

House Research Act Summary

CHAPTER: 312

SESSION: 2000 Regular Session

TOPIC: Nursing Facility Survey Process and Regulation

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Overview

This act allows nursing facilities to employ resident attendants to assist residents with eating and drinking, and requires the commissioner of health to develop and implement alternative procedures for the nursing facility survey process. The act also contains other provisions related to nursing facility regulation.

- 1 **Resident attendants.** Adds § 144A.62. Sets requirements for the use of resident attendants in nursing facilities.
 - Subd. 1. Assistance with eating and drinking.** Allows a nursing facility, upon approval, to employ resident attendants to assist residents with eating and drinking. States that resident attendants are not counted in the minimum staffing requirements.
 - Subd. 2. Definition.** Defines resident attendant as an individual who assists residents with eating and drinking. Provides that a resident attendant does not include a licensed health professional or registered dietician, a volunteer who does not receive monetary compensation, or a registered nursing assistant.
 - Subd. 3. Requirements.** Prohibits a nursing facility from using an individual as a resident attendant unless the individual has completed a training and competency evaluation program, is competent to provide feeding and hydration services, and is under the supervision of the director of nursing. Prohibits a facility from using a current employee as a resident attendant unless these requirements are met and the employee volunteers to be used in that capacity.
 - Subd. 4. Evaluation.** Requires the training and competency evaluation program to be facility based, and to include, at a minimum, the training and competency standards for eating and drinking assistance contained in the nursing assistant training curriculum.
 - Subd. 5. Criminal background check.** Makes persons seeking employment as resident attendants subject to the criminal background check requirements.

Subd. 6. Non-retaliation. Prohibits employees from being made subject to disciplinary action for not volunteering as resident attendants.

Subd. 7. Resident protections. States that resident attendants are subject to the rules for volunteer feeding assistants.

Subd. 8. Exceptions. Prohibits a resident attendant from being assigned to feed any resident who is at risk of choking or presents behavior management challenges while eating or drinking, or presents other risk factors that may require emergency intervention.

- 2 **Nursing home survey process.** (a) Requires the commissioner of health, in consultation with the long-term care ombudsman, nursing home consumer and advocacy groups, nursing home provider organizations, unions, and other health care professionals, to examine state and federal rules and regulations governing nursing facility care, and develop and implement, upon receipt of necessary federal approval, alternative procedures for the nursing home survey process. Requires the commissioner to pursue any necessary federal law changes and apply for any necessary federal waivers or approval.
- (b) If a federal waiver is required, directs the commissioner to submit the waiver request by May 15, 2000. Also requires the commissioner to pursue any necessary federal law changes by July 1, 2000. Requires alternative procedures to be implemented January 1, 2001, or upon federal approval.
- (c) Requires the alternative procedures to: (1) reward facilities with very good performance with extended intervals between full surveys; (2) use other existing or new measures to provide assessments of quality and to measure quality improvement; (3) provide for collaboration between facility staff and surveyors, rather than a punitive approach; and (4) use department resources more effectively and efficiently in targeting problem areas.
- (d) Upon implementation of the alternative survey process, requires the commissioner to work with industry stakeholders to evaluate the new process and ensure that health department resources are properly aligned. Prior to implementation, requires the commissioner to assure residents and family members that the new process will not reduce or restrict quality of care.
- 3 **State licensure conflicts with federal regulations.** Amends Laws 1999, chapter 245, section 45. Allows a resident, or representative of resident who is not competent, to waive in writing the requirement that a physician authorize any interval in checking incontinent residents that is longer than two hours.
- 4 **Defensive documentation.** Requires the commissioner of health, in consultation with the nursing home industry, consumers, unions, and advocates, to develop a proposal to resolve the issue of defensive documentation in nursing facilities, and report to the legislature by January 15, 2001.
- 5 **Federal waiver request.** Requires the commissioner of health to seek a federal waiver to decrease the amount of paperwork facilities must complete when a stay in a nursing facility is less than 30 days.
- 6 **Regulations that impede direct care of residents.** Requires the commissioners of health and human services, in consultation with trade groups, consumers, advocates, unions, and families, to develop a proposal to decrease regulations that impede direct care of nursing facility residents, and report to the legislature by January 15, 2001.
- 7 **Repealer.** Repeals section 144A.103 (penalty for death of a resident related to abuse or neglect) and part 4658.0515 of Minnesota Rules (frequency of recording nursing notes).
- 8 **Effective date.** States that sections 1 and 2 are effective the day following final enactment.