

1.1 moves to amend H.F. No. 3308 as follows:

1.2 Page 2, after line 5, insert:

1.3 "Sec. 2. Minnesota Statutes 2017 Supplement, section 144A.10, subdivision 4, is amended
1.4 to read:

1.5 Subd. 4. **Correction orders.** Whenever a duly authorized representative of the
1.6 commissioner of health finds upon inspection of a nursing home, that the facility or a
1.7 controlling person or an employee of the facility is not in compliance with sections 144.411
1.8 to 144.417, 144.651, 144.6503, 144A.01 to 144A.155, or 626.557 or the rules promulgated
1.9 thereunder, a correction order shall be issued to the facility. The correction order shall state
1.10 the deficiency, cite the specific rule or statute violated, state the suggested method of
1.11 correction, and ~~specify~~ recommend the time allowed for correction. Upon receipt of a
1.12 correction order, a facility shall develop and submit to the commissioner a corrective action
1.13 plan based on the correction order. The corrective action plan must specify the steps the
1.14 facility will take to correct the violation and to prevent such violations in the future, how
1.15 the facility will monitor its compliance with the corrective action plan, and when the facility
1.16 plans to complete the steps in the corrective action plan. The commissioner is presumed to
1.17 accept a corrective action plan unless the commissioner notifies the submitting facility that
1.18 the plan is not accepted within 15 calendar days after the plan is submitted to the
1.19 commissioner. The commissioner shall monitor the facility's compliance with the corrective
1.20 action plan. If the commissioner finds that the nursing home had uncorrected or repeated
1.21 violations which create a risk to resident care, safety, or rights, the commissioner shall notify
1.22 the commissioner of human services."

1.23 Page 4, lines 11 and 12, delete the new language

2.1 Page 6, after line 19, insert:

2.2 "Sec. Minnesota Statutes 2016, section 144A.474, subdivision 8, is amended to read:

2.3 Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the
2.4 commissioner finds upon survey or during a complaint investigation that a home care
2.5 provider, a managerial official, or an employee of the provider is not in compliance with
2.6 sections 144A.43 to 144A.482. The correction order shall cite the specific statute and
2.7 document areas of noncompliance and the time allowed for correction.

2.8 (b) The commissioner shall mail copies of any correction order to the last known address
2.9 of the home care provider, or electronically scan the correction order and e-mail it to the
2.10 last known home care provider e-mail address, within 30 calendar days after the survey exit
2.11 date. A copy of each correction order and copies of any documentation supplied to the
2.12 commissioner shall be kept on file by the home care provider, and public documents shall
2.13 be made available for viewing by any person upon request. Copies may be kept electronically.

2.14 (c) By the correction order date, the home care provider must ~~document in the provider's~~
2.15 ~~records any action taken to comply with the correction order. The commissioner may request~~
2.16 ~~a copy of this documentation and the home care provider's action to respond to the correction~~
2.17 ~~order in future surveys, upon a complaint investigation, and as otherwise needed~~ develop
2.18 and submit to the commissioner a corrective action plan based on the correction order. The
2.19 corrective action plan must specify the steps the provider will take to comply with the
2.20 correction order and how to prevent noncompliance in the future, how the provider will
2.21 monitor its compliance with the corrective action plan, and when the provider plans to
2.22 complete the steps in the corrective action plan. The commissioner is presumed to accept
2.23 a corrective action plan unless the commissioner notifies the submitting home care provider
2.24 that the plan is not accepted within 15 calendar days after the plan is submitted to the
2.25 commissioner. The commissioner shall monitor the provider's compliance with the corrective
2.26 action plan.

2.27 Sec. Minnesota Statutes 2016, section 144A.53, subdivision 1, is amended to read:

2.28 Subdivision 1. **Powers.** The director may:

2.29 (a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in
2.30 subdivision 2, the methods by which complaints against health facilities, health care
2.31 providers, home care providers, or residential care homes, or administrative agencies are
2.32 to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not
2.33 be charged for filing a complaint.

3.1 (b) Recommend legislation and changes in rules to the state commissioner of health,
3.2 governor, administrative agencies or the federal government.

3.3 (c) Investigate, upon a complaint or upon initiative of the director, any action or failure
3.4 to act by a health care provider, home care provider, residential care home, or a health
3.5 facility.

3.6 (d) Request and receive access to relevant information, records, incident reports, or
3.7 documents in the possession of an administrative agency, a health care provider, a home
3.8 care provider, a residential care home, or a health facility, and issue investigative subpoenas
3.9 to individuals and facilities for oral information and written information, including privileged
3.10 information which the director deems necessary for the discharge of responsibilities. For
3.11 purposes of investigation and securing information to determine violations, the director
3.12 need not present a release, waiver, or consent of an individual. The identities of patients or
3.13 residents must be kept private as defined by section 13.02, subdivision 12.

3.14 (e) Enter and inspect, at any time, a health facility or residential care home and be
3.15 permitted to interview staff; provided that the director shall not unduly interfere with or
3.16 disturb the provision of care and services within the facility or home or the activities of a
3.17 patient or resident unless the patient or resident consents.

3.18 (f) Issue correction orders and assess civil fines for all licensing violations or maltreatment
3.19 determinations, including licensing violations or maltreatment determinations identified in
3.20 the appeals or review process following final disposition of a maltreatment report or issuance
3.21 of a citation for a licensing violation. Correction orders shall be issued and civil penalties
3.22 shall be assessed pursuant to section 144.653 or any other law which provides for the issuance
3.23 of correction orders to health facilities or home care provider, or under section 144A.45. A
3.24 facility's or home's refusal to cooperate in providing lawfully requested information may
3.25 also be grounds for a correction order.

3.26 (g) Recommend the certification or decertification of health facilities pursuant to Title
3.27 XVIII or XIX of the United States Social Security Act.

3.28 (h) Assist patients or residents of health facilities or residential care homes in the
3.29 enforcement of their rights under Minnesota law.

3.30 (i) Work with administrative agencies, health facilities, home care providers, residential
3.31 care homes, and health care providers and organizations representing consumers on programs
3.32 designed to provide information about health facilities to the public and to health facility
3.33 residents."

4.1 Page 6, after line 33, insert:

4.2 "Sec. Minnesota Statutes 2016, section 144A.53, is amended by adding a subdivision
4.3 to read:

4.4 Subd. 6. **Training and operations panel.** (a) The director shall establish a training and
4.5 operations panel within the Office of Health Facility Complaints to examine and make
4.6 recommendations, on an ongoing basis, on continual improvements to the operation of the
4.7 office. The training and operations panel shall be composed of office staff, including
4.8 investigators and intake and triage staff; one or more representatives of the commissioner's
4.9 office; and employees from any other divisions in the Department of Health with relevant
4.10 knowledge or expertise. The training and operations panel may also consult with employees
4.11 from other agencies in state government with relevant knowledge or expertise.

4.12 (b) The training and operations panel shall examine and make recommendations to the
4.13 director and the commissioner regarding introducing or refining office systems, procedures,
4.14 and staff training in order to improve office and staff efficiency; enhance communications
4.15 between the office, health care facilities, home care providers, and residents or clients; and
4.16 provide for appropriate, effective protection for vulnerable adults through rigorous
4.17 investigations and enforcement of laws. Panel duties include but are not limited to:

4.18 (1) developing the office's training processes to adequately prepare and support
4.19 investigators in performing their duties;

4.20 (2) developing clear, consistent internal policies for conducting investigations as required
4.21 by federal law, including policies to ensure staff meet the deadlines in state and federal laws
4.22 for triaging, investigating, and making final dispositions of cases involving maltreatment,
4.23 and procedures for notifying the vulnerable adult, reporter, and facility of any delays in
4.24 investigations; communicating these policies to staff in a clear, timely manner; and
4.25 developing procedures to evaluate and modify these internal policies on an ongoing basis;

4.26 (3) developing and refining quality control measures for the intake and triage processes,
4.27 through such practices as reviewing a random sample of the triage decisions made in case
4.28 reports or auditing a random sample of the case files to ensure the proper information is
4.29 being collected, the files are being properly maintained, and consistent triage and
4.30 investigations determinations are being made;

4.31 (4) developing and maintaining systems and procedures to accurately determine the
4.32 situations in which the office has jurisdiction over a maltreatment allegation;

5.1 (5) developing and maintaining audit procedures for investigations, to ensure investigators
5.2 obtain and document information necessary to support decisions;

5.3 (6) developing and maintaining procedures to, following a maltreatment determination,
5.4 clearly communicate the appeal or review rights of all parties, upon final disposition;

5.5 (7) continuously upgrading the information on and utility of the office's Web site through
5.6 such steps as providing clear, detailed information about the appeal or review rights of
5.7 vulnerable adults, alleged perpetrators, and providers and facilities; and

5.8 (8) publishing, in coordination with other areas at the Department of Health and in the
5.9 manner that does not duplicate information already published by the Department of Health,
5.10 the public portions of all investigation memoranda prepared by the commissioner of health
5.11 in the past three years under section 626.557, subdivision 12b, and the public portions of
5.12 all final orders in the past three years related to licensing violations under this chapter. These
5.13 memoranda and orders must be published in a manner that allows consumers to search
5.14 memoranda and orders by facility or provider name and by the physical location of the
5.15 facility or provider.

5.16 Sec. Minnesota Statutes 2016, section 626.557, subdivision 5, is amended to read:

5.17 Subd. 5. **Immunity; protection for reporters.** (a) A person who makes a good faith
5.18 report is immune from any civil or criminal liability that might otherwise result from making
5.19 the report, or from participating in the investigation, or for failure to comply fully with the
5.20 reporting obligation under section 609.234 or 626.557, subdivision 7.

5.21 (b) A person employed by a lead investigative agency or a state licensing agency who
5.22 is conducting or supervising an investigation or enforcing the law in compliance with this
5.23 section or any related rule or provision of law is immune from any civil or criminal liability
5.24 that might otherwise result from the person's actions, if the person is acting in good faith
5.25 and exercising due care.

5.26 (c) A person who knows or has reason to know a report has been made to a common
5.27 entry point and who in good faith participates in an investigation of alleged maltreatment
5.28 is immune from civil or criminal liability that otherwise might result from making the report,
5.29 or from failure to comply with the reporting obligation or from participating in the
5.30 investigation.

5.31 (d) The identity of any reporter may not be disclosed, except as provided in ~~subdivision~~
5.32 subdivisions 9c and 12b.

6.1 (e) For purposes of this subdivision, "person" includes a natural person or any form of
6.2 a business or legal entity."

6.3 Page 7, line 6, after the period insert "If a vulnerable adult who is the subject of the
6.4 report, or the vulnerable adult's guardian or health care agent, so inquires, the lead
6.5 investigative agency shall disclose to the person who inquired whether the lead investigative
6.6 agency has received a report from a facility regarding maltreatment of the vulnerable adult."

6.7 Page 15, after line 4, insert:

6.8 "Sec. **REPORT; PROGRESS IN MEETING INVESTIGATION DEADLINES.**

6.9 By September 15, 2018, March 15, 2019, and September 15, 2019, the commissioner
6.10 of health shall report to chairs and ranking minority members of the legislative committees
6.11 with jurisdiction over health care or aging and long-term care, regarding steps taken by the
6.12 commissioner to improve compliance of the Office of Health Facility Complaints with
6.13 deadlines in state and federal law for triaging, investigating, and making final dispositions
6.14 of cases alleging maltreatment of vulnerable adults. In the reports under this section, the
6.15 commissioner must provide data on the office's compliance with deadlines in state and
6.16 federal law, and a plan to improve timeliness in any areas in which it is noncompliant.

6.17 Sec. **REPORT AND RECOMMENDATIONS; IMMEDIATE PENALTIES FOR**
6.18 **SERIOUS VIOLATIONS OF STATE LAW.**

6.19 The commissioner of health shall develop a proposal and draft legislation to allow the
6.20 commissioner to impose immediate penalties on long-term care facilities and providers for
6.21 serious violations of state law. The proposal and draft legislation must determine what
6.22 actions constitute a serious violation of state law and specify appropriate penalties for each
6.23 category of serious violation. The commissioner shall develop this proposal in consultation
6.24 with representatives of long-term care facilities, representatives of home care providers,
6.25 and elder justice advocates. The proposal and draft legislation must be submitted to the
6.26 chairs and ranking minority members of the legislative committees with jurisdiction over
6.27 health care or aging and long-term care by January 15, 2019."

6.28 Renumber the sections in sequence and correct the internal references

6.29 Amend the title accordingly