for review of education and experience;

136.17 (3) state examination, \$75;

136.18 (4) licensed nursing home administrator initial license, \$200 if issued between July 1
136.19 and December 31, \$100 if issued between January 1 and June 30;

136.20 (5) acting administrator permit, \$250;

136.21 (6) renewal license, \$200;

136.22 (7) duplicate license, \$10;

136.23 (8) fee to a sponsor for review of individual continuing education seminars, institutes,
136.24 workshops, or home study courses:

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

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

136.27 (9) fee to a licensee for review of continuing education seminars, institutes, workshops,
136.28 or home study courses not previously approved for a sponsor and submitted with an
136.29 application for license renewal:

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

- 137.1 (ii) for seven or more clock hours total, \$50;
 137.2 (10) late renewal fee, \$50;
 137.3 (11) fee to a licensee for verification of licensure status and examination scores, \$30;
 137.4 (12) registration as a registered continuing education sponsor, \$1,000; and
 137.5 (13) health services executive initial license, \$200 if issued between July 1 and December
 137.6 31, \$100 if issued between January 1 and June 30.

137.7 Sec. 6. **REVISOR INSTRUCTION.**

137.8 The revisor of statutes shall change the phrases "Board of Examiners for Nursing Home
 137.9 Administrators" to "Board of Executives for Long Term Services and Supports" and "Board
 137.10 of Examiners" to "Board of Executives" wherever the phrases appear in Minnesota Statutes
 137.11 and apply to the board established in Minnesota Statutes, section 144A.19.

137.12

ARTICLE 8

137.13

ASSISTED LIVING LICENSURE CONFORMING CHANGES

137.14 Section 1. Minnesota Statutes 2018, section 144.051, subdivision 4, is amended to read:

137.15 Subd. 4. **Data classification; public data.** For providers regulated pursuant to sections
 137.16 144A.43 to 144A.482 and chapter 1444I, the following data collected, created, or maintained
 137.17 by the commissioner are classified as public data as defined in section 13.02, subdivision
 137.18 15:

- 137.19 (1) all application data on licensees, license numbers, and license status;
 137.20 (2) licensing information about licenses previously held under this chapter;
 137.21 (3) correction orders, including information about compliance with the order and whether
 137.22 the fine was paid;
 137.23 (4) final enforcement actions pursuant to chapter 14;
 137.24 (5) orders for hearing, findings of fact, and conclusions of law; and
 137.25 (6) when the licensee and department agree to resolve the matter without a hearing, the
 137.26 agreement and specific reasons for the agreement are public data.

137.27 Sec. 2. Minnesota Statutes 2018, section 144.051, subdivision 5, is amended to read:

137.28 Subd. 5. **Data classification; confidential data.** For providers regulated pursuant to
 137.29 sections 144A.43 to 144A.482 and chapter 144I, the following data collected, created, or

138.1 maintained by the Department of Health are classified as confidential data on individuals
138.2 as defined in section 13.02, subdivision 3: active investigative data relating to the
138.3 investigation of potential violations of law by a licensee including data from the survey
138.4 process before the correction order is issued by the department.

138.5 Sec. 3. Minnesota Statutes 2018, section 144.051, subdivision 6, is amended to read:

138.6 Subd. 6. **Release of private or confidential data.** For providers regulated pursuant to
138.7 sections 144A.43 to 144A.482 and chapter 144I, the department may release private or
138.8 confidential data, except Social Security numbers, to the appropriate state, federal, or local
138.9 agency and law enforcement office to enhance investigative or enforcement efforts or further
138.10 a public health protective process. Types of offices include Adult Protective Services, Office
138.11 of the Ombudsman for Long-Term Care and Office of the Ombudsman for Mental Health
138.12 and Developmental Disabilities, the health licensing boards, Department of Human Services,
138.13 county or city attorney's offices, police, and local or county public health offices.

138.14 Sec. 4. Minnesota Statutes 2018, section 144.057, subdivision 1, is amended to read:

138.15 Subdivision 1. **Background studies required.** The commissioner of health shall contract
138.16 with the commissioner of human services to conduct background studies of:

138.17 (1) individuals providing services ~~which~~ that have direct contact, as defined under section
138.18 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
138.19 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
138.20 home care agencies licensed under chapter 144A; ~~residential care homes licensed under~~
138.21 ~~chapter 144B~~, assisted living facilities, and assisted living facilities with dementia care
138.22 licensed under chapter 144I, and board and lodging establishments that are registered to
138.23 provide supportive or health supervision services under section 157.17;

138.24 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
138.25 services in a nursing home, assisted living facilities, and assisted living facilities with
138.26 dementia care licensed under chapter 144I, or a home care agency licensed under chapter
138.27 144A or a boarding care home licensed under sections 144.50 to 144.58. If the individual
138.28 under study resides outside Minnesota, the study must include a check for substantiated
138.29 findings of maltreatment of adults and children in the individual's state of residence when
138.30 the information is made available by that state, and must include a check of the National
138.31 Crime Information Center database;

138.32 (3) ~~beginning July 1, 1999~~, all other employees in assisted living facilities licensed under
138.33 chapter 144I, nursing homes licensed under chapter 144A, and boarding care homes licensed

139.1 under sections 144.50 to 144.58. A disqualification of an individual in this section shall
139.2 disqualify the individual from positions allowing direct contact or access to patients or
139.3 residents receiving services. "Access" means physical access to a client or the client's
139.4 personal property without continuous, direct supervision as defined in section 245C.02,
139.5 subdivision 8, when the employee's employment responsibilities do not include providing
139.6 direct contact services;

139.7 (4) individuals employed by a supplemental nursing services agency, as defined under
139.8 section 144A.70, who are providing services in health care facilities; and

139.9 (5) controlling persons of a supplemental nursing services agency, as defined under
139.10 section 144A.70.

139.11 If a facility or program is licensed by the Department of Human Services and subject to
139.12 the background study provisions of chapter 245C and is also licensed by the Department
139.13 of Health, the Department of Human Services is solely responsible for the background
139.14 studies of individuals in the jointly licensed programs.

139.15 Sec. 5. Minnesota Statutes 2018, section 144A.44, subdivision 1, is amended to read:

139.16 Subdivision 1. **Statement of rights.** (a) A person client who receives home care services
139.17 in the community or in an assisted living facility licensed under chapter 144I has these
139.18 rights:

139.19 (1) ~~the right to~~ receive written information, in plain language, about rights before
139.20 receiving services, including what to do if rights are violated;

139.21 (2) ~~the right to~~ receive care and services according to a suitable and up-to-date plan, and
139.22 subject to accepted health care, medical or nursing standards and person-centered care, to
139.23 take an active part in developing, modifying, and evaluating the plan and services;

139.24 (3) ~~the right to~~ be told before receiving services the type and disciplines of staff who
139.25 will be providing the services, the frequency of visits proposed to be furnished, other choices
139.26 that are available for addressing home care needs, and the potential consequences of refusing
139.27 these services;

139.28 (4) ~~the right to~~ be told in advance of any recommended changes by the provider in the
139.29 service plan and to take an active part in any decisions about changes to the service plan;

139.30 (5) ~~the right to~~ refuse services or treatment;

139.31 (6) ~~the right to~~ know, before receiving services or during the initial visit, any limits to
139.32 the services available from a home care provider;

140.1 (7) ~~the right to~~ be told before services are initiated what the provider charges for the
140.2 services; to what extent payment may be expected from health insurance, public programs,
140.3 or other sources, if known; and what charges the client may be responsible for paying;

140.4 (8) ~~the right to~~ know that there may be other services available in the community,
140.5 including other home care services and providers, and to know where to find information
140.6 about these services;

140.7 (9) ~~the right to~~ choose freely among available providers and to change providers after
140.8 services have begun, within the limits of health insurance, long-term care insurance, medical
140.9 assistance, ~~or other health programs,~~ or public programs;

140.10 (10) ~~the right to~~ have personal, financial, and medical information kept private, and to
140.11 be advised of the provider's policies and procedures regarding disclosure of such information;

140.12 (11) ~~the right to~~ access the client's own records and written information from those
140.13 records in accordance with sections 144.291 to 144.298;

140.14 (12) ~~the right to~~ be served by people who are properly trained and competent to perform
140.15 their duties;

140.16 (13) ~~the right to~~ be treated with courtesy and respect, and to have the client's property
140.17 treated with respect;

140.18 (14) ~~the right to~~ be free from physical and verbal abuse, neglect, financial exploitation,
140.19 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
140.20 of Minors Act;

140.21 (15) ~~the right to~~ reasonable, advance notice of changes in services or charges;

140.22 (16) ~~the right to~~ know the provider's reason for termination of services;

140.23 (17) ~~the right to~~ at least ~~ten~~ 30 calendar days' advance notice of the termination of a
140.24 service or housing by a provider, except in cases where:

140.25 (i) the client engages in conduct that significantly alters the terms of the service plan
140.26 with the home care provider;

140.27 (ii) the client, person who lives with the client, or others create an abusive or unsafe
140.28 work environment for the person providing home care services; or

140.29 (iii) an emergency or a significant change in the client's condition has resulted in service
140.30 needs that exceed the current service plan and that cannot be safely met by the home care
140.31 provider;

141.1 (18) ~~the right to~~ a coordinated transfer when there will be a change in the provider of
141.2 services;

141.3 (19) ~~the right to~~ complain to staff and others of the client's choice about services that
141.4 are provided, or fail to be provided, and the lack of courtesy or respect to the client or the
141.5 client's property and the right to recommend changes in policies and services, free from
141.6 retaliation including the threat of termination of services;

141.7 (20) ~~the right to~~ know how to contact an individual associated with the home care provider
141.8 who is responsible for handling problems and to have the home care provider investigate
141.9 and attempt to resolve the grievance or complaint;

141.10 (21) ~~the right to~~ know the name and address of the state or county agency to contact for
141.11 additional information or assistance; ~~and~~

141.12 (22) ~~the right to~~ assert these rights personally, or have them asserted by the client's
141.13 representative or by anyone on behalf of the client, without retaliation; and

141.14 (23) place an electronic monitoring device in the client's or resident's space in compliance
141.15 with state requirements.

141.16 (b) When providers violate the rights in this section, they are subject to the fines and
141.17 license actions in sections 144A.474, subdivision 11, and 144A.475.

141.18 (c) Providers must do all of the following:

141.19 (1) encourage and assist in the fullest possible exercise of these rights;

141.20 (2) provide the names and telephone numbers of individuals and organizations that
141.21 provide advocacy and legal services for clients and residents seeking to assert their rights;

141.22 (3) make every effort to assist clients or residents in obtaining information regarding
141.23 whether Medicare, medical assistance, other health programs, or public programs will pay
141.24 for services;

141.25 (4) make reasonable accommodations for people who have communication disabilities,
141.26 or those who speak a language other than English; and

141.27 (5) provide all information and notices in plain language and in terms the client or
141.28 resident can understand.

141.29 (d) No provider may require or request a client or resident to waive any of the rights
141.30 listed in this section at any time or for any reasons, including as a condition of initiating
141.31 services or entering into an assisted living facility contract.

142.1 Sec. 6. Minnesota Statutes 2018, section 144A.471, subdivision 7, is amended to read:

142.2 Subd. 7. **Comprehensive home care license provider.** Home care services that may
142.3 be provided with a comprehensive home care license include any of the basic home care
142.4 services listed in subdivision 6, and one or more of the following:

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

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

142.10 (3) medication management services;

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

142.12 (5) treatment and therapies;

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

142.17 ~~(6)~~ (7) providing other complex or specialty health care services.

142.18 Sec. 7. Minnesota Statutes 2018, section 144A.471, subdivision 9, is amended to read:

142.19 Subd. 9. **Exclusions from home care licensure.** The following are excluded from home
142.20 care licensure and are not required to provide the home care bill of rights:

142.21 (1) an individual or business entity providing only coordination of home care that includes
142.22 one or more of the following:

142.23 (i) determination of whether a client needs home care services, or assisting a client in
142.24 determining what services are needed;

142.25 (ii) referral of clients to a home care provider;

142.26 (iii) administration of payments for home care services; or

142.27 (iv) administration of a health care home established under section 256B.0751;

142.28 (2) an individual who is not an employee of a licensed home care provider if the
142.29 individual:

- 143.1 (i) only provides services as an independent contractor to one or more licensed home
143.2 care providers;
- 143.3 (ii) provides no services under direct agreements or contracts with clients; and
- 143.4 (iii) is contractually bound to perform services in compliance with the contracting home
143.5 care provider's policies and service plans;
- 143.6 (3) a business that provides staff to home care providers, such as a temporary employment
143.7 agency, if the business:
- 143.8 (i) only provides staff under contract to licensed or exempt providers;
- 143.9 (ii) provides no services under direct agreements with clients; and
- 143.10 (iii) is contractually bound to perform services under the contracting home care provider's
143.11 direction and supervision;
- 143.12 (4) any home care services conducted by and for the adherents of any recognized church
143.13 or religious denomination for its members through spiritual means, or by prayer for healing;
- 143.14 (5) an individual who only provides home care services to a relative;
- 143.15 (6) an individual not connected with a home care provider that provides assistance with
143.16 basic home care needs if the assistance is provided primarily as a contribution and not as a
143.17 business;
- 143.18 (7) an individual not connected with a home care provider that shares housing with and
143.19 provides primarily housekeeping or homemaking services to an elderly or disabled person
143.20 in return for free or reduced-cost housing;
- 143.21 (8) an individual or provider providing home-delivered meal services;
- 143.22 (9) an individual providing senior companion services and other older American volunteer
143.23 programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United
143.24 States Code, title 42, chapter 66;
- 143.25 ~~(10) an employee of a nursing home or home care provider licensed under this chapter~~
143.26 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~
143.27 ~~responding to occasional emergency calls from individuals residing in a residential setting~~
143.28 ~~that is attached to or located on property contiguous to the nursing home, boarding care~~
143.29 ~~home, or location where home care services are also provided;~~
- 143.30 ~~(11) an employee of a nursing home or home care provider licensed under this chapter~~
143.31 ~~or an employee of a boarding care home licensed under sections 144.50 to 144.56 when~~

144.1 ~~providing occasional minor services free of charge to individuals residing in a residential~~
144.2 ~~setting that is attached to or located on property contiguous to the nursing home, boarding~~
144.3 ~~care home, or location where home care services are also provided;~~

144.4 (12) a member of a professional corporation organized under chapter 319B that does
144.5 not regularly offer or provide home care services as defined in section 144A.43, subdivision
144.6 3;

144.7 (13) the following organizations established to provide medical or surgical services that
144.8 do not regularly offer or provide home care services as defined in section 144A.43,
144.9 subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit
144.10 corporation organized under chapter 317A, a partnership organized under chapter 323, or
144.11 any other entity determined by the commissioner;

144.12 (14) an individual or agency that provides medical supplies or durable medical equipment,
144.13 except when the provision of supplies or equipment is accompanied by a home care service;

144.14 (15) a physician licensed under chapter 147;

144.15 (16) an individual who provides home care services to a person with a developmental
144.16 disability who lives in a place of residence with a family, foster family, or primary caregiver;

144.17 (17) a business that only provides services that are primarily instructional and not medical
144.18 services or health-related support services;

144.19 (18) an individual who performs basic home care services for no more than 14 hours
144.20 each calendar week to no more than one client;

144.21 (19) an individual or business licensed as hospice as defined in sections 144A.75 to
144.22 144A.755 who is not providing home care services independent of hospice service;

144.23 (20) activities conducted by the commissioner of health or a community health board
144.24 as defined in section 145A.02, subdivision 5, including communicable disease investigations
144.25 or testing; or

144.26 (21) administering or monitoring a prescribed therapy necessary to control or prevent a
144.27 communicable disease, or the monitoring of an individual's compliance with a health directive
144.28 as defined in section 144.4172, subdivision 6.

144.29 **EFFECTIVE DATE.** The amendments to clauses (10) and (11) are effective July 1,
144.30 2021.

145.1 Sec. 8. Minnesota Statutes 2018, section 144A.472, subdivision 7, is amended to read:

145.2 Subd. 7. **Fees; application, change of ownership, ~~and~~ renewal, and failure to**
 145.3 **notify.** (a) An initial applicant seeking temporary home care licensure must submit the
 145.4 following application fee to the commissioner along with a completed application:

145.5 (1) for a basic home care provider, \$2,100; or

145.6 (2) for a comprehensive home care provider, \$4,200.

145.7 (b) A home care provider who is filing a change of ownership as required under
 145.8 subdivision 5 must submit the following application fee to the commissioner, along with
 145.9 the documentation required for the change of ownership:

145.10 (1) for a basic home care provider, \$2,100; or

145.11 (2) for a comprehensive home care provider, \$4,200.

145.12 (c) For the period ending June 30, 2018, a home care provider who is seeking to renew
 145.13 the provider's license shall pay a fee to the commissioner based on revenues derived from
 145.14 the provision of home care services during the calendar year prior to the year in which the
 145.15 application is submitted, according to the following schedule:

145.16 **License Renewal Fee**

145.17 Provider Annual Revenue	145.17 Fee
145.18 greater than \$1,500,000	\$6,625
145.19 greater than \$1,275,000 and no more than 145.20 \$1,500,000	\$5,797
145.21 greater than \$1,100,000 and no more than 145.22 \$1,275,000	\$4,969
145.23 greater than \$950,000 and no more than 145.24 \$1,100,000	\$4,141
145.25 greater than \$850,000 and no more than \$950,000	\$3,727
145.26 greater than \$750,000 and no more than \$850,000	\$3,313
145.27 greater than \$650,000 and no more than \$750,000	\$2,898
145.28 greater than \$550,000 and no more than \$650,000	\$2,485
145.29 greater than \$450,000 and no more than \$550,000	\$2,070
145.30 greater than \$350,000 and no more than \$450,000	\$1,656
145.31 greater than \$250,000 and no more than \$350,000	\$1,242
145.32 greater than \$100,000 and no more than \$250,000	\$828
145.33 greater than \$50,000 and no more than \$100,000	\$500
145.34 greater than \$25,000 and no more than \$50,000	\$400
145.35 no more than \$25,000	\$200

146.1 (d) For the period between July 1, 2018, and June 30, 2020, a home care provider who
 146.2 is seeking to renew the provider's license shall pay a fee to the commissioner in an amount
 146.3 that is ten percent higher than the applicable fee in paragraph (c). A home care provider's
 146.4 fee shall be based on revenues derived from the provision of home care services during the
 146.5 calendar year prior to the year in which the application is submitted.

146.6 (e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's
 146.7 license shall pay a fee to the commissioner based on revenues derived from the provision
 146.8 of home care services during the calendar year prior to the year in which the application is
 146.9 submitted, according to the following schedule:

146.10 **License Renewal Fee**

146.11 Provider Annual Revenue	146.11 Fee
146.12 greater than \$1,500,000	\$7,651
146.13 greater than \$1,275,000 and no more than 146.14 \$1,500,000	\$6,695
146.15 greater than \$1,100,000 and no more than 146.16 \$1,275,000	\$5,739
146.17 greater than \$950,000 and no more than 146.18 \$1,100,000	\$4,783
146.19 greater than \$850,000 and no more than \$950,000	\$4,304
146.20 greater than \$750,000 and no more than \$850,000	\$3,826
146.21 greater than \$650,000 and no more than \$750,000	\$3,347
146.22 greater than \$550,000 and no more than \$650,000	\$2,870
146.23 greater than \$450,000 and no more than \$550,000	\$2,391
146.24 greater than \$350,000 and no more than \$450,000	\$1,913
146.25 greater than \$250,000 and no more than \$350,000	\$1,434
146.26 greater than \$100,000 and no more than \$250,000	\$957
146.27 greater than \$50,000 and no more than \$100,000	\$577
146.28 greater than \$25,000 and no more than \$50,000	\$462
146.29 no more than \$25,000	\$231

146.30 (f) If requested, the home care provider shall provide the commissioner information to
 146.31 verify the provider's annual revenues or other information as needed, including copies of
 146.32 documents submitted to the Department of Revenue.

146.33 (g) At each annual renewal, a home care provider may elect to pay the highest renewal
 146.34 fee for its license category, and not provide annual revenue information to the commissioner.

146.35 (h) A temporary license or license applicant, or temporary licensee or licensee that
 146.36 knowingly provides the commissioner incorrect revenue amounts for the purpose of paying

147.1 a lower license fee, shall be subject to a civil penalty in the amount of double the fee the
147.2 provider should have paid.

147.3 (i) The fee for failure to comply with the notification requirements in section 144A.473,
147.4 subdivision 2, paragraph (c), is \$1,000.

147.5 ~~(i)~~ (j) Fees and penalties collected under this section shall be deposited in the state
147.6 treasury and credited to the state government special revenue fund. All fees are
147.7 nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if
147.8 received before July 1, 2017, for temporary licenses or licenses being issued effective July
147.9 1, 2017, or later.

147.10 (k) Fines collected under this subdivision shall be deposited in a dedicated special revenue
147.11 account. On an annual basis, the balance in the special revenue account will be appropriated
147.12 to the commissioner to implement the recommendations of the advisory council established
147.13 in section 144A.4799. Fines collected in state fiscal years 2018 and 2019 shall be deposited
147.14 in the dedicated special revenue account as described in this section.

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

147.16 Sec. 9. Minnesota Statutes 2018, section 144A.474, subdivision 9, is amended to read:

147.17 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under
147.18 subdivision 11, or any violations determined to be widespread, the department shall conduct
147.19 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up
147.20 survey, the surveyor will focus on whether the previous violations have been corrected and
147.21 may also address any new violations that are observed while evaluating the corrections that
147.22 have been made. ~~If a new violation is identified on a follow-up survey, no fine will be~~
147.23 ~~imposed unless it is not corrected on the next follow-up survey.~~

147.24 Sec. 10. Minnesota Statutes 2018, section 144A.474, subdivision 11, is amended to read:

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

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

147.29 (2) Level 2, ~~fines ranging from \$0 to a fine of \$500 per violation,~~ in addition to any of
147.30 the enforcement mechanisms authorized in section 144A.475 for widespread violations;

148.1 (3) Level 3, ~~fining ranging from \$500 to \$1,000~~ a fine of \$3,000 per incident plus \$100
148.2 for each resident affected by the violation, in addition to any of the enforcement mechanisms
148.3 authorized in section 144A.475; ~~and~~

148.4 (4) Level 4, ~~fining ranging from \$1,000 to~~ a fine of \$5,000 per incident plus \$200 for
148.5 each resident affected by the violation, in addition to any of the enforcement mechanisms
148.6 authorized in section 144A.475;

148.7 (5) for maltreatment violations as defined in section 626.557 including abuse, neglect,
148.8 financial exploitation, and drug diversion, that are determined against the provider, an
148.9 immediate fine shall be imposed of \$5,000 per incident plus \$200 for each resident affected
148.10 by the violation; and

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

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

148.15 (1) level of violation:

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

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

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

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

148.25 (2) scope of violation:

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

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

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

149.1 (c) If the commissioner finds that the applicant or a home care provider ~~required to be~~
149.2 ~~licensed under sections 144A.43 to 144A.482~~ has not corrected violations by the date
149.3 specified in the correction order or conditional license resulting from a survey or complaint
149.4 investigation, the commissioner ~~may impose a fine.~~ A shall provide a notice of
149.5 noncompliance with a correction order ~~must be mailed~~ by e-mail to the applicant's or
149.6 provider's last known e-mail address. The noncompliance notice must list the violations not
149.7 corrected.

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

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

149.18 ~~(e)~~ (f) A license holder shall promptly notify the commissioner in writing when a violation
149.19 specified in the order is corrected. If upon reinspection the commissioner determines that
149.20 a violation has not been corrected as indicated by the order, the commissioner may issue a
149.21 second fine. The commissioner shall notify the license holder by mail to the last known
149.22 address in the licensing record that a second fine has been assessed. The license holder may
149.23 appeal the second fine as provided under this subdivision.

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

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

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

149.32 ~~(i)~~ (j) Fines collected under this subdivision shall be deposited in ~~the state government~~
149.33 a dedicated special revenue fund and credited to an account separate from the revenue
149.34 ~~collected under section 144A.472. Subject to an appropriation by the legislature, the revenue~~

150.1 ~~from the fines collected must be used by the commissioner for special projects to improve~~
150.2 ~~home care in Minnesota as recommended by~~ account. On an annual basis, the balance in
150.3 the special revenue account shall be appropriated to the commissioner to implement the
150.4 recommendations of the advisory council established in section 144A.4799. Fines collected
150.5 in state fiscal years 2018 and 2019 shall be deposited in the dedicated special revenue
150.6 account as described in this section.

150.7 **EFFECTIVE DATE.** This section is effective July 1, 2019.

150.8 Sec. 11. Minnesota Statutes 2018, section 144A.475, subdivision 3b, is amended to read:

150.9 Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license
150.10 holder's timely appeal of a temporary suspension or issuance of a conditional license, the
150.11 commissioner shall request assignment of an administrative law judge. The request must
150.12 include a proposed date, time, and place of a hearing. A hearing must be conducted by an
150.13 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within
150.14 30 calendar days of the request for assignment, unless an extension is requested by either
150.15 party and granted by the administrative law judge for good cause. The commissioner shall
150.16 issue a notice of hearing by certified mail or personal service at least ten business days
150.17 before the hearing. Certified mail to the last known address is sufficient. The scope of the
150.18 hearing shall be limited solely to the issue of whether the temporary suspension or issuance
150.19 of a conditional license should remain in effect and whether there is sufficient evidence to
150.20 conclude that the licensee's actions or failure to comply with applicable laws are level 3 or
150.21 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there
150.22 were violations that posed an imminent risk of harm to the health and safety of persons in
150.23 the provider's care.

150.24 (b) The administrative law judge shall issue findings of fact, conclusions, and a
150.25 recommendation within ten business days from the date of hearing. The parties shall have
150.26 ten calendar days to submit exceptions to the administrative law judge's report. The record
150.27 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
150.28 final order shall be issued within ten business days from the close of the record. When an
150.29 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,
150.30 the commissioner shall issue a final order affirming the temporary immediate suspension
150.31 or conditional license within ten calendar days of the commissioner's receipt of the
150.32 withdrawal or dismissal. The license holder is prohibited from operation during the temporary
150.33 suspension period.

151.1 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
151.2 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that
151.3 sanction, the licensee is prohibited from operation pending a final commissioner's order
151.4 after the contested case hearing conducted under chapter 14.

151.5 (d) A licensee whose license is temporarily suspended must comply with the requirements
151.6 for notification and transfer of clients in subdivision 5. These requirements remain if an
151.7 appeal is requested.

151.8 Sec. 12. Minnesota Statutes 2018, section 144A.475, subdivision 5, is amended to read:

151.9 Subd. 5. **Plan required.** (a) The process of suspending ~~or~~, revoking, or refusing to renew
151.10 a license must include a plan for transferring affected ~~clients~~ clients' care to other providers
151.11 by the home care provider, which will be monitored by the commissioner. Within three
151.12 ~~business~~ calendar days of being notified of the ~~final~~ revocation, refusal to renew, or
151.13 ~~suspension action~~, the home care provider shall provide the commissioner, the lead agencies
151.14 as defined in section 256B.0911, county adult protection and case managers, and the
151.15 ombudsman for long-term care with the following information:

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

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

151.19 (3) the location or current residence of each client;

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

151.21 (5) for each client, a copy of the client's service plan, and a list of the types of services
151.22 being provided.

151.23 (b) The revocation, refusal to renew, or suspension notification requirement is satisfied
151.24 by mailing the notice to the address in the license record. The home care provider shall
151.25 cooperate with the commissioner and the lead agencies, county adult protection and county
151.26 managers, and the ombudsman for long term care during the process of transferring care of
151.27 clients to qualified providers. Within three ~~business~~ calendar days of being notified of the
151.28 ~~final~~ revocation, refusal to renew, or suspension action, the home care provider must notify
151.29 and disclose to each of the home care provider's clients, or the client's representative or
151.30 emergency contact persons, that the commissioner is taking action against the home care
151.31 provider's license by providing a copy of the revocation, refusal to renew, or suspension
151.32 notice issued by the commissioner. If the provider does not comply with the disclosure
151.33 requirements in this section, the commissioner shall notify the clients, client representatives,

152.1 or emergency contact persons, about the action being taken. Lead agencies, county adult
152.2 protection and county managers, and the Office of Ombudsman for Long-Term Care may
152.3 also provide this information. The revocation, refusal to renew, or suspension notice is
152.4 public data except for any private data contained therein.

152.5 (c) A home care provider subject to this subdivision may continue operating during the
152.6 period of time home care clients are being transferred to other providers.

152.7 Sec. 13. Minnesota Statutes 2018, section 144A.476, subdivision 1, is amended to read:

152.8 Subdivision 1. **Prior criminal convictions; owner and managerial officials.** (a) Before
152.9 the commissioner issues a temporary license, issues a license as a result of an approved
152.10 change in ownership, or renews a license, an owner or managerial official is required to
152.11 complete a background study under section 144.057. No person may be involved in the
152.12 management, operation, or control of a home care provider if the person has been disqualified
152.13 under chapter 245C. If an individual is disqualified under section 144.057 or chapter 245C,
152.14 the individual may request reconsideration of the disqualification. If the individual requests
152.15 reconsideration and the commissioner sets aside or rescinds the disqualification, the individual
152.16 is eligible to be involved in the management, operation, or control of the provider. If an
152.17 individual has a disqualification under section 245C.15, subdivision 1, and the disqualification
152.18 is affirmed, the individual's disqualification is barred from a set aside, and the individual
152.19 must not be involved in the management, operation, or control of the provider.

152.20 (b) For purposes of this section, owners of a home care provider subject to the background
152.21 check requirement are those individuals whose ownership interest provides sufficient
152.22 authority or control to affect or change decisions related to the operation of the home care
152.23 provider. An owner includes a sole proprietor, a general partner, or any other individual
152.24 whose individual ownership interest can affect the management and direction of the policies
152.25 of the home care provider.

152.26 (c) For the purposes of this section, managerial officials subject to the background check
152.27 requirement are individuals who provide direct contact as defined in section 245C.02,
152.28 subdivision 11, or individuals who have the responsibility for the ongoing management or
152.29 direction of the policies, services, or employees of the home care provider. Data collected
152.30 under this subdivision shall be classified as private data on individuals under section 13.02,
152.31 subdivision 12.

152.32 (d) The department shall not issue any license if the applicant or owner or managerial
152.33 official has been unsuccessful in having a background study disqualification set aside under
152.34 section 144.057 and chapter 245C; if the owner or managerial official, as an owner or

153.1 managerial official of another home care provider, was substantially responsible for the
153.2 other home care provider's failure to substantially comply with sections 144A.43 to
153.3 144A.482; or if an owner that has ceased doing business, either individually or as an owner
153.4 of a home care provider, was issued a correction order for failing to assist clients in violation
153.5 of this chapter.

153.6 Sec. 14. Minnesota Statutes 2018, section 144A.4791, subdivision 10, is amended to read:

153.7 Subd. 10. **Termination of service plan.** (a) If a home care provider terminates a service
153.8 plan with a client, and the client continues to need home care services, the home care provider
153.9 shall provide the client and the client's representative, if any, with a 30-day written notice
153.10 of termination which includes the following information:

153.11 (1) the effective date of termination;

153.12 (2) the reason for termination;

153.13 (3) a list of known licensed home care providers in the client's immediate geographic
153.14 area;

153.15 (4) a statement that the home care provider will participate in a coordinated transfer of
153.16 care of the client to another home care provider, health care provider, or caregiver, as
153.17 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

153.18 (5) the name and contact information of a person employed by the home care provider
153.19 with whom the client may discuss the notice of termination; and

153.20 (6) if applicable, a statement that the notice of termination of home care services does
153.21 not constitute notice of termination of the housing with services contract with a housing
153.22 with services establishment.

153.23 (b) When the home care provider voluntarily discontinues services to all clients, the
153.24 home care provider must notify the commissioner, lead agencies, and ombudsman for
153.25 long-term care about its clients and comply with the requirements in this subdivision.

153.26 Sec. 15. Minnesota Statutes 2018, section 144A.4799, is amended to read:

153.27 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**
153.28 **ADVISORY COUNCIL.**

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

154.1 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who
154.2 are currently receiving home care services ~~or~~, persons who have received home care services
154.3 within five years of the application date, persons who have family members receiving home
154.4 care services, or persons who have family members who have received home care services
154.5 within five years of the application date;

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

154.9 (3) one member representing the Minnesota Board of Nursing; ~~and~~

154.10 (4) one member representing the office of ombudsman for long-term care; and

154.11 (5) beginning July 1, 2021, one member of a county health and human services or county
154.12 adult protection office.

154.13 Subd. 2. **Organizations and meetings.** The advisory council shall be organized and
154.14 administered under section 15.059 with per diems and costs paid within the limits of available
154.15 appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees
154.16 may be developed as necessary by the commissioner. Advisory council meetings are subject
154.17 to the Open Meeting Law under chapter 13D.

154.18 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide
154.19 advice regarding regulations of Department of Health licensed home care providers in this
154.20 chapter, including advice on the following:

154.21 (1) community standards for home care practices;

154.22 (2) enforcement of licensing standards and whether certain disciplinary actions are
154.23 appropriate;

154.24 (3) ways of distributing information to licensees and consumers of home care;

154.25 (4) training standards;

154.26 (5) identifying emerging issues and opportunities in ~~the home care field, including;~~

154.27 (6) identifying the use of technology in home and telehealth capabilities;

154.28 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method
154.29 for an integrated license with an existing license for rural licensed nursing homes to provide
154.30 limited home care services in an adjacent independent living apartment building owned by
154.31 the licensed nursing home; and

155.1 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,
155.2 including but not limited to studies concerning costs related to dementia and chronic disease
155.3 among an elderly population over 60 and additional long-term care costs, as described in
155.4 section 62U.10, subdivision 6.

155.5 (b) The advisory council shall perform other duties as directed by the commissioner.

155.6 (c) The advisory council shall annually ~~review the balance of the account in the state~~
155.7 ~~government special revenue fund described in section 144A.474, subdivision 11, paragraph~~
155.8 ~~(i), and make annual recommendations by January 15 directly to the chairs and ranking~~
155.9 ~~minority members of the legislative committees with jurisdiction over health and human~~
155.10 ~~services regarding appropriations to the commissioner for the purposes in section 144A.474,~~
155.11 ~~subdivision 11, paragraph (i). The recommendations shall address ways the commissioner~~
155.12 ~~may improve protection of the public under existing statutes and laws and include but are~~
155.13 ~~not limited to projects that create and administer training of licensees and their employees~~
155.14 ~~to improve residents lives, supporting ways that licensees can improve and enhance quality~~
155.15 ~~care, ways to provide technical assistance to licensees to improve compliance; information~~
155.16 ~~technology and data projects that analyze and communicate information about trends of~~
155.17 ~~violations or lead to ways of improving client care; communications strategies to licensees~~
155.18 ~~and the public; and other projects or pilots that benefit clients, families, and the public.~~

155.19 Sec. 16. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

155.20 Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support~~
155.21 ~~services according to the continuum of care coordinated assessment system established~~
155.22 ~~under Code of Federal Regulations, title 24, section 578.3 that is not time-limited and~~
155.23 ~~provides or coordinates services necessary for a resident to maintain housing stability.~~

155.24 Sec. 17. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

155.25 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph
155.26 (b), an agency may not enter into an agreement with an establishment to provide housing
155.27 support unless:

155.28 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;
155.29 a board and lodging establishment; a boarding care home before March 1, 1985; or a
155.30 supervised living facility, and the service provider for residents of the facility is licensed
155.31 under chapter 245A. However, an establishment licensed by the Department of Health to
155.32 provide lodging need not also be licensed to provide board if meals are being supplied to
155.33 residents under a contract with a food vendor who is licensed by the Department of Health;

156.1 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota
156.2 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior
156.3 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;
156.4 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,
156.5 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,
156.6 subdivision 4a, as a community residential setting by the commissioner of human services;
156.7 or

156.8 (3) the ~~establishment~~ facility is ~~registered~~ licensed under ~~chapter 144D~~ chapter 144I and
156.9 provides three meals a day.

156.10 (b) The requirements under paragraph (a) do not apply to establishments exempt from
156.11 state licensure because they are:

156.12 (1) located on Indian reservations and subject to tribal health and safety requirements;
156.13 or

156.14 (2) ~~a supportive housing establishment that has an approved habitability inspection and~~
156.15 ~~an individual lease agreement and that serves people who have experienced long-term~~
156.16 ~~homelessness and were referred through a coordinated assessment in section 256I.03,~~
156.17 ~~subdivision 15~~ supportive housing establishments where an individual has an approved
156.18 habitability inspection and an individual lease agreement.

156.19 (c) Supportive housing establishments that serve individuals who have experienced
156.20 long-term homelessness and emergency shelters must participate in the homeless management
156.21 information system and a coordinated assessment system as defined by the commissioner.

156.22 (d) Effective July 1, 2016, an agency shall not have an agreement with a provider of
156.23 housing support unless all staff members who have direct contact with recipients:

156.24 (1) have skills and knowledge acquired through one or more of the following:

156.25 (i) a course of study in a health- or human services-related field leading to a bachelor
156.26 of arts, bachelor of science, or associate's degree;

156.27 (ii) one year of experience with the target population served;

156.28 (iii) experience as a mental health certified peer specialist according to section 256B.0615;

156.29 or

156.30 (iv) meeting the requirements for unlicensed personnel under sections 144A.43 to
156.31 144A.483;

157.1 (2) hold a current driver's license appropriate to the vehicle driven if transporting
 157.2 recipients;

157.3 (3) complete training on vulnerable adults mandated reporting and child maltreatment
 157.4 mandated reporting, where applicable; and

157.5 (4) complete housing support orientation training offered by the commissioner.

157.6 Sec. 18. Minnesota Statutes 2018, section 325F.72, subdivision 1, is amended to read:

157.7 Subdivision 1. **Persons to whom disclosure is required.** ~~Housing with services~~
 157.8 ~~establishments, as defined in sections 144D.01 to 144D.07, that secure, segregate, or provide~~
 157.9 ~~a special program or special unit for residents with a diagnosis of probable Alzheimer's~~
 157.10 ~~disease or a related disorder or that advertise, market, or otherwise promote the establishment~~
 157.11 ~~as providing specialized care for Alzheimer's disease or a related disorder are considered a~~
 157.12 ~~"special care unit."~~ All special care units assisted living facilities with dementia care, as
 157.13 defined in section 144I.01, shall provide a written disclosure to the following:

157.14 (1) the commissioner of health, if requested;

157.15 (2) the Office of Ombudsman for Long-Term Care; and

157.16 (3) each person seeking placement within a residence, or the person's authorized
 157.17 representative, before an agreement to provide the care is entered into.

157.18 Sec. 19. Minnesota Statutes 2018, section 325F.72, subdivision 2, is amended to read:

157.19 Subd. 2. **Content.** Written disclosure shall include, but is not limited to, the following:

157.20 (1) a statement of the overall philosophy and how it reflects the special needs of residents
 157.21 with Alzheimer's disease or other dementias;

157.22 (2) the criteria for determining who may reside in the ~~special~~ dementia care unit;

157.23 (3) the process used for assessment and establishment of the service plan or agreement,
 157.24 including how the plan is responsive to changes in the resident's condition;

157.25 (4) staffing credentials, job descriptions, and staff duties and availability, including any
 157.26 training specific to dementia;

157.27 (5) physical environment as well as design and security features that specifically address
 157.28 the needs of residents with Alzheimer's disease or other dementias;

157.29 (6) frequency and type of programs and activities for residents ~~of the special care unit~~;

157.30 (7) involvement of families in resident care and availability of family support programs;

158.1 (8) fee schedules for additional services to the residents ~~of the special care unit~~; and
158.2 (9) a statement that residents will be given a written notice 30 calendar days prior to
158.3 changes in the fee schedule.

158.4 Sec. 20. Minnesota Statutes 2018, section 626.5572, subdivision 6, is amended to read:

158.5 Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed
158.6 under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults
158.7 under section 144A.02; a facility or service required to be licensed under chapter 245A; an
158.8 assisted living facility required to be licensed under chapter 144I; a home care provider
158.9 licensed or required to be licensed under sections 144A.43 to 144A.482; a hospice provider
158.10 licensed under sections 144A.75 to 144A.755; or a person or organization that offers,
158.11 provides, or arranges for personal care assistance services under the medical assistance
158.12 program as authorized under sections 256B.0625, subdivision 19a, 256B.0651 to 256B.0654,
158.13 256B.0659, or 256B.85.

158.14 (b) For services identified in paragraph (a) that are provided in the vulnerable adult's
158.15 own home or in another unlicensed location, the term "facility" refers to the provider, person,
158.16 or organization that offers, provides, or arranges for personal care services, and does not
158.17 refer to the vulnerable adult's home or other location at which services are rendered.

158.18 Sec. 21. **REPEALER.**

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

158.20 (b) Minnesota Statutes 2018, sections 144A.441; and 144A.442, are repealed August 1,
158.21 2021.

158.22 ARTICLE 9

158.23 APPROPRIATIONS

158.24 Section 1. **HEALTH AND HUMAN SERVICES APPROPRIATIONS.**

158.25 The sums shown in the columns marked "Appropriations" are appropriated to the agencies
158.26 and for the purposes specified in this article. The appropriations are from the general fund,
158.27 or another named fund, and are available for the fiscal years indicated for each purpose.
158.28 The figures "2020" and "2021" used in this article mean that the appropriations listed under
158.29 them are available for the fiscal year ending June 30, 2020, or June 30, 2021, respectively.
158.30 "The first year" is fiscal year 2020. "The second year" is fiscal year 2021. "The biennium"
158.31 is fiscal years 2020 and 2021.

159.1		<u>APPROPRIATIONS</u>	
159.2		<u>Available for the Year</u>	
159.3		<u>Ending June 30</u>	
159.4		<u>2020</u>	<u>2021</u>
159.5	<u>Sec. 2. COMMISSIONER OF HUMAN</u>		
159.6	<u>SERVICES</u>		
159.7	<u>Subdivision 1. Total Appropriation</u>	<u>\$ 7,793,000</u>	<u>\$ 4,088,000</u>
159.8	<u>The amounts that may be spent for each</u>		
159.9	<u>purpose are specified in the following</u>		
159.10	<u>subdivisions.</u>		
159.11	<u>Subd. 2. Central Office; Operations</u>	<u>2,654,000</u>	<u>740,000</u>
159.12	<u>Base Level Adjustment.</u> <u>The general fund</u>		
159.13	<u>base for this appropriation is \$711,000 in fiscal</u>		
159.14	<u>year 2022 and \$711,000 in fiscal year 2023.</u>		
159.15	<u>Subd. 3. Central Office; Continuing Care for</u>		
159.16	<u>Older Adults</u>	<u>5,139,000</u>	<u>2,848,000</u>
159.17	<u>(a) Assisted Living Survey.</u> <u>Beginning in</u>		
159.18	<u>fiscal year 2020, \$2,500,000 in the even</u>		
159.19	<u>numbered year of each biennium is to fund a</u>		
159.20	<u>resident experience survey and family survey</u>		
159.21	<u>for all housing with services sites. This</u>		
159.22	<u>paragraph does not expire.</u>		
159.23	<u>(b) Information and Assistance Grant</u>		
159.24	<u>Transfer.</u> <u>\$1,000,000 in fiscal year 2020 and</u>		
159.25	<u>\$1,000,000 in fiscal year 2021 are transferred</u>		
159.26	<u>to the continuing care for older adults</u>		
159.27	<u>administration from the aging and adult</u>		
159.28	<u>services grants for developing the Home and</u>		
159.29	<u>Community-Based Report Card for assisted</u>		
159.30	<u>living. This transfer is ongoing.</u>		
159.31	<u>(c) Base Level Adjustment.</u> <u>The general fund</u>		
159.32	<u>base for this appropriation is \$5,323,000 in</u>		

160.1 fiscal year 2022 and \$2,823,000 in fiscal year
 160.2 2023.

160.3 **Subd. 4. Grant Programs; Children and**
 160.4 **Community Service Grants**

1,000,000

1,500,000

160.5 **(a) Adult Protection Grants.** \$1,000,000 in
 160.6 fiscal year 2020 and \$1,500,000 in fiscal year
 160.7 2021 are for grant funding for adult abuse
 160.8 maltreatment investigations and adult
 160.9 protective services to counties and tribes as
 160.10 allocated and specified under Minnesota
 160.11 Statutes, section 256M.42.

160.12 **(b) Base Level Adjustment.** The general fund
 160.13 base for this appropriation is \$2,050,000 in
 160.14 fiscal year 2022 and \$2,655,000 in fiscal year
 160.15 2023.

160.16 **Subd. 5. Grant Programs; Aging and Adult**
 160.17 **Services Grants**

(1,000,000)

(1,000,000)

160.18 **Base Level Adjustment.** The general fund
 160.19 base for this appropriation is reduced by
 160.20 \$1,000,000 in fiscal year 2022 and \$1,000,000
 160.21 in fiscal year 2023.

160.22 **Sec. 3. COMMISSIONER OF HEALTH**

160.23 **Subdivision 1. Total Appropriation**

\$

10,973,000 \$

13,519,000

160.24 **Appropriations by Fund**

	<u>2020</u>	<u>2021</u>
160.25		
160.26 <u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
160.27 <u>State Government</u>		
160.28 <u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

160.29 The amounts that may be spent for each
 160.30 purpose are specified in the following
 160.31 subdivision.

160.32 **Subd. 2. Health Protection**

161.1	<u>Appropriations by Fund</u>		
161.2	<u>General</u>	<u>9,870,000</u>	<u>12,416,000</u>
161.3	<u>State Government</u>		
161.4	<u>Special Revenue</u>	<u>1,103,000</u>	<u>1,103,000</u>

161.5 **(a) Vulnerable Adults Program**
 161.6 **Improvements.** \$7,438,000 in fiscal year 2020
 161.7 and \$4,302,000 in fiscal year 2021 are from
 161.8 the general fund for the commissioner to
 161.9 continue necessary current operations
 161.10 improvements to the regulatory activities,
 161.11 systems, analysis, reporting, and
 161.12 communications that contribute to the health,
 161.13 safety, care quality, and abuse prevention for
 161.14 vulnerable adults in Minnesota. \$1,103,000 in
 161.15 fiscal year 2020 and \$1,103,000 in fiscal year
 161.16 2021 are from the state government special
 161.17 revenue fund to improve the frequency of
 161.18 home care provider inspections. The state
 161.19 government special revenue appropriations
 161.20 under this paragraph are onetime
 161.21 appropriations.

161.22 **(b) Vulnerable Adults Regulatory Reform.**
 161.23 \$2,432,000 in fiscal year 2020 and \$8,114,000
 161.24 in fiscal year 2021 are from the general fund
 161.25 for the commissioner to establish the assisted
 161.26 living licensure under Minnesota Statutes,
 161.27 section 144I.01. This is a onetime
 161.28 appropriation. The commissioner shall transfer
 161.29 fine revenue previously deposited to the state
 161.30 government special revenue fund under
 161.31 Minnesota Statutes, section 144A.474,
 161.32 subdivision 11, which is estimated to be
 161.33 \$632,000, to a dedicated account in the state
 161.34 treasury.

161.35 **(c) Base Level Adjustment.** The general fund
 161.36 base for this appropriation is \$5,800,000 in

162.1 fiscal year 2022 and \$5,369,000 in fiscal year
162.2 2023. The state government special revenue
162.3 fund base for this appropriation is \$13,458,000
162.4 in fiscal year 2022 and \$13,458,000 in fiscal
162.5 year 2023.

162.6 Sec. 4. **APPROPRIATIONS OR TRANSFERS ENACTED MORE THAN ONCE;**
162.7 **EFFECT.**

162.8 If an appropriation or transfer in this act is enacted more than once in the 2019 legislative
162.9 session, the appropriation or transfer must be given effect only once.

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.