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Overview

This bill establishes protections for vulnerable adults and older adults, including:

- amending requirements for nursing facility contracts for admissions;
- modifying provisions in the health care bill of rights;
- prohibiting deceptive marketing and business practices;
- amending the commissioner's enforcement authority regarding nursing facilities;
- modifying the home care bill of rights and regulatory requirements for home care providers;
- changing the powers and duties of the Office of Health Facility Complaints;
- modifying regulatory requirements for housing with services establishments and assisted living services;
- making state agency hearings available to vulnerable adults subject to a maltreatment investigation;
- expanding a supplemental civil penalty for deceptive acts or fraud, to apply to deceptive acts or fraud committed against vulnerable adults;
- eliminating the demonstrable bodily harm requirement in the crime of fourth degree assault against a vulnerable adult;
- modifying requirements for reporting maltreatment of vulnerable adults;
- requiring the commissioner of health to submit reports;
- establishing working groups; and

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- directing the commissioner of health to perform specific functions.

- 1 Citation.** Provides that sections 1 to 61 may be called the Vulnerable Adult Maltreatment Prevention and Accountability Act of 2018.
- 2 Contracts of admission.** Amends § 144.6501, subd. 3. Requires a contract for admission to a nursing facility to include the name, address, and contact information of the current owner, manager, and license holder; and the name and mailing address of a person authorized to accept service of process.
- 3 Changes to contracts of admission.** Adds subd. 3a to § 144.6501. Requires a nursing facility to provide nursing facility residents or their legal representatives with written notice of a change in the facility's ownership, management, license holder, or person authorized to accept service of process.
- 4 Legislative intent.** Amends § 144.651, subd. 1. Amends the legislative intent section of the health care bill of rights, by moving a sentence, specifying that a health care facility cannot ask a patient to waive a right, and prohibiting waiver of a right at any time or for any reason.
- 5 Definitions.** Amends § 144.651, subd. 2. Amends definitions in the health care bill of rights. The amendments to paragraphs (b) and (c) are technical and intended to clarify the definitions of patient and resident. A new paragraph (d) defines health care facility.
- 6 Information about rights.** Amends § 144.651, subd. 4. In the health care bill of rights, provides that the statement of patient and resident rights provided to patients and residents must be written in plain language and terms patients and residents can understand, must be developed by the commissioner in consultation with stakeholders, and must include the name and contact information for the state or county agency the patient or resident may contact for additional information.
- 7 Freedom from maltreatment.** Amends § 144.651, subd. 14. In a subdivision providing that patients and residents shall be free from maltreatment, provides that patients and residents shall receive notification from the lead investigative agency regarding a report of maltreatment, disposition, and appeal rights, as provided in section 626.557, subd. 9c.
- 8 Confidentiality of records.** Amends § 144.651, subd. 16. Provides that the financial records of patients and residents shall be treated confidentially, and states that patients and residents have a right to access their own records and written information from those records.
- 9 Grievances.** Amends § 144.651, subd. 20. Amends a subdivision on grievances in the health care bill of rights, to authorize patients and residents to personally assert the rights granted under the health care bill of rights and to recommend changes in policies and services free from retaliation. A new paragraph (b) requires a facility to investigate and try to resolve complaints and grievances. A new paragraph (c), regarding posting of grievance procedures, contains language similar to language that was stricken in paragraph (a).
- 10 Communication privacy.** Amends § 144.651, subd. 21. Clarifies that patients and residents must obtain communication tools such as writing instruments and Internet service at their own expense, unless provided by the facility.

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- 11 Consumer transparency.** Adds § 144.6511. Prohibits deceptive marketing and business practices. Provides that the following are deceptive practices:
- making false, fraudulent, deceptive, or misleading statements in marketing, advertising, or written description or representation of care or services;
 - arranging for or providing services other than those contracted for;
 - failing to deliver care or services that were promised;
 - failing to inform a patient or resident in writing of limitations to care, before executing an admission contract;
 - failing to fulfill a written promise that the facility shall continue the same services and lease terms, if a resident converts from private pay to elderly waiver;
 - failing to disclose in writing the purpose of fees before contracting for services;
 - advertising or representing in writing that the facility has a special care unit, without complying with training and disclosure requirements that apply to such units; or
 - defining the listed terms to mean anything other than the definitions in section 144.6501.
- 12 Enforcement authority.** Amends § 144A.10, subd. 1. In a subdivision specifying the commissioner of health's enforcement authority over nursing facilities, provides that the commissioner is authorized to issue correction orders and fines. Makes a facility's refusal to cooperate in providing lawfully requested information, grounds for a correction order or fine.
- 13 Correction orders.** Amends § 144A.10, subd. 4. Provides that when a nursing facility receives a correction order, it must develop and submit a corrective action plan. Specifies what the plan must include. Requires the commissioner to monitor the facility's compliance with the corrective action plan.
- 14 Statement of rights.** Amends § 144A.44, subd. 1. Amends the home care bill of rights, to provide that a person receiving home care services has the right to recommend changes in policies and services free from restraint, interference, coercion, discrimination, or reprisal.
- 15 Arranged home care provider responsibilities; termination of services.** Amends § 144A.442. A new subdivision 2 specifies that an arranged home care provider's responsibilities when voluntarily discontinuing services are governed by section 144A.4791, subd. 10.
- 16 Regulations.** Amends § 144A.45, subd. 1. In a subdivision authorizing the commissioner of health to regulate home care providers, authorizes the commissioner to issue penalties and fines to enforce home care regulations and the home care bill of rights.
- 17 Regulatory functions.** Amends § 144A.45, subd. 2. Adds sections 144A.474 (surveys and investigations) and 144A.475 (enforcement) to the list of sections that authorize the commissioner of health to issue correction orders and assess civil penalties against home care providers.
- 18 Temporary license.** Amends § 144A.473, subd. 2. Requires the commissioner of health to survey temporary home care provider licensees within 90 calendar days after the

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commissioner learns the licensee is providing home care services. Also changes a term, from license year to license period.

- 19 **Types of home care surveys.** Amends § 144A.474, subd. 2. In a subdivision defining home care provider surveys and establishing surveying requirements, defines change in ownership survey, and requires such surveys to be completed within six months after the department's issuance of a new license due to a change in ownership.
- 20 **Correction orders.** Amends § 144A.474, subd. 8. Requires a home care provider that receives a correction order from the commissioner to develop a corrective action plan and submit the plan to the commissioner. Specifies what the plan must include. Requires the commissioner to monitor the provider's compliance with the corrective action plan.
- 21 **Follow-up surveys.** Amends § 144A.474, subd. 9. Provides that if a surveyor of a home care provider identifies a new violation as part of a follow-up survey, the surveyor shall issue a correction order for the new violation and may impose an immediate fine (current law prohibits a surveyor from issuing a fine for a new violation identified in a follow-up survey, unless the new violation is not corrected by the next follow-up survey).
- 22 **Fines.** Amends § 144A.474, subd. 11. In a subdivision on fines that may be imposed on home care providers, clarifies that the commissioner may impose an additional fine for noncompliance with a correction order, and requires the notice of noncompliance to list any additional fines imposed. Also clarifies that the commissioner may issue late payment fines or additional fines for noncompliance with a notice of noncompliance with a correction order, or suspend a license until the license holder pays all outstanding fines, and clarifies procedures for the license holder to notify the commissioner when a violation is corrected.
- 23 **Termination of service plan.** Amends § 144A.4791, subd. 10. In a subdivision governing a home care provider's termination of a client's service plan, adds a reference to another section governing terminations of services by home care providers.
- 24 **Powers.** Amends § 144A.53, subd. 1. Amends a subdivision governing the powers of the director of the Office of Health Facility Complaints, to authorize the director to issue correction orders and assess civil fines for violations of nursing home licensing statutes and rules, home care provider licensing statutes, and hospice and supervised living facility rules. Also authorizes the director to issue correction orders and assess civil fines for violations identified in the appeal or review process.
- 25 **Referral of complaints.** Amends § 144A.43, subd. 4. The amendment to paragraph (a) requires the Office of Health Facility Complaints to forward complaints to law enforcement if those complaints are in the jurisdiction of law enforcement. The amendment to paragraph (c) requires the Office of Health Facility Complaints to refer suspected criminal activity or action warranting disciplinary action by a client or resident to the appropriate authority or agency.
- 26 **Safety and quality improvement technical panel.** Adds subd. 5 to § 144A.53. Directs the Office of Health Facility Complaints to establish a safety and quality improvement technical panel to examine and make recommendations on how to apply safety and quality improvement practices and infrastructure to long-term services and supports. Lists who the technical panel must include, and requires it to periodically provide recommendations to the

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legislature on changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers.

- 27** **Training and operations panel.** Adds subd. 6 to § 144A.53. Directs the Office of Health Facility Complaints to establish a training and operations panel to examine and make recommendations on how to improve office operations. Lists who the panel must include, and lists panel duties:
- developing training processes;
 - developing clear, consistent policies for conducting investigations;
 - developing quality control measures for the intake and triage processes;
 - developing systems and procedures to determine office jurisdiction;
 - developing procedures to audit investigations;
 - developing procedures to communicate appeal or review rights to all parties;
 - upgrading information on the office's Web site; and
 - publishing the public portions of investigation memoranda for the past three years and the public portions of all final orders for licensing violations for the past three years.
- 28** **Scope.** Amends § 144D.01, subd. 1. Makes a technical change to a subdivision specifying the scope of definitions in chapter 144D (a chapter governing housing with services establishments), to make them apply to the entire chapter.
- 29** **Registration required.** Amends § 144D.02. Requires housing with services establishments to comply with all requirements in chapter 144D in order to operate as a housing with services establishment.
- 30** **Contents of contract.** Amends § 144D.04, subd. 2. In a subdivision listing the required content of a housing with services establishment contract, requires the contract to include the physical mailing address of a person authorized to accept service of process; a statement that the resident has the right to request reasonable accommodation; and a statement describing how the contract may be amended.
- 31** **Changes to contract.** Adds subd. 2b to § 144D.04. Requires a housing with services establishment to provide prompt written notice to a resident or legal representative of a new owner, manager, or person authorized to accept service of process.
- 32** **Information required to be posted.** Adds § 144D.044. Requires a housing with services establishment to post a notice with the following, in a public place:
- the name, mailing address, and contact information of the current owners;
 - the name, mailing address, and contact information of the managing agent;
 - the name and contact information of any on-site manager; and
 - the name and mailing address of a person authorized to accept service of process.

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- 33 Termination of services.** Adds § 144D.095. Specifies that a termination of services initiated by an arranged home care provider is governed by section 144A.442.
- 34 Scope; other definitions.** Clarifies that the definitions in chapter 144G (a chapter governing assisted living) and the definitions in chapter 144D (a chapter governing housing with services establishments) apply to all of chapter 144G.
- 35 Termination of lease.** Adds § 144G.07. Specifies that a lease termination initiated by a housing with services establishment that uses the term assisted living, is governed by section 144D.09.
- 36 Termination of services.** Add § 144G.08. Specifies that a termination of services initiated by an arranged home care provider is governed by section 144A.442.
- 37 State agency hearings.** Amends § 256.045, subd. 3. Modifies a subdivision governing who may seek a hearing from a human services judge, to allow a vulnerable adult who is the subject of a maltreatment investigation or the vulnerable adult's guardian or health care agent to request a hearing, after administrative reconsideration under section 626.557, subd. 9d has been exercised.
- 38 Conduct of hearings.** Amends § 256.045, subd. 4. In the state agency hearing process, requires notice of a hearing involving a vulnerable adult to be provided to the facility or individual who allegedly maltreated the vulnerable adult. Provides that the alleged perpetrator must be told of the right to file a signed written statement, and may be called as a witness. Provides that the human services judge does not have to send a hearing notice to the alleged perpetrator if the judge cannot determine the alleged perpetrator's address.
- 39 Senior citizens, vulnerable adults, and persons with disabilities; additional civil penalty for deceptive acts.** Amends § 325F.71.
- Subd. 1. Definitions.** Changes a term defined, from disabled person to person with a disability; and defines vulnerable adult.
- Subd. 2. Supplemental civil penalty.** Expands the supplemental civil penalty that applies to deceptive trade practices, false advertising, or consumer fraud committed against a senior citizen or a person with a disability, to also apply to those acts if committed against a vulnerable adult.
- 40 Vulnerable adults.** Amends § 609.2231, subd. 8. Amends the crime of fourth degree assault against a vulnerable adult, to eliminate the requirement that demonstrable bodily harm must have been inflicted on the vulnerable adult.
- 41 Timing of report.** Amends § 626.557, subd. 3. Modifies the timeframe within which a mandated reporter must report maltreatment of a vulnerable adult to the common entry point, from immediately as in current law, to as soon as possible but in no event longer than 24 hours.
- 42 Reporting.** Amends § 626.557, subd. 4. In a subdivision establishing requirements for reporting to the common entry point, requires the common entry point to provide a method for a reporter to electronically submit evidence to support the maltreatment report. Also requires all reports to be submitted to the common entry point, including reports from federally licensed facilities, vulnerable adults, and interested persons.

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- 43 Common entry point designation.** Amends § 626.557, subd. 9. The new language in paragraph (b) regarding training of common entry point staff is moved from another paragraph. The new language in paragraphs (f) and (g) require the common entry point to cross-reference multiple complaints to the lead investigative agency concerning the same alleged perpetrator, facility, licensee, vulnerable adult, or incident.
- 44 Evaluation and referral of reports made to common entry point.** Amends § 626.557, subd. 9a. Requires the common entry point to notify the appropriate law enforcement agency about a report that indicates an immediate need for response by law enforcement, including the urgent need to secure a crime scene, interview witnesses, remove the alleged perpetrator, or safeguard a vulnerable adult's property.
- 45 Response to reports.** Amends § 626.557, subd. 9b. Requires a law enforcement agency to obtain the results of any investigation conducted by a lead investigative agency, to determine if criminal action is warranted.
- 46 Lead investigative agency; notifications, dispositions, determinations.** Amends § 626.557, subd. 9c. A new paragraph (b) lists information the lead investigative agency must provide to the vulnerable adult or a guardian or health care agent, within five days after receiving the maltreatment report. A new paragraph (c) permits the lead investigative agency to assign multiple maltreatment reports for the same incident, or multiple reports related to the same vulnerable adult, to the same investigator if appropriate. New language in paragraph (h) requires the lead investigative agency to provide a copy of the public investigative memorandum to law enforcement and the county attorney as appropriate. In paragraph (j), a reference to the hearing process with a human services judge replaces the vulnerable adult maltreatment review panel, which is being repealed.
- 47 Administrative reconsideration; review panel.** Amends § 626.557, subd. 9d. Strikes a reference to the vulnerable adult maltreatment review panel, which is being repealed.
- 48 Investigations; guidelines.** Amends § 626.557, subd. 10b. A new paragraph (b) requires the lead investigator to contact the alleged victim or the alleged victim's guardian or health care agent within five days after initiating an investigation, and to communicate approximately every three weeks thereafter throughout the course of the investigation.
- 49 Data management.** Amends § 626.557, subd. 12b. Modifies data classifications for data maintained by the common entry point. Allows investigation data to be shared with the vulnerable adult or a guardian or health care agent if the commissioner of health and commissioner of human services determine such data sharing is necessary to protect the vulnerable adult. Directs the commissioner of health and commissioner of human services, on a biennial basis, to provide recommendations on preventing, addressing, and responding to substantiated maltreatment (current law requires such recommendations only if there are upward trends for types of substantiated maltreatment). Allows a lead investigative agency to share common entry point or investigative data and notify other affected parties, if the lead investigative agency believes such information sharing or notice is necessary to safeguard the wellbeing of affected parties or dispel rumors or unrest. Strikes a reference to the maltreatment review panel, which is being repealed.

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- 50 Abuse prevention plans.** Amends § 626.557, subd. 14. Requires the commissioner of health to issue a correction order, and allows imposition of an immediate fine, if the commissioner finds that a facility failed to establish and enforce an abuse prevention plan.
- 51 Retaliation prohibited.** Amends § 626.557, subd. 17. In a subdivision prohibiting retaliation against a person who reports suspected maltreatment or against a vulnerable adult who is a subject of a report, provides that any restriction of a right specified in the Home Care Bill of Rights or in the Assisted Living Addendum by a facility or provider against the reporter or vulnerable adult within 90 days after the report, is an adverse action and presumed to be retaliatory conduct.
- 52 Facility.** Amends § 626.5572, subd. 6. Amends the definition of facility that applies to section 626.557, to include housing with services establishments and entities using assisted living title protection.
- 53 Report; safety and quality improvement practices.** By January 15, 2019, requires the safety and quality improvement technical panel to provide recommendations to the legislature on:
- implementing an adverse health events reporting system for long-term care settings; and
 - interim actions for analysis of reports and complaints submitted to the Office of Health Facility Complaints, to identify common themes and key prevention opportunities.
- 54 Reports; Office of Health Facility Complaints' response to vulnerable adult maltreatment allegations.** On a quarterly basis until January 2021, and annually thereafter, requires the commissioner of health to post on the Web site of the Office of Health Facility Complaints, a report on the office's response to allegations of maltreatment of vulnerable adults. Lists what the report must include. Requires the commissioner to maintain reports for at least the past three years on the Web site.
- 55 Assisted living and dementia care licensing working group.** Establishes an assisted living and dementia care licensing working group within the Department of Health.
- Subd. 1. Establishment; membership.** Establishes the working group and lists membership. Requires appointments to be made by July 1, 2018.
- Subd. 2. Duties; recommendations.** Requires the working group to consider and make recommendations on a new regulatory framework for assisted living and dementia care, and lists items the framework must address. Provides that facilities and providers licensed by the commissioner of human services are exempt from assisted living licensing requirements recommended by this group.
- Subd. 3. Meetings.** Establishes requirements for the first meeting and electing a chair. Provides that meetings are open to the public.
- Subd. 4. Compensation.** Provides that public members of the working group shall serve without compensation or reimbursement for expenses.
- Subd. 5. Administrative support.** Requires the commissioner of health to provide administrative support to the working group.

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Subd. 6. Report. By January 15, 2019, requires the working group to submit a report, recommendations, and draft legislation to health and human services policy and finance committees in the legislature.

Subd. 7. Expiration. Makes the working group expire January 16, 2019, or the day after it submits its report, whichever is earlier.

56 Dementia care certification working group. Establishes a dementia care certification working group within the Department of Health.

Subd. 1. Establishment; membership. Establishes the working group and lists membership. Requires appointments to be made by July 1, 2018.

Subd. 2. Duties; recommendations. Requires the working group to consider and make recommendations on the certification of providers offering dementia care to clients diagnosed with dementias, and lists items the working group must address.

Subd. 3. Meetings. Establishes requirements for the first meeting and electing a chair. Provides that meetings are open to the public.

Subd. 4. Compensation. Provides that public members of the working group shall serve without compensation or reimbursement for expenses.

Subd. 5. Administrative support. Requires the commissioner of health to provide administrative support to the working group.

Subd. 6. Report. By January 15, 2019, requires the working group to submit a report, recommendations, and draft legislation to health and human services policy and finance committees in the legislature.

Subd. 7. Expiration. Makes the working group expire January 16, 2019, or the day after it submits its report, whichever is earlier.

57 Assisted living report card working group. Establishes an assisted living report card working group within the Department of Human Services.

Subd. 1. Establishment; membership. Establishes the working group and lists membership. Requires appointments to be made by July 1, 2018.

Subd. 2. Duties. Requires the working group to consider and make recommendations on the development of an assisted living report card, and lists quality metrics that must be considered.

Subd. 3. Meetings. Establishes requirements for the first meeting and electing a chair. Provides that meetings are open to the public.

Subd. 4. Compensation. Provides that members of the working group shall serve without compensation or reimbursement for expenses.

Subd. 5. Administrative support. Requires the commissioner of human services provide administrative support to the working group.

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Subd. 6. Report. By January 15, 2019, requires the working group to submit a report, recommendations, and draft legislation to the health and human services policy and finance committees in the legislature.

Subd. 7. Expiration. Makes the working group expire January 16, 2019, or the day after it submits its report, whichever is later.

- 58** **Direction to the commissioner of health; progress in implementing recommendations of legislative auditor.** By March 1, 2019, requires the commissioner of health to submit a report to legislative committees regarding the commissioner's progress toward implementing the changes to the Office of Health Facility Complaints with which the commissioner agreed in a March 1, 2018, letter to the OLA.
- 59** **Direction to the commissioner of health; posting substantiated maltreatment reports.** Requires the commissioner of health to post every substantiated maltreatment report on the OHFC Web site.
- 60** **Direction to the commissioner of health; provider education.** Requires the commissioner of health to develop decision-making tools regarding provider self-reported maltreatment allegations, to share these tools with providers, and to update these tools as needed. Also requires the commissioner to conduct rigorous trend analyses of maltreatment reports, triage decisions, investigation determinations, enforcement actions, and appeals, to identify trends and patterns. Requires sharing of these findings with providers and stakeholders.
- 61** **Repealer.** Repeals the vulnerable adult maltreatment review panel; instead, vulnerable adults who were subject to maltreatment may use the state agency hearing process under section 256.045.