

1.1 ..... moves to amend H.F. No. 90, the third engrossment, as follows:

1.2 Page 41, delete article 4 and insert:

1.3 **"ARTICLE 4**  
1.4 **ASSISTED LIVING LICENSURE**

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

1.6 **144.122 LICENSE, PERMIT, AND SURVEY FEES.**

1.7 (a) The state commissioner of health, by rule, may prescribe procedures and fees for  
1.8 filing with the commissioner as prescribed by statute and for the issuance of original and  
1.9 renewal permits, licenses, registrations, and certifications issued under authority of the  
1.10 commissioner. The expiration dates of the various licenses, permits, registrations, and  
1.11 certifications as prescribed by the rules shall be plainly marked thereon. Fees may include  
1.12 application and examination fees and a penalty fee for renewal applications submitted after  
1.13 the expiration date of the previously issued permit, license, registration, and certification.  
1.14 The commissioner may also prescribe, by rule, reduced fees for permits, licenses,  
1.15 registrations, and certifications when the application therefor is submitted during the last  
1.16 three months of the permit, license, registration, or certification period. Fees proposed to  
1.17 be prescribed in the rules shall be first approved by the Department of Management and  
1.18 Budget. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be  
1.19 in an amount so that the total fees collected by the commissioner will, where practical,  
1.20 approximate the cost to the commissioner in administering the program. All fees collected  
1.21 shall be deposited in the state treasury and credited to the state government special revenue  
1.22 fund unless otherwise specifically appropriated by law for specific purposes.

1.23 (b) The commissioner may charge a fee for voluntary certification of medical laboratories  
1.24 and environmental laboratories, and for environmental and medical laboratory services

2.1 provided by the department, without complying with paragraph (a) or chapter 14. Fees  
 2.2 charged for environment and medical laboratory services provided by the department must  
 2.3 be approximately equal to the costs of providing the services.

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

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

2.10	Joint Commission on Accreditation of	\$7,655 plus \$16 per bed
2.11	Healthcare Organizations (JCAHO) and	
2.12	American Osteopathic Association (AOA)	
2.13	hospitals	
2.14	Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 per bed
2.15	Nursing home	\$183 plus \$91 per bed until June 30, 2018.
2.16		\$183 plus \$100 per bed between July 1, 2018,
2.17		and June 30, 2020. \$183 plus \$105 per bed
2.18		beginning July 1, 2020.

2.19 The commissioner shall set license fees for outpatient surgical centers, boarding care  
 2.20 homes, ~~and~~ supervised living facilities, assisted living facilities, basic care facilities, and  
 2.21 assisted living facilities with dementia care at the following levels:

2.22	Outpatient surgical centers	\$3,712
2.23	Boarding care homes	\$183 plus \$91 per bed
2.24	Supervised living facilities	\$183 plus \$91 per bed.
2.25	<u>Assisted living facilities with dementia care</u>	<u>\$..... plus \$..... per bed.</u>
2.26	<u>Assisted living facilities</u>	<u>\$..... plus \$..... per bed.</u>
2.27	<u>Basic care facilities</u>	<u>\$..... plus \$..... per bed.</u>

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

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

2.34	Prospective payment surveys for hospitals	\$	900
2.35	Swing bed surveys for nursing homes	\$	1,200
2.36	Psychiatric hospitals	\$	1,400

3.1	Rural health facilities	\$	1,100
3.2	Portable x-ray providers	\$	500
3.3	Home health agencies	\$	1,800
3.4	Outpatient therapy agencies	\$	800
3.5	End stage renal dialysis providers	\$	2,100
3.6	Independent therapists	\$	800
3.7	Comprehensive rehabilitation outpatient facilities	\$	1,200
3.8	Hospice providers	\$	1,700
3.9	Ambulatory surgical providers	\$	1,800
3.10	Hospitals	\$	4,200
3.11	Other provider categories or additional		
3.12	resurveys required to complete initial		
3.13	certification		Actual surveyor costs: average surveyor cost x number of hours for the survey process.

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

3.18 **EFFECTIVE DATE.** This section is effective .....

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

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

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

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

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

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

3.33 **Subd. 6. Assisted living facility.** "Assisted living facility" means a licensed facility that:  
3.34 (1) provides sleeping accommodations to one or more adults; and (2) provides basic care

4.1 services and comprehensive assisted living services. For purposes of this chapter, assisted  
4.2 living facility does not include:

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

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

4.6 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections  
4.7 144.50 to 144.56;

4.8 (iv) a lodging establishment licensed under chapter 157 and Minnesota Rules, parts  
4.9 9520.0500 to 9520.0670, or under chapter 245D or 245G, except lodging establishments  
4.10 that provide dementia care services;

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

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

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

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

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

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

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

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

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

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

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

5.7 Subd. 7. **Assisted living services.** "Assisted living services" include any of the basic  
5.8 care services and one or more of the following:

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

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

5.14 (3) medication management services;

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

5.16 (5) treatment and therapies;

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

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

5.22 Subd. 8. **Assisted living facility with dementia care.** "Assisted living facility with  
5.23 dementia care" means a licensed assisted living facility that also provides dementia care  
5.24 services. An assisted living facility with dementia care may also have a secured dementia  
5.25 care unit.

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

5.30 Subd. 10. **Basic care facility.** "Basic care facility" means a licensed facility that: (1)  
5.31 provides sleeping accommodations to one or more adults; and (2) may only provide basic  
5.32 care services. For purposes of this chapter, basic care facility does not include:

- 6.1 (i) emergency shelter, transitional housing, or any other residential units serving  
6.2 exclusively or primarily homeless individuals, as that term is defined in section 116L.361;
- 6.3 (ii) a nursing home licensed under chapter 144A;
- 6.4 (iii) a hospital, certified boarding care, or supervised living facility licensed under sections  
6.5 144.50 to 144.56;
- 6.6 (iv) a lodging establishment licensed under chapter 157, except lodging establishments  
6.7 that provide dementia care services;
- 6.8 (v) a lodging establishment serving as a shelter for individuals fleeing domestic violence;
- 6.9 (vi) services and residential settings licensed under chapter 245A, including adult foster  
6.10 care and services and settings governed under standards in chapter 245D;
- 6.11 (vii) private homes where the residents own or rent the home and control all aspects of  
6.12 the property and building;
- 6.13 (viii) a duly organized condominium, cooperative and common interest community or  
6.14 owners' association of the condominium, cooperative, and common interest community  
6.15 where at least 80 percent of the units that comprise the condominium, cooperative, or  
6.16 common interest community are occupied by individuals who are the owners, members, or  
6.17 shareholders of the units;
- 6.18 (ix) temporary family health care dwelling as defined in sections 394.307 and 462.3593;
- 6.19 (x) settings offering services conducted by and for the adherents of any recognized  
6.20 church or religious denomination for its members through spiritual means or by prayer for  
6.21 healing;
- 6.22 (xi) housing financed pursuant to sections 462A.37 and 462A.375, units financed with  
6.23 low-income housing tax credits pursuant to United States Code, title 26, section 42, and  
6.24 units financed by the Minnesota Housing Finance Agency that are intended to serve  
6.25 individuals with disabilities or individuals who are homeless;
- 6.26 (xii) rental housing developed under United States Code, title 42, section 1437, or United  
6.27 States Code, title 12, section 1701q;
- 6.28 (xiii) rental housing designated for occupancy by only elderly or elderly and disabled  
6.29 residents under United States Code, title 42, section 1437e, or rental housing for qualifying  
6.30 families under Code of Federal Regulations, title 24, section 983.56;
- 6.31 (xiv) rental housing funded under United States Code, title 42, chapter 89, or United  
6.32 States Code, title 42, section 8011; or

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

7.2 Subd. 11. **Basic care services.** "Basic care services" means assistive tasks provided by  
7.3 licensed or unlicensed personnel that include:

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

7.6 (2) providing standby assistance;

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

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

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

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

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

7.18 Subd. 12. **Change of ownership.** "Change of ownership" means a change in the individual  
7.19 or legal entity that is responsible for the operation of a facility.

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

7.21 Subd. 14. **Compliance officer.** "Compliance officer" means a designated individual  
7.22 who is qualified by knowledge, training, and experience in health care or risk management  
7.23 to promote, implement, and oversee the facility's compliance program. The compliance  
7.24 officer shall also exhibit knowledge of relevant regulations; provide expertise in compliance  
7.25 processes; and address fraud, abuse, and waste under this chapter and state and federal law.

7.26 Subd. 15. **Controlled substance.** "Controlled substance" has the meaning given in  
7.27 section 152.01, subdivision 4.

7.28 Subd. 16. **Controlling individual.** (a) "Controlling individual" means an owner of a  
7.29 facility licensed under this chapter and the following individuals, if applicable:

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

8.1 (2) the individual designated as the authorized agent under section 245A.04, subdivision  
8.2 1, paragraph (b);

8.3 (3) the individual designated as the compliance officer under section 256B.04, subdivision  
8.4 21, paragraph (b); and

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

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

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

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

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

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

8.15 (c) Controlling individual does not include:

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

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

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

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

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

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



9.1 (5) an individual who is a member of an organization exempt from taxation under section  
9.2 290.05, unless the individual is also an officer, owner, or managerial official of the license  
9.3 or owns any of the beneficial interests not excluded in this subdivision. This clause does  
9.4 not exclude from the definition of controlling individual an organization that is exempt from  
9.5 taxation; or

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

9.9 Subd. 17. **Dementia.** "Dementia" means the loss of intellectual function of sufficient  
9.10 severity that interferes with an individual's daily functioning. Dementia affects an individual's  
9.11 memory and ability to think, reason, speak, and move. Symptoms may also include changes  
9.12 in personality, mood, and behavior. Irreversible dementias include but are not limited to:

9.13 (1) Alzheimer's disease;

9.14 (2) vascular dementia;

9.15 (3) Lewy body dementia;

9.16 (4) frontal-temporal lobe dementia;

9.17 (5) alcohol dementia;

9.18 (6) Huntington's disease; and

9.19 (7) Creutzfeldt-Jakob disease.

9.20 Subd. 18. **Dementia care services.** "Dementia care services" means a distinct form of  
9.21 long-term care designed to meet the specific needs of an individual with dementia.

9.22 Subd. 19. **Dementia-trained staff.** "Dementia-trained staff" means any employee that  
9.23 has completed the minimum training requirements and has demonstrated knowledge and  
9.24 understanding in supporting individuals with dementia.

9.25 Subd. 20. **Designated representative.** "Designated representative" means one of the  
9.26 following in the order of priority listed, to the extent the person may reasonably be identified  
9.27 and located:

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

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

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

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

10.5 (5) the resident representative.

10.6 Subd. 21. **Dietary supplement.** "Dietary supplement" means a product taken by mouth  
10.7 that contains a dietary ingredient intended to supplement the diet. Dietary ingredients may  
10.8 include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as  
10.9 enzymes, organ tissue, glandulars, or metabolites.

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

10.12 Subd. 23. **Direct ownership interest.** "Direct ownership interest" means an individual  
10.13 or organization with the possession of at least five percent equity in capital, stock, or profits  
10.14 of an organization, or who is a member of a limited liability company. An individual with  
10.15 a five percent or more direct ownership is presumed to have an effect on the operation of  
10.16 the facility with respect to factors affecting the care or training provided.

10.17 Subd. 24. **Facility.** "Facility" means a basic care facility, an assisted living facility, and  
10.18 an assisted living facility with dementia care.

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

10.21 Subd. 26. **Indirect ownership interest.** "Indirect ownership interest" means an individual  
10.22 or organization with a direct ownership interest in an entity that has a direct or indirect  
10.23 ownership interest in a facility of at least five percent or more. An individual with a five  
10.24 percent or more indirect ownership is presumed to have an effect on the operation of the  
10.25 facility with respect to factors affecting the care or training provided.

10.26 Subd. 27. **Licensed health professional.** "Licensed health professional" means a person  
10.27 licensed in Minnesota to practice the professions described in section 214.01, subdivision  
10.28 2.

10.29 Subd. 28. **Licensed resident bed capacity.** "Licensed resident bed capacity" means the  
10.30 resident occupancy level requested by a licensee and approved by the commissioner.

10.31 Subd. 29. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner  
10.32 issues a license for a facility and who is responsible for the management, control, and

11.1 operation of a facility. A facility must be managed, controlled, and operated in a manner  
11.2 that enables it to use its resources effectively and efficiently to attain or maintain the highest  
11.3 practicable physical, mental, and psychosocial well-being of each resident.

11.4 Subd. 30. **Maltreatment.** "Maltreatment" means conduct described in section 626.5572,  
11.5 subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury or  
11.6 any persistent course of conduct intended to produce mental or emotional distress.

11.7 Subd. 31. **Management agreement.** "Management agreement" means a written, executed  
11.8 agreement between a licensee and manager regarding the provision of certain services on  
11.9 behalf of the licensee.

11.10 Subd. 32. **Managerial official.** "Managerial official" means an individual who has the  
11.11 decision-making authority related to the operation of the facility and the responsibility for  
11.12 the ongoing management or direction of the policies, services, or employees of the facility.

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

11.15 Subd. 34. **Medication administration.** "Medication administration" means performing  
11.16 a set of tasks that includes the following:

11.17 (1) checking the client's medication record;

11.18 (2) preparing the medication as necessary;

11.19 (3) administering the medication to the client;

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

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

11.23 Subd. 35. **Medication management.** "Medication management" means the provision  
11.24 of any of the following medication-related services to a resident:

11.25 (1) performing medication setup;

11.26 (2) administering medications;

11.27 (3) storing and securing medications;

11.28 (4) documenting medication activities;

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

12.1 (6) coordinating refills;

12.2 (7) handling and implementing changes to prescriptions;

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

12.4 (9) coordinating and communicating with the prescriber.

12.5 Subd. 36. **Medication reconciliation.** "Medication reconciliation" means the process  
12.6 of identifying the most accurate list of all medications the resident is taking, including the  
12.7 name, dosage, frequency, and route by comparing the resident record to an external list of  
12.8 medications obtained from the resident, hospital, prescriber or other provider.

12.9 Subd. 37. **Medication setup.** "Medication setup" means arranging medications by a  
12.10 nurse, pharmacy, or authorized prescriber for later administration by the resident or by  
12.11 facility staff.

12.12 Subd. 38. **New construction.** "New construction" means a new building, renovation,  
12.13 modification, reconstruction, physical changes altering the use of occupancy, or an addition  
12.14 to a building.

12.15 Subd. 39. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to  
12.16 148.285.

12.17 Subd. 40. **Occupational therapist.** "Occupational therapist" means a person who is  
12.18 licensed under sections 148.6401 to 148.6449.

12.19 Subd. 41. **Ombudsman.** "Ombudsman" means the ombudsman for long-term care.

12.20 Subd. 42. **Owner.** "Owner" means an individual or organization that has a direct or  
12.21 indirect ownership interest of five percent or more in a facility. For purposes of this chapter,  
12.22 "owner of a nonprofit corporation" means the president and treasurer of the board of directors  
12.23 or, for an entity owned by an employee stock ownership plan, means the president and  
12.24 treasurer of the entity. A government entity that is issued a license under this chapter shall  
12.25 be designated the owner. An individual with a five percent or more direct or indirect  
12.26 ownership is presumed to have an effect on the operation of the facility with respect to  
12.27 factors affecting the care or training provided.

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

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

13.1 Subd. 45. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision  
13.2 3.

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

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

13.6 Subd. 48. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235;  
13.7 151.01, subdivision 23; and 151.37 to prescribe prescription drugs.

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

13.10 Subd. 50. **Provisional license.** "Provisional license" means the initial license the  
13.11 department issues after approval of a complete written application and before the department  
13.12 completes the provisional license survey and determines that the provisional licensee is in  
13.13 substantial compliance.

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

13.16 Subd. 52. **Reminder.** "Reminder" means providing a verbal or visual reminder to a  
13.17 resident.

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

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

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

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

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

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

14.1 Subd. 59. **Social worker.** "Social worker" means a person who is licensed under chapter  
14.2 148D or 148E.

14.3 Subd. 60. **Speech-language pathologist.** "Speech-language pathologist" has the meaning  
14.4 given in section 148.512.

14.5 Subd. 61. **Standby assistance.** "Standby assistance" means the presence of another  
14.6 person within arm's reach to minimize the risk of injury while performing daily activities  
14.7 through physical intervention or cueing to assist a resident with an assistive task by providing  
14.8 cues, oversight, and minimal physical assistance.

14.9 Subd. 62. **Substantial compliance.** "Substantial compliance" means complying with  
14.10 the requirements in this chapter sufficiently to prevent unacceptable health or safety risks  
14.11 to residents.

14.12 Subd. 63. **Supportive services.** "Supportive services" means:

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

14.14 (2) housekeeping services;

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

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

14.18 (5) provision of social or recreational services.

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

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

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

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

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

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

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

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

15.11 Sec. 3. **[144I.02] BASIC CARE FACILITY AND ASSISTED LIVING FACILITY**  
15.12 **LICENSE.**

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

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

15.18 (b) A basic care category is a basic care facility that provides basic care services. A basic  
15.19 care category facility shall not provide comprehensive assisted living services.

15.20 (c) An assisted living category is an assisted living facility that provides basic care  
15.21 services and comprehensive assisted living services.

15.22 (d) An assisted living facility with dementia care category is an assisted living facility  
15.23 that provides basic care services, comprehensive assisted living services, and dementia care  
15.24 services. An assisted living facility with dementia care may also provide dementia care  
15.25 services in a secure dementia care unit.

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

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

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

16.1 Sec. 4. [144I.03] PROVISIONAL LICENSE.

16.2 Subdivision 1. **Provisional license.** (a) Beginning August 1, 2021, for new applicants,  
16.3 the commissioner shall issue a provisional license to each of the licensure categories specified  
16.4 in section 144I.02, subdivision 2 which is effective for up to one year from the license  
16.5 effective date, except that a provisional license may be extended according to subdivision  
16.6 2, paragraph (c).

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

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

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

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

16.23 (d) If the provisional licensee is in substantial compliance with the survey, the  
16.24 commissioner shall issue a facility license. If the provisional licensee is not in substantial  
16.25 compliance with the initial survey, the commissioner shall either: (1) not issue the facility  
16.26 license and terminate the provisional license; or (2) extend the provisional license for a  
16.27 period not to exceed 90 days and apply conditions necessary to bring the facility into  
16.28 substantial compliance. If the provisional licensee is not in substantial compliance with the  
16.29 survey within the time period of the extension or if the provisional licensee does not satisfy  
16.30 the license conditions, the commissioner may deny the license.

16.31 Subd. 3. **Reconsideration.** (a) If a provisional licensee whose facility license has been  
16.32 denied or extended with conditions disagrees with the conclusions of the commissioner,  
16.33 then the provisional licensee may request a reconsideration by the commissioner or



17.1 commissioner's designee. The reconsideration request process must be conducted internally  
17.2 by the commissioner or designee, and chapter 14 does not apply.

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

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

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

17.12 (1) a reconsideration is in process;

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

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

17.18 Subd. 5. **Requirements for notice and transfer.** A provisional licensee whose license  
17.19 is denied must comply with the requirements for notification and transfer of residents in  
17.20 section 144I.26.

17.21 Subd. 6. **Fines.** The fee for failure to comply with the notification requirements in section  
17.22 144I.26, subdivision 5, paragraph (b), is \$1,000.

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

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

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

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

- 18.1 (3) the licensed bed capacity and the license category;
- 18.2 (4) the license fee in the amount specified in section 144.122;
- 18.3 (5) any judgments, private or public litigation, tax liens, written complaints, administrative
- 18.4 actions, or investigations by any government agency against the applicant, owner, controlling
- 18.5 individual, managerial official, or assisted living administrator that are unresolved or
- 18.6 otherwise filed or commenced within the preceding ten years;
- 18.7 (6) documentation of compliance with the background study requirements in section
- 18.8 144I.06 for the owner, controlling individuals, and managerial officials. Each application
- 18.9 for a new license must include documentation for the applicant and for each individual with
- 18.10 five percent or more direct or indirect ownership in the applicant;
- 18.11 (7) evidence of workers' compensation coverage as required by sections 176.181 and
- 18.12 176.182;
- 18.13 (8) disclosure that the provider has no liability coverage or, if the provider has coverage,
- 18.14 documentation of coverage;
- 18.15 (9) a copy of the executed lease agreement if applicable;
- 18.16 (10) a copy of the management agreement if applicable;
- 18.17 (11) a copy of the operations transfer agreement or similar agreement if applicable;
- 18.18 (12) a copy of the executed agreement if the facility has contracted services with another
- 18.19 organization or individual for services such as managerial, billing, consultative, or medical
- 18.20 personnel staffing;
- 18.21 (13) a copy of the organizational chart that identifies all organizations and individuals
- 18.22 with any ownership interests in the facility;
- 18.23 (14) whether any applicant, owner, controlling individual, managerial official, or assisted
- 18.24 living administrator of the facility has ever been convicted of a crime or found civilly liable
- 18.25 for an offense involving moral turpitude, including forgery, embezzlement, obtaining money
- 18.26 under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense
- 18.27 or violation; any violation of section 626.557 or any other similar law in any other state; or
- 18.28 any violation of a federal or state law or regulation in connection with activities involving
- 18.29 any consumer fraud, false advertising, deceptive trade practices, or similar consumer
- 18.30 protection law;

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

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

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

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

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

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

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

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

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

19.31 Subd. 3. **Fees.** (a) An initial applicant, renewal applicant, or applicant filing a change  
19.32 of ownership for a basic care facility or assisted living facility licensure must submit the

20.1 application fee required in section 144I.122 to the commissioner, along with a completed  
20.2 application.

20.3 (b) The penalty for late submission of the renewal application after expiration of the  
20.4 license is \$200. The penalty for operating a facility after expiration of the license and before  
20.5 a renewal license is issued is \$250 per each day after expiration of the license until the  
20.6 renewal license issuance date. The facility is still subject to the criminal gross misdemeanor  
20.7 penalties for operating after license expiration.

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

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

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

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

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

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

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

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

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

20.29 (i) a different person; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23.21 **Sec. 11. [144I.10] MINIMUM BASIC CARE FACILITY AND ASSISTED LIVING**  
23.22 **FACILITY REQUIREMENTS.**

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

23.24 (1) distribute to residents, families, and resident representatives the basic care and assisted  
23.25 living bill of rights in section 144J.06;

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

23.28 (3) utilize person-centered planning and service delivery process as defined in section  
23.29 245D.07;

- 24.1 (4) have and maintain a system for delegation of health care activities to unlicensed  
24.2 personnel by a registered nurse, including supervision and evaluation of the delegated  
24.3 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;
- 24.4 (5) provide a means for residents to request assistance for health and safety needs 24  
24.5 hours per day, seven days per week;
- 24.6 (6) allow residents the ability to furnish and decorate the resident's unit within the terms  
24.7 of the lease;
- 24.8 (7) permit residents access to food at any time;
- 24.9 (8) allow residents to choose the resident's visitors and times of visits;
- 24.10 (9) allow the resident the right to choose a roommate if sharing a unit;
- 24.11 (10) notify the resident of the resident's right to have and use a lockable door to the  
24.12 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with  
24.13 a specific need to enter the unit shall have keys, and advance notice must be given to the  
24.14 resident before entrance, when possible;
- 24.15 (11) develop and implement a staffing plan for determining its staffing level that:
- 24.16 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness  
24.17 of staffing levels in the facility;
- 24.18 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably  
24.19 foreseeable unscheduled needs of each resident as required by the residents' assessments  
24.20 and service agreements on a 24-hour per day basis; and
- 24.21 (iii) ensures that the facility can respond promptly and effectively to individual resident  
24.22 emergencies and to emergency, life safety, and disaster situations affecting staff or residents  
24.23 in the facility;
- 24.24 (12) ensures that a person or persons are available 24 hours per day, seven days per  
24.25 week, who are responsible for responding to the requests of residents for assistance with  
24.26 health or safety needs, who shall be:
- 24.27 (i) awake;
- 24.28 (ii) located in the same building, in an attached building, or on a contiguous campus  
24.29 with the facility in order to respond within a reasonable amount of time;
- 24.30 (iii) capable of communicating with residents;
- 24.31 (iv) capable of providing or summoning the appropriate assistance; and



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

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

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

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

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

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

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

25.16 (ii) weekly housekeeping;

25.17 (iii) weekly laundry service;

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

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

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

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

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

- 26.1 (2) conducting and handling background studies on employees;
- 26.2 (3) orientation, training, and competency evaluations of staff, and a process for evaluating  
26.3 staff performance;
- 26.4 (4) handling complaints from residents, family members, or designated representatives  
26.5 regarding staff or services provided by staff;
- 26.6 (5) conducting initial evaluation of residents' needs and the providers' ability to provide  
26.7 those services;
- 26.8 (6) conducting initial and ongoing resident evaluations and assessments and how changes  
26.9 in a resident's condition are identified, managed, and communicated to staff and other health  
26.10 care providers as appropriate;
- 26.11 (7) orientation to and implementation of the basic care and assisted living bill of rights;
- 26.12 (8) infection control practices;
- 26.13 (9) reminders for medications, treatments, or exercises, if provided; and
- 26.14 (10) conducting appropriate screenings, or documentation of prior screenings, to show  
26.15 that staff are free of tuberculosis, consistent with current United States Centers for Disease  
26.16 Control and Prevention standards.
- 26.17 (b) For assisted living facilities and assisted living facilities with dementia care, the  
26.18 following are also required:
- 26.19 (1) conducting initial and ongoing assessments of the resident's needs by a registered  
26.20 nurse or appropriate licensed health professional, including how changes in the resident's  
26.21 conditions are identified, managed, and communicated to staff and other health care  
26.22 providers, as appropriate;
- 26.23 (2) ensuring that nurses and licensed health professionals have current and valid licenses  
26.24 to practice;
- 26.25 (3) medication and treatment management;
- 26.26 (4) delegation of tasks by registered nurses or licensed health professionals;
- 26.27 (5) supervision of registered nurses and licensed health professionals; and
- 26.28 (6) supervision of unlicensed personnel performing delegated tasks.
- 26.29 Subd. 3. **Infection control program.** The facility shall establish and maintain an infection  
26.30 control program.

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

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

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

27.14 Subd. 6. **Resident grievances.** All facilities must post in a conspicuous place information  
27.15 about the facilities' grievance procedure, and the name, telephone number, and e-mail contact  
27.16 information for the individuals who are responsible for handling resident grievances. The  
27.17 notice must also have the contact information for the Minnesota Adult Abuse Reporting  
27.18 Center, the common entry point, and the state and applicable regional Office of Ombudsman  
27.19 for Long-Term Care.

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

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

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

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

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

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

28.1 Subd. 8. **Protection-related rights.** (a) In addition to the rights required in the basic  
28.2 care and assisted living bill of rights under section 144I.06, the following rights must be  
28.3 provided to all residents. The facility must promote and protect these rights for each resident  
28.4 by making residents aware of these rights and ensuring staff are trained to support these  
28.5 rights:

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

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

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

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

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

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

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

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

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

28.19 (b) The resident's rights in paragraph (a), clauses (2), (3), and (5), may be restricted for  
28.20 an individual resident only if determined necessary for health and safety reasons identified  
28.21 by the facility through an initial assessment or reassessment under section 144I.15,  
28.22 subdivision 9, and documented in the written service agreement under section 144I.15,  
28.23 subdivision 10. Any restrictions of those rights for people served under sections 256B.0915  
28.24 and 256B.49 must be documented by the case manager in the resident's coordinated service  
28.25 and support plan (CSSP), as defined in sections 256B.0915, subdivision 6, and 256B.49,  
28.26 subdivision 15.

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

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

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

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

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

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

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

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

29.15 (1) a written checklist listing all services permitted under the facility's license, identifying  
29.16 all services the facility offers to provide under the assisted living facility and basic care  
29.17 facility contract, and identifying all services allowed under the license that the facility does  
29.18 not provide; and

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

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

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

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

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

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

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

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

30.5 **Sec. 13. [144I.12] TRANSFER OF RESIDENTS WITHIN FACILITY.**

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

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

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

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

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

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

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

30.25 **Sec. 14. [144I.13] FACILITY RESPONSIBILITIES; BUSINESS OPERATION.**

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

30.29 Subd. 2. **Quality management.** The facility shall engage in quality management  
30.30 appropriate to the size of the facility and relevant to the type of services provided. The  
30.31 quality management activity means evaluating the quality of care by periodically reviewing

31.1 resident services, complaints made, and other issues that have occurred and determining  
31.2 whether changes in services, staffing, or other procedures need to be made in order to ensure  
31.3 safe and competent services to residents. Documentation about quality management activity  
31.4 must be available for two years. Information about quality management must be available  
31.5 to the commissioner at the time of the survey, investigation, or renewal.

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

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

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

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

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

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

31.23 Subd. 5. **Reporting maltreatment of vulnerable adults; abuse prevention plan.** (a)  
31.24 All facilities must comply with the requirements for the reporting of maltreatment of  
31.25 vulnerable adults in section 626.557. Each facility must establish and implement a written  
31.26 procedure to ensure that all cases of suspected maltreatment are reported.

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

32.1 Subd. 6. Reporting suspected crime and maltreatment. (a) A facility shall support  
32.2 protection and safety through access to the state's systems for reporting suspected criminal  
32.3 activity and suspected vulnerable adult maltreatment by:

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

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

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

32.9 Subd. 7. Employee records. (a) The facility must maintain current records of each paid  
32.10 employee, regularly scheduled volunteers providing services, and each individual contractor  
32.11 providing services. The records must include the following information:

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

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

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

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

32.20 (5) for individuals providing facility services, verification that required health screenings  
32.21 under section 144I.034, subdivision 7, have taken place and the dates of those screenings;  
32.22 and

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

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

32.28 Subd. 8. Compliance officer. Every assisted living facility shall have a compliance  
32.29 officer who is a licensed assisted living administrator. An individual licensed as a nursing  
32.30 home administrator, an assisted living administrator, or a health services executive shall  
32.31 automatically meet the qualifications of a compliance officer.



33.1 **Sec. 15. [144I.14] FACILITY RESPONSIBILITIES; STAFF.**

33.2 Subdivision 1. **Qualifications, training, and competency.** All staff persons providing  
33.3 services must be trained and competent in the provision of services consistent with current  
33.4 practice standards appropriate to the resident's needs and be informed of the basic care and  
33.5 assisted living bill of rights under section 144I.21.

33.6 Subd. 2. **Licensed health professionals and nurses.** (a) Licensed health professionals  
33.7 and nurses providing services as employees of a licensed facility must possess a current  
33.8 Minnesota license or registration to practice.

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

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

33.15 Subd. 3. **Unlicensed personnel.** (a) Unlicensed personnel providing services must have:

33.16 (1) successfully completed a training and competency evaluation appropriate to the  
33.17 services provided by the facility and the topics listed in subdivision 6, paragraph (b); or

33.18 (2) demonstrated competency by satisfactorily completing a written or oral test on the  
33.19 tasks the unlicensed personnel will perform and on the topics listed in subdivision 6,  
33.20 paragraph (b); and successfully demonstrated competency of topics in subdivision 6,  
33.21 paragraph (b), clauses (5), (7), and (8), by a practical skills test.

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

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

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

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

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

34.3 (c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned  
34.4 by a licensed health professional must meet the requirements for delegated tasks in  
34.5 subdivision 4 and any other training or competency requirements within the licensed health  
34.6 professional's scope of practice relating to delegation or assignment of tasks to unlicensed  
34.7 personnel.

34.8 Subd. 4. **Delegation of assisted living services.** A registered nurse or licensed health  
34.9 professional may delegate tasks only to staff who are competent and possess the knowledge  
34.10 and skills consistent with the complexity of the tasks and according to the appropriate  
34.11 Minnesota practice act. The assisted living facility must establish and implement a system  
34.12 to communicate up-to-date information to the registered nurse or licensed health professional  
34.13 regarding the current available staff and their competency so the registered nurse or licensed  
34.14 health professional has sufficient information to determine the appropriateness of delegating  
34.15 tasks to meet individual resident needs and preferences.

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

34.19 Subd. 6. **Requirements for instructors, training content, and competency evaluations**  
34.20 **for unlicensed personnel.** (a) Instructors and competency evaluators must meet the following  
34.21 requirements:

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

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

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

34.30 (1) documentation requirements for all services provided;

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

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

- 35.1 (4) maintenance of a clean and safe environment;
- 35.2 (5) appropriate and safe techniques in personal hygiene and grooming, including:
- 35.3 (i) hair care and bathing;
- 35.4 (ii) care of teeth, gums, and oral prosthetic devices;
- 35.5 (iii) care and use of hearing aids; and
- 35.6 (iv) dressing and assisting with toileting;
- 35.7 (6) training on the prevention of falls;
- 35.8 (7) standby assistance techniques and how to perform them;
- 35.9 (8) medication, exercise, and treatment reminders;
- 35.10 (9) basic nutrition, meal preparation, food safety, and assistance with eating;
- 35.11 (10) preparation of modified diets as ordered by a licensed health professional;
- 35.12 (11) communication skills that include preserving the dignity of the resident and showing
- 35.13 respect for the resident and the resident's preferences, cultural background, and family;
- 35.14 (12) awareness of confidentiality and privacy;
- 35.15 (13) understanding appropriate boundaries between staff and residents and the resident's
- 35.16 family;
- 35.17 (14) procedures to use in handling various emergency situations; and
- 35.18 (15) awareness of commonly used health technology equipment and assistive devices.
- 35.19 (c) In addition to paragraph (b), training and competency evaluation for unlicensed
- 35.20 personnel providing comprehensive assisted living services must include:
- 35.21 (1) observing, reporting, and documenting resident status;
- 35.22 (2) basic knowledge of body functioning and changes in body functioning, injuries, or
- 35.23 other observed changes that must be reported to appropriate personnel;
- 35.24 (3) reading and recording temperature, pulse, and respirations of the resident;
- 35.25 (4) recognizing physical, emotional, cognitive, and developmental needs of the resident;
- 35.26 (5) safe transfer techniques and ambulation;
- 35.27 (6) range of motioning and positioning; and
- 35.28 (7) administering medications or treatments as required.

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

36.10 Subd. 7. **Tuberculosis prevention and control.** A facility must establish and maintain  
36.11 a comprehensive tuberculosis infection control program according to the most current  
36.12 tuberculosis infection control guidelines issued by the United States Centers for Disease  
36.13 Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the  
36.14 CDC's Morbidity and Mortality Weekly Report (MMWR). The program must include a  
36.15 tuberculosis infection control plan that covers all paid and unpaid employees, contractors,  
36.16 students, and volunteers. The Department of Health shall provide technical assistance  
36.17 regarding implementation of the guidelines.

36.18 Subd. 8. **Disaster planning and emergency preparedness plan.** (a) Each facility must  
36.19 meet the following requirements:

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

36.23 (2) post an emergency disaster plan prominently;

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

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

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

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

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

37.1       Sec. 16. [144I.15] FACILITY RESPONSIBILITIES WITH RESPECT TO  
37.2 RESIDENTS.

37.3       Subdivision 1. Basic care and assisted living bill of rights; notification to resident. (a)  
37.4 A facility shall provide the resident and the designated representative a written notice of  
37.5 the rights under section 144J.06 before the initiation of services to that resident. The facility  
37.6 shall make all reasonable efforts to provide notice of the rights to the resident and the  
37.7 designated representative in a language the resident and designated representative can  
37.8 understand.

37.9       (b) In addition to the text of the bill of rights in section 144J.06, the notice shall also  
37.10 contain the following statement describing how to file a complaint.

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

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

37.23       (d) A facility must obtain written acknowledgment of the resident's receipt of the bill of  
37.24 rights or shall document why an acknowledgment cannot be obtained. The acknowledgment  
37.25 may be obtained from the resident and the designated representative. Acknowledgment of  
37.26 receipt shall be retained in the resident's record.

37.27       Subd. 2. Notices in plain language; language accommodations. A facility must provide  
37.28 all notices in plain language that residents can understand and make reasonable  
37.29 accommodations for residents who have communication disabilities and those whose primary  
37.30 language is a language other than English.

37.31       Subd. 3. Notice of services for dementia, Alzheimer's disease, or related disorders. A  
37.32 facility that provides services to residents with dementia shall provide in written or electronic  
37.33 form, to residents and families or other persons who request it, a description of the training

38.1 program and related training it provides, including the categories of employees trained, the  
38.2 frequency of training, and the basic topics covered.

38.3 Subd. 4. **Services oversight and information.** A facility shall provide each resident  
38.4 with identifying and contact information about the persons who can assist with health care  
38.5 or supportive services being provided. A facility shall keep each resident informed of changes  
38.6 in the personnel referenced in this subdivision.

38.7 Subd. 5. **Notice to residents; change in ownership or management.** A facility must  
38.8 provide prompt written notice to the resident or designated representative of any change of  
38.9 legal name, telephone number, and physical mailing address, which may not be a public or  
38.10 private post office box, of:

38.11 (1) the licensee of the facility;

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

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

38.14 Subd. 6. **Acceptance of residents.** A facility may not accept a person as a resident unless  
38.15 the facility has staff, sufficient in qualifications, competency, and numbers, to adequately  
38.16 provide the services agreed to in the service agreement and that are within the facility's  
38.17 scope of practice.

38.18 Subd. 7. **Referrals.** If a facility reasonably believes that a resident is in need of another  
38.19 medical or health service, including a licensed health professional, or social service provider,  
38.20 the facility shall:

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

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

38.24 Subd. 8. **Initiation of services.** When a facility initiates services and the individualized  
38.25 review or assessment required in subdivision 9 has not been completed, the facility must  
38.26 complete a temporary plan and agreement with the resident for services.

38.27 Subd. 9. **Initial reviews, assessments, and monitoring.** (a) A basic care facility shall  
38.28 complete an individualized initial review of the resident's needs and preferences. The initial  
38.29 review must be completed within 30 days of the start of services. Resident monitoring and  
38.30 review must be conducted as needed based on changes in the needs of the resident and  
38.31 cannot exceed 90 days from the date of the last review.

39.1 (b) An assisted living facility shall conduct a nursing assessment by a registered nurse  
39.2 of the physical and cognitive needs of the prospective resident and propose a temporary  
39.3 service agreement prior to the date on which a prospective resident executes a contract with  
39.4 a facility or the date on which a prospective resident moves in, whichever is earlier. If  
39.5 necessitated by either the geographic distance between the prospective resident and the  
39.6 facility, or urgent or unexpected circumstances, the assessment may be conducted using  
39.7 telecommunication methods based on practice standards that meet the resident's needs and  
39.8 reflect person-centered planning and care delivery. The nursing assessment must be  
39.9 completed within five days of the start of services.

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

39.14 (d) Residents who are not receiving any services shall not be required to undergo an  
39.15 initial review or nursing assessment.

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

39.20 **Subd. 10. Service agreement, implementation, and revisions to service agreement. (a)**  
39.21 No later than 14 days after the date that services are first provided, a facility shall finalize  
39.22 a current written service agreement.

39.23 (b) The service agreement and any revisions must include a signature or other  
39.24 authentication by the facility and by the resident or the designated representative documenting  
39.25 agreement on the services to be provided. The service agreement must be revised, if needed,  
39.26 based on resident review or reassessment under subdivision 9. The facility must provide  
39.27 information to the resident about changes to the facility's fee for services and how to contact  
39.28 the Office of Ombudsman for Long-Term Care.

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

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

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

40.1 (f) The service agreement must include:

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

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

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

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

40.8 (5) a contingency plan that includes:

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

40.11 (ii) information and a method for a resident and the designated representative to contact  
40.12 the facility;

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

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

40.20 Subd. 11. **Use of restraints.** Residents of assisted living facilities must be free from any  
40.21 physical or chemical restraints. Restraints are only permissible if determined necessary for  
40.22 health and safety reasons identified by the facility through an initial assessment or  
40.23 reassessment, under subdivision 9, and documented in the written service agreement under  
40.24 subdivision 10.

40.25 Subd. 12. **Request for discontinuation of life-sustaining treatment.** (a) If a resident,  
40.26 family member, or other caregiver of the resident requests that an employee or other agent  
40.27 of the facility discontinue a life-sustaining treatment, the employee or agent receiving the  
40.28 request:

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

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



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

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

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

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

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

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

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

41.15 Subd. 13. **Medical cannabis.** Facilities may exercise the authority and are subject to  
41.16 the protections in section 152.34.

41.17 Subd. 14. **Landlord and tenant.** Facilities are subject to and must comply with chapter  
41.18 504B.

41.19 **Sec. 17. [144L.16] PROVISION OF SERVICES.**

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

41.23 (b) Assisted living facilities and assisted living facilities that provide dementia care must  
41.24 have a registered nurse available for consultation to staff performing delegated nursing tasks  
41.25 and must have an appropriate licensed health professional available if performing other  
41.26 delegated services such as therapies.

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

41.29 Subd. 2. **Supervision of staff; basic care services.** (a) Staff who perform basic care  
41.30 services must be supervised periodically where the services are being provided to verify  
41.31 that the work is being performed competently and to identify problems and solutions to

42.1 address issues relating to the staff's ability to provide the services. The supervision of the  
42.2 unlicensed personnel must be done by staff of the facility having the authority, skills, and  
42.3 ability to provide the supervision of unlicensed personnel and who can implement changes  
42.4 as needed, and train staff.

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

42.9 Subd. 3. **Supervision of staff providing delegated nursing or therapy tasks.** (a) Staff  
42.10 who perform delegated nursing or therapy tasks must be supervised by an appropriate  
42.11 licensed health professional or a registered nurse per the assisted living facility's policy  
42.12 where the services are being provided to verify that the work is being performed competently  
42.13 and to identify problems and solutions related to the staff person's ability to perform the  
42.14 tasks. Supervision of staff performing medication or treatment administration shall be  
42.15 provided by a registered nurse or appropriate licensed health professional and must include  
42.16 observation of the staff administering the medication or treatment and the interaction with  
42.17 the resident.

42.18 (b) The direct supervision of staff performing delegated tasks must be provided within  
42.19 30 days after the date on which the individual begins working for the facility and first  
42.20 performs the delegated tasks for residents and thereafter as needed based on performance.  
42.21 This requirement also applies to staff who have not performed delegated tasks for one year  
42.22 or longer.

42.23 Subd. 4. **Documentation.** A facility must retain documentation of supervision activities  
42.24 in the personnel records.

42.25 Sec. 18. **[144I.17] MEDICATION MANAGEMENT.**

42.26 Subdivision 1. **Medication management services.** (a) This section applies only to  
42.27 assisted living facilities that provide medication management services. Medication  
42.28 management services shall not be provided by a basic care facility.

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

43.1 (c) The written policies and procedures must address requesting and receiving  
43.2 prescriptions for medications; preparing and giving medications; verifying that prescription  
43.3 drugs are administered as prescribed; documenting medication management activities;  
43.4 controlling and storing medications; monitoring and evaluating medication use; resolving  
43.5 medication errors; communicating with the prescriber, pharmacist, and resident and  
43.6 designated representative, if any; disposing of unused medications; and educating residents  
43.7 and designated representatives about medications. When controlled substances are being  
43.8 managed, the policies and procedures must also identify how the provider will ensure security  
43.9 and accountability for the overall management, control, and disposition of those substances  
43.10 in compliance with state and federal regulations and with subdivision 23.

43.11 Subd. 2. **Provision of medication management services.** (a) For each resident who  
43.12 requests medication management services, the assisted living facility shall, prior to providing  
43.13 medication management services, have a registered nurse, licensed health professional, or  
43.14 authorized prescriber under section 151.37 conduct an assessment to determine what  
43.15 medication management services will be provided and how the services will be provided.  
43.16 This assessment must be conducted face-to-face with the resident. The assessment must  
43.17 include an identification and review of all medications the resident is known to be taking.  
43.18 The review and identification must include indications for medications, side effects,  
43.19 contraindications, allergic or adverse reactions, and actions to address these issues.

43.20 (b) The assessment must identify interventions needed in management of medications  
43.21 to prevent diversion of medication by the resident or others who may have access to the  
43.22 medications and provide instructions to the resident and designated representative on  
43.23 interventions to manage the resident's medications and prevent diversion of medications.  
43.24 For purposes of this section, "diversion of medication" means misuse, theft, or illegal or  
43.25 improper disposition of medications.

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

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

44.1 Subd. 5. Individualized medication management plan. (a) For each resident receiving  
44.2 medication management services, the assisted living facility must prepare and include in  
44.3 the service agreement a written statement of the medication management services that will  
44.4 be provided to the resident. The assisted living facility must develop and maintain a current  
44.5 individualized medication management record for each resident based on the resident's  
44.6 assessment that must contain the following:

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

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

44.10 (3) documentation of specific resident instructions relating to the administration of  
44.11 medications;

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

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

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

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

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

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

44.25 Subd. 6. Administration of medication. Medications may be administered by a nurse,  
44.26 physician, or other licensed health practitioner authorized to administer medications or by  
44.27 unlicensed personnel who have been delegated medication administration tasks by a  
44.28 registered nurse.

44.29 Subd. 7. Delegation of medication administration. When administration of medications  
44.30 is delegated to unlicensed personnel, the assisted living facility must ensure that the registered  
44.31 nurse has:

45.1 (1) instructed the unlicensed personnel in the proper methods to administer the  
45.2 medications, and the unlicensed personnel has demonstrated the ability to competently  
45.3 follow the procedures;

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

45.6 (3) communicated with the unlicensed personnel about the individual needs of the  
45.7 resident.

45.8 **Subd. 8. Documentation of administration of medications.** Each medication  
45.9 administered by the assisted living facility staff must be documented in the resident's record.  
45.10 The documentation must include the signature and title of the person who administered the  
45.11 medication. The documentation must include the medication name, dosage, date and time  
45.12 administered, and method and route of administration. The staff must document the reason  
45.13 why medication administration was not completed as prescribed and document any follow-up  
45.14 procedures that were provided to meet the resident's needs when medication was not  
45.15 administered as prescribed and in compliance with the resident's medication management  
45.16 plan.

45.17 **Subd. 9. Documentation of medication setup.** Documentation of dates of medication  
45.18 setup, name of medication, quantity of dose, times to be administered, route of administration,  
45.19 and name of person completing medication setup must be done at the time of setup.

45.20 **Subd. 10. Medication management for residents who will be away from home. (a)**  
45.21 An assisted living facility that is providing medication management services to the resident  
45.22 must develop and implement policies and procedures for giving accurate and current  
45.23 medications to residents for planned or unplanned times away from home according to the  
45.24 resident's individualized medication management plan. The policies and procedures must  
45.25 state that:

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

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

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

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

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

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

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

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

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

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

46.19 (iii) written information about the medications to be given to the resident or designated  
46.20 representative;

46.21 (iv) how the unlicensed staff must document in the resident's record that medications  
46.22 have been given to the resident and the designated representative, including documenting  
46.23 the date the medications were given to the resident or the designated representative and who  
46.24 received the medications, the person who gave the medications to the resident, the number  
46.25 of medications that were given to the resident, and other required information;

46.26 (v) how the registered nurse shall be notified that medications have been given to the  
46.27 resident or designated representative and whether the registered nurse needs to be contacted  
46.28 before the medications are given to the resident or the designated representative;

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

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

47.4 Subd. 11. **Prescribed and nonprescribed medication.** The assisted living facility must  
47.5 determine whether the facility shall require a prescription for all medications the provider  
47.6 manages. The assisted living facility must inform the resident or the designated representative  
47.7 whether the facility requires a prescription for all over-the-counter and dietary supplements  
47.8 before the facility agrees to manage those medications.

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

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

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

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

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

47.26 Subd. 17. **Records confidential.** A prescription or order received verbally, in writing,  
47.27 or electronically must be kept confidential according to sections 144.291 to 144.298 and  
47.28 144A.44.

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

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

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

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

48.10 Subd. 22. **Disposition of medications.** (a) Any current medications being managed by  
48.11 the assisted living facility must be given to the resident or the designated representative  
48.12 when the resident's service agreement ends or medication management services are no  
48.13 longer part of the service agreement. Medications for a resident who is deceased or that  
48.14 have been discontinued or have expired may be given to the resident or the designated  
48.15 representative for disposal.

48.16 (b) The assisted living facility shall dispose of any medications remaining with the  
48.17 facility that are discontinued or expired or upon the termination of the service contract or  
48.18 the resident's death according to state and federal regulations for disposition of medications  
48.19 and controlled substances.

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

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

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



49.1 **Sec. 19. [144I.18] TREATMENT AND THERAPY MANAGEMENT SERVICES.**

49.2 **Subdivision 1. Treatment and therapy management services.** This section applies  
49.3 only to assisted living facilities that provide comprehensive assisted living services. Treatment  
49.4 and therapy management services shall not be provided by a basic care facility.

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

49.10 (b) The written policies and procedures must address requesting and receiving orders  
49.11 or prescriptions for treatments or therapies, providing the treatment or therapy, documenting  
49.12 treatment or therapy activities, educating and communicating with residents about treatments  
49.13 or therapies they are receiving, monitoring and evaluating the treatment or therapy, and  
49.14 communicating with the prescriber.

49.15 **Subd. 3. Individualized treatment or therapy management plan.** For each resident  
49.16 receiving management of ordered or prescribed treatments or therapy services, the assisted  
49.17 living facility must prepare and include in the service agreement a written statement of the  
49.18 treatment or therapy services that will be provided to the resident. The facility must also  
49.19 develop and maintain a current individualized treatment and therapy management record  
49.20 for each resident which must contain at least the following:

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

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

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

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

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

50.1 Subd. 4. **Administration of treatments and therapy.** Ordered or prescribed treatments  
50.2 or therapies must be administered by a nurse, physician, or other licensed health professional  
50.3 authorized to perform the treatment or therapy, or may be delegated or assigned to unlicensed  
50.4 personnel by the licensed health professional according to the appropriate practice standards  
50.5 for delegation or assignment. When administration of a treatment or therapy is delegated  
50.6 or assigned to unlicensed personnel, the facility must ensure that the registered nurse or  
50.7 authorized licensed health professional has:

50.8 (1) instructed the unlicensed personnel in the proper methods with respect to each resident  
50.9 and the unlicensed personnel has demonstrated the ability to competently follow the  
50.10 procedures;

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

50.13 (3) communicated with the unlicensed personnel about the individual needs of the  
50.14 resident.

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

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

50.28 Subd. 7. **Right to outside service provider; other payors.** Under section 144J.06, a  
50.29 resident is free to retain therapy and treatment services from an off-site service provider.  
50.30 Assisted living facilities must make every effort to assist residents in obtaining information  
50.31 regarding whether the Medicare program, the medical assistance program under chapter  
50.32 256B, or another public program will pay for any or all of the services.

51.1 Sec. 20. [144I.19] RESIDENT RECORD REQUIREMENTS.

51.2 Subdivision 1. Resident record. (a) The facility must maintain records for each resident  
51.3 for whom it is providing services. Entries in the resident records must be current, legible,  
51.4 permanently recorded, dated, and authenticated with the name and title of the person making  
51.5 the entry.

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

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

51.13 (1) as may be required by law;

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

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

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

51.21 Subd. 2. Access to records. The facility must ensure that the appropriate records are  
51.22 readily available to employees and contractors authorized to access the records. Resident  
51.23 records must be maintained in a manner that allows for timely access, printing, or  
51.24 transmission of the records. The records must be made readily available to the commissioner  
51.25 upon request.

51.26 Subd. 3. Contents of resident record. Contents of a resident record include the following  
51.27 for each resident:

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

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

- 52.1 (3) names, addresses, and telephone numbers of the resident's health and medical service  
52.2 providers, if known;
- 52.3 (4) health information, including medical history, allergies, and when the provider is  
52.4 managing medications, treatments or therapies that require documentation, and other relevant  
52.5 health records;
- 52.6 (5) the resident's advance directives, if any;
- 52.7 (6) copies of any health care directives, guardianships, powers of attorney, or  
52.8 conservatorships;
- 52.9 (7) the facility's current and previous assessments and service agreements;
- 52.10 (8) all records of communications pertinent to the resident's services;
- 52.11 (9) documentation of significant changes in the resident's status and actions taken in  
52.12 response to the needs of the resident, including reporting to the appropriate supervisor or  
52.13 health care professional;
- 52.14 (10) documentation of incidents involving the resident and actions taken in response to  
52.15 the needs of the resident, including reporting to the appropriate supervisor or health care  
52.16 professional;
- 52.17 (11) documentation that services have been provided as identified in the service  
52.18 agreement;
- 52.19 (12) documentation that the resident has received and reviewed the basic care and assisted  
52.20 living bill of rights;
- 52.21 (13) documentation of complaints received and any resolution;
- 52.22 (14) a discharge summary, including service termination notice and related  
52.23 documentation, when applicable; and
- 52.24 (15) other documentation required under this chapter and relevant to the resident's  
52.25 services or status.
- 52.26 Subd. 4. **Transfer of resident records.** If a resident transfers to another facility or  
52.27 another health care practitioner or provider, or is admitted to an inpatient facility, the facility,  
52.28 upon request of the resident or the resident's representative, shall take steps to ensure a  
52.29 coordinated transfer including sending a copy or summary of the resident's record to the  
52.30 new facility or the resident, as appropriate.

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

53.5 Sec. 21. [144I.20] **ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.**

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

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

53.12 (1) an overview of this chapter;

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

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

53.16 (4) compliance with and reporting of the maltreatment of vulnerable adults under section  
 53.17 626.557;

53.18 (5) basic care and assisted living bill of rights under section 144J.06;

53.19 (6) protection-related rights under section 144I.10, subdivision 8, and staff responsibilities  
 53.20 related to ensuring the exercise and protection of those rights;

53.21 (7) the principles of person-centered service planning and delivery and how they apply  
 53.22 to direct support services provided by the staff person;

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

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

53.30 (10) a review of the types of assisted living services the employee will be providing and  
 53.31 the facility's category of licensure.

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

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

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

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

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

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

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

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

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

54.28 (2) review of the basic care and assisted living bill of rights in section 144J.06;

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

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

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

55.6 (6) review of protection-related rights as stated in section 144I.10, subdivision 8, and  
55.7 staff responsibilities related to ensuring the exercise and protection of those rights; and

55.8 (7) the principles of person-centered service planning and delivery and how they apply  
55.9 to direct support services provided by the staff person.

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

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

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

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

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

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

55.25 Sec. 22. **[144I.21] TRAINING IN DEMENTIA CARE REQUIRED.**

55.26 Subdivision 1. **Assisted living facility dementia training requirements.** (a) Assisted  
55.27 living facilities and assisted living facilities with dementia care must meet the following  
55.28 training requirements:

55.29 (1) supervisors of direct-care staff must have at least eight hours of initial training on  
55.30 topics specified under paragraph (b) within 120 working hours of the employment start  
55.31 date, and must have at least two hours of training on topics related to dementia care for each  
55.32 12 months of employment thereafter;

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

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

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

56.17 (b) Areas of required training include:

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

56.19 (2) assistance with activities of daily living;

56.20 (3) problem solving with challenging behaviors; and

56.21 (4) communication skills.

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

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

56.27 (1) supervisors of direct-care staff must have at least four hours of initial training on  
56.28 topics specified under paragraph (b) within 120 working hours of the employment start  
56.29 date, and must have at least two hours of training on topics related to dementia care for each  
56.30 12 months of employment thereafter;

56.31 (2) direct-care employees must have completed at least four hours of initial training on  
56.32 topics specified under paragraph (b) within 160 working hours of the employment start



57.1 date. Until this initial training is complete, an employee must not provide direct care unless  
57.2 there is another employee on site who has completed the initial four hours of training on  
57.3 topics related to dementia care and who can act as a resource and assist if issues arise. A  
57.4 trainer of the requirements under paragraph (b) or a supervisor meeting the requirements  
57.5 under clause (1) must be available for consultation with the new employee until the training  
57.6 requirement is complete. Direct-care employees must have at least two hours of training on  
57.7 topics related to dementia for each 12 months of employment thereafter;

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

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

57.15 (b) Areas of required training include:

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

57.17 (2) assistance with activities of daily living;

57.18 (3) problem solving with challenging behaviors; and

57.19 (4) communication skills.

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

57.23 **Sec. 23. [144I.22] CONTROLLING INDIVIDUAL RESTRICTIONS.**

57.24 Subdivision 1. **Restrictions.** The controlling individual of a facility may not include  
57.25 any person who was a controlling individual of any other nursing home, basic care facility,  
57.26 assisted living facility, or assisted living facility with dementia care during any period of  
57.27 time in the previous two-year period:

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

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

58.1 (ii) four or more uncorrected violations or two or more repeated violations of any nature,  
58.2 including Level 2, Level 3, and Level 4 violations as defined in section 144I.31; or

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

58.6 Subd. 2. **Exception.** Subdivision 1 does not apply to any controlling individual of the  
58.7 facility who had no legal authority to affect or change decisions related to the operation of  
58.8 the nursing home, basic care facility, assisted living facility, or assisted living facility with  
58.9 dementia care that incurred the uncorrected violations.

58.10 Subd. 3. **Stay of adverse action required by controlling individual restrictions.** (a)  
58.11 In lieu of revoking, suspending, or refusing to renew the license of a facility where a  
58.12 controlling individual was disqualified by subdivision 1, clause (1), the commissioner may  
58.13 issue an order staying the revocation, suspension, or nonrenewal of the facility's license.  
58.14 The order may but need not be contingent upon the facility's compliance with restrictions  
58.15 and conditions imposed on the license to ensure the proper operation of the facility and to  
58.16 protect the health, safety, comfort, treatment, and well-being of the residents in the facility.  
58.17 The decision to issue an order for a stay must be made within 90 days of the commissioner's  
58.18 determination that a controlling individual of the facility is disqualified by subdivision 1,  
58.19 clause (1), from operating a facility.

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

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

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

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

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

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

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

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

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

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

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

59.28 **Sec. 24. [144I.23] MANAGEMENT AGREEMENTS; GENERAL REQUIREMENTS.**

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

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

59.33 (1) initial application for a license;

60.1 (2) retention of a manager following initial application;

60.2 (3) change of managers; and

60.3 (4) modification of an existing management agreement.

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

60.7 (d) The written management agreement must be submitted:

60.8 (1) 60 days before:

60.9 (i) the initial licensure date;

60.10 (ii) the proposed change of ownership date; or

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

60.12 (2) 30 days before the effective date of any amendment to an existing management  
60.13 agreement.

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

60.16 (f) A proposed licensee must submit a management agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

62.3 (2) any changes necessary to:

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

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

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

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

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

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

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

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

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

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

62.21 Sec. 25. **[144L.24] MINIMUM SITE, PHYSICAL ENVIRONMENT AND FIRE**  
62.22 **SAFETY REQUIREMENTS.**

62.23 Subdivision 1. **Requirements.** (a) Effective August 1, 2021, the following are required  
62.24 for all basic care facilities, assisted living facilities, and assisted living facilities with dementia  
62.25 care:

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

62.28 (2) the location is publicly accessible to fire department services and emergency medical  
62.29 services;

63.1 (3) the location's topography provides sufficient natural drainage and is not subject to  
63.2 flooding;

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

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

63.6 (b) An assisted living facility with a dementia care unit must also meet the following  
63.7 requirements:

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

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

63.13 Subd. 2. **Fire protection and physical environment.** (a) Effective December 31, 2019,  
63.14 each basic care facility, assisted living facility, and assisted living facility with dementia  
63.15 care must have a comprehensive fire protection system that includes:

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

63.20 (2) portable fire extinguishers installed and tested in accordance with the NFPA Standard  
63.21 10; and

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

63.26 (b) Beginning August 1, 2021, fire drills shall be conducted in accordance with the  
63.27 residential board and care requirements in the Life Safety Code.

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

63.31 Subd. 4. **Basic care facilities and assisted living facilities; design.** (a) After July 31,  
63.32 2021, all basic care facilities and assisted living facilities with six or more residents must

64.1 meet the provisions relevant to assisted living facilities of the most current edition of the  
64.2 Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health,  
64.3 Care and Support Facilities" and of adopted rules. This minimum design standard shall be  
64.4 met for all new licenses, new construction, modifications, renovations, alterations, change  
64.5 of use, or additions. In addition to the guidelines, assisted living facilities, and assisted living  
64.6 facilities with dementia care shall provide the option of a bath in addition to a shower for  
64.7 all residents.

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

64.11 Subd. 5. **Basic care facilities and assisted living facilities; life safety code.** (a) After  
64.12 August 1, 2021, all basic care facilities and assisted living facilities with six or more residents  
64.13 shall meet the applicable provisions of the most current edition of the NFPA Standard 101,  
64.14 Life Safety Code, Residential Board and Care Occupancies chapter. This minimum design  
64.15 standard shall be met for all new licenses, new construction, modifications, renovations,  
64.16 alterations, change of use, or additions.

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

64.20 Subd. 6. **Assisted living facilities with dementia care units; life safety code.** (a)  
64.21 Beginning August 1, 2021, all assisted living facilities with dementia care units shall meet  
64.22 the applicable provisions of the most current edition of the NFPA Standard 101, Life Safety  
64.23 Code, Healthcare (limited care) chapter. This minimum design standard shall be met for all  
64.24 new licenses, new construction, modifications, renovations, alterations, change of use or  
64.25 additions.

64.26 (b) The commissioner shall establish an implementation timeline for mandatory usage  
64.27 of the newest-published Life Safety Code. However, the commissioner shall not enforce  
64.28 the newly-published guidelines before 6 months after the date of publication.

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

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



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

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

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

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

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

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

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

65.31 (2) the reasons for the request;

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

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

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

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

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

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

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

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

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

66.20 (e) A request for the renewal of a variance or waiver must be submitted in writing at  
66.21 least 45 days before its expiration date. Renewal requests must contain the information  
66.22 specified in paragraph (b). A variance or waiver must be renewed by the department if the  
66.23 applicant continues to satisfy the criteria in paragraph (a) and demonstrates compliance  
66.24 with the alternative measures or conditions imposed at the time the original variance or  
66.25 waiver was granted.

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

66.29 (g) An applicant may contest the denial, revocation, or refusal to renew a variance or  
66.30 waiver by requesting a contested case hearing under chapter 14. The applicant must submit,  
66.31 within 15 days of the receipt of the department's decision, a written request for a hearing.  
66.32 The request for hearing must set forth in detail the reasons why the applicant contends the  
66.33 decision of the department should be reversed or modified. At the hearing, the applicant

67.1 has the burden of proving by a preponderance of the evidence that the applicant satisfied  
67.2 the criteria specified in paragraph (b), except in a proceeding challenging the revocation of  
67.3 a variance or waiver.

67.4 Sec. 26. [144I.25] RESIDENCY AND SERVICES CONTRACT REQUIREMENTS.

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

67.8 (b) The contract must:

67.9 (1) be signed by both:

67.10 (i) the resident or the designated representative; and

67.11 (ii) the licensee or an agent of the facility; and

67.12 (2) contain all the terms concerning the provision of:

67.13 (i) housing; and

67.14 (ii) services, whether provided directly by the facility or by management agreement.

67.15 (c) A facility must:

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

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

67.21 (d) A contract under this section is a consumer contract under sections 325G.29 to  
67.22 325G.37.

67.23 (e) Before or at the time of execution of the contract, the facility must offer the resident  
67.24 the opportunity to identify a designated or resident representative or both in writing in the  
67.25 contract. The contract must contain a page or space for the name and contact information  
67.26 of the designated or resident representative or both and a box the resident must initial if the  
67.27 resident declines to name a designated or resident representative. Notwithstanding paragraph  
67.28 (f), the resident has the right at any time to rescind the declination or add or change the  
67.29 name and contact information of the designated or resident representative.

68.1 (f) The resident must agree in writing to any additions or amendments to the contract.  
68.2 Upon agreement between the resident or resident's designated representative and the facility,  
68.3 a new contract or an addendum to the existing contract must be executed and signed.

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

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

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

68.10 (2) the licensee of the facility;

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

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

68.14 (c) The contract must include:

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

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

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

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

68.24 (5) billing and payment procedures and requirements.

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

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

68.29 (1) the right under section 144I.26 to challenge a discharge, eviction, or transfer or  
68.30 service termination;

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

69.4 (3) the toll-free complaint line for the MAARC, the Office of Ombudsman for Long-Term  
69.5 Care, the Ombudsman for Mental Health and Developmental Disabilities, and the Office  
69.6 of Health Facility Complaints;

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

69.8 (5) a description of the assisted living facility's policies related to medical assistance  
69.9 waivers under sections 256B.0915 and 256B.49, including:

69.10 (i) whether the provider is enrolled with the commissioner of human services to provide  
69.11 customized living services under medical assistance waivers;

69.12 (ii) whether there is a limit on the number of people residing at the assisted living facility  
69.13 who can receive customized living services at any point in time. If so, the limit must be  
69.14 provided;

69.15 (iii) whether the assisted living facility requires a resident to pay privately for a period  
69.16 of time prior to accepting payment under medical assistance waivers, and if so, the length  
69.17 of time that private payment is required;

69.18 (iv) a statement that medical assistance waivers provide payment for services, but do  
69.19 not cover the cost of rent;

69.20 (v) a statement that residents may be eligible for assistance with rent through the housing  
69.21 support program; and

69.22 (vi) a description of the rent requirements for people who are eligible for medical  
69.23 assistance waivers but who are not eligible for assistance through the housing support  
69.24 program; and

69.25 (6) the contact information to obtain long-term care consulting services under section  
69.26 256B.0911.

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

69.30 Subd. 3. **Additional contract requirements for assisted living facilities and assisted**  
69.31 **living facilities with dementia care.** (a) Assisted living facility and assisted living facility  
69.32 with dementia care contracts must include the requirements in paragraph (b). A restriction

70.1 of a resident's rights under this subdivision is allowed only if determined necessary for  
70.2 health and safety reasons identified by the facility's registered nurse in an initial assessment  
70.3 or reassessment, under section 144I.15, subdivision 9, and documented in the written service  
70.4 agreement under section 144I.15, subdivision 10. Any restrictions of those rights for  
70.5 individuals served under sections 256B.0915 and 256B.49 must be documented in the  
70.6 resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915,  
70.7 subdivision 6, and 256B.49, subdivision 15.

70.8 (b) The contract must include a statement:

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

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

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

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

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

70.18 Subd. 4. **Filing.** The contract and related documents executed by each resident or the  
70.19 designated representative must be maintained by the facility in files from the date of execution  
70.20 until three years after the contract is terminated or expires. The contracts and all associated  
70.21 documents will be available for on-site inspection by the commissioner at any time. The  
70.22 documents shall be available for viewing or copies shall be made available to the resident  
70.23 and the designated representative at any time.

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

70.29 Sec. 27. **[144I.26] INVOLUNTARY DISCHARGES AND SERVICE**  
70.30 **TERMINATIONS.**

70.31 Subdivision 1. **Prerequisite to termination of housing or services.** Before terminating  
70.32 a resident's housing or services, a facility must explain in detail the reasons for the termination

71.1 and work with the resident, designated representatives, resident representatives, the resident's  
71.2 family, applicable agencies, and any relevant health-related or social service professionals  
71.3 to identify and offer reasonable accommodations and modifications, interventions, or  
71.4 alternatives to avoid the termination.

71.5 Subd. 2. **Permissible reasons to terminate housing or services.** (a) A facility is  
71.6 prohibited from terminating housing or services for grounds other than those specified in  
71.7 paragraphs (b) and (c).

71.8 (b) A resident's housing or services shall not be terminated unless a termination is  
71.9 necessary and there is a written determination, supported by documentation, of the necessity  
71.10 of the termination. A termination is considered necessary only if:

71.11 (1) it is mandated by law or court order;

71.12 (2) the resident has engaged in a documented pattern of conduct that:

71.13 (i) endangers the health or safety of other residents or staff of the facility; or

71.14 (ii) repeatedly and substantially interferes with the rights, health, safety, or well-being  
71.15 of other residents;

71.16 (3) the facility intends to cease operation;

71.17 (4) the facility's license is being restricted by the commissioner of health in a manner  
71.18 that requires the termination;

71.19 (5) the resident has committed any of the acts enumerated under section 504B.171,  
71.20 subdivision 1; or

71.21 (6) the resident's needs exceed the scope of the services for which the resident contracted  
71.22 and:

71.23 (i) the facility administrator has certified that the resident's needs exceed the scope of  
71.24 services for which the resident contracted, based on an evaluation by a disinterested, licensed  
71.25 health care professional; and

71.26 (ii) the resident's needs cannot be safely met by reasonable accommodations or  
71.27 modifications, interventions, or alternatives.

71.28 (c) A facility may terminate housing or services for nonpayment, provided the facility:

71.29 (1) makes reasonable efforts to accommodate temporary financial hardship and provide  
71.30 information on government or private subsidies that may be available; and

71.31 (2) provides the notice required under subdivision 3.

72.1 (d) A temporary interruption in benefits does not constitute nonpayment.

72.2 Subd. 3. **Advance notice required.** A facility must provide at least 30 calendar days'  
72.3 advance notice to the resident, the ombudsman for long-term care, and the resident's  
72.4 designated representatives and resident representatives or, if no designated representative  
72.5 or resident representative, a family member, if known, of a termination of housing or services,  
72.6 except as provided in subdivision 5 or 6, paragraph (f). If the facility's license is restricted  
72.7 by the commissioner, then the facility must follow the directions by the commissioner for  
72.8 resident relocations or ceasing services to residents and these notice provisions do not apply.

72.9 Subd. 4. **Content of notice.** The notice required under subdivision 3 must contain, at a  
72.10 minimum:

72.11 (1) the effective date of termination of housing or services;

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

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

72.15 (4) a statement that the resident has the right to appeal the termination, an explanation  
72.16 of how and to whom to appeal, and contact information for the Office of Administrative  
72.17 Hearings;

72.18 (5) information on how to contact the ombudsman for long-term care and the ombudsman  
72.19 for mental health and developmental disabilities;

72.20 (6) a description of the steps taken to avoid termination and the issues raised in accordance  
72.21 with subdivision 1, and a statement that the resident has the right to request further meetings  
72.22 to attempt to resolve the proposed termination;

72.23 (7) a description of the resident's right to avoid a termination, if possible, through  
72.24 reasonable accommodations or modifications, interventions, or alternatives;

72.25 (8) a statement that the facility must actively participate in a coordinated transfer of the  
72.26 resident to another location or service provider, as required under subdivision 7;

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

72.29 (10) if the termination is for services, a statement, if applicable, that the notice of  
72.30 termination of services does not constitute a termination of housing or an eviction from the  
72.31 resident's home, and that the resident has the right to remain in the facility; and



73.1 (11) the location to which the resident is being transferred and the contact information  
73.2 for any new service provider to be used by the resident, or a statement that a location or  
73.3 service provider will be identified prior to termination in accordance in subdivision 7.

73.4 If any information in the notice changes prior to the housing or service termination, the  
73.5 facility must update the notice and provide it to the resident, resident's designated  
73.6 representatives, and resident representatives or, if no designated representative or resident  
73.7 representative, a family member as soon as practicable.

73.8 Subd. 5. **Exception for emergencies.** (a) A facility may relocate a resident from a facility  
73.9 with notice of less than 30 calendar days and as soon as practicable if:

73.10 (1) emergency relocation is required for a resident's urgent medical needs and is ordered  
73.11 by the resident's physician;

73.12 (2) the resident needs to be immediately relocated because the resident or another resident  
73.13 or staff member of the facility is at imminent risk of:

73.14 (i) death;

73.15 (ii) life-threatening harm;

73.16 (iii) substantial harm, as defined in section 609.02, subdivision 7a; or

73.17 (iv) great bodily harm, as defined in section 609.02, subdivision 8, and that harm is  
73.18 identified by the facility administrator based on documented evidence; or

73.19 (3) the breach involves any of the acts enumerated in section 504B.171, subdivision 1.

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

73.21 (1) ensure that the resident is moved to a safe and appropriate location;

73.22 (2) immediately notify the resident's designated representatives and resident  
73.23 representatives or, if no designated representative or resident representative, a family member  
73.24 or interested person, if known:

73.25 (i) that the resident has been relocated;

73.26 (ii) the reason for the relocation; and

73.27 (iii) the name, address, telephone number, and any other relevant contact information  
73.28 of the location to which the resident has been transferred and any new service provider;

73.29 (3) if the resident is not expected to or does not return to the facility within 24 hours of  
73.30 the emergency relocation and a notice of termination of housing or services has not been  
73.31 issued pursuant to subdivision 4, provide a written notice to the resident, ombudsman for

74.1 long-term care, resident representatives or designated representatives if known, or if no  
 74.2 designated representative or resident representative is known, then to a family member, if  
 74.3 known, stating at least:

74.4 (i) that the resident is currently expected to return to the facility or, if applicable, that  
 74.5 the resident is expected to return to the facility upon the removal of certain conditions  
 74.6 pursuant to paragraph (a) and a detailed description of those conditions;

74.7 (ii) if reasonably ascertainable, an estimated date of the resident's return to the facility;

74.8 (iii) a statement that, if the resident wishes to immediately return to the facility and is  
 74.9 denied readmission, the resident has the right to appeal any refusal to readmit and contact  
 74.10 information for the Office of Administrative Hearings;

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

74.12 (v) the name, address, telephone number, and any other relevant contact information of  
 74.13 the location to which the resident has been transferred and any new service provider; and

74.14 (vi) upon removal of the conditions precipitating the emergency transfer, immediately  
 74.15 work and coordinate with the resident and the resident's designated representatives, resident  
 74.16 representatives, and family, if applicable, to enable the resident to return to the facility.

74.17 (c) If the facility determines that the resident cannot return to the facility or cannot  
 74.18 receive services from the facility upon return, then the resident, ombudsman for long-term  
 74.19 care, resident's designated representatives and resident representatives if known or, if no  
 74.20 designated representative or resident representative is known, then a family member, if  
 74.21 known, must be given as soon as practicable, but in any event no later than 24 hours after  
 74.22 the determination:

74.23 (1) a notice of the termination of housing or services pursuant to subdivision 4;

74.24 (2) a statement of the right to appeal pursuant to subdivision 6 and the right to appeal  
 74.25 the facility's refusal to readmit the resident; and

74.26 (3) a statement of the right to termination planning pursuant to subdivision 7, and that  
 74.27 the planning may not cease until a safe and appropriate location and, if applicable, service  
 74.28 provider has been identified.

74.29 **Subd. 6. Right to appeal termination of housing or services.** (a) A resident, designated  
 74.30 representative, resident representative, or family member has the right to appeal a termination  
 74.31 of housing or services under subdivision 2 or a facility's refusal to readmit the resident after  
 74.32 an emergency relocation under subdivision 5 and to request a hearing from the Office of

75.1 Administrative Hearings. An appeal must be filed in writing to the Office of Administrative  
75.2 Hearings. An appeal of a refusal to readmit shall be construed as an appeal of any related  
75.3 termination of housing or services.

75.4 (b) The Office of Administrative Hearings must conduct an expedited hearing as soon  
75.5 as practicable, and in any event no later than 14 calendar days after the office receives the  
75.6 request and within three business days in the event of an appeal of a refusal to readmit. The  
75.7 hearing must be held at the facility where the resident lives, unless it is impractical or the  
75.8 parties agree to a different place. The hearing is not a formal evidentiary hearing. The hearing  
75.9 may also be attended by telephone as allowed by the administrative law judge, after  
75.10 considering how a telephonic hearing will affect the resident's ability to participate. The  
75.11 hearing shall be limited to the amount of time necessary for the participants to expeditiously  
75.12 present the facts about the proposed termination. The administrative law judge shall issue  
75.13 a recommendation to the commissioner as soon as practicable, and in any event no later  
75.14 than ten calendar days after the hearing or within two days in the case of a refusal to readmit.  
75.15 Attorney representation is not required at the hearing, nor does appearing without an attorney  
75.16 constitute the unauthorized practice of law.

75.17 (c) The facility bears the burden of proof to establish that the termination of housing or  
75.18 services or the refusal to readmit the resident is permissible.

75.19 (d) During the pendency of an appeal for a termination of housing or services and until  
75.20 a final determination is made by the Office of Administrative Hearings:

75.21 (1) housing or services may not be terminated; and

75.22 (2) the resident may not be relocated except as provided for under subdivision 5. In the  
75.23 event of relocation, the resident must be readmitted unless the conditions described in  
75.24 subdivision 5, paragraph (a), exist.

75.25 (e) The commissioner of health may order the facility to rescind the termination of  
75.26 housing or services if:

75.27 (1) the termination was in violation of state or federal law;

75.28 (2) the resident has cured or is able to cure the reason for the termination, or has identified  
75.29 any reasonable accommodations or modifications, interventions, or alternatives to avoid  
75.30 the termination; or

75.31 (3) termination planning is in violation of subdivision 7.

75.32 (f) If a termination of housing or services is denied only because of a failure to identify  
75.33 a safe and appropriate location or service provider under subdivision 7, the facility, upon

76.1 finding such a safe and appropriate location or service provider, may reissue a termination  
76.2 of housing or services with notice of less than 30 calendar days.

76.3 (g) The commissioner of health may order the immediate readmission of a resident to  
76.4 the facility if:

76.5 (1) the refusal to readmit is in violation of state or federal law;

76.6 (2) the facility has not complied with subdivision 5 or the conditions described in  
76.7 subdivision 5, paragraph (a), do not exist; or

76.8 (3) the resident has cured or is able to cure the reason for the relocation, or has identified  
76.9 any reasonable accommodations or modifications, interventions, or alternatives to avoid  
76.10 the continuance of the relocation.

76.11 (h) Nothing in this section limits the right of a resident or the resident's designated  
76.12 representatives, resident representatives, or family to request or receive assistance from the  
76.13 ombudsman for long-term care and the protection and advocacy agency under Code of  
76.14 Federal Regulations, title 45, section 1326.21, concerning the termination of housing or  
76.15 services.

76.16 (i) Residents are not required to request a meeting with the facility prior to submitting  
76.17 an appeal hearing request.

76.18 Subd. 7. **Housing or service termination planning.** (a) If a facility terminates housing  
76.19 or services, the facility:

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

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

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

76.31 (b) A safe location is not a private home where the occupant is unwilling or unable to  
76.32 care for the resident, a homeless shelter, a hotel, or a motel. A facility may not terminate a

77.1 resident's housing or services if the resident will, as a result of the termination, become  
77.2 homeless, as that term is defined in section 116L.361, subdivision 5, or if an adequate and  
77.3 safe discharge location or adequate and needed service provider has not been identified.

77.4 (c) The facility must prepare a written relocation plan. The plan must:

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

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

77.8 (d) A facility may not relocate the resident unless the place to which the resident will  
77.9 be relocated indicates acceptance of the resident. If a resident continues to need and desire  
77.10 the services provided by the facility, the facility may not terminate services unless another  
77.11 service provider has indicated that it will provide those services.

77.12 (e) If a resident is relocated to another facility or a nursing home provider, the facility  
77.13 must timely convey to that provider:

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

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

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

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

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

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

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

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

77.26 Subd. 8. **Final accounting; return of money and property.** (a) Within 30 days of the  
77.27 date of the termination of housing or services, the facility shall:

77.28 (1) provide to the resident, resident representatives, and designated representatives a  
77.29 final statement of account;

77.30 (2) provide any refunds due; and

78.1 (3) return any money, property, or valuables held in trust or custody by the facility.

78.2 (b) As required by section 504B.178, a facility may not collect a nonrefundable security  
78.3 deposit unless it is applied to the first month's charges.

78.4 **Sec. 28. [144I.27] PLANNED CLOSURES.**

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

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

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

78.12 (2) the procedures and actions the facility will implement to ensure all residents receive  
78.13 appropriate termination planning in accordance with section 144I.26, subdivision 7 and  
78.14 final accountings and returns under section 144I.26, subdivision 8;

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

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

78.18 Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan  
78.19 shall be subject to the commissioner's approval and, subject to subdivision 6, the facility  
78.20 shall take no action to close the residence prior to the commissioner's approval of the plan.  
78.21 The commissioner shall approve or otherwise respond to the plan as soon as practicable.

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

78.26 Subd. 4. **Termination planning and final accounting requirements.** Prior to  
78.27 termination, the facility must follow the termination planning requirements under section  
78.28 144I.26, subdivision 7 and final accounting and return requirements under section 144I.26,  
78.29 subdivision 8 for residents. The facility must implement the plan approved by the  
78.30 commissioner and ensure that arrangements for relocation and continued care that meet  
78.31 each resident's social, emotional, and health needs are effectuated prior to closure.

79.1 Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan  
79.2 and at least 60 calendar days before closing, except as provided under subdivision 6, the  
79.3 facility must notify residents, designated representatives, and resident representatives or, if  
79.4 a resident has no designated representative or resident representative, a family member, if  
79.5 known, of the closure, the proposed date of closure, the contact information of the  
79.6 ombudsman for long-term care, and that the facility will follow the termination planning  
79.7 requirements under section 144I.26, subdivision 7 and final accounting and return  
79.8 requirements under section 144I.26, subdivision 8.

79.9 Subd. 6. **Emergency closures.** (a) In the event the facility must close because the  
79.10 commissioner deems the facility can no longer remain open, the facility must meet all  
79.11 requirements in subdivisions 1 to 5, except for any requirements the commissioner finds  
79.12 would endanger the health and safety of residents. In the event the commissioner determines  
79.13 a closure must occur with less than 60 calendar days' notice, the facility shall provide notice  
79.14 to residents as soon as practicable or as directed by the commissioner.

79.15 (b) Upon request from the commissioner, a facility must provide the commissioner with  
79.16 any documentation related to the appropriateness of its relocation plan or to any assertion  
79.17 that the facility lacks the funds to comply with subdivision 1 to 5 or that remaining open  
79.18 would otherwise endanger the health and safety of residents pursuant to paragraph (a).

79.19 Subd. 7. **Other rights.** Nothing in this section or section 144I.26 affects the rights and  
79.20 remedies available under chapter 504B, except to the extent those rights or remedies are  
79.21 inconsistent with this section.

79.22 Subd. 8. **Fine.** The commissioner may impose a fine for failure to follow the requirements  
79.23 of this section or section 144I.26

79.24 Sec. 29. **[144I.28] RELOCATIONS WITHIN ASSISTED LIVING LOCATION.**

79.25 Subdivision 1. **Notice required before relocation within location.** (a) A facility must:

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

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

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

80.1 Subd. 2. **Evaluation.** A facility shall evaluate the resident's individual needs before  
80.2 deciding whether the room the resident will be moved to fits the resident's psychological,  
80.3 cognitive, and health care needs, including the accessibility of the bathroom.

80.4 Subd. 3. **Restriction on relocation.** A person who has been a private-pay resident for  
80.5 at least one year and resides in a private room, and whose payments subsequently will be  
80.6 made under the medical assistance program under chapter 256B, may not be relocated to a  
80.7 shared room without the consent of the resident or the resident's representative, if any.

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

80.9 Sec. 30. **[144I.29] COMMISSIONER OVERSIGHT AND AUTHORITY.**

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

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

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

80.16 (3) standards of training of facility personnel;

80.17 (4) standards for provision of services;

80.18 (5) standards for medication management;

80.19 (6) standards for supervision of services;

80.20 (7) standards for resident evaluation or assessment;

80.21 (8) standards for treatments and therapies;

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

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

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

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

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



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

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

81.5 (3) survey facility licensees annually;

81.6 (4) investigate complaints of facilities;

81.7 (5) issue correction orders and assess civil penalties;

81.8 (6) take action as authorized in section 144I.33; and

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

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

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

81.14 **Sec. 31. [144I.30] SURVEYS AND INVESTIGATIONS.**

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

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

81.26 Subd. 2. **Surveys.** The commissioner shall conduct surveys of each basic care facility,  
81.27 assisted living facility, and assisted living facility with dementia care. The commissioner  
81.28 shall conduct a survey of each facility on a frequency of at least once each year. The  
81.29 commissioner may conduct surveys more frequently than once a year based on the license  
81.30 level, the provider's compliance history, the number of clients served, or other factors as  
81.31 determined by the department deemed necessary to ensure the health, safety, and welfare  
81.32 of residents and compliance with the law.

82.1 Subd. 3. **Follow-up surveys.** The commissioner may conduct follow-up surveys to  
82.2 determine if the facility has corrected deficient issues and systems identified during a survey  
82.3 or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,  
82.4 mail, or onsite reviews. Follow-up surveys, other than complaint investigations, shall be  
82.5 concluded with an exit conference and written information provided on the process for  
82.6 requesting a reconsideration of the survey results.

82.7 Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without  
82.8 advance notice to the facilities. Surveyors may contact the facility on the day of a survey  
82.9 to arrange for someone to be available at the survey site. The contact does not constitute  
82.10 advance notice.

82.11 Subd. 5. **Information provided by facility.** The facility shall provide accurate and  
82.12 truthful information to the department during a survey, investigation, or other licensing  
82.13 activities.

82.14 Subd. 6. **Providing resident records.** Upon request of a surveyor, facilities shall provide  
82.15 a list of current and past residents or designated representatives that includes addresses and  
82.16 telephone numbers and any other information requested about the services to residents  
82.17 within a reasonable period of time.

82.18 Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the  
82.19 commissioner finds upon survey or during a complaint investigation that a facility, a  
82.20 managerial official, or an employee of the provider is not in compliance with this chapter.  
82.21 The correction order shall cite the specific statute and document areas of noncompliance  
82.22 and the time allowed for correction.

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

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

82.32 Subd. 8. **Required follow-up surveys.** For facilities that have Level 3 or Level 4  
82.33 violations under section 144I.31, the department shall conduct a follow-up survey within  
82.34 90 calendar days of the survey. When conducting a follow-up survey, the surveyor shall

83.1 focus on whether the previous violations have been corrected and may also address any  
83.2 new violations that are observed while evaluating the corrections that have been made.

83.3 **Sec. 32. [144I.31] VIOLATIONS AND FINES.**

83.4 Subdivision 1. **Fine amounts.** (a) Fines and enforcement actions under this subdivision  
83.5 may be assessed based on the level and scope of the violations described in subdivision 2  
83.6 as follows and imposed immediately with no opportunity to correct the violation prior to  
83.7 imposition:

83.8 (1) Level 1, no fines or enforcement;

83.9 (2) Level 2, a fine of \$500 per violation, in addition to any of the enforcement  
83.10 mechanisms authorized in section 144I.33 for widespread violations;

83.11 (3) Level 3, a fine of \$3,000 per violation per incident plus \$100 for each resident affected  
83.12 by the violation, in addition to any of the enforcement mechanisms authorized in section  
83.13 144I.33;

83.14 (4) Level 4, a fine of \$5,000 per incident plus \$200 for each resident, in addition to any  
83.15 of the enforcement mechanisms authorized in section 144I.33; and

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

83.20 Subd. 2. **Level and scope of violation.** Correction orders for violations are categorized  
83.21 by both level and scope, and fines shall be assessed as follows:

83.22 (1) level of violation:

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

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

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

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

84.1 (2) scope of violation:

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

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

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

84.9 Subd. 3. **Notice of noncompliance.** If the commissioner finds that the applicant or a  
84.10 facility has not corrected violations by the date specified in the correction order or conditional  
84.11 license resulting from a survey or complaint investigation, the commissioner shall provide  
84.12 a notice of noncompliance with a correction order by e-mailing the notice of noncompliance  
84.13 to the facility. The noncompliance notice must list the violations not corrected.

84.14 Subd. 4. **Immediate fine; payment.** (a) For every violation, the commissioner may  
84.15 issue an immediate fine. The licensee must still correct the violation in the time specified.  
84.16 The issuance of an immediate fine may occur in addition to any enforcement mechanism  
84.17 authorized under section 144I.33. The immediate fine may be appealed as allowed under  
84.18 this section.

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

84.23 (c) A licensee shall promptly notify the commissioner in writing when a violation  
84.24 specified in the order is corrected. If upon reinspection the commissioner determines that  
84.25 a violation has not been corrected as indicated by the order, the commissioner may issue  
84.26 an additional fine. The commissioner shall notify the licensee by mail to the last known  
84.27 address in the licensing record that a second fine has been assessed. The licensee may appeal  
84.28 the second fine as provided under this subdivision.

84.29 (d) A facility that has been assessed a fine under this section has a right to a  
84.30 reconsideration or hearing under this section and chapter 14.

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

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

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

85.10 Sec. 33. **[144I.32] RECONSIDERATION OF CORRECTION ORDERS AND FINES.**

85.11 Subdivision 1. **Reconsideration process required.** The commissioner shall make  
85.12 available to facilities a correction order reconsideration process. This process may be used  
85.13 to challenge the correction order issued, including the level and scope described in section  
85.14 144I.31, and any fine assessed. When a licensee requests reconsideration of a correction  
85.15 order, the correction order is not stayed while it is under reconsideration. The department  
85.16 shall post information on its website that the licensee requested reconsideration of the  
85.17 correction order and that the review is pending.

85.18 Subd. 2. **Reconsideration process.** A facility may request from the commissioner, in  
85.19 writing, a correction order reconsideration regarding any correction order issued to the  
85.20 facility. The written request for reconsideration must be received by the commissioner  
85.21 within 15 calendar days of the correction order receipt date. The correction order  
85.22 reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that  
85.23 participated in writing or reviewing the correction order being disputed. The correction  
85.24 order reconsiderations may be conducted in person, by telephone, by another electronic  
85.25 form, or in writing, as determined by the commissioner. The commissioner shall respond  
85.26 in writing to the request from a facility for a correction order reconsideration within 60 days  
85.27 of the date the facility requests a reconsideration. The commissioner's response shall identify  
85.28 the commissioner's decision regarding each citation challenged by the facility.

85.29 Subd. 3. **Findings.** The findings of a correction order reconsideration process shall be  
85.30 one or more of the following:

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

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

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

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

86.7 (5) the correction order is rescinded;

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

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

86.11 Subd. 4. **Updating the correction order website.** If the correction order findings are  
86.12 changed by the commissioner, the commissioner shall update the correction order website.

86.13 Subd. 5. **Provisional licenses.** This section does not apply to provisional licensees.

86.14 **Sec. 34. [144I.33] ENFORCEMENT.**

86.15 Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional  
86.16 license, refuse to grant a license as a result of a change in ownership, renew a license,  
86.17 suspend or revoke a license, or impose a conditional license if the owner, controlling  
86.18 individual, or employee of a basic care facility, assisted living facility, or assisted living  
86.19 facility with dementia care:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87.16 Subd. 2. **Terms to suspension or conditional license.** (a) A suspension or conditional  
87.17 license designation may include terms that must be completed or met before a suspension  
87.18 or conditional license designation is lifted. A conditional license designation may include  
87.19 restrictions or conditions that are imposed on the facility. Terms for a suspension or  
87.20 conditional license may include one or more of the following and the scope of each will be  
87.21 determined by the commissioner:

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

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

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

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

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

88.1 (6) any other action reasonably required to accomplish the purpose of this subdivision  
88.2 and subdivision 1.

88.3 (b) A facility subject to this subdivision may continue operating during the period of  
88.4 time residents are being transferred to another service provider.

88.5 Subd. 3. **Immediate temporary suspension.** (a) In addition to any other remedies  
88.6 provided by law, the commissioner may, without a prior contested case hearing, immediately  
88.7 temporarily suspend a license or prohibit delivery of housing or services by a facility for  
88.8 not more than 90 calendar days or issue a conditional license, if the commissioner determines  
88.9 that there are:

88.10 (1) Level 4 violations; or

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

88.12 (b) For purposes of this subdivision, "Level 4" has the meaning given in section 144I.31.

88.13 (c) A notice stating the reasons for the immediate temporary suspension or conditional  
88.14 license and informing the licensee of the right to an expedited hearing under subdivision  
88.15 11 must be delivered by personal service to the address shown on the application or the last  
88.16 known address of the licensee. The licensee may appeal an order immediately temporarily  
88.17 suspending a license or issuing a conditional license. The appeal must be made in writing  
88.18 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
88.19 the commissioner within five calendar days after the licensee receives notice. If an appeal  
88.20 is made by personal service, it must be received by the commissioner within five calendar  
88.21 days after the licensee received the order.

88.22 (d) A licensee whose license is immediately temporarily suspended must comply with  
88.23 the requirements for notification and transfer of residents in subdivision 9. The requirements  
88.24 in subdivision 9 remain if an appeal is requested.

88.25 Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 7,  
88.26 paragraph (a), the commissioner must revoke a license if a controlling individual of the  
88.27 facility is convicted of a felony or gross misdemeanor that relates to operation of the facility  
88.28 or directly affects resident safety or care. The commissioner shall notify the facility and the  
88.29 Office of Ombudsman for Long-Term Care 30 calendar days in advance of the date of  
88.30 revocation.

88.31 Subd. 5. **Mandatory proceedings.** (a) The commissioner must initiate proceedings  
88.32 within 60 calendar days of notification to suspend or revoke a facility's license or must



89.1 refuse to renew a facility's license if within the preceding two years the facility has incurred  
89.2 the following number of uncorrected or repeated violations:

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

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

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

89.9 Subd. 6. **Notice to residents.** (a) Within five business days after proceedings are initiated  
89.10 by the commissioner to revoke or suspend a facility's license, or a decision by the  
89.11 commissioner not to renew a living facility's license, the controlling individual of the facility  
89.12 or a designee must provide to the commissioner and the ombudsman for long-term care the  
89.13 names of residents and the names and addresses of the residents' guardians, designated  
89.14 representatives, and family contacts.

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

89.19 (1) a correction order; and

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

89.21 (c) Notwithstanding subdivisions 16 and 17, any correction order issued under this  
89.22 subdivision must require that the facility immediately comply with the request for information  
89.23 and that, as of the date of the issuance of the correction order, the facility shall forfeit to the  
89.24 state a \$500 fine the first day of noncompliance and an increase in the \$500 fine by \$100  
89.25 increments for each day the noncompliance continues.

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

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

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

90.3 Subd. 7. **Notice to facility.** (a) Prior to any suspension, revocation, or refusal to renew  
90.4 a license, the facility shall be entitled to notice and a hearing as provided by sections 14.57  
90.5 to 14.69. The hearing must commence within 60 calendar days after the proceedings are  
90.6 initiated. In addition to any other remedy provided by law, the commissioner may, without  
90.7 a prior contested case hearing, temporarily suspend a license or prohibit delivery of services  
90.8 by a provider for not more than 90 calendar days, or issue a conditional license if the  
90.9 commissioner determines that there are Level 3 violations that do not pose an imminent  
90.10 risk of harm to the health or safety of the facility residents, provided:

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

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

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

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

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

90.22 For the purposes of this subdivision, "Level 3" and "Level 4" have the meanings given in  
90.23 section 144I.31.

90.24 Subd. 8. **Request for hearing.** A request for hearing must be in writing and must:

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

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

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

90.29 Subd. 9. **Plan required.** (a) The process of suspending, revoking, or refusing to renew  
90.30 a license must include a plan for transferring affected residents' cares to other providers by  
90.31 the facility that will be monitored by the commissioner. Within three calendar days of being  
90.32 notified of the final revocation, refusal to renew, or suspension, the licensee shall provide

91.1 the commissioner, the lead agencies as defined in section 256B.0911, county adult protection  
91.2 and case managers, and the ombudsman for long-term care with the following information:

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

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

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

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

91.8 and

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

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

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

91.27 Subd. 10. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal  
91.28 of a sanction under this section, other than for a temporary suspension, the commissioner  
91.29 shall request assignment of an administrative law judge. The commissioner's request must  
91.30 include a proposed date, time, and place of hearing. A hearing must be conducted by an  
91.31 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
91.32 90 calendar days of the request for assignment, unless an extension is requested by either  
91.33 party and granted by the administrative law judge for good cause or for purposes of discussing

92.1 settlement. In no case shall one or more extensions be granted for a total of more than 90  
92.2 calendar days unless there is a criminal action pending against the licensee. If, while a  
92.3 licensee continues to operate pending an appeal of an order for revocation, suspension, or  
92.4 refusal to renew a license, the commissioner identifies one or more new violations of law  
92.5 that meet the requirements of Level 3 or Level 4 violations as defined in section 144I.31,  
92.6 the commissioner shall act immediately to temporarily suspend the license.

92.7 Subd. 11. **Expedited hearing.** (a) Within five business days of receipt of the licensee's  
92.8 timely appeal of a temporary suspension or issuance of a conditional license, the  
92.9 commissioner shall request assignment of an administrative law judge. The request must  
92.10 include a proposed date, time, and place of a hearing. A hearing must be conducted by an  
92.11 administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within  
92.12 30 calendar days of the request for assignment, unless an extension is requested by either  
92.13 party and granted by the administrative law judge for good cause. The commissioner shall  
92.14 issue a notice of hearing by certified mail or personal service at least ten business days  
92.15 before the hearing. Certified mail to the last known address is sufficient. The scope of the  
92.16 hearing shall be limited solely to the issue of whether the temporary suspension or issuance  
92.17 of a conditional license should remain in effect and whether there is sufficient evidence to  
92.18 conclude that the licensee's actions or failure to comply with applicable laws are Level 3  
92.19 or Level 4 violations as defined in section 144I.31, or that there were violations that posed  
92.20 an imminent risk of harm to the resident's health and safety.

92.21 (b) The administrative law judge shall issue findings of fact, conclusions, and a  
92.22 recommendation within ten business days from the date of hearing. The parties shall have  
92.23 ten calendar days to submit exceptions to the administrative law judge's report. The record  
92.24 shall close at the end of the ten-day period for submission of exceptions. The commissioner's  
92.25 final order shall be issued within ten business days from the close of the record. When an  
92.26 appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed,  
92.27 the commissioner shall issue a final order affirming the temporary immediate suspension  
92.28 or conditional license within ten calendar days of the commissioner's receipt of the  
92.29 withdrawal or dismissal. The licensee is prohibited from operation during the temporary  
92.30 suspension period.

92.31 (c) When the final order under paragraph (b) affirms an immediate suspension, and a  
92.32 final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that  
92.33 sanction, the licensee is prohibited from operation pending a final commissioner's order  
92.34 after the contested case hearing conducted under chapter 14.

93.1 (d) A licensee whose license is temporarily suspended must comply with the requirements  
93.2 for notification and transfer of residents under subdivision 9. These requirements remain if  
93.3 an appeal is requested.

93.4 Subd. 12. **Time limits for appeals.** To appeal the assessment of civil penalties under  
93.5 section 144I.31, and an action against a license under this section, a licensee must request  
93.6 a hearing no later than 15 business days after the licensee receives notice of the action.

93.7 Subd. 13. **Owners and managerial officials; refusal to grant license.** (a) The owner  
93.8 and managerial officials of a facility whose Minnesota license has not been renewed or that  
93.9 has been revoked because of noncompliance with applicable laws or rules shall not be  
93.10 eligible to apply for nor will be granted a basic care facility license, an assisted living facility  
93.11 license, or an assisted living facility with dementia care license, or be given status as an  
93.12 enrolled personal care assistance provider agency or personal care assistant by the Department  
93.13 of Human Services under section 256B.0659, for five years following the effective date of  
93.14 the nonrenewal or revocation. If the owner and/or managerial officials already have  
93.15 enrollment status, the enrollment will be terminated by the Department of Human Services.

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

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

93.26 (d) The commissioner shall notify the facility 30 calendar days in advance of the date  
93.27 of nonrenewal, suspension, or revocation of the license. Within ten business days after the  
93.28 receipt of the notification, the facility may request, in writing, that the commissioner stay  
93.29 the nonrenewal, revocation, or suspension of the license. The facility shall specify the  
93.30 reasons for requesting the stay; the steps that will be taken to attain or maintain compliance  
93.31 with the licensure laws and regulations; any limits on the authority or responsibility of the  
93.32 owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation,  
93.33 or suspension; and any other information to establish that the continuing affiliation with  
93.34 these individuals will not jeopardize resident health, safety, or well-being. The commissioner

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

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

94.8 (2) the compliance history of the facility; and

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

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

94.14 Subd. 14. **Relicensing.** If a facility license is revoked, a new application for license may  
94.15 be considered by the commissioner when the conditions upon which the revocation was  
94.16 based have been corrected and satisfactory evidence of this fact has been furnished to the  
94.17 commissioner. A new license may be granted after an inspection has been made and the  
94.18 facility has complied with all provisions of this chapter and adopted rules.

94.19 Subd. 15. **Informal conference.** At any time, the applicant or facility and the  
94.20 commissioner may hold an informal conference to exchange information, clarify issues, or  
94.21 resolve issues.

94.22 Subd. 16. **Injunctive relief.** In addition to any other remedy provided by law, the  
94.23 commissioner may bring an action in district court to enjoin a person who is involved in  
94.24 the management, operation, or control of a facility or an employee of the facility from  
94.25 illegally engaging in activities regulated by sections under this chapter. The commissioner  
94.26 may bring an action under this subdivision in the district court in Ramsey County or in the  
94.27 district in which the facility is located. The court may grant a temporary restraining order  
94.28 in the proceeding if continued activity by the person who is involved in the management,  
94.29 operation, or control of a facility, or by an employee of the facility, would create an imminent  
94.30 risk of harm to a resident.

94.31 Subd. 17. **Subpoena.** In matters pending before the commissioner under this chapter,  
94.32 the commissioner may issue subpoenas and compel the attendance of witnesses and the  
94.33 production of all necessary papers, books, records, documents, and other evidentiary material.

95.1 If a person fails or refuses to comply with a subpoena or order of the commissioner to appear  
95.2 or testify regarding any matter about which the person may be lawfully questioned or to  
95.3 produce any papers, books, records, documents, or evidentiary materials in the matter to be  
95.4 heard, the commissioner may apply to the district court in any district, and the court shall  
95.5 order the person to comply with the commissioner's order or subpoena. The commissioner  
95.6 of health may administer oaths to witnesses or take their affirmation. Depositions may be  
95.7 taken in or outside the state in the manner provided by law for taking depositions in civil  
95.8 actions. A subpoena or other process or paper may be served on a named person anywhere  
95.9 in the state by an officer authorized to serve subpoenas in civil actions, with the same fees  
95.10 and mileage and in the same manner as prescribed by law for a process issued out of a  
95.11 district court. A person subpoenaed under this subdivision shall receive the same fees,  
95.12 mileage, and other costs that are paid in proceedings in district court.

95.13 Sec. 35. [144I.34] INNOVATION VARIANCE.

95.14 Subdivision 1. **Definition.** For purposes of this section, "innovation variance" means a  
95.15 specified alternative to a requirement of this chapter. An innovation variance may be granted  
95.16 to allow a facility to offer services of a type or in a manner that is innovative, will not impair  
95.17 the services provided, will not adversely affect the health, safety, or welfare of the residents,  
95.18 and is likely to improve the services provided. The innovative variance cannot change any  
95.19 of the resident's rights under the basic care and assisted living bill of rights under section  
95.20 144J.06.

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

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

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

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

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

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

95.31 (4) the reasons for the request; and

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

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

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

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

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

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

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

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

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

96.20 Sec. 36. **[144L.35] RESIDENT QUALITY OF CARE AND OUTCOMES**  
96.21 **IMPROVEMENT TASK FORCE.**

96.22 Subdivision 1. **Establishment.** The commissioner shall establish a resident quality of  
96.23 care and outcomes improvement task force to examine and make recommendations, on an  
96.24 ongoing basis, on how to apply proven safety and quality improvement practices and  
96.25 infrastructure to settings and providers that provide long-term services and supports.

96.26 Subd. 2. **Membership.** The task force shall include representation from:

96.27 (1) nonprofit Minnesota-based organizations dedicated to patient safety or innovation  
96.28 in health care safety and quality;

96.29 (2) Department of Health staff with expertise in issues related to safety and adverse  
96.30 health events;

96.31 (3) consumer organizations;



97.1 (4) direct care providers or their representatives;

97.2 (5) organizations representing long-term care providers and home care providers in  
97.3 Minnesota;

97.4 (6) national patient safety experts; and

97.5 (7) other experts in the safety and quality improvement field.

97.6 The task force shall have at least one public member who is or has been a resident in an  
97.7 assisted living setting and one public member who has or had a family member living in an  
97.8 assisted living setting. The membership shall be voluntary except that public members may  
97.9 be reimbursed under section 15.059, subdivision 3.

97.10 Subd. 3. **Recommendations.** The task force shall periodically provide recommendations  
97.11 to the commissioner and the legislature on changes needed to promote safety and quality  
97.12 improvement practices in long-term care settings and with long-term care providers. The  
97.13 task force shall meet no fewer than four times per year. The task force shall be established  
97.14 by July 1, 2020.

97.15 Sec. 37. **[144I.36] EXPEDITED RULEMAKING AUTHORIZED.**

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

97.20 (b) On July 1, 2019, the commissioner shall begin expedited rulemaking using the process  
97.21 in section 14.389, except that the rulemaking process is exempt from section 14.389,  
97.22 subdivision 5.

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

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

97.26 (2) training prerequisites and ongoing training for administrators and caregiving staff;

97.27 (3) requirements for licensees to ensure minimum nutrition and dietary standards required  
97.28 by section 144I.10 are provided;

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

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

98.1 (6) requirements for assisted living facilities with dementia care in terms of training,  
98.2 care standards, noticing changes of condition, assessments, and health care;

98.3 (7) preadmission criteria, initial assessments, and continuing assessments;

98.4 (8) emergency disaster and preparedness plans;

98.5 (9) uniform checklist disclosure of services;

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

98.7 (11) uniform assessment tool.

98.8 (d) The commissioner shall publish the proposed rules by December 31, 2019, and shall  
98.9 publish final rules by December 31, 2020.

98.10 Sec. 38. **TRANSITION PERIOD.**

98.11 (a) From July 1, 2019, to June 30, 2020, the commissioner shall engage in the expedited  
98.12 rulemaking process.

98.13 (b) From July 1, 2020, to July 31, 2021, the commissioner shall prepare for the new  
98.14 basic care facility, assisted living facility, and assisted living facility with dementia care  
98.15 licensure by hiring staff, developing forms, and communicating with stakeholders about  
98.16 the new facility licensing.

98.17 (c) Effective August 1, 2021, all existing housing with services establishments providing  
98.18 home care services under Minnesota Statutes, chapter 144A, must convert their registration  
98.19 to licensure under Minnesota Statutes, chapter 144I.

98.20 (d) Effective August 1, 2021, all new basic care facilities, assisted living facilities, and  
98.21 assisted living facilities with dementia care must be licensed by the commissioner.

98.22 (e) Effective August 1, 2021, all basic care facilities, assisted living facilities, and assisted  
98.23 living facilities with dementia care must be licensed by the commissioner.

98.24 Sec. 39. **REPEALER.**

98.25 Minnesota Statutes 2018, sections 144D.01; 144D.015; 144D.02; 144D.025; 144D.03;  
98.26 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09;  
98.27 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; and 144G.06, are  
98.28 repealed effective August 1, 2021.

## ARTICLE 5

**DEMENTIA CARE SERVICES FOR ASSISTED LIVING FACILITIES WITH  
DEMENTIA CARE****Section 1. [144I.37] ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING  
FACILITIES WITH DEMENTIA CARE.**

Subdivision 1. **Applicability.** This section applies only to assisted living facilities with dementia care.

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

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

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

(b) If the applicant does not have experience in managing residents with dementia, the applicant must employ a consultant for at least the first six months of operation. The consultant must meet the requirements in paragraph (a), clause (1), and make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant must have experience in dementia care operations. The applicant must implement the recommendations of the consultant and document an acceptable plan which may be reviewed by the commissioner upon request to address the consultant's identified concerns. The commissioner may review and approve the selection of the consultant.

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

(d) The label "Assisted Living Facility with Dementia Care" must be identified on the license.

Subd. 3. **Relinquishing license.** The licensee must notify the commissioner in writing at least 60 calendar days prior to the voluntary relinquishment of an assisted living facility with dementia care license. For voluntary relinquishment, the facility must:

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

- 100.1 (i) the proposed effective date of the relinquishment;
- 100.2 (ii) changes in staffing;
- 100.3 (iii) changes in services including the elimination or addition of services; and
- 100.4 (iv) staff training that shall occur when the relinquishment becomes effective;
- 100.5 (2) submit a transitional plan to the commissioner demonstrating how the current residents
- 100.6 shall be evaluated and assessed to reside in other housing settings that are not an assisted
- 100.7 living facility with dementia care, that are physically unsecured, or that would require
- 100.8 move-out or transfer to other settings;
- 100.9 (3) change service or care plans as appropriate to address any needs the residents may
- 100.10 have with the transition;
- 100.11 (4) notify the commissioner when the relinquishment process has been completed; and
- 100.12 (5) revise advertising materials and disclosure information to remove any reference that
- 100.13 the facility is an assisted living facility with dementia care.

100.14 **Sec. 2. [144I.38] RESPONSIBILITIES OF ADMINISTRATION FOR ASSISTED**

100.15 **LIVING FACILITIES WITH DEMENTIA CARE.**

100.16 Subdivision 1. **General.** The licensee of an assisted living facility with dementia care

100.17 is responsible for the care and housing of the persons with dementia and the provision of

100.18 person-centered care that promotes each resident's dignity, independence, and comfort. This

100.19 includes the supervision, training, and overall conduct of the staff.

100.20 Subd. 2. **Additional requirements.** (a) The licensee must follow the assisted living

100.21 license requirements and the criteria in this section.

100.22 (b) The administrator of an assisted living facility with dementia care license must

100.23 complete and document that at least ten hours of the required annual continuing educational

100.24 requirements relate to the care of individuals with dementia. Continuing education credits

100.25 must be obtained through commissioner-approved sources that may include college courses,

100.26 preceptor credits, self-directed activities, course instructor credits, corporate training,

100.27 in-service training, professional association training, web-based training, correspondence

100.28 courses, telecourses, seminars, and workshops.

100.29 Subd. 3. **Policies.** (a) In addition to the policies and procedures required in the licensing

100.30 of assisted living facilities, the assisted living facility with dementia care licensee must

100.31 develop and implement policies and procedures that address the:

- 101.1 (1) philosophy of how services are provided based upon the assisted living facility  
101.2 licensee's values, mission, and promotion of person-centered care and how the philosophy  
101.3 shall be implemented;
- 101.4 (2) evaluation of behavioral symptoms and design of supports for intervention plans;
- 101.5 (3) wandering and egress prevention that provides detailed instructions to staff in the  
101.6 event a resident elopes;
- 101.7 (4) assessment of residents for the use and effects of medications, including psychotropic  
101.8 medications;
- 101.9 (5) staff training specific to dementia care;
- 101.10 (6) description of life enrichment programs and how activities are implemented;
- 101.11 (7) description of family support programs and efforts to keep the family engaged;
- 101.12 (8) limiting the use of public address and intercom systems for emergencies and  
101.13 evacuation drills only;
- 101.14 (9) transportation coordination and assistance to and from outside medical appointments;  
101.15 and
- 101.16 (10) safekeeping of resident's possessions.
- 101.17 (b) The policies and procedures must be provided to residents and the resident's  
101.18 representative at the time of move-in.

101.19 **Sec. 3. [144I.39] STAFFING AND STAFF TRAINING.**

101.20 Subdivision 1. **General.** (a) An assisted living facility with dementia care must provide  
101.21 residents with dementia-trained staff who have been instructed in the person-centered care  
101.22 approach. All direct care and other community staff assigned to care for dementia residents  
101.23 must be specially trained to work with residents with Alzheimer's disease and other  
101.24 dementias.

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

101.27 (c) Staffing levels must be sufficient to meet the scheduled and unscheduled needs of  
101.28 residents. Staffing levels during nighttime hours shall be based on the sleep patterns and  
101.29 needs of residents.

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

102.4 (1) the nature of the emergency;

102.5 (2) how long the emergency lasted; and

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

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

102.13 (b) Failure to comply with paragraph (a) or subdivision 1 will result in a fine under  
102.14 section 144I.31.

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

102.17 Subd. 4. **Preservice and in-service training.** Preservice and in-service training may  
102.18 include various methods of instruction, such as classroom style, web-based training, video,  
102.19 or one-to-one training. The licensee must have a method for determining and documenting  
102.20 each staff person's knowledge and understanding of the training provided. All training must  
102.21 be documented.

102.22 Sec. 4. **[144I.40] SERVICES FOR RESIDENTS WITH DEMENTIA.**

102.23 Subdivision 1. **Dementia care services.** (a) In addition to the minimum services required  
102.24 of assisted living facilities, an assisted living facility with dementia care must also provide  
102.25 the following services:

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

102.31 (2) health care services provided according to the licensing statutes and rules of the  
102.32 facility;

103.1 (3) a daily meal program for nutrition and hydration must be provided and available  
103.2 throughout each resident's waking hours. The individualized nutritional plan for each resident  
103.3 must be documented in the resident's service or care plan. In addition, an assisted living  
103.4 facility with dementia care must provide meaningful activities that promote or help sustain  
103.5 the physical and emotional well-being of residents. The activities must be person-directed  
103.6 and available during residents' waking hours.

103.7 (b) Each resident must be evaluated for activities according to the licensing rules of the  
103.8 facility. In addition, the evaluation must address the following:

103.9 (1) past and current interests;

103.10 (2) current abilities and skills;

103.11 (3) emotional and social needs and patterns;

103.12 (4) physical abilities and limitations;

103.13 (5) adaptations necessary for the resident to participate; and

103.14 (6) identification of activities for behavioral interventions.

103.15 (c) An individualized activity plan must be developed for each resident based on their  
103.16 activity evaluation. The plan must reflect the resident's activity preferences and needs.

103.17 (d) A selection of daily structured and non-structured activities must be provided and  
103.18 included on the resident's activity service or care plan as appropriate. Daily activity options  
103.19 based on resident evaluation may include but are not limited to:

103.20 (1) occupation or chore related tasks;

103.21 (2) scheduled and planned events such as entertainment or outings;

103.22 (3) spontaneous activities for enjoyment or those that may help defuse a behavior;

103.23 (4) one-to-one activities that encourage positive relationships between residents and  
103.24 staff such as telling a life story, reminiscing, or playing music;

103.25 (5) spiritual, creative, and intellectual activities;

103.26 (6) sensory stimulation activities;

103.27 (7) physical activities that enhance or maintain a resident's ability to ambulate or move;  
103.28 and

103.29 (8) outdoor activities.

104.1 (e) Behavioral symptoms that negatively impact the resident and others in the assisted  
104.2 living facility must be evaluated and included on the service or care plan. The staff must  
104.3 initiate and coordinate outside consultation or acute care when indicated.

104.4 (f) Support must be offered to family and other significant relationships on a regularly  
104.5 scheduled basis but not less than quarterly.

104.6 (g) Access to secured outdoor space and walkways that allow residents to enter and  
104.7 return without staff assistance must be provided."

104.8 Renumber the sections in sequence and correct the internal references

104.9 Amend the title accordingly