

1.1 moves to amend H.F. No. 1233, the delete everything amendment
1.2 (A13-0408), as follows:

1.3 Page 322, line 30, delete "Dietician." and insert "Dietitian."

1.4 Page 327, line 3, delete everything after "money"

1.5 Page 327, line 4, delete "services" and delete "registrant and" and insert "licensee"

1.6 Page 327, line 5, delete ", grants, bequests, gifts, donations," and insert "and"

1.7 Page 327, line 6, delete everything after "money" and insert "for home care services."

1.8 Page 340, line 19, delete "initial" and insert "a"

1.9 Page 341, delete line 21, and insert:

1.10	<u>"greater than \$50,000 and no more than</u>	
1.11	<u>\$100,000</u>	<u>\$500</u>
1.12	<u>greater than \$25,000 and no more than</u>	
1.13	<u>\$50,000</u>	<u>\$400"</u>

1.14 Page 341, line 22, delete "\$166" and insert "\$200"

1.15 Page 341, after line 25, insert:

1.16 "(e) At each annual renewal, a home care provider may elect to pay the highest
1.17 renewal fee for its license category, and not provide annual revenue information to the
1.18 commissioner."

1.19 Page 341, line 26, delete "(e)" and insert "(f)"

1.20 Page 341, line 30, delete "(f)" and insert "(g)"

1.21 Page 341, after line 31, insert:

1.22 "(h) The license renewal fee schedule in this subdivision is effective July 1, 2016."

1.23 Page 343, line 13, before "Survey" insert "By June 30, 2016, the commissioner shall
1.24 conduct a survey of home care providers on a frequency of at least once every three years."

1.25 Page 343, after line 15, insert:

1.26 "Subd. 2. Types of home care surveys. (a) "Initial full survey" is the survey
1.27 conducted of a new temporary licensee after the department is notified or has evidence that
1.28 the licensee is providing home care services to determine if the provider is in compliance

2.1 with home care requirements. Initial surveys must be completed within 14 months after
2.2 the department's issuance of a temporary basic or comprehensive license.

2.3 (b) "Core survey" means periodic inspection of home care providers to determine
2.4 ongoing compliance with the home care requirements, focusing on the essential health and
2.5 safety requirements. Core surveys are available to licensed home care providers who have
2.6 been licensed for three years and surveyed at least once in the past three years with the
2.7 latest survey having no widespread violations beyond Level 1 as provided in subdivision
2.8 11. Providers must also not have had any substantiated licensing complaints, substantiated
2.9 complaints against the agency under the Vulnerable Adults Act or Maltreatment of Minors
2.10 Act, or an enforcement action as authorized in section 144A.475 in the past three years.

2.11 (1) The core survey for basic license-level providers reviews compliance in the
2.12 following areas:

2.13 (i) reporting of maltreatment;

2.14 (ii) orientation to and implementation of Home Care Client Bill of Rights;

2.15 (iii) statement of home care services;

2.16 (iv) initial evaluation of clients and initiation of services;

2.17 (v) basic-license level client review and monitoring;

2.18 (vi) service plan implementation and changes to the service plan;

2.19 (vii) client complaint and investigative process;

2.20 (viii) competency of unlicensed personnel; and

2.21 (ix) infection control.

2.22 (2) For comprehensive license-level providers, the core survey will include
2.23 everything in the basic license-level core survey plus these areas:

2.24 (i) delegation to unlicensed personnel;

2.25 (ii) assessment, monitoring, and reassessment of clients; and

2.26 (iii) medication, treatment, and therapy management.

2.27 (c) "Full survey" means the periodic inspection of home care providers to determine
2.28 ongoing compliance with the home care requirements that cover the core survey areas
2.29 and all the legal requirements for home care providers. A full survey is conducted for all
2.30 temporary licensees and for providers who do not meet the requirements needed for a core
2.31 survey, and when a surveyor identifies unacceptable client health or safety risks during a
2.32 core survey. A full survey will include all the tasks identified as part of the core survey
2.33 and any additional review deemed necessary by the department, including additional
2.34 observation, interviewing, or records review of additional clients and staff.

2.35 (d) "Follow-up surveys" are conducted to determine if a home care provider has
2.36 corrected deficient issues and systems identified during a core survey, full survey, or

3.1 complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax,
 3.2 mail, or on-site reviews. Follow-up surveys, other than complaint surveys, shall be
 3.3 concluded with an exit conference and written information provided on the process for
 3.4 requesting a reconsideration of the survey results.

3.5 (e) Upon receiving information that a home care provider has violated or is currently
 3.6 violating a requirement of sections 144A.43 to 144A.482, the commissioner shall
 3.7 investigate the complaint according to sections 144A.51 to 144A.54.

3.8 Subd. 3. Survey process. (a) The survey process for core surveys shall include the
 3.9 following as applicable to the particular licensee and setting surveyed:

3.10 (1) presurvey review of pertinent documents and notification to the ombudsman
 3.11 for long-term care;

3.12 (2) an entrance conference with available staff;

3.13 (3) communication with managerial officials or the registered nurse in charge, if
 3.14 available, and ongoing communication with key staff throughout the survey regarding
 3.15 information needed by the surveyor, clarifications regarding home care requirements, and
 3.16 applicable standards of practice;

3.17 (4) presentation of written contact information to the provider about the survey staff
 3.18 conducting the survey, the supervisor, and the process for requesting a reconsideration of
 3.19 the survey results;

3.20 (5) a brief tour of a sample of the housing with services establishments in which the
 3.21 provider is providing home care services;

3.22 (6) a sample selection of home care clients;

3.23 (7) information-gathering through client and staff observations, client and staff
 3.24 interviews, and reviews of records, policies, procedures, practices, and other agency
 3.25 information;

3.26 (8) interviews of clients' family members, if available, with clients' consent when the
 3.27 client can legally give consent;

3.28 (9) except for complaint surveys conducted by the Office of Health Facilities
 3.29 Complaints, exit conference, with preliminary findings shared and discussed with the
 3.30 provider and written information provided on the process for requesting a reconsideration
 3.31 of the survey results; and

3.32 (10) postsurvey analysis of findings and formulation of survey results, including
 3.33 correction orders when applicable."

3.34 Page 343, line 16, delete "2" and insert "4"

3.35 Page 343, line 20, delete "3" and insert "5"

3.36 Page 343, line 23, delete "4" and insert "6"

4.1 Page 343, line 27, delete "5" and insert "7"

4.2 Page 343, delete subdivision 6

4.3 Page 344, line 1, delete "7" and insert "8"

4.4 Page 344, line 3, delete "controlling person" and insert "managerial official"

4.5 Page 344, line 4, delete ", 626.556, or 626.557"

4.6 Page 344, line 5, delete "rule or"

4.7 Page 344, line 7, after "order" insert "within 30 calendar days after exit survey"

4.8 Page 344, delete lines 17 to 36 and insert:

4.9 "Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations
 4.10 or any violations determined to be widespread, the department shall conduct a follow-up
 4.11 survey within 90 calendar days of the survey. When conducting a follow-up survey, the
 4.12 surveyor will focus on whether the previous violations have been corrected and may also
 4.13 address any new violations that are observed while evaluating the corrections that have
 4.14 been made. If a new violation is identified on a follow-up survey, no fine will be imposed
 4.15 unless it is not corrected on the next follow-up survey.

4.16 Subd. 10. **Performance incentive.** A licensee is eligible for a performance
 4.17 incentive if there are no violations identified in a core or full survey. The performance
 4.18 incentive is a ten percent discount on the licensee's next home care renewal license fee."

4.19 Page 345, delete lines 1 to 10 and insert:

4.20 "Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be
 4.21 assessed based on the level and scope of the violations described in paragraph (c) as follows:

4.22 (1) Level 1, no fines or enforcement;

4.23 (2) Level 2, fines ranging from \$0 to \$500, in addition to any of the enforcement
 4.24 mechanisms authorized in section 144A.475 for widespread violations;

4.25 (3) Level 3, fines ranging from \$500 to \$1,000, in addition to any of the enforcement
 4.26 mechanisms authorized in section 144A.475; and

4.27 (4) Level 4, fines ranging from \$1,000 to \$5,000, in addition to any of the
 4.28 enforcement mechanisms authorized in section 144A.475.

4.29 (b) Correction orders for violations are categorized by both level and scope as
 4.30 follows and fines will be assessed accordingly:

4.31 (1) Level of violation:

4.32 (i) Level 1. A violation that has no potential to cause more than a minimal impact on
 4.33 the client and does not affect health or safety.

4.34 (ii) Level 2. A violation that did not harm the client's health or safety, but had the
 4.35 potential to have harmed a client's health or safety, but was not likely to cause serious
 4.36 injury, impairment, or death.

5.1 (iii) Level 3. A violation that harmed a client's health or safety, not including serious
 5.2 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
 5.3 impairment, or death.

5.4 (iv) Level 4. A violation that results in serious injury, impairment, or death.

5.5 (2) Scope of violation:

5.6 (i) Isolated. When one or a limited number of clients are affected, or one or a limited
 5.7 number of staff are involved, or the situation has occurred only occasionally.

5.8 (ii) Pattern. When more than a limited number of clients are affected, more than
 5.9 a limited number of staff are involved, or the situation has occurred repeatedly but is
 5.10 not found to be pervasive.

5.11 (iii) Widespread. When problems are pervasive or represent a systemic failure that
 5.12 has affected or has the potential to affect a large portion or all of the clients."

5.13 Page 345, line 12, delete "identified" and insert "by the date specified in the
 5.14 correction order or conditional license resulting from"

5.15 Page 345, line 13, delete "in" and delete everything after "investigation"

5.16 Page 345, line 14, delete "conditional license"

5.17 Page 345, delete lines 17 to 20

5.18 Page 345, line 21, delete "(e)" and insert "(d)"

5.19 Page 345, line 24, delete everything after "fine"

5.20 Page 345, delete line 25

5.21 Page 345, line 26, delete everything before "A"

5.22 Page 345, line 28, delete "(f)" and insert "(e)" and delete everything after "writing"

5.23 Page 345, line 29, delete "by e-mail," and delete "to forfeit a fine"

5.24 Page 345, line 31, delete "to forfeit a fine"

5.25 Page 345, line 35, delete "(g)" and insert "(f)"

5.26 Page 345, line 36, before "hearing" insert "reconsideration or a"

5.27 Page 346, line 1, delete "(h)" and insert "(g)"

5.28 Page 346, line 3, delete "personally" and delete "In the case"

5.29 Page 346, delete lines 4 and 5

5.30 Page 346, line 6, delete "(i)" and insert "(h)"

5.31 Page 346, line 9, delete "(j)" and insert "(i)"

5.32 Page 346, line 13, delete "regulations" and insert "in Minnesota"

5.33 Page 346, after line 13, insert:

5.34 "Subd. 12. **Reconsideration.** The commissioner shall make available to home
 5.35 care providers a correction order reconsideration process. This process may be used
 5.36 to challenge the correction order issued, including the level and scope described in

6.1 subdivision 9, and any fine assessed. During the correction order reconsideration request,
6.2 the issuance for the correction orders under reconsideration are not stayed, but the
6.3 department will post information on the Web site with the correction order that the
6.4 licensee has requested a reconsideration required and that the review is pending.

6.5 (a) A licensed home care provider may request from the commissioner, in writing,
6.6 a correction order reconsideration regarding any correction order issued to the provider.
6.7 The correction order reconsideration shall not be reviewed by any surveyor, investigator,
6.8 or supervisor that participated in the writing or reviewing of the correction order being
6.9 disputed. The correction order reconsiderations may be conducted in person by telephone,
6.10 by another electronic form, or in writing, as determined by the commissioner. The
6.11 commissioner shall respond in writing to the request from a home care provider for
6.12 a correction order reconsideration within 60 days of the date the provider requests a
6.13 reconsideration. The commissioner's response shall identify the commissioner's decision
6.14 regarding each citation challenged by the home care provider.

6.15 The findings of a correction order reconsideration process shall be one or more of
6.16 the following:

6.17 (1) Supported in full. The correction order is supported in full, with no deletion of
6.18 findings to the citation.

6.19 (2) Supported in substance. The correction order is supported, but one or more
6.20 findings are deleted or modified without any change in the citation.

6.21 (3) Correction order cited an incorrect home care licensing requirement. The
6.22 correction order is amended by changing the correction order to the appropriate statutory
6.23 reference.

6.24 (4) Correction order was issued under an incorrect citation. The correction order is
6.25 amended to be issued under the more appropriate correction order citation.

6.26 (5) The correction order is rescinded.

6.27 (6) Fine is amended. It is determined the fine assigned to the correction order was
6.28 applied incorrectly.

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

6.30 (b) If the correction order findings are changed by the commissioner, the
6.31 commissioner shall update the correction order Web site accordingly.

6.32 Subd. 13. **Home care surveyor training.** Before conducting a home care survey,
6.33 each home care surveyor must receive training on the following topics:

6.34 (1) Minnesota home care licensure requirements;

6.35 (2) Minnesota Home Care Client Bill of Rights;

6.36 (3) Minnesota Vulnerable Adults Act and reporting of maltreatment of minors;

- 7.1 (4) principles of documentation;
- 7.2 (5) survey protocol and processes;
- 7.3 (6) Offices of the Ombudsman roles;
- 7.4 (7) Office of Health Facility Complaints;
- 7.5 (8) Minnesota landlord-tenant and housing with services laws;
- 7.6 (9) types of payors for home care services; and
- 7.7 (10) Minnesota Nurse Practice Act for nurse surveyors.
- 7.8 Materials used for this training will be posted on the department Web site. Requisite
- 7.9 understanding of these topics will be reviewed as part of the quality improvement plan
- 7.10 in section 29."
- 7.11 Page 351, line 3, delete "144.056" and insert "144.057"
- 7.12 Page 362, line 22, before "For" insert "(a)"
- 7.13 Page 362, line 24, after "written" insert "statement of the" and delete "plan. The
- 7.14 written plan" and insert "services that will be provided to the client."
- 7.15 Page 362, delete lines 25 and 26 and insert "The provider must develop and maintain
- 7.16 a current individualized medication management record for each client based on the
- 7.17 client's assessment that must contain the following:"
- 7.18 Page 362, line 30, delete everything after "(3)" and insert "documentation of specific
- 7.19 client instructions relating to the administration of medications;"
- 7.20 Page 362, delete lines 31 to 33
- 7.21 Page 362, line 34, delete "(6)" and insert "(4)"
- 7.22 Page 363, line 1, delete "(7)" and insert "(5)"
- 7.23 Page 363, line 2, delete "and"
- 7.24 Page 363, line 3, delete "(8)" and insert "(6)"
- 7.25 Page 363, line 4, delete the period and insert "; and"
- 7.26 Page 363, after line 4, insert:
- 7.27 "(7) any client-specific requirements relating to documenting medication
- 7.28 administration, verifications that all medications are administered as prescribed, and
- 7.29 monitoring of medication use to prevent possible complications or adverse reactions.
- 7.30 (b) The medication management record must be current and updated when there
- 7.31 are any changes."
- 7.32 Page 363, line 13, delete "with respect to each client"
- 7.33 Page 363, delete subdivision 10 and insert:
- 7.34 "Subd. 10. Medications management for clients who will be away from home.
- 7.35 (a) A home care provider that is providing medication management services to the client
- 7.36 and controls the client's access to the medications must develop and implement policies

8.1 and procedures for giving accurate and current medications to clients for planned or
8.2 unplanned times away from home according to the client's individualized medication
8.3 management plan. The policy and procedures must state that:

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

8.7 (2) for unplanned time away, when the pharmacy is not able to provide the
8.8 medications, a licensed nurse or unlicensed personnel shall give the client or client's
8.9 representative medications in amounts and dosages needed for the length of the anticipated
8.10 absence, not to exceed 120 hours;

8.11 (3) the client, or the client's representative, must be provided written information
8.12 on medications, including any special instructions for administering or handling the
8.13 medications, including controlled substances;

8.14 (4) the medications must be placed in a medication container or containers
8.15 appropriate to the provider's medication system and must be labeled with the client's name
8.16 and the dates and times that the medications are scheduled; and

8.17 (5) the client or client's representative must be provided in writing the home care
8.18 provider's name and information on how to contact the home care provider.

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

8.21 (1) the registered nurse has trained the unlicensed staff and determined the
8.22 unlicensed staff is competent to follow the procedures for giving medications to clients;

8.23 (2) the registered nurse has developed written procedures for the unlicensed
8.24 personnel, including any special instructions or procedures regarding controlled substances
8.25 that are prescribed for the client. The procedures must address:

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

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

8.29 (iii) the written information about the medications to be given to the client or client's
8.30 representative;

8.31 (iv) how the unlicensed staff will document in the client's record that medications
8.32 have been given to the client or the client's representative, including documenting the date
8.33 the medications were given to the client or the client's representative and who received the
8.34 medications, the person who gave the medications to the client, the number of medications
8.35 that were given to the client, and other required information;

9.1 (v) how the registered nurse will be notified that medications have been given to
 9.2 the client or client's representative and whether the registered nurse needs to be contacted
 9.3 before the medications are given to the client or the client's representative; and

9.4 (vi) a review by the registered nurse of the completion of this task to verify that this
 9.5 task was completed accurately by the unlicensed personnel."

9.6 Page 364, delete lines 1 to 28

9.7 Page 367, line 8, after "must" insert "prepare and" and delete "management"

9.8 Page 367, delete line 9 and insert "statement of the treatment or therapy services
 9.9 that will be provided to the client. The provider must also develop and maintain a current
 9.10 individualized treatment and therapy management record for each client which must
 9.11 contain at least the following:"

9.12 Page 367, delete lines 11 to 13 and insert:

9.13 "(2) documentation of specific client instructions relating to the treatments or
 9.14 therapy administration;"

9.15 Page 367, line 14, delete "(4)" and insert "(3)"

9.16 Page 367, line 15, delete "and"

9.17 Page 367, line 16, delete "(5)" and insert "(4)"

9.18 Page 367, line 17, delete the period and insert "; and"

9.19 Page 367, after line 17, insert:

9.20 "(5) any client-specific requirements relating to documentation of treatment
 9.21 and therapy received, verification that all treatment and therapy was administered as
 9.22 prescribed, and monitoring of treatment or therapy to prevent possible complications or
 9.23 adverse reactions. The treatment or therapy management record must be current and
 9.24 updated when there are any changes."

9.25 Page 374, line 5, delete "market, promote, or"

9.26 Page 374, line 6, delete "their" and after "supervisors" insert "working with those
 9.27 clients"

9.28 Page 374, line 8, delete ", how to assist clients with activities of daily living,"

9.29 Page 377, line 13, delete "Initial" and insert "Temporary"

9.30 Page 377, line 14, delete "October 1, 2013, all initial" and insert "January 1, 2014,
 9.31 all temporary"

9.32 Page 377, line 16, delete "Initial" and insert "Temporary" and delete "or licenses"
 9.33 and delete "October" and insert "January"

9.34 Page 377, line 17, delete "2013" and insert "2014"

9.35 Page 377, line 19, delete "initial" in both places

10.1 Page 377, line 20, delete "July 1, 2013, and October 1," and insert "October 1,
10.2 2013, and December 31,"

10.3 Page 377, line 21, delete "July" and insert "October"

10.4 Page 377, line 23, delete "on" and insert "prior to"

10.5 Page 377, line 24, delete "October 1, 2013" and insert "July 1, 2014" and delete "
10.6 who are licensed"

10.7 Page 377, line 25, delete "on July 1, 2013,"

10.8 Page 377, line 27, delete "September 30, 2014" and insert "June 30, 2015"

10.9 Page 377, after line 28, insert:

10.10 "Subd. 3. **Renewal application of home care licensure during transition period.**
10.11 Renewal of home care licenses issued beginning July 1, 2014, will be issued according to
10.12 sections 144A.43 to 144A.4799 and, upon license renewal, providers must comply with
10.13 sections 144A.43 to 144A.4799. Prior to renewal, providers must comply with the home
10.14 care licensure law in effect on June 30, 2013.

10.15 The fees charged for licenses renewed between July 1, 2014, and June 30, 2016,
10.16 shall be the lesser of 200 percent or \$1,000, except where the 200 percent or \$1,000
10.17 increase exceeds the actual renewal fee charged, with a maximum renewal fee of \$6,625.

10.18 For fiscal year 2014 only, the fees for providers with revenues greater than \$25,000
10.19 and no more than \$100,000 will be \$313 and for providers with revenues no more than
10.20 \$25,000 the fee will be \$125."

10.21 Page 377, delete section 27

10.22 Page 379, after line 6, insert:

10.23 "Sec. 29. **AGENCY QUALITY IMPROVEMENT PROGRAM.**

10.24 Subdivision 1. **Annual legislative report on home care licensing.** The
10.25 commissioner shall establish a quality improvement program for the home care survey
10.26 and home care complaint investigation processes. The commissioner shall submit to the
10.27 legislature an annual report, beginning October 1, 2015, and each October 1 thereafter.
10.28 Each report will review the previous state fiscal year of home care licensing and regulatory
10.29 activities. The report must include, but is not limited to, an analysis of:

10.30 (1) the number of FTE's in the Division of Compliance Monitoring, including the
10.31 Office of Health Facility Complaints units assigned to home care licensing, survey,
10.32 investigation and enforcement process;

10.33 (2) numbers of and descriptive information about licenses issued, complaints
10.34 received and investigated, including allegations made and correction orders issued,
10.35 surveys completed and timelines, and correction order reconsiderations and results;

11.1 (3) descriptions of emerging trends in home care provision and areas of concern
11.2 identified by the department in its regulation of home care providers;

11.3 (4) information and data regarding performance improvement projects underway
11.4 and planned by the commissioner in the area of home care surveys; and

11.5 (5) work of the Department of Health Home Care Advisory Council.

11.6 Subd. 2. **Study of correction order appeal process.** Starting July 1, 2015, the
11.7 commissioner shall study whether to add a correction order appeal process conducted by
11.8 an independent reviewer such as an administrative law judge or other office and submit a
11.9 report to the legislature by February 1, 2016. The commissioner shall review home care
11.10 regulatory systems in other states as part of that study. The commissioner shall consult
11.11 with the home care providers and representatives."

11.12 Renumber the sections in sequence and correct internal references

11.13 Correct the title numbers accordingly