

Subject Assisted living facilities; electronic monitoring; home care and assisted living program advisory council

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Overview

This bill modifies a requirement for electronic monitoring of residents of certain long-term care settings; modifies the membership and duties of the home care and assisted living program advisory council; and makes a range of changes to statutes governing licensure of assisted living facilities.

Summary

Section	Description
1	<p>Electronic monitoring.</p> <p>Amends § 144.6502, subd. 1. Amends the definition of electronic monitoring for a section governing electronic monitoring in certain long-term care settings, to remove the requirement that the electronic monitoring device must be placed by the resident in the resident's room or private living unit.</p>
2	<p>Membership.</p> <p>Amend § 144A.4799, subd. 1. Increases the membership of the home care and assisted living program advisory council from eight to 12 people, and adds as members two assisted living facility licensees; one member representing long-term care providers, home care providers, and assisted living providers; and two public members, one who lives or has lived in an assisted living facility and one with a family member who lives or has lived in an assisted living facility.</p>
3	<p>Duties.</p> <p>Amends § 144A.4799, subd. 3. Modifies duties of the home care and assisted living program advisory council to require the advisory council to provide advice regarding the regulation of licensed assisted living facilities. Also makes technical changes.</p>

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4	Serious injury. Adds subd. 62a to § 144G.08. Adds a definition of serious injury to the chapter governing licensure of assisted living facilities.
5	Consideration of applications. Amends § 144G.15. Specifies that the commissioner must consider an applicant's compliance history in providing care in Minnesota or any other state, before issuing a provisional license or license or renewing a license. Allows the commissioner to take an action against an assisted living facility license if an owner, controlling individual, managerial official, or assisted living director has a history of noncompliance with laws that was detrimental to the health, welfare, or safety of a resident or client.
6	License renewal. Amends § 144G.17. As a condition of renewing a license, requires a licensee to provide information showing that the licensee provided assisted living services to at least one resident in the preceding license year at the assisted living facility listed on the license.
7	Change of licensee. Adds subd. 4 to § 144G.19. Provides that a change in licensee does not require a facility to meet the design, Life Safety Code, and plan requirements for assisted living facilities that apply to new licenses, new construction, modifications, renovations, alterations, changes of use, or additions.
8	Conditions. Amends § 144G.20, subd. 1. Authorizes the commissioner to take certain licensing actions if an owner, controlling individual, or employee of an assisted living facility interferes with or impedes access to clients by the Office of Ombudsman for Mental Health and Developmental Disabilities.
9	Mandatory revocation. Amends § 144G.20, subd. 4. If the commissioner revokes an assisted living facility license because a controlling individual is convicted of certain crimes related to facility operations or resident safety or care, requires the commissioner to notify the Office of Ombudsman for Mental Health and Developmental Disabilities 30 days before the revocation.
10	Owners and managerial officials; refusal to grant license. Amends § 144G.20, subd. 5. Provides that a prohibition on granting an assisted living facility license to an owner or managerial official whose facility license has been

Section	Description
	revoked because of noncompliance with applicable laws and rules, applies to individuals whose license was revoked in Minnesota or any other state.
11	Controlling individual restrictions. Amends § 144G.20, subd. 8. Expands the commissioner’s authority to bar a controlling individual of an assisted living facility if the person was a controlling individual of another provider or setting and incurred certain violations or was convicted of certain crimes, to include being a controlling individual of a home care provider or being given status as an enrolled PCA provider agency or PCA.
12	Exception to controlling individual restrictions. Amends § 144G.20, subd. 9. Extends an exception from being barred as a controlling individual, to provide that the controlling individual restrictions do not apply to a controlling individual of an assisted living facility if the individual lacked legal authority to change decisions related to the operation of the home care that incurred violations. (Under current law this exception applies to controlling individuals of a nursing home or assisted living facility.)
13	Notice to residents. Amends § 144G.20, subd. 12. Requires the controlling individual to notify the Office of Ombudsman for Mental Health and Developmental Disabilities, in addition to the other individuals, if the commissioner takes action to revoke or suspend an assisted living facility license. Also requires the Office of Ombudsman for Mental Health and Developmental Disabilities to be provided with monthly information on the department’s actions and the status of proceedings.
14	Plan required. Amends § 144G.20, subd. 15. Adds the Office of Ombudsman for Mental Health and Developmental Disabilities to the list of individuals who must be provided with certain information by an assisted living facility if the facility’s license is revoked, not renewed, or suspended. Requires the assisted living facility to cooperate with the Office of Ombudsman for Mental Health and Developmental Disabilities, in addition to other individuals, during the transfer of residents to other facilities and providers.
15	Correction orders. Amends § 144G.30, subd. 5. Allows a correction order to be issued when the commissioner finds that an agent of the facility, in addition to other individuals, is not in compliance with the chapter governing assisted living facilities.
16	Fine amounts. Amends § 144G.31, subd. 4. Modifies how fines for violations of assisted living provisions are calculated, to require a Level 3 violation to correspond to a fine of

Section	Description
	\$3,000 per violation, rather than per violation per incident; and to require a Level 4 violation to correspond to a fine of \$4,000 per violation, rather than per incident.
17	Deposit of fines. Amends § 144G.31, subd. 8. Changes the purpose for which fines collected for violations of assisted living statutes may be spent, to require them to be spent to improve resident quality of care and outcomes in assisted living facilities, rather than being spent for special projects to improve home care as in current law. Provides this section is effective retroactively for fines collected on or after August 1, 2021.
18	Resident grievances; reporting maltreatment. Amends § 144G.41, subd. 7. Removes a requirement that an assisted living facility must include contact information for both state and applicable regional offices of the Office of Ombudsman for Long-Term Care and Office of Ombudsman for Mental Health and Developmental Disabilities, as part of information that must be posted regarding resident grievance procedures. Also requires the notice to include information about contacting the Office of Health Facility Complaints.
19	Protecting resident rights. Amends § 144G.41, subd. 8. Strikes a requirement that both state and regional contact information for the ombudsman offices must be provided by assisted living facilities to residents, and specifies that one of the advocacy or legal services organizations for which an assisted living facility must provide names and contact information to residents must be the designated protection and advocacy organization that provides advice and representation to individuals with disabilities.
20	Disaster planning and emergency preparedness plan. Amends § 144G.42, subd. 10. Makes a technical change.
21	Contract information. Amends § 144G.50, subd. 2. Modifies information that must be included in an assisted living contract, to require delineation of the grounds under which residents may be transferred, have housing terminated, or be subject to emergency relocation.
22	Prerequisite to termination of a contract. Amends § 144G.52, subd. 2. Requires a facility to notify a resident whose assisted living contract may be terminated that the resident may invite a representative of the Office of Ombudsman for Mental Health and Developmental Disabilities, in addition to the other listed individuals, to a meeting that must be held before an assisted living facility may issue a notice of termination of an assisted living contract.

Section	Description
	In emergency relocations when an in-person meeting is not possible, requires the facility to hold the meeting via telephone, video, or other electronic means (current law permits the facility to attempt to schedule and participate in the meeting by these means).
23	Content of notice of termination. Amends § 144G.52, subd. 8. Requires a notice of termination of an assisted living contract to include information on how to contact the Office of Ombudsman for Mental Health and Developmental Disabilities.
24	Emergency relocation. Amends § 144G.52, subd. 9. Requires a notice provided to assisted living facility residents in the event of an emergency relocation to include contact information for the Office of Ombudsman for Mental Health and Developmental Disabilities.
25	Nonrenewal of housing. Amends § 144G.53. Requires a notice provided to assisted living facility residents in the event of nonrenewal of housing to include contact information for the Office of Ombudsman for Mental Health and Developmental Disabilities.
26	Duties of facility. Amends § 144G.55, subd. 1. Requires an assisted living facility to ensure a resident's coordinated move to a safe location and service provider if a facility reduces services to the extent that the resident needs to obtain a new service provider or if the facility has its license restricted. Requires a notice provided to assisted living facility residents in the event of a reduction or elimination of services to include contact information for the Office of Ombudsman for Mental Health and Developmental Disabilities.
27	Relocation plan required. Amends § 144G.55, subd. 3. Requires an assisted living facility to prepare a relocation plan for a resident's move to an appropriate service provider.
28	Notice required. Amends § 144G.56, subd. 3. Requires a notice provided to assisted living facility residents in the event of a facility-initiated transfer to include contact information for the Office of Ombudsman for Mental Health and Developmental Disabilities.
29	Change in facility operations. Amends § 144G.56, subd. 5. Requires the Office of Ombudsman for Mental Health and Developmental Disabilities to be notified in all cases of curtailment, reduction, or

Section	Description
	capital improvements in an assisted living facility that require residents to be transferred, instead of being notified when appropriate as in current law.
30	Closure plan required. Amends § 144G.57, subd. 1. Requires a notice provided to certain individual in the event an assisted living facility elects to voluntarily close the facility, to also be provided to the Office of Ombudsman for Mental Health and Developmental Disabilities.
31	Commissioner’s approval required prior to implementation. Amends § 144G.57, subd. 3. Requires the commissioner to approve or respond to an assisted living facility’s closure plan within 14 days, rather than as soon as practicable as in current law. Permits the commissioner to require the facility to work with the Office of Ombudsman for Mental Health and Developmental Disabilities, in addition to other listed individuals, to assist in resident relocation.
32	Notice to residents. Amends § 144G.57, subd. 5. Requires a notice of assisted living facility closure provided to facility residents to include the contact information for the ombudsman for mental health and developmental disabilities.
33	Initial reviews, assessments, and monitoring. Amends § 144G.70, subd. 2. Makes a technical change.
34	Service plan, implementation, and revisions to service plan. Amends § 144G.70, subd. 4. Requires an assisted living facility, when providing residents with information about changes to facility fees for services, to also provide information on how to contact the Office of Ombudsman for Mental Health and Developmental Disabilities.
35	Demonstrated capacity. Amends § 144G.80, subd. 2. Modifies the criteria the commissioner must consider when evaluating an application for licensure as an assisted living facility with dementia care, to specify that the commissioner must consider the experience of the applicant’s assisted living director, managerial official, and clinical nurse supervisor in managing residents with dementia or their previous long-term care experience.
36	Assisted living bill of rights; notice to residents. Amends § 144G.90, subd. 1. Makes a technical change to a required notice to assisted living facility residents.

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37	<p>Personal and treatment privacy.</p> <p>Amends § 144G.91, subd. 13. Removes language from the assisted living bill of rights providing that assisted living facility staff are not required to knock and seek consent to enter a resident’s space where knocking and seeking consent are clearly inadvisable.</p>
38	<p>Access to counsel and advocacy services.</p> <p>Amends § 144G.91, subd. 21. Provides that assisted living facility residents have the right to access to representatives of the Office of Ombudsman for Mental Health and Developmental Disabilities.</p>
39	<p>Restraints.</p> <p>Adds subd. 27 to § 144G.91. States in the assisted living bill of rights that assisted living facility residents must be free from physical or chemical restraints used for discipline or convenience.</p>
40	<p>Retaliation prohibited.</p> <p>Amends § 144G.92, subd. 1. Prohibits an assisted living facility from retaliating against a resident for seeking assistance from or reporting a crime to the Office of Ombudsman for Mental Health and Developmental Disabilities.</p>
41	<p>Consumer advocacy and legal services.</p> <p>Amends § 144G.93. Adds the Office of Ombudsman for Mental Health and Developmental Disabilities to the list of organizations which an assisted living facility must provide residents with the names and contact information for, upon execution of an assisted living contract.</p>
42	<p>Office of Ombudsman for Long-Term Care and Office of Ombudsman for Mental Health and Developmental Disabilities.</p> <p>Amends § 144G.95. Provides that the Office of Ombudsman for Mental Health and Developmental Disabilities and its representatives are immune from liability for performing duties specified in law, and adds a cross-reference to the section classifying data collected or received by the Office of Ombudsman for Mental Health and Developmental Disabilities.</p>



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