

Subject Assisted living facilities; transition to licensure and technical changes
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Overview

Under current law, beginning August 1, 2021, assisted living facilities must be licensed by the Department of Health in order to operate in the state. The commissioner is in the process of adopting licensure rules. This bill makes technical and clarifying changes to the assisted living facility statutes enacted in 2019 and adds language necessary for the transition to assisted living facility licensure.

Summary

Section	Description
1	Other laws. Adds subd. 6 to § 144.6512. Amends a section prohibiting retaliation in nursing homes, to provide that this section does not affect the rights and remedies provided in the vulnerable adult maltreatment reporting section, in subdivisions 10 (duties of county social service agency); 17 (retaliation prohibited for reporting suspected maltreatment); and 20 (cause of action for financial exploitation, damages). This section is effective the day following final enactment.
2	Other laws. Adds subd. 6 to § 144G.07. Amends a section prohibiting retaliation in housing with services establishments, to provide that this section does not affect the rights and remedies provided in the vulnerable adult maltreatment reporting section, in subdivisions 10 (duties of county social service agency); 17 (retaliation prohibited for reporting suspected maltreatment); and 20 (cause of action for financial exploitation, damages). This section is effective the day following final enactment.
3	Assisted living facility campus. Adds subd. 4a to § 144G.08. Adds a definition of assisted living facility campus or campus to the definitions section for assisted living facility licensure statutes.

Section	Description
4	<p>Assisted living facility.</p> <p>Amends § 144G.08, subd. 7. Amends the definition of assisted living facility for the assisted living facility licensure statutes to provide that an establishment that exclusively or primarily serves as a shelter for victims of domestic or other violence is not an assisted living facility. This section is effective August 1, 2021.</p>
5	<p>Assisted living facility license.</p> <p>Adds subd. 7a to § 144G.08. Adds a definition for assisted living facility license or license to the definitions section for assisted living facility licensure statutes. This section is effective August 1, 2021.</p>
6	<p>Assisted living services.</p> <p>Amends § 144G.08, subd. 9. Makes a technical change to the definition of assisted living services for the assisted living facility licensure statutes (specifying that it includes preparing specialized diets, rather than modified diets). This section is effective August 1, 2021.</p>
7	<p>Direct ownership interest.</p> <p>Amends § 144G.08, subd. 23. Makes a technical change to the definition of direct ownership interest for the assisted living facility licensure statutes. This section is effective August 1, 2021.</p>
8	<p>Resident.</p> <p>Amends § 144G.08, subd. 59. Makes a technical change to the definition of resident for the assisted living facility licensure statutes. This section is effective August 1, 2021.</p>
9	<p>License required.</p> <p>Amends § 144G.10, subd. 1. Amends a subdivision requiring assisted living facilities to be licensed in order to operate in Minnesota. A new paragraph (c) requires the commissioner to issue a single license for each building operated as an assisted living facility. New paragraph (d) allows the commissioner, upon approving an application for assisted living facility licensure, to issue a single assisted living facility license for multiple buildings on a campus operated by the same licensee as assisted living facilities. New paragraph (e) allows the commissioner, upon approving an application for assisted living facility licensure, to either issue a single assisted living facility with dementia care license for multiple buildings on a campus operated by the same</p>

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licensee as assisted living facilities with dementia care, or to issue a separate assisted living facility with dementia care license for buildings on a campus that will operate as assisted living facilities with dementia care. This section is effective August 1, 2021.

10 Assisted living director license required.

Adds subd. 1a to § 144G.10. Requires each assisted living facility to employ an assisted living director licensed or permitted by the Board of Executives for Long Term Services and Supports.

11 Assisted living facility licensing implementation; provisional licenses; transition period for current providers.

Adds § 144G.191.

Subd. 1. Provisional licenses. Establishes dates on and after which no initial housing with services establishment registration applications will be accepted, and no temporary comprehensive home care provider license applications will be accepted for providers that do not intend to provide home care services on or after August 1, 2021.

Subd. 2. New construction; building permit. Allows prospective license applicants seeking a license, having new construction, and submitting a building permit application on or before July 31, 2021, to meet the construction requirements in effect when the application was submitted. Applicants who submit a building permit application after that date must meet the new construction requirements in section 144G.45. Allows an application for an electrical or plumbing permit to be submitted in areas with no building code authority, and allows an application for plan review to be submitted in areas where building plan review applications are separate from building permit applications.

Subd. 3. Current comprehensive home care providers; provision of assisted living services. Provides that comprehensive home care providers that do not intend to provide home care services on or after August 1, 2021, shall be issued a prorated license for license renewals beginning on or after September 1, 2020, and shall pay a prorated fee. Makes the prorated license effective from the renewal date through July 31, 2021. Requires a home care provider operating under a prorated license or who does not intend to provide home care services on or after August 1, 2021, to notify recipients of changes to their home care services the earlier of 60 days before expiration of the license or no later than

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May 31, 2021, and specifies what the notice must include. Exempts certain comprehensive home care providers from this notice requirement.

Subd. 4. Housing with services establishment registration; conversion to an assisted living facility license. Requires housing with services establishments that are currently registered, that intend to provide assisted living services on or after August 1, 2021, and that meet other requirements to submit an application for an assisted living facility license no later than June 1, 2021. Requires an existing housing with services establishment that does not intend to convert its registration to an assisted living facility license to notify its residents the earlier of 60 days before expiration of the registration or no later than May 31, 2021, and specifies what the notice must include. Exempts certain housing with services establishments from this notice requirement. Requires all registered housing with services establishments providing assisted living prior to August 1, 2021, to have an assisted living facility license. Effective August 1, 2021, provides that a housing with services establishment that has not converted to licensure cannot provide assisted living services.

Subd. 5. Conversion to assisted living licensure; renewal periods; prorated licenses. Makes all assisted living facility licenses and assisted living facility with dementia care licenses with an initial effective date in August 2021 valid through July 31, 2022, and requires these licenses to be renewed on August 1, 2022. Provides that renewal notices must be issued to licensees by May 1, 2022, and specifies what the notice must include. Makes license fees for the first license renewal period prorated based on the license renewal period randomly assigned to the licensee; the license renewal periods range from five months to 16 months. Specifies how fees are prorated for the prorated renewal periods.

This section is effective the day following final enactment.

12 Minimum requirements.

Amends 144G.41, subd. 1. Requires all assisted living facilities to provide staff with access to an on-call registered nurse 24 hours a day, seven days a week.

13 Infection control program.

Amends § 144G.41, subd. 3. Requires an assisted living facility's infection control program to be consistent with current guidelines for long-term care facilities and assisted living facilities and to comply with accepted medical standards for infection control. Also requires facilities to maintain written evidence of compliance with this subdivision.

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14	Tuberculosis prevention and control. Amends § 144G.42, subd. 9. Requires assisted living facilities to maintain written evidence of compliance with requirements to maintain a tuberculosis infection control program. This section is effective August 1, 2021.
15	Communicable diseases. Adds subd. 9a to § 144G.42. Requires assisted living facilities to follow state rules regarding the prevention, control, and reporting of communicable diseases. This section is effective August 1, 2021.
16	Fire protection and physical environment. Amends § 144G.45, subd. 2. Modifies fire protection requirements for assisted living facilities, to require facilities to comply with the state fire code; provide smoke alarms in the specified locations, interconnect the alarms, and ensure power supplies for existing smoke alarms comply with the state fire code; and install and maintain portable fire extinguishers. Requires facilities to develop and maintain fire safety and evacuation plans that include the listed elements. Requires evacuation drills for employees at the specified frequency, and provides that evacuation of the residents is not required. This section is effective August 1, 2021.
17	Design requirements. Amends § 144G.45, subd. 4. Requires assisted living facilities with six or more residents to comply with requirements in a 2018 edition of a guide for design and construction of health care facilities, rather than the most current edition. Strikes language requiring facility modifications, renovations, alterations, changes in use, or additions to meet the minimum design standards; with this change, new licenses and new construction must meet the minimum design standards. This section is effective the day following final enactment.
18	Assisted living facilities; Life Safety Code. Amends § 144G.45, subd. 5. Requires assisted living facilities with six or more residents to comply with the 2018 edition of the Life Safety Code, rather than the most current edition. Strikes language requiring facility modifications, renovations, alterations, changes of use, or additions to meet the Life Safety Code; with this change, new licenses and new construction must meet the minimum requirements in the Life Safety Code. This section is effective the day following final enactment.

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19	<p>Contract required.</p> <p>Amends § 144G.50, subd. 1. Makes a technical change to a subdivision requiring an assisted living facility to execute a written contract with an individual receiving housing or assisted living services before providing housing or assisted living services to that individual. This section is effective August 1, 2021.</p>
20	<p>Burden of proof for appeals of termination.</p> <p>Amends § 144G.54, subd. 4. A change to paragraph (a) requires the facility to bear the burden of proof to establish that a termination of an assisted living contract was permissible if there is a factual dispute regarding whether the facility has a permissible basis to initiate the termination.</p> <p>A change to paragraph (b) places the burden of proof on the resident to establish that a termination of an assisted living contract was not permissible because it would cause great harm or the potential for great harm or because the resident cured the reason for termination or identified a reasonable accommodation (current law places the burden of proof on the resident to establish that termination of the contract was permissible).</p> <p>This section is effective August 1, 2021.</p>
21	<p>Assisted living facilities with dementia care and secure dementia care unit; Life Safety Code.</p> <p>Amends § 144G.81, subd. 3. Requires assisted living facilities with dementia care and a secured dementia care unit to meet the 2018 edition of the Life Safety Code, rather than the most current edition. Strikes language requiring facility modifications, renovations, alternations, changes of use, and additions to meet the requirements of the Life Safety Code; with this change, new licenses and new construction must meet the requirements of the Life Safety Code. This section is effective the day following final enactment.</p>
22	<p>Other laws.</p> <p>Amends § 144G.92, subd. 5. Amends a section prohibiting retaliation in assisted living facilities, to provide that this section does not affect the rights and remedies provided in the vulnerable adult maltreatment reporting section, in subdivisions 10 (duties of county social service agency); 17 (retaliation prohibited for reporting suspected maltreatment); and 20 (cause of action for financial exploitation, damages). This section is effective August 1, 2021.</p>

Section	Description
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23	Revisor instruction.
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Directs the revisor of statutes, in consultation with the listed offices and departments to make technical changes to conform with assisted living facility licensure, directs the revisor to incorporate statutory changes made by other law in the 2021 regular session, and provides that if a provision repealed in this act is amended in the 2021 session by other law, the revisor must give effect to the amendment and renumber it. This section is effective the day following final enactment.

24	Repealer.
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Repeals § 144G.81, subd. 2 (this section requires fire drills in secured dementia care units to be conducted in compliance with the specified standards). This section is effective the day following final enactment.



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