

Chapter 60

2019 Regular Session

Subject Assisted living licensure; consumer protections; dementia care standards

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Date June 14, 2019

Overview

This bill provides for licensure of assisted living facilities and assisted living facilities with dementia care; establishes additional requirements for assisted living facilities with dementia care; establishes resident rights and consumer protections for residents of assisted living facilities, nursing facilities, and housing with services establishments; makes conforming changes to other statutes related to the licensure of assisted living facilities; and appropriates money.

Article 1: Assisted Living Licensure

This article establishes a framework for licensure by the commissioner of health of facilities that provide assisted living services. Effective August 1, 2021, a facility that provides assisted living services must be licensed. There are two categories of licensure:

- assisted living facility, which provides housing and offers or provides assisted living services; and
- assisted living facility with dementia care, which provides housing and offers or provides dementia care services along with assisted living services, and which may have a secure dementia unit.

This article establishes requirements and procedures for licensure and licensure renewal; provides for denial, suspension, and revocation of licenses, injunctive relief, and fines and correction orders; requires surveys and inspections; establishes licensure fees; prohibits transfers of licenses; requires background studies; establishes requirements for facility business operations; requires resident evaluations and assessments; provides for staff supervision, support, and training, including dementia care training; establishes medication management and treatment and therapy management requirements; provides for recordkeeping and notices, information, and complaints; establishes physical plant requirements; permits innovation variances; establishes an advisory group; and authorizes rulemaking.

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| 1 | License, permit, and survey fees.
Amends § 144.122. Establishes licensing fees for assisted living facilities and assisted living facilities with dementia care, as follows: |
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- for assisted living facilities with dementia care, \$3,000 plus \$100 per resident; and
- for assisted living facilities, \$2,000 plus \$75 per resident.

Permits the commissioner to adjust the fees assessed on assisted living facilities and assisted living facilities with dementia care under paragraph (d) in a revenue-neutral manner to allow facilities with more than 50 percent of its capacity filled with clients receiving waiver services to pay fees up to ten percent lower than the listed fees, and to require facilities with less than 50 percent of its capacity filled with clients receiving waiver services to pay fees up to ten percent higher than the listed fees. Allows the commissioner to adjust these percentages annually and requires the commissioner to coordinate the administration of this paragraph with the commissioner of human services.

2 Definitions.

Adds § 1441.01. Defines terms for this chapter.

Subd. 7. Assisted living facility. Defines assisted living facility as a licensed facility that provides sleeping accommodations to one or more adults and provides assisted living services.

Subd. 8. Assisted living facility with dementia care. Defines assisted living facility with dementia care as a licensed assisted living facility that also provides specialized care for individuals with dementia and that may have a secured dementia care unit.

Subd. 9. Assisted living services. Lists services that constitute assisted living services.

Subd. 17. Dementia care services. Defines dementia care services as ongoing care for behavioral and psychological symptoms of dementia, including planned group and individual programming and person-centered care practices that support activities of daily living for people living with dementia.

3 Assisted living facility license.

Adds § 1441.02. Requires licensure of assisted living facilities, and establishes penalties for operating without a license.

Subd. 1. License required. Beginning August 1, 2021, prohibits operation of an assisted living facility unless it is licensed under this chapter.

Subd. 2. Licensure categories. Establishes two licensure categories: an assisted living facility category for assisted living facilities that only provide assisted living services; and an assisted living facility with dementia care category for assisted living facilities that provide assisted living services and dementia care services.

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Subd. 3. Licensure under other law. Provides that assisted living facilities licensed under this chapter are not also required to be licensed under chapter 157.

Subd. 4. Violations; penalty. Makes operating a facility without a license a misdemeanor, and also allows the commissioner to impose a fine. Also makes a controlling individual of a facility operating without a license guilty of a misdemeanor. Provides that sanctions in this section do not restrict other available sanctions.

4 **Provisional license.**

Adds § 1441.03. Establishes requirements for provisional licenses for assisted living facilities.

Subd. 1. Provisional license. Beginning August 1, 2021, for new assisted living facility license applicants, requires the commissioner to issue a provisional license from one of the established licensure categories, and makes provisional licenses valid for one year unless extended.

Subd. 2. Initial survey; licensure. Requires the commissioner to survey the licensee after the provisional licensee has residents and is providing services. Requires the provisional licensee to notify the commissioner when it begins serving residents. Allows the commissioner to extend the provisional license in certain circumstances. Provides if the provisional licensee is in substantial compliance with the survey the commissioner shall issue a facility license, and specifies what happens if the provisional licensee is not in substantial compliance.

Subd. 3. Reconsideration. Allows a provisional licensee that disagrees with the commissioner's conclusions in denying licensure or conditioning licensure, to request reconsideration by the commissioner. Specifies reconsideration procedures.

Subd. 4. Continued operation. Lists circumstances under which a provisional licensee whose license is denied may continue operating.

Subd. 5. Requirements for notice and transfer. Requires a provisional licensee whose license is denied to comply with the requirements for notification and the coordinated move of residents.

Subd. 6. Fines. Establishes a fine of \$1,000 if a provisional licensee fails to comply with notification requirements when relocating a resident.

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5	<p data-bbox="354 237 662 268">Application for licensure.</p> <p data-bbox="354 279 1198 310">Adds § 1441.04. Establishes requirements for applications for licensure.</p> <p data-bbox="453 348 1382 415">Subd. 1. License applications. Lists information that an applicant for licensure must provide to the commissioner in an application.</p> <p data-bbox="453 453 1365 552">Subd. 2. Authorized agents. Requires an application for licensure or license renewal to specify the individuals who are authorized agents and can accept service on behalf of the licensee.</p> <p data-bbox="453 590 1417 800">Subd. 3. Fees. Requires an applicant for initial licensure, license renewal, or filing a change of ownership to submit the required application fee, and establishes a penalty for late submission of a renewal application. Specifies where fees and fines are deposited, and annually appropriates money from fines to the commissioner to implement recommendations of the home care and assisted living advisory council.</p>
6	<p data-bbox="354 852 721 884">Transfer of license prohibited.</p> <p data-bbox="354 894 540 926">Adds § 1441.05.</p> <p data-bbox="453 963 1373 1031">Subd. 1. Transfers prohibited. Prohibits an assisted living facility license from being transferred to another party.</p> <p data-bbox="453 1068 1417 1377">Subd. 2. New license required. Requires a prospective licensee to obtain a new license if the current licensee’s legal entity structure is converted or changes to a different type of legal entity structure; if the licensee dissolves or merges with another legal organization and the licensee’s legal organization does not survive; if there is a transfer of 50 percent or more of the licensee within the past 24 months; or in the case of any other event that results in a substitution, elimination, or withdrawal of the licensee’s responsibility for the facility. Requires the prospective licensee to provide notice to the department at least 60 days before the anticipated date of the change of the licensee.</p> <p data-bbox="453 1415 1417 1518">Subd. 3. Survey required. For new licensees after a change of ownership, requires the commissioner to complete a survey within six months after the new license is issued.</p>
7	<p data-bbox="354 1570 602 1602">Background studies.</p> <p data-bbox="354 1612 1417 1711">Adds § 1441.06. Establishes background study requirements for individuals with direct ownership interest, managerial officials, employees, contractors, and regularly scheduled volunteers of assisted living facilities.</p> <p data-bbox="453 1749 1417 1850">Subd. 1. Background studies required. Requires a managerial official who provides direct contact or a person with a direct ownership interest in an assisted living facility to undergo a background study, before the commissioner issues or</p>

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renews a license. Also requires background studies of employees, contractors, and regularly scheduled volunteers at the facility.

Subd. 2. Reconsideration. Allows an individual who is disqualified to request reconsideration of the disqualification. Allows an individual to be involved in the management, operation, or control of a facility if the disqualification is set aside or rescinded but prohibits an individual whose disqualification is affirmed from being involved in the management, operation, or control of the facility.

Subd. 3. Data classification. Classifies background study data as private data on individuals.

Subd. 4. Termination in good faith. Provides that an assisted living facility is not subject to civil liability or liability for unemployment benefits for terminating an employee in good faith reliance on background study information.

8	License renewal.
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Adds § 144I.07. Allows a license, other than a provisional license, to be renewed for up to one year upon submission of an application for renewal, required fees, information sufficient to show the applicant meets the requirements for licensure, and any other information required by the commissioner.

9	Notification of changes in information.
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Adds § 144I.08. Requires a provisional licensee or licensee to notify the commissioner in writing before any financial or contractual change and within 60 days after any change in certain information required in the application for licensure (the business name, legal entity name, and address of the licensee; the name and email address of the managing agent and manager; the licensed resident capacity and license category; statistical information required by the commissioner; and other information required by the commissioner).

10	Consideration of applications.
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Adds § 144I.09. Before issuing a provisional license or renewing a license, requires the commissioner to consider the applicant's compliance history in providing care in a facility that cares for children, the elderly, ill persons, or persons with disabilities. Lists grounds related to applications, inspections, impeding the work of the commissioner or other government entities, noncompliance with state or federal regulations, or violations of chapter 144I, on which the commissioner may deny, revoke, suspend, or refuse to renew a license.

11	Minimum assisted living facility requirements.
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Adds § 144I.10.

Subd. 1. Minimum requirements. Requires assisted living facilities to distribute the assisted living bill of rights, comply with the Nurse Practice Act, use person-centered planning and service delivery, have a system for delegating health care

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activities to unlicensed personnel, provide a way for residents to request assistance for health and safety needs on an ongoing basis, allow residents to furnish and decorate the unit, allow residents access to food at any time, allow residents to choose their visitors, notify residents of their right to have and use a lockable door, develop and implement a staffing plan, and offer or make available the listed services. Allows a resident's right to visitors and social participating, personal and treatment privacy, and to access food to be restricted only if necessary for health and safety reasons.

Subd. 2. Policies and procedures. Lists policies and procedures that a facility must have and keep current.

Subd. 3. Infection control program. Requires a facility to maintain an infection control program.

Subd. 4. Clinical nurse supervision. Requires a facility to have a clinical nurse supervisor.

Subd. 5. Resident councils. Requires a facility to provide a resident council with space and privacy for meetings. Allows staff, visitors, and guests to attend resident council meetings when invited. Requires a facility to designate a staff person who is responsible for providing assistance and responding to written requests from meetings. Requires a facility to consider the views of the resident council and respond promptly to grievances.

Subd. 6. Family councils. Requires a facility to provide a family council with space and privacy for meetings. Requires a facility to designate a staff person who is responsible for providing assistance and responding to written requests from meetings. Requires a facility to consider the views of the family council and respond promptly to grievances.

Subd. 7. Resident grievances; reporting maltreatment. Requires a facility to post in a conspicuous place information about a facility's grievance procedure and the name and contact information of the individuals responsible for handling grievances. Also requires the notice to include information on reporting suspected maltreatment.

Subd. 8. Protecting resident rights. Requires a facility to provide information about how to contact consumer advocacy or legal services organizations.

Subd. 9. Payment for services under disability waivers. Provides that for new assisted living facilities that did not operate as registered housing with services establishments prior to August 1, 2021, home and community-based services are not available when the new facility is adjoining to or on the same property as an institution.

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12	<p data-bbox="354 237 686 268">Assisted living bill of rights.</p> <p data-bbox="354 279 1406 342">Adds § 144I.101. Establishes an assisted living bill of rights for residents of assisted living facilities.</p> <p data-bbox="453 384 1365 447">Subd. 1. Applicability. Specifies that this section applies to residents living in assisted living facilities.</p> <p data-bbox="453 489 1295 520">Subd. 2. Legislative intent. States the legislative intent for this section.</p> <p data-bbox="453 552 1425 762">Subd. 3. Information about rights. Before receiving services, provides that residents have the right to be informed of the rights granted in this section and the recourse residents have if rights are violated. Requires the information to be in plain language and in terms residents can understand, and requires reasonable accommodations for residents with communication disabilities and residents who speak languages other than English.</p> <p data-bbox="453 804 1425 930">Subd. 4. Appropriate care and services. Provides that residents have the right to appropriate care and assisted living services based on the resident’s needs and according to an up-to-date service plan, and the right to receive care and services with continuity from properly trained, competent people.</p> <p data-bbox="453 972 1425 1077">Subd. 5. Refusal of care or services. Provides that residents have the right to refuse care or services and to be informed by the facility of the consequences of refusing care or services.</p> <p data-bbox="453 1119 1425 1224">Subd. 6. Participation in care and service planning. Provides that residents have the right to actively participate in planning, modifying, and evaluating their care and services. Specifies what this right includes.</p> <p data-bbox="453 1266 1344 1350">Subd. 7. Courteous treatment. Provides that residents have the right to be treated with courtesy and respect and to have their property treated with respect.</p> <p data-bbox="453 1392 1425 1518">Subd. 8. Freedom from maltreatment. Provides that residents have the right to be free from physical, sexual, and emotional abuse; neglect; financial exploitation; and all forms of maltreatment covered under the Vulnerable Adults Act.</p> <p data-bbox="453 1560 1406 1665">Subd. 9. Right to come and go freely. Provides that residents have the right to enter and leave the facility as they choose, and allows this right to be restricted as allowed by other law and consistent with the resident’s service plan.</p> <p data-bbox="453 1707 1320 1770">Subd. 10. Individual autonomy. Provides that residents have the right to individual autonomy, initiative, and independence in making life choices.</p> <p data-bbox="453 1812 1382 1875">Subd. 11. Right to control resources. Provides that residents have the right to control personal resources.</p>

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Subd. 12. Visitors and social participation. Provides that residents have the right to receive and meet with visitors and people of the resident's choosing. Allows this right to be restricted if necessary for the resident's health and safety and documented in the resident's service plan. Also provides that residents have the right to engage in community life and activities of their choice.

Subd. 13. Personal and treatment privacy. Provides that residents have the right to consideration of their privacy, requires staff to respect the privacy of a resident's space, allows residents to have and use a lockable door but allows this right to be restricted in certain circumstances, and provides that residents have the right to privacy and respect regarding their service plan.

Subd. 14. Communication privacy. Provides that residents have the right to communicate privately with persons of their choice.

Subd. 15. Confidentiality of records. Provides that residents have the right to have personal, financial, and medical information kept private, to approve or refuse to approve releases of information, and to be informed of policies and procedures for disclosure of information. Also requires residents to be notified when an outside party requests personal records, and states that residents have the right to access their own records.

Subd. 16. Right to furnish and decorate. Provides that residents have the right to furnish and decorate the resident's unit within the terms of the assisted living contract.

Subd. 17. Right to choose roommate. Provides that residents have the right to choose a roommate if sharing a unit.

Subd. 18. Right to access food. Provides that residents have the right to access food at any time. Allows this right to be restricted if necessary for the resident's health and safety and if documented in the resident's service plan.

Subd. 19. Access to technology. Provides that residents have the right to access Internet service at their expense.

Subd. 20. Grievances and inquiries. Provides that residents have the right to make and receive a timely response to a complaint or inquiry, and to know the name and contact information of a person designated by the facility to handle and resolve complaints.

Subd. 21. Access to counsel and advocacy services. Provides that residents have the right to access by legal counsel, representatives of the protection and advocacy system, and representatives of the Office of Ombudsman for Long-Term Care.

Subd. 22. Information about charges. Provides that residents have the right to be notified of charges for housing and services, limits on housing and services,

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expected payment amounts from insurance or public health care programs, and charges the resident may be responsible for paying.

Subd. 23. Information about individuals providing services. Before receiving services, provides that residents have the right to be told the type and disciplines of staff who will be providing services, the frequency of visits, and other choices available to address resident needs.

Subd. 24. Information about other providers and services. Provides that residents have the right to be informed that other public and private services may be available and that the resident may obtain services from a provider other than the assisted living facility.

Subd. 25. Resident councils. Provides that residents have the right to organize and participate in resident councils.

Subd. 26. Family councils. Provides that residents have the right to participate in family councils formed by families or residents.

13	Housing and services.
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Adds § 144I.11.

Subd. 1. Responsibility for housing and services. Provides that the facility is directly responsible to the resident for all housing and service-related matters, and specifies what these matters include.

Subd. 2. Uniform checklist disclosure of services. Requires an assisted living facility to provide all prospective residents with a disclosure of the facility's licensure category, a written checklist listing all services permitted under the facility's license that identifies services the facility provides and services it does not provide, and an oral explanation of these services. Requires the commissioner, in consultation with stakeholders, to design this uniform checklist.

Subd. 3. Reservation of rights. Provides that a resident is not required to use services in a facility, a facility is not prohibited from requiring a resident to pay for a package of services even if the resident does not use the services, a facility does not have to fundamentally alter the nature of the facility's operation in order to accommodate a resident, and a facility has a duty to respond to requests for reasonable accommodations.

14	Transfer of residents within facility.
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Adds § 144I.12.

Subd. 1. Definition. Defines transfer for this section as a move of a resident within a facility to a different room or other private living unit.

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Subd. 2. Orderly transfer. Requires a facility to provide for the safe, orderly, coordinated, and appropriate transfer of residents within the facility.

Subd. 3. Notice required. Requires a facility to provide at least 30 calendar days' written notice to a resident and others of a facility-initiated transfer. Lists what the notice must include. Allows a facility to transfer a resident with less than 30 days' written notice if the transfer is necessary because conditions render the resident's room uninhabitable, because of the resident's urgent medical needs, or because of a risk to the health or safety of another resident.

Subd. 4. Consent required. Prohibits a facility from transferring a resident without the resident's consent, unless the resident's room or living unit is uninhabitable or there is a change in facility operations.

Subd. 5. Change in facility operations. When there is a curtailment, reduction, or capital improvement that makes transfers necessary, requires a facility to minimize the number of transfers made, consider individual resident needs and preferences, provide reasonable accommodations for individual residents, and provide notice to two ombudsman's offices regarding the needed transfers.

Subd. 6. Evaluation. If a resident consents to a transfer, requires a facility to make reasonable modifications to the new room or private living unit to accommodate the resident's disabilities, after an evaluation of the resident's individual needs to determine whether the room or private living unit is appropriate for the resident.

Subd. 7. Disclosure. When entering into an assisted living contract, requires a facility to provide conspicuous notice of the circumstances under which the facility may require a transfer.

15 **Business operation.**

Adds § 1441.13.

Subd. 1. Display of license. Requires the facility to display its original, current license at the facility's main entrance and to provide a copy of the license to any person who requests it.

Subd. 2. Quality management. Requires the facility to engage in quality management activities, and specifies what quality management activities include.

Subd. 3. Facility restrictions. Except in certain cases, prohibits a facility or staff person from accepting power of attorney, appointment as a guardian or conservator, or appointment as a resident representative.

Subd. 4. Handling residents' finances and property. Allows a facility to assist residents with household budgeting, but otherwise prohibits a facility from managing a resident's property. When a resident deposits funds with a facility, provides that the licensee retains fiduciary and custodial responsibility for the

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funds, is directly accountable to the resident, and must maintain records and provide receipts for all transactions and purchases made with the resident's funds. If daily responsibility for resident funds is delegated to a manager, requires the manager to give the licensee a monthly accounting of resident funds and to meet all legal requirements for holding and accounting for resident funds. Requires the facility to ensure that the party responsible for holding or managing resident funds is bonded or insured.

Subd. 5. Final accounting; return of money and property. Within 30 days of a termination of housing or services or a resident's death, requires a facility to provide the resident and others with a final statement of account, provide any refunds due, return any money or property held by the facility, and refund the resident's security deposit unless it is applied to the first month's charges.

Subd. 6. Compliance with requirements for reporting maltreatment of vulnerable adults; abuse prevention plan. Requires a facility to comply with requirements to report maltreatment of vulnerable adults, requires a procedure for ensuring cases of maltreatment are reported, and requires development of an individual abuse prevention plan for each vulnerable adult.

Subd. 7. Posting information for reporting suspected crime and maltreatment. Requires a facility to post certain information to help residents report suspected criminal activity or vulnerable adult maltreatment.

Subd. 8. Employee records. Requires a facility to maintain current records for each paid employee, regularly scheduled volunteer, and individual contractor. Lists what the facility records for these persons must include.

Subd. 9. Tuberculosis prevention and control. Requires a facility to maintain a comprehensive tuberculosis prevention and control program.

Subd. 10. Disaster planning and emergency preparedness plan. Specifies requirements for having and posting information about emergency disaster plans, emergency exits, and procedures for missing residents. Requires emergency and disaster training for all staff during initial orientation and annually thereafter.

16	Staffing and supervisory requirements.
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Adds § 144I.14.

Subd. 1. Qualifications, training, and competency. Requires staff providing assisted living services to be trained and competent in the provision of services.

Subd. 2. Licensed health professionals and nurses. Requires licensed health professionals who are facility employees to be Minnesota-licensed, and competent in assessing resident needs, planning appropriate services, implementing services, and supervising staff.

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Subd. 3. Unlicensed personnel. Lists required qualifications for unlicensed personnel.

Subd. 4. Availability of contact person to staff. Requires an assisted living facility to have a registered nurse available for consultation by staff performing delegated nursing tasks, and to have an appropriate licensed health professional available if staff are performing other delegated services. Requires this contact person to be available in person, by phone, or by other means when staff is providing services.

Subd. 5. Supervision of staff. Requires staff who provide a limited set of assisted living services to be supervised periodically to verify the services are being provided competently and to identify any problems and solutions. Specifies what supervision includes.

Subd. 6. Supervision of staff providing delegated nursing or therapy tasks. Requires staff who perform delegated nursing or therapy tasks to be supervised by an appropriate licensed health professional or registered nurse to verify the services are being provided competently and to identify any problems and solutions. Specifies that direct supervision must be provided within 30 days of the date on which the individual first performs the delegated tasks for residents and thereafter as needed.

Subd. 7. Delegation of assisted living services. Allows a registered nurse or licensed health professional to delegate tasks to staff who are competent and possess the required skills and knowledge to perform the task. Requires the facility to communicate current information to nurses or licensed health professionals regarding staff available and their competencies.

Subd. 8. Documentation. Requires a facility to retain documentation of supervision in staff personnel records.

Subd. 9. Temporary staff. Requires temporary staff to meet the same requirements as facility employees.

Subd. 10. Instructor and competency evaluation requirements; training for unlicensed personnel. Establishes qualifications for instructors and competency evaluators. Specifies what training and competency evaluations for unlicensed personnel must include. Requires a person delegating a task to ensure that the unlicensed personnel is trained to properly perform the task being delegated.

17 **Requires notices.**
Adds § 144I.15.

Subd. 1. Assisted living bill of rights; notification to residents. Requires the facility to provide the resident with a written notice of the assisted living bill of rights, a statement about how to file a complaint or report suspected maltreatment, and other contact information regarding complaints. Requires the

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facility to obtain written acknowledgment of the resident's receipt of this information or document why an acknowledgment cannot be obtained.

Subd. 2. Notices in plain language; language accommodations. Requires a facility to provide notices in plain language and make reasonable accommodations for residents with communication disabilities or who speak languages other than English.

Subd. 3. Notice of dementia training. Requires a facility that provides services to residents with dementia to provide a description of its employee training program.

Subd. 4. Notice of available assistance. Requires a facility to provide a resident with information about who the resident can contact for assistance with health care or supportive services.

Subd. 5. Notice to residents; change in ownership or management. Requires a facility to notify a resident, legal representative, or designated representative of certain changes in facility ownership or management.

18

Services.

Adds § 1441.16.

Subd. 1. Acceptance of residents. Prohibits a facility from accepting a person as a resident unless the facility has sufficient staff to adequately provide services agreed to in the assisted living contract.

Subd. 2. Initial reviews, assessments, and monitoring. States that residents who are not receiving services are not required to undergo an initial nursing assessment. Requires a facility to conduct a nursing assessment of a prospective resident and propose a temporary service plan before the prospective resident enters into a contract with the facility or the date the resident moves in, whichever is earlier. Requires a reassessment within 14 days after initiation of services. For residents only receiving certain assisting living services, requires an individualized initial review of the resident's needs and preferences within 30 days of the start of services and every 90 days thereafter. Requires the facility to provide information about long-term care consultation services.

Subd. 3. Temporary service plan. Requires a facility to complete a temporary service plan and agreement with the resident, effective for up to 72 hours, when a facility initiates services and the individualized assessment has not been completed.

Subd. 4. Service plan, implementation, and revisions to service plan. Requires a facility to finalize a service plan within 14 days after beginning to provide services. Establishes requirements for the service plan, and requires the facility to provide all services required by the current service plan. Requires the service

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plan to be entered into the resident’s record, and requires staff providing services to be informed of the current service plan.

Subd. 5. Referrals. If a facility determines a resident needs additional services, requires the facility to consult with the resident and inform the resident of resources available to help the resident obtain additional services.

Subd. 6. Medical cannabis. Allows facilities to adopt reasonable restrictions on the use of medical cannabis by residents.

Subd. 7. Request for discontinuation of life-sustaining treatment. If a resident or certain others requests discontinuation of a life-sustaining treatment, requires a facility employee to inform a supervisor of the resident’s request, and requires facility to inform the health care provider who ordered the treatment of the resident’s request and to work with the resident and the health professional to comply with requirements in chapter 145C. Provides that this subdivision does not diminish the rights of residents to control their treatment and does not require a facility to discontinue treatment.

Subd. 8. Applicability of other law. Makes assisted living facilities subject to chapter 504B, and requires facilities to comply with that chapter.

19	Medication management.
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Adds § 144I.17.

Subd. 1. Medication management services. Requires an assisted living facility that provides medication management services to have medication management policies and procedures. Specifies requirements for development of these policies and procedures, and lists what these policies and procedures must address.

Subd. 2. Provision of medication management services. Requires a resident to have a face-to-face assessment before a facility provides medication management services, and specifies what the assessment must include.

Subd. 3. Individualized medication monitoring and reassessment. Requires a facility to monitor and reassess a resident at least annually and when a resident presents symptoms or issues that may be medication related.

Subd. 4. Resident refusal. Requires a facility to document in the resident’s record a resident’s refusal of an assessment for medication management.

Subd. 5. Individualized medication management plan. For each resident receiving medication management services, requires a facility to include information on medication management services in the resident’s service plan, requires the facility to maintain an individualized medication management record for each resident, and lists what this record must include.

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Subd. 6. Administration of medication. Allows medications to be administered by a nurse, physician, other licensed health practitioner authorized to administer medications, or unlicensed personnel who have been delegated medication administration tasks.

Subd. 7. Delegation of medication administration. Establishes requirements for delegating medication administration to unlicensed personnel.

Subd. 8. Documentation of administration of medications. Requires medications that are administered to be documented in the resident's record, and lists what the documentation must include.

Subd. 9. Documentation of medication setup. Lists the information that must be documented at the time of medication setup.

Subd. 10. Medication management for residents who will be away from home. Requires a facility to implement procedures to provide medications to residents during planned or unplanned time away from the facility. Lists what the procedures must include.

Subd. 11. Prescribed and nonprescribed medication. Directs a facility to determine whether the facility will require a prescription for all medications the facility manages, including over-the-counter drugs and dietary supplements.

Subd. 12. Medications; over-the-counter drugs; dietary supplements not prescribed. Requires a facility providing medication management for over-the-counter drugs and dietary supplements to maintain those items in their original labeled containers and verify that the medications are up to date and appropriately stored.

Subd. 13. Prescriptions. Requires a prescription for each prescribed medication the facility is managing for the resident.

Subd. 14. Renewal of prescriptions. Requires a prescription to be renewed at least every 12 months or more frequently if indicated by a resident assessment.

Subd. 15. Verbal prescription orders. Requires verbal prescription orders to be received by a nurse or pharmacist and handled according to requirements for verbal prescription orders in Board of Pharmacy rules.

Subd. 16. Written or electronic prescription. Requires a written or electronic prescription to be communicated to the registered nurse in charge and placed in the resident's record.

Subd. 17. Records confidential. Requires prescriptions to be kept confidential.

Subd. 18. Medications provided by resident or family members. Requires staff to document in the resident's record any medications or dietary supplements

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that are being used by the resident but that are not included in the medication management assessment.

Subd. 19. Storage of medications. Requires medications to be stored in locked compartments.

Subd. 20. Prescription drugs. Requires prescription drugs to be kept in their original containers.

Subd. 21. Prohibitions. Prohibits a prescription drug supply for one resident from being used by anyone other than that resident.

Subd. 22. Disposition of medications. Requires medications to be returned to the resident or representative when the service plan ends or when medication management services are no longer being provided. Establishes requirements for disposal of medications.

Subd. 23. Loss or spillage. Requires a facility providing medication management to implement procedures for loss or spillage of controlled substances.

20	Treatment and therapy management services.
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Adds § 144I.18.

Subd. 1. Treatment and therapy management services. Provides that this section only applies to assisted living facilities providing treatment and therapy management services.

Subd. 2. Policies and procedures. Requires a facility that provides treatment and therapy management services to maintain policies and procedures for these services, and specifies what the policies and procedures must include.

Subd. 3. Individualized treatment or therapy management plan. For each resident receiving treatment or therapy management, requires a facility to include in the resident's service plan a written statement of the treatment or therapy services that will be provided, and to maintain an individualized treatment and therapy management record for each resident. Lists what this record must include.

Subd. 4. Administration of treatments and therapy. Specifies who may administer therapies or treatments, and establishes requirements for delegating administration of treatments or therapies.

Subd. 5. Documentation of administration of treatments and therapies. Requires a facility to document administration of treatments and therapies in the resident's record, and lists what the documentation must include.

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Subd. 6. Treatment and therapy orders. Requires there to be an order from an authorized prescriber for all treatments and therapies, and specifies what the order must include.

Subd. 7. Right to outside service provider; other payors. Provides that a resident is free to retain treatment and therapy services from an off-site service provider, and requires a facility to help residents obtain information about whether a public program will pay for these services.

21 Resident record requirements.

Adds § 1441.19.

Subd. 1. Resident record. Requires a facility to maintain records for each resident for whom it provides services, and requires these records to be protected from loss, tampering, or unauthorized disclosure. Prohibits a facility from disclosing any personal, financial, or medical information except in the listed circumstances.

Subd. 2. Access to records. Requires a facility to ensure that the appropriate records are available to employees and contractors authorized to access the records and to the commissioner.

Subd. 3. Contents of resident record. Lists the information that must be included in a resident record.

Subd. 4. Transfer of resident records. Requires a facility to ensure there is a coordinated transfer of a resident's record if the resident transfers to another health care facility or provider.

Subd. 5. Record retention. Requires a facility to retain a resident record for at least five years following a resident's discharge or termination of services, or for another period of time if so required in state or federal law.

22 Orientation and annual training requirements.

Adds § 1441.20.

Subd. 1. Orientation of staff and supervisors. Requires staff providing and supervising direct services to complete an orientation to assisted living licensing requirements before providing assisted living services to residents. Requires the orientation to be completed once, and provides that it cannot be transferred to another facility.

Subd. 2. Content. Lists required content for the orientation.

Subd. 3. Verification and documentation of orientation and training. Requires a facility to maintain documentation that staff completed the orientation and training required in this section.

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Subd. 4. Orientation to resident. Requires staff providing services to be oriented specifically to each individual resident and their services.

Subd. 5. Training required related to dementia. Requires all direct care staff and supervisors providing direct services to receive training related to dementias.

Subd. 6. Required annual training. Requires all staff that provide direct services to complete at least eight hours of training annually. Lists topics the annual training must cover.

Subd. 7. Implementation. Requires a facility to implement all orientation and training topics listed in this section.

23 Training in dementia care required.

Adds § 144I.21. Requires assisted living facilities to meet the listed training requirements for training on dementia topics. Supervisors must receive at least eight hours of training within 120 hours of beginning work and two hours annually thereafter. Direct care employees must receive at least eight hours of training within 160 hours of beginning work and two hours annually thereafter. Staff who do not provide direct care must receive at least four hours of training within 160 hours of beginning work and at least two hours annually thereafter. Staff providing direct care in an assisted living facility with dementia care must complete at least eight hours of training with 80 hours of beginning work and at least two hours annually thereafter. Allows new employees to satisfy the initial training by submitting proof of having completed the training within the past 18 months. Lists areas of required training, and requires facilities to provide consumers with a description of the training program.

24 Controlling individual restrictions.

Adds § 144I.22.

Subd. 1. Restrictions. Allows the commissioner to bar a controlling individual of a facility if that person was a controlling individual at a nursing home or facility that incurred specified numbers of uncorrected or repeated violations or was convicted of a felony or gross misdemeanor related to the operation of the nursing home or facility or that directly affected resident safety or care. Allows a controlling individual barred under this subdivision to appeal the commissioner's decision under chapter 14.

Subd. 2. Exception. Provides that the bar on controlling individuals in subdivision 1 does not apply to a controlling individual who had no legal authority to affect or change decisions of the operation of the nursing home or assisted living facility that incurred the uncorrected violation.

Subd. 3. Stay of adverse action required by controlling individual restrictions. Instead of revoking, suspending, or refusing to renew a facility's license where a controlling individual was disqualified for incurring certain numbers of uncorrected or repeated violations, allows the commissioner to stay the

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revocation, suspension, or nonrenewal. Establishes procedures for issuing a stay, makes the controlling individual responsible for compliance with the conditions and restrictions in the stay, and specifies consequences for failure to comply with the conditions and restrictions in the stay.

25	Minimum site, physical environment, and fire safety requirements.
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Adds § 144I.24.

Subd. 1. Requirements. Lists site requirements for all facilities, and additional requirements for assisted living facilities with dementia care.

Subd. 2. Fire protection and physical environment. Requires facilities to have a comprehensive fire protection system and lists what that system must include. Also requires fire drills to be conducted.

Subd. 3. Local laws apply. Requires facilities to comply with state and local laws for fire safety, building, and zoning requirements.

Subd. 4. Design requirements. Establishes minimum design standards for assisted living facilities that serve six or more residents.

Subd. 5. Assisted living facilities; life safety code. Requires an assisted living facility that serves six or more residents to comply with the specified life safety code. Establishes a procedure for the commissioner to update the life safety code and to specify a date on which facilities must comply with the updated life safety code.

Subd. 6. Assisted living facilities with dementia care and secured dementia care unit; life safety code. Requires an assisted living facility with dementia care and a secured dementia care unit to comply with the specified life safety code. Establishes a procedure for the commissioner to update the life safety code and to specify a date on which facilities must comply with the updated life safety code.

Subd. 7. New construction; plans. For all new licensure and construction beginning on or after August 1, 2021, requires the following to be provided to the commissioner:

- architecture and engineering plans and specifications for new construction that are signed by architects and engineers;
- final architectural plans and specifications that include the listed requirements; and
- final mechanical and electrical plans and specifications that address the listed requirements.

If construction is begun more than one year after approval of the plans, requires the drawing to be resubmitted to the commissioner. Requires the commissioner

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to be notified within 30 days before completion of construction so a final inspection may be arranged. Requires a set of life safety plans to be kept on file in the facility.

Subd. 8. Variances or waivers. Allows a facility to request a variance or waiver, and establishes a process for applications, review, revocation, denial, or refusal to renew a variance or waiver, and to contest a denial, revocation, or refusal to renew.

26	Assisted living contract requirements.
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Adds § 1441.25.

Subd. 1. Contract required. Requires a facility to execute a written contract with a resident before providing housing or services to the resident. Specifies who must sign the contract, and establishes requirements for providing prospective residents and the Office of Ombudsman for Long-Term Care with unsigned contracts and for providing residents with a copy of the signed contract. Requires the contract to contain all the terms on the provision of housing, assisted living services, and the resident's service plan, if applicable. Requires a resident to be given the opportunity to identify a designated representative.

Subd. 2. Contents and contract; contact information. Lists information a contract must contain.

Subd. 3. Designation of representative. Before or at the time of execution of an assisted living contract, requires an assisted living facility to offer a resident a chance to identify a designated representative in writing, and requires the contract to contain a space for the name and contact information of the designated representative or a space to indicate the resident declines to identify a designated representative.

Subd. 4. Filing. Requires the contract and related documents to be maintained by the facility in resident files and to be available on-site for inspection by the commissioner and the resident and designated representative.

Subd. 5. Waivers of liability prohibited. Prohibits a contract from including a waiver of facility liability for the health and safety or personal property of a resident. Also prohibits deceptive, unlawful, or unenforceable provisions.

27	Assisted living contract terminations.
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Adds § 1441.26.

Subd. 1. Definition. Defines termination to mean a facility-initiated termination of housing; or a facility-initiated termination or nonrenewal of all assisted living services.

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Subd. 2. Prerequisite to termination of a contract. Before issuing a notice of termination, requires a facility to schedule and participate in a meeting with the resident and representatives to explain the reason for the proposed termination and identify and offer reasonable accommodations or alternatives to the termination. Requires the meeting to be scheduled at least seven days before a notice of termination is issued, and allows the resident to invite people of the resident's choice to the meeting. In the event of an emergency relocation when an in-person meeting is impractical or impossible, allows a meeting to take place by other means.

Subd. 3. Termination for nonpayment. Allows a facility to initiate a termination of housing or services because of nonpayment. Requires the facility to inform the resident that public benefits may be available and to provide contact information for the Senior LinkAge Line.

Subd. 4. Termination for violation of the assisted living contract. Allows a facility to initiate a termination of the assisted living contract if the resident violates a lawful provision of the contract and the resident does not cure the violation within a reasonable amount of time. Provides a facility is not required to offer an opportunity to cure if a violation threatens the health or safety of the resident or another individual in the facility, or if a violation constitutes illegal conduct.

Subd. 5. Expedited termination. Allows a facility to initiate an expedited termination of housing or services if a resident's conduct substantially interferes with the rights, health, or safety of other residents or facility staff or if the resident commits certain unlawful acts that interfere with the rights, health, or safety of other residents. Also allows a facility to initiate an expedited termination of services if the resident's conduct substantially interferes with the resident's health or safety, the resident's needs exceed the scope of the services agreed upon and not included in the services the facility provides, or in extraordinary circumstances.

Subd. 6. Right to use provider of resident's choosing. Prohibits a facility from terminating a contract if the underlying reason for the termination could be resolved if the resident obtains services from another provider.

Subd. 7. Notice of contract termination required. Requires a facility terminating a contract to issue a written notice of termination to the resident, the Office of Ombudsman for Long-Term Care, resident case managers, and legal and designated representatives. Notice must be provided at least 30 days before the effective date of the termination, except that a notice for an expedited termination must be provided at least 15 days before the effective date of the termination.

Subd. 8. Content of notice of termination. Lists what the notice of termination must include.

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Subd. 9. Emergency relocation. Allows a facility to remove a resident in an emergency if necessary due to the resident's emergency medical needs or an imminent risk the resident poses to the health or safety of others in the facility. Lists information a written notice of emergency relocation must include and specifies who must receive the notice.

Subd. 10. Right to return. If a resident is absent from the facility for any reason, prohibits the facility from refusing to allow the resident to return if a termination of housing has not been effectuated.

28 **Nonrenewal of housing.**

Adds § 144I.261. If a facility decides to not renew a resident's housing, requires the facility to either provide the resident with 60 calendar days' notice of the nonrenewal and assistance with relocation planning, or follow the termination procedures. Specifies what the notice of nonrenewal must include and who must receive it. Requires the facility to ensure a coordinated move to a safe location or appropriate service provider, consult with the resident and others to make arrangements for the move, and prepare a written plan for the move. Allows a resident to decline to move to the location or provider identified by the facility.

29 **Appeals.**

Adds § 144I.262.

Subd. 1. Right to appeal. Gives residents the right to appeal the termination of an assisted living contract.

Subd. 2. Permissible grounds to appeal termination. Allows a resident to appeal a termination if there was a factual dispute of whether the facility had a permissible basis to initiate the termination, if the termination would result in great harm or the potential for great harm, if the resident cured the reason for the termination or demonstrated the ability to cure the reason, or if the facility terminated the contract in violation of law.

Subd. 3. Appeals process. Requires the Office of Administrative Hearings to conduct an expedited hearing no later than 14 days after receiving the request, unless the parties agree otherwise or the chief administrative law judge deems the timing unreasonable. Specifies where the hearing must be held, and provides the hearing is not a formal contested case hearing unless determined necessary by the chief ALJ. Limits the hearing to the amount of time necessary for the participants to present the facts of the case.

Subd. 4. Burden of proof for appeals of termination. Places the burden of proof on the facility for certain terminations and on the resident for certain terminations.

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Subd. 5. Determination; appeal of determination. Requires the resident's termination to be rescinded if the resident prevails in the appeal.

Subd. 6. Service provision while appeal pending. Prohibits a termination of housing or services while an appeal is pending. Makes the resident responsible for any additional services needed while an appeal is pending.

Subd. 7. Application of chapter 504B to appeals of terminations. Prohibits a resident from bringing an action under chapter 504B to challenge a termination of housing if the termination has been upheld under this section.

30 **Coordinated moves.**

Adds § 144I.263.

Subd. 1. Duties of facility. If a facility terminates an assisted living contract, reduces services so that a resident needs to move, or conducts a planned closure, requires the facility to:

- ensure a coordinated move to a safe location or an appropriate service provider; and
- consult and cooperate with the resident and others to make arrangements to move the resident.

Provides a resident may decline to move to the facility or provider identified by the facility. Lists information that must be provided to the resident in a notice at least 60 days before the facility plans to reduce or eliminate one or more services for a resident. In cases of an unanticipated reduction in services, a facility must provide notice as soon as possible. If a resident will have to move to another location, requires the facility to ensure a coordinated move and to provide notice to the Office of Ombudsman for Long-Term Care.

Subd. 2. Safe location. Provides a safe location is not a private home where the occupant won't or can't care for the resident; a homeless shelter; a hotel; or a motel. Prohibits a facility from terminating housing or services if the resident will become homeless or if an adequate and safe location or adequate and needed services have not been identified.

Subd. 3. Relocation plan required. Requires a facility to prepare a relocation plan to prepare for the move to a new location or service provider.

Subd. 4. License restrictions. If a facility's license is restricted so that a resident must move or obtain a new service provider, requires the facility to comply with this section.

Subd. 5. No waiver. Provides the rights in this section do not limit rights available under other law, and prohibits a facility from requesting or requiring that a resident waive the resident's rights at any time, for any reason.

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31	<p>Arbitration.</p> <p>Adds § 144I.264. Requires a facility to clearly and conspicuously disclose any arbitration provision that precludes, limits, or delays the ability of a resident to take a civil action. Prohibits an arbitration requirement from including a choice of law or choice of venue provision, and requires assisted living contracts to follow Minnesota law, federal law, and applicable local laws.</p>
32	<p>Office of Ombudsman for Long-Term Care.</p> <p>Adds § 144I.265.</p> <p>Subd. 1. Immunity from liability. States that the Office of Ombudsman for Long-Term Care and office representatives are immune from liability for acts that are within the scope of the person’s responsibilities as an ombudsman or designee, that do not constitute willful or reckless misconduct, and that are taken in good faith.</p> <p>Subd. 2. Data classification. States that forms and notices received by the Office of Ombudsman for Long-Term Care are classified as private data on individuals or nonpublic data.</p>
33	<p>Planned closures.</p> <p>Adds § 144I.27.</p> <p>Subd. 1. Closure plan required. If a facility voluntarily chooses to close, requires the facility to notify the commissioner and the Office of Ombudsman for Long-Term Care by submitting a proposed closure plan.</p> <p>Subd. 2. Content of closure plan. Lists what a facility’s closure plan must include.</p> <p>Subd. 3. Commissioner’s approval required prior to implementation. Makes the facility’s closure plan subject to the commissioner’s approval and subdivision 6. Prohibits a facility from taking action to close the facility before the commissioner approves the plan, and requires the commissioner to respond to the plan as soon as practicable.</p> <p>Subd. 4. Termination planning and final accounting requirements. Before termination, requires the facility to follow termination planning requirements and final accounting and return requirements, and requires the facility to implement the plan approved by the commissioner and ensure that arrangements to relocate residents are effectuated before closure.</p> <p>Subd. 5. Notice to residents. After the commissioner has approved the relocation plan and at least 60 days before closing, requires the facility to notify residents and others of specific information related to the closure.</p> <p>Subd. 6. Emergency closures. If a facility is closing because the commissioner decides it can no longer remain open, requires the facility to meet the</p>

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requirements of this section unless a requirement would endanger resident health or safety. If the facility must close with less than 60 days' notice to residents, requires the facility to provide the notice as soon as practicable or as directed by the commissioner. If the commissioner so requests, requires the facility to provide the commissioner with any documentation about the appropriateness of the relocation plan.

Subd. 7. Other rights. Provides that nothing in this section affects the rights and remedies available under chapter 504B.

Subd. 8. Fine. Allows the commissioner to impose a fine for failure to follow this section.

34 Commissioner oversight and authority.

Adds § 144I.29.

Subd. 1. Regulations. Lists aspects of facilities regulated by the commissioner.

Subd. 2. Regulatory functions. Lists the commissioner's duties related to licensing, surveying, monitoring, investigating, and taking enforcement actions.

35 Surveys and investigations.

Adds § 144I.30.

Subd. 1. Regulatory powers. Names the Department of Health as the state agency responsible for surveying and investigating facilities and enforcing this chapter. Requires the commissioner to be given access to relevant information and records to discharge the commissioner's responsibilities.

Subd. 2. Surveys. Requires the commissioner to survey each facility at least once every two years or more frequently as needed.

Subd. 3. Follow-up surveys. Describes circumstances and procedures for follow-up surveys.

Subd. 4. Scheduling surveys. Requires surveys to be conducted without notice, except allows a surveyor to contact the facility the day of the survey to ensure someone is on-site.

Subd. 5. Information provided by facility. Requires a facility to provide accurate, truthful information to the department during a survey, investigation, or other activity.

Subd. 6. Providing resident records. Upon request, requires a facility to provide a list of current and past residents and legal and designated representatives and their contact information.

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Subd. 7. Correction orders. Specifies circumstances in which a correction order may be issued and procedures for issuing correction orders.

Subd. 8. Required follow-up surveys. For facilities with a Level 3 or 4 violation, requires a follow-up survey within 90 days of the initial survey.

36

Violations and fines.

Adds § 144I.31.

Subd. 1. Fine amounts. Lists fine amounts for Level 1, Level 2, Level 3, and Level 4 violations, and for maltreatment violations. Provides that when a fine is assessed against a facility for substantiated maltreatment, the commissioner cannot also impose an immediate fine under this chapter for the same incident.

Subd. 2. Level and scope of violation. Provides that correction orders are categorized by both level and scope of the violation.

Subd. 3. Notice of noncompliance. If the facility has not corrected violations by a specified date, requires the commissioner to provide a notice of noncompliance with a correction order.

Subd. 4. Immediate fine; payment. Allows the commissioner to issue an immediate fine for every Level 3 or 4 violation, in addition to any other enforcement mechanism. Requires a licensee to pay the fines assessed on or before the payment date, and allows the commissioner to assess a second fine or suspend a license until the licensee pays the fine. Requires the facility to notify the commissioner when the violation is corrected. Gives a facility a right to reconsideration or a hearing under chapter 14.

Subd. 5. Payment of fine required. Prohibits a facility from avoiding payment of a fine by closing, selling, or transferring its license.

Subd. 6. Additional penalties. Allows the commissioner to assess an additional penalty amount based on costs related to an investigation that results in a final order assessing a fine, or other enforcement action.

Subd. 7. Deposit of fines. Provides that fines collected under this section must be credited to a separate account in the state government special revenue fund and, subject to appropriation, be used for special projects to improve home care in Minnesota.

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37	<p data-bbox="355 237 927 268">Reconsideration of correction orders and fines.</p> <p data-bbox="355 279 540 310">Adds § 144I.32.</p> <p data-bbox="453 348 1409 449">Subd. 1. Reconsideration process required. Requires the commissioner to make a correction order reconsideration process available to the facility. If a facility requests reconsideration, stays the correction order during the process.</p> <p data-bbox="453 487 1349 552">Subd. 2. Reconsideration process. Specifies the process for reconsidering a correction order.</p> <p data-bbox="453 590 1396 621">Subd. 3. Findings. Lists findings that may be issued following a reconsideration.</p> <p data-bbox="453 659 1406 760">Subd. 4. Updating the correction order website. If correction order findings are changed by the commissioner, requires the commissioner to update the correction order website.</p> <p data-bbox="453 798 1395 863">Subd. 5. Provisional licensees. Provides that the reconsideration process is not available to provisional licensees.</p>
38	<p data-bbox="355 915 521 947">Enforcement.</p> <p data-bbox="355 957 540 989">Adds § 144I.33.</p> <p data-bbox="453 1026 1414 1197">Subd. 1. Conditions. Allows the commissioner to deny an application for provisional licensure, refuse to renew a license, refuse to issue a license due to a change in ownership, suspend or revoke a license, or impose conditions on the license if the applicant, owner, controlling individual, or employee committed one of the listed acts.</p> <p data-bbox="453 1234 1395 1335">Subd. 2. Terms to suspension or conditional license. Allows a suspension or conditional license to include terms that must be met before the suspension or designation is lifted. Lists terms that may be included.</p> <p data-bbox="453 1373 1422 1543">Subd. 3. Immediate temporary suspension. Allows the commissioner to immediately temporarily suspend a license, prohibit delivery of housing or services for up to 90 days, or issue a conditional license, if there are Level 4 violations or violations that pose an imminent risk of harm to the health or safety of residents. Allows appeals of immediate temporary suspensions.</p> <p data-bbox="453 1581 1422 1682">Subd. 4. Mandatory revocation. Requires the commissioner to revoke a license if a controlling individual is convicted of a felony or gross misdemeanor that relates to the operation of the facility or directly affects resident safety or care.</p> <p data-bbox="453 1719 1417 1854">Subd. 5. Mandatory proceedings. Requires the commissioner to initiate proceedings within 60 days of notification to suspend or revoke a facility license or refuse to renew a facility license, if the listed events occurred in the preceding two years.</p>

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Subd. 6. Notice to residents. Requires a controlling individual or designee to provide the commissioner and the ombudsman with the names and addresses of residents and their representatives, if a facility's license is being suspended, revoked, or not renewed. Also requires the controlling individual to provide updated information each month until the proceeding is concluded, and establishes penalties for failing to provide required information. Within ten business days after initiating proceedings to revoke, suspend, or refuse to renew a license, requires the commissioner to send notice of this action to facility residents and their representatives.

Subd. 7. Notice to facility. Before a suspension, revocation, or refusal to renew a license, gives a facility a right to notice and a hearing under chapter 14. Provides for temporary suspensions for Level 3 or 4 violations without meeting the notice requirements in this subdivision.

Subd. 8. Request for hearing. Establishes a time frame for a licensee to request a hearing, and establishes requirements that the request must meet.

Subd. 9. Plan required. Requires a process of suspending, revoking, or refusing to renew a license to include a plan for transferring affected residents to other providers. Lists information a facility must provide the commissioner and others within three days of being notified of a final revocation. Requires the facility to cooperate with the commissioner and others while transferring residents to qualified providers. Allows a facility to continue to operate while residents are being transferred to other providers.

Subd. 10. Hearing. Requires the commissioner to request a hearing within 15 business days of receiving a licensee's appeal of a sanction, and establishes requirements for these hearings. Also specifies circumstances in which the commissioner must immediately temporarily suspend the license while an appeal is pending.

Subd. 11. Expedited hearing. Requires the commissioner to request assignment of an administrative law judge within five business days of a licensee's appeal of a temporary suspension or issuance of a conditional license, and establishes requirements for these hearings. Prohibits a licensee from operating pending a commissioner's final order if the order issued by the administrative law judge affirms an immediate suspension. Requires a licensee whose license is temporarily suspended to comply with requirements to notify residents and requirements to transfer residents.

Subd. 12. Time limits for appeals. Requires a facility to request a hearing within 15 business days after receiving notice of an action against a license.

Subd. 13. Owners and managerial officials; refusal to grant license. Prohibits an owner or managerial official whose facility license has been revoked or not renewed, from being granted an assisted living facility license. Also prohibits the commissioner from issuing or renewing a license, or requires a license to be

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suspended or revoked, if an owner or managerial official was affiliated with a facility whose license was not renewed or revoked in the past five years. Establishes requirements for notice and issuance of stays.

Subd. 14. Relicensing. Allows the commissioner to consider a new application for licensure from an applicant whose license was revoked, if the conditions on which the revocation were based have been corrected.

Subd. 15. Informal conference. Allows the commissioner and an applicant or facility to hold an informal conference at any time to clarify issues, exchange information, or resolve issues.

Subd. 16. Injunctive relief. Allows the commissioner to bring an action for injunctive relief in district court. Allows the court to grant a temporary restraining order if a person's acts would create an imminent risk of harm to a resident.

Subd. 17. Subpoena. Allows the commissioner to issue subpoenas and compel attendance of witnesses and the production of necessary documents or evidentiary materials. Provides for serving and enforcement of subpoenas.

39

Innovation variance.

Adds § 1441.34.

Subd. 1. Definition; granting variances. Defines innovation variance for this section, and allows an innovation variance to be granted to allow a facility to offer services that are innovative; will not adversely affect the health, safety, or welfare of residents; or change any resident rights.

Subd. 2. Conditions. Allows the commissioner to impose conditions on granting an innovation variance.

Subd. 3. Duration and renewal. Allows the commissioner to limit the duration of an innovation variance.

Subd. 4. Applications; innovation variance. Lists what an application for an innovation variance must include.

Subd. 5. Grants and denials. Requires the commissioner to grant or deny a request for an innovation variance within 45 days of receipt, and requires a notice of denial to include the reason for the denial.

Subd. 6. Violation of innovation variances. Provides that failing to comply with the terms of the innovation variance is deemed to be a violation of this chapter.

Subd. 7. Revocation or denial of renewal. Lists grounds under which the commissioner must revoke or deny renewal of an innovation variance.

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40	<p>Resident quality of care and outcomes improvement task force.</p> <p>Adds § 144I.35. Requires the commissioner to establish a resident quality of care and outcomes improvement task force to examine and make recommendations on how to apply proven safety and quality improvement practices to setting and providers that provide long-term services and supports. Lists membership on the task force, and directs the task force to periodically provide recommendations on changes needed to promote safety and quality improvement practices in long-term care settings and with long-term care providers.</p>
41	<p>Rulemaking authorized.</p> <p>Adds § 144I.36. Requires the commissioner to adopt rules governing assisted living facilities, beginning July 1, 2019. Lists topics that must be addressed in rules, and requires the commissioner to publish proposed rules by December 31, 2019, and final rules by December 31, 2020.</p>
42	<p>Retaliation prohibited.</p> <p>Adds § 144I.50. Prohibits retaliation against residents and employees of assisted living facilities.</p> <p>Subd. 1. Retaliation prohibited. Prohibits an assisted living facility from retaliating against a resident or employee if the resident, employee, or person acting on the resident’s behalf files a good faith complaint, asserts a right, indicates a good faith intention to file a complaint, files a maltreatment report in good faith, seeks help from or reports a crime to the facility or others, seeks advocacy assistance, files a civil action, participates in an investigation, contracts with a service provider other than the facility, or places an electronic monitoring device in the resident’s private space.</p> <p>Subd. 2. Retaliation against a resident. Lists actions that constitute retaliation against a resident.</p> <p>Subd. 3. Retaliation against an employee. Lists actions that constitute retaliation against an employee.</p> <p>Subd. 4. Determination by commissioner. Allows a resident to request that the commissioner determine whether the facility retaliated against a resident, and provides that based on the information presented by the resident and the facility the commissioner shall determine if retaliation occurred.</p> <p>Subd. 5. Other laws. Provides that nothing in this section affects the rights of a resident under the maltreatment of vulnerable adults act.</p>

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43	<p>Consumer advocacy and legal services.</p> <p>Adds § 144I.51. Requires a facility to provide the resident and certain representatives with the names and contact information of nonprofit organizations that provide advocacy or legal services and the Office of Ombudsman for Long-Term Care.</p>
44	<p>Applicability of other laws.</p> <p>Adds § 144I.52. Requires assisted living facilities to comply with landlord-tenant laws, and a requirement to disclose information about dementia care services provided. Provides that these facilities are not required to obtain a lodging license under chapter 157.</p>
45	<p>Transition period.</p> <p>Provides a timeline for adopting rules, preparing to license facilities, requiring existing housing with services establishments that provide home care services to convert their registrations to assisted living licensure, and licensing new assisted living facilities.</p>
46	<p>Prioritization of enforcement activities.</p> <p>Within available appropriations to the commissioner of health for enforcement activities in fiscal years 2020 and 2021, directs the commissioner to prioritize enforcement related to service terminations for assisted living clients.</p>
47	<p>Revisor instruction.</p> <p>Directs the revisor of statutes to recodify and reorganize sections in this act coded in chapter 144I, as sections in chapter 144G.</p>
48	<p>Repealer.</p> <p>Repeals sections in chapter 144D (housing with services establishments) and 144G (assisted living title protection), effective August 1, 2021.</p>

Article 2: Dementia Care Services for Assisted Living Facilities with Dementia Care

This article establishes specific requirements for assisted living facilities with dementia care.

Section	Description – Article 2: Dementia Care Services for Assisted Living Facilities with Dementia Care
1	<p>Additional requirements for assisted living facilities with dementia care.</p> <p>Adds § 144I.37.</p>

Section	Description – Article 2: Dementia Care Services for Assisted Living Facilities with Dementia Care
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Subd. 1. Applicability. Provides this section applies only to assisted living facilities with dementia care.

Subd. 2. Demonstrated capacity. Requires an applicant to provide services in compliance with this section, and lists criteria for the commissioner to consider in determining whether the applicant can do so. If the applicant does not have experience managing residents with dementia, requires the applicant to employ a consultant for at least the first six months of operation. Requires the commissioner to conduct an on-site inspection before issuing a license, and requires the license to be labelled as a license for an assisted living facility with dementia care.

Subd. 3. Relinquishing license. Requires the facility to notify the commissioner at least 60 days before voluntarily relinquishing its license. Requires notice to residents, submission of a transitional plan, changes to service or care plans, notification to the commissioner when the process is completed, and changes to advertising materials and information to remove references to the facility being an assisted living facility with dementia care.

2	<p>Responsibilities of administration for assisted living facilities with dementia care.</p>
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Adds § 144I.38.

Subd. 1. General. Makes a licensee responsible for the care and housing of people with dementia and the provision of person-centered care.

Subd. 2. Additional requirements. Requires an assisted living director of an assisted living facility with dementia care to complete ten hours of required annual continuing education related to the care of individuals with dementia.

Subd. 3. Policies. Requires an assisted living facility with dementia care to develop and implement policies related to how services are provided based on the facility licensee's philosophy, evaluations of behavioral symptoms and design of supports for intervention plans, wandering and egress prevention, medication management, staff training on dementia care, life enrichment programs and family support programs, use of public address and intercom systems, transportation coordination and assistance, and safekeeping of resident possessions. Also requires these policies to be provided to residents and their legal and designated representatives upon move-in.

3	<p>Staffing and staff training.</p>
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Adds § 144I.39.

Subd. 1. General. Requires a facility to use staff trained according to this section to provide services to residents with dementia, except in emergencies, and

Section	Description – Article 2: Dementia Care Services for Assisted Living Facilities with Dementia Care
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requires staffing to be sufficient to meet scheduled and unscheduled needs of residents.

Subd. 2. Staffing requirements. Requires a facility to ensure that staff who care for residents with dementia have a basic understanding of residents' emotional and health care needs, and who have been trained on the dementia care topics identified in rulemaking. Provides that failure to comply with the staffing requirements in this subdivision or subdivision 1 shall result in assessment of a fine by the commissioner.

Subd. 3. Supervising staff training. Requires persons overseeing or training staff to have experience and knowledge caring for individuals with dementia, and specifies work experience and training requirements that satisfy the experience and knowledge requirements.

Subd. 4. Preservice and in-service training. Allows training to include various methods of instruction and to have a method to determine and document staff understanding of the training provided. Requires all training to be documented.

4 Services for residents with dementia.

Adds § 144I.40. In addition to minimum services, requires an assisted living facility with dementia care to provide assistance with activities of daily living that address the needs of each resident with dementia, nonpharmacological practices, services to prepare and educate persons living with dementia and their representatives about transitions in care, and services that provide residents with choices for meaningful engagement. Requires an evaluation of each resident's interests, abilities, skills, emotional and social needs, physical abilities and limitations, needed adaptations, and activities for behavioral interventions. Requires an individualized activity plan to be developed for each resident, and requires a selection of daily activities to be provided. Requires an evaluation of behavioral symptoms with negative impacts, and requires access to secure outdoor space to be provided.

Article 3: Consumer Protections

This article authorizes electronic monitoring in nursing homes, boarding care homes, housing with services establishments, and assisted living facilities; prohibits retaliation against residents and employees of nursing homes and housing with services establishments; and establishes disclosure requirements for facilities that provide "I'm okay" check services.

Section	Description – Article 3: Consumer Protections
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1	Electronic monitoring in certain facilities.
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Adds § 144.6502. Authorizes electronic monitoring in nursing homes, boarding care homes, housing with services establishments, and assisted living facilities.

Subd. 1. Definitions. Defines terms for this section: commissioner, department, electronic monitoring, electronic monitoring device, facility, resident, resident representative.

Subd. 2. Electronic monitoring authorized. Requires a facility to allow a resident or resident representative to conduct electronic monitoring in the resident's room or private living unit. Provides that this section does not preclude electronic monitoring in health care as allowed under other law and that electronic monitoring authorized under this section is not a covered service under the home and community-based waivers.

Subd. 3. Consent to electronic monitoring. Requires a resident to consent to electronic monitoring in writing on a notification and consent form, unless an exception applies. If a resident does not affirmatively object to electronic monitoring and if the resident cannot understand the nature and consequences of electronic monitoring, allows a resident representative to consent to electronic monitoring on behalf of the resident. Before consenting on behalf of a resident, lists information the resident representative must explain to the resident. Allows a resident to set conditions for the use of electronic monitoring, to request that electronic monitoring is turned off or blocked in certain circumstances, or to withdraw consent for electronic monitoring. Before implementing electronic monitoring, requires a resident or resident representative to obtain written consent from all roommates. Allows a resident representative to consent on behalf of a roommate, and allows a resident, roommate, or resident representative to withdraw consent to electronic monitoring at any time.

Subd. 4. Refusal of roommate to consent. If a resident residing in a shared room or shared living unit wants to conduct electronic monitoring and a roommate living in or moving into the shared space refuses to consent, requires a facility to make reasonable attempts to accommodate the resident who wants to conduct electronic monitoring by offering to move the resident to another available shared room or shared living unit. Requires a resident to pay the private room rate or private unit rent if the resident chooses to reside in a private room or private living unit in order to accommodate the use of an electronic monitoring device. If the facility cannot accommodate the resident due to lack of space, requires the facility to reevaluate the situation periodically until the request is fulfilled.

Subd. 5. Notice to facility; exceptions. Before beginning electronic monitoring, requires a resident or resident representative to submit a notification and consent form to the facility, except the resident or resident representative is not required to submit the notification and consent form for up to 14 days if:

Section Description – Article 3: Consumer Protections

- the resident or resident representative fears retaliation, submits the notification and consent form to the Office of Ombudsman for Long-Term Care, and submits a maltreatment report to the common entry point upon evidence from the electronic monitoring device of suspected maltreatment;
- there has not been a timely written response from the facility to a written communication from the resident or resident representative expressing a concern that prompted placement of an electronic monitoring device and the notification and consent form was submitted to the Office of Ombudsman for Long-Term Care; or
- the resident or resident representative has already submitted a maltreatment report to the common entry point or police regarding the concerns that prompted placement of an electronic monitoring device and the notification and consent form was submitted to the Office of Ombudsman for Long-Term Care.

Requires a resident who conducts electronic monitoring without immediately notifying the facility to submit the signed notification and consent form from any roommates to the facility. Specifies steps when a resident, roommate, or resident representative wants to alter the conditions of consent to electronic monitoring. If a new roommate or roommate's representative does not submit a completed notification and consent form and the resident does not remove or disable the electronic monitoring device, requires the facility to remove the electronic monitoring device.

Subd. 6. Form requirements. Lists what must be included on the notification and consent form. Requires facilities to make notification and consent forms available to residents, and to inform residents of the option to conduct electronic monitoring. Classifies notification and consent forms received by the Office of Ombudsman for Long-Term Care according to the data practices section that applies to that office

Subd. 7. Costs and installation. Requires a resident choosing to conduct electronic monitoring to pay for purchasing and installing the electronic monitoring device. Provides that the resident may also be responsible for contracting for Internet service, and requires a facility to make a reasonable attempt to accommodate the resident's installation needs. Requires all electronic monitoring device installations and supporting services to be Underwriters Laboratories (UL)-listed.

Subd. 8. Notice to visitors. Requires a facility to post a sign at each entrance accessible to visitors stating that electronic monitoring devices may be present.

Subd. 9. Obstruction of electronic monitoring devices. Prohibits a person from obstructing an electronic monitoring device without permission from the resident or resident representative, but allows the device to be turned off or

Section	Description – Article 3: Consumer Protections
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blocked if the resident or resident representative so directs, or if consent has been withdrawn.

Subd. 10. Dissemination of recordings. Prohibits a person from accessing any data created through electronic monitoring without written consent from the resident or resident representative. Allows data created through electronic monitoring to be disseminated only to address the health, safety, or welfare concerns of residents. Disseminating data from electronic monitoring in violation of this section may be grounds for civil or criminal liability.

Subd. 11. Admissibility of evidence. Provides that a video or audio recording created through electronic monitoring may be admitted into evidence in a civil, criminal, or administrative proceeding, subject to applicable rules of evidence and procedure.

Subd. 12. Liability. States that the mere presence of electronic monitoring is not a violation of a resident's right to privacy and that a facility is not liable for violating a resident's right to privacy if a resident or resident representative discloses a recording.

Subd. 13. Immunity from liability. Provides for immunity from liability for the Office of Ombudsman for Long-Term Care and representatives of the office, for acts and omissions that are taken in good faith, within the scope of the person's responsibilities, and not willful or reckless misconduct.

Subd. 14. Resident protections. Prohibits a facility from refusing to admit a resident or removing a resident if the facility disagrees with a decision regarding electronic monitoring; retaliating against a resident for consenting or refusing to consent to electronic monitoring; or preventing the placement or use of electronic monitoring. States that a contractual provision that prohibits, limits, or modifies the rights and obligations in this section is void and unenforceable.

Subd. 15. Employee discipline. Allows a facility employee subject to proposed disciplinary action based on evidence obtained from electronic monitoring to access electronic monitoring to defend against the proposed action. Prohibits an employee from further disseminating the recording, and requires a copy of the recording to be returned to the facility or resident when it is no longer needed to defend against the proposed action.

Subd. 16. Penalties. Allows the commissioner to issue a correction order if the facility fails to comply with the requirements to store the notification and consent form and give the resident a copy, make the form available for updating, remove the device if roommate consent is not obtained or if the roommate withdraws consent, notify residents of the option to conduct electronic monitoring, accommodate resident installation needs, provide notice to visitors, prohibit obstruction of devices, prevent unauthorized dissemination of recordings, or comply with resident protections. Also allows the commissioner to issue fines for a failure to comply with a correction order, and allows the

Section	Description – Article 3: Consumer Protections
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commissioner to exercise existing authority to compel housing with services establishments to comply with this section.

2	<p>Retaliation in nursing homes prohibited.</p>
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Adds § 144.6512. Prohibits retaliation against nursing home residents and employees.

Subd. 1. Definitions. Defines nursing home and resident for this section.

Subd. 2. Retaliation prohibited. Prohibits a nursing home from retaliating against a resident or employee if the resident, employee, or person acting on the resident's behalf files a good faith complaint, makes a good faith inquiry, asserts a right, indicates a good faith intention to file a complaint, files a maltreatment report in good faith, seeks help from or reports a crime to the nursing home or others, seeks advocacy assistance, files a civil action, participates in an investigation or legal proceeding, contracts with a service provider other than the nursing home, or places an electronic monitoring device in the resident's private space.

Subd. 3. Retaliation against a resident. Lists actions that constitute retaliation against a resident.

Subd. 4. Retaliation against an employee. Lists actions that constitute retaliation against an employee.

Subd. 5. Determination by commissioner. Allows a resident to request that the commissioner determine whether the nursing home retaliated against a resident, and provides that based on the information presented by the resident and the nursing home the commissioner shall determine if retaliation occurred.

3	<p>Retaliation prohibited.</p>
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Adds § 144G.07. Prohibits retaliation against residents and employees of housing with services establishments that use assisted living title protection.

Subd. 1. Definitions. Defines facility and resident for this section.

Subd. 2. Retaliation prohibited. Prohibits a housing with services establishment that uses assisted living title protection from retaliating against a resident or employee if the resident, employee, or person acting on the resident's behalf files a good faith complaint, makes a good faith inquiry, asserts a right, indicates a good faith intention to file a complaint, files a maltreatment report in good faith, seeks help from or reports a crime to the facility or others, seeks advocacy assistance, files a civil action, participates in an investigation or legal proceeding, contracts with a service provider other than the housing with services establishment, or places an electronic monitoring device in the resident's private space.

Section	Description – Article 3: Consumer Protections
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Subd. 3. Retaliation against a resident. Lists actions that constitute retaliation against a resident.

Subd. 4. Retaliation against an employee. Lists actions that constitute retaliation against an employee.

Subd. 5. Determination by commissioner. Allows a resident to request that the commissioner determine whether the facility retaliated against a resident, and provides that based on the information presented by the resident and the facility the commissioner shall determine if retaliation occurred.

4	<p>Provision of “I’m okay” check services.</p>
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Adds § 325F.721. Establishes disclosure requirements for facilities that provide “I’m okay” check services.

Subd. 1. Definitions. Defines terms for this section: covered setting, “I’m okay” check services, resident, supportive services.

Covered setting is defined as an unlicensed setting that provides sleeping accommodations to one or more adult residents, at least 80 percent of whom are age 55 or older, and offering or providing supportive services. Also lists settings that are not covered settings.

“I’m okay” check services is defined as a service to, by any means, check on the safety of a resident.

Subd. 2. Disclosure of “I’m okay” check services. Requires a covered setting to prominently disclose in a written contract whether the setting offers “I’m okay” check services and, if offered, the nature, extent, and frequency of the services offered. Also requires a covered setting to disclose that it is not licensed as an assisted living facility and is not permitted to provide assisted living services either directly or through a contracted provider.

Article 4: Assisted Living Licensure Conforming Changes; Director Licensure

This article makes changes to statutes to conform with the establishment of licensure for assisted living facilities, and establishes requirements for licensure of assisted living directors by the Board of Executives for Long Term Services and Supports.

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
1	<p>Data classification; public data.</p> <p>Amends § 144.051, subd. 4. Makes a public data classification that applies to home care provider data held by the commissioner of health, also apply to assisted living facility licensure data held by the commissioner of health.</p>
2	<p>Data classification; confidential data.</p> <p>Amends § 144.051, subd. 5. Makes a confidential data classification that applies to home care provider data held by the commissioner of health, also apply to assisted living licensure data held by the commissioner of health.</p>
3	<p>Release of private or confidential data.</p> <p>Amends § 144.051, subd. 6. Makes a section specifying when the commissioner may release private or confidential home care provider data held by the commissioner of health, also apply to private or confidential assisted living facility licensure data held by the commissioner of health.</p>
4	<p>Background studies required.</p> <p>Amends § 144.057, subd. 1. Includes employees of assisted living facilities and assisted living facilities with dementia care, in the Department of Health background study statute that governs other employees of health facilities or providers licensed by the commissioner.</p>
5	<p>Administrators.</p> <p>Amends § 144A.04, subd. 5. Renames the Board of Examiners for Nursing Home Administrators as the Board of Executives for Long Term Services and Supports, and strikes obsolete language.</p>
6	<p>Creation; membership.</p> <p>Amends § 144A.19, subd. 1. Renames the Board of Examiners for Nursing Home Administrators as the Board of Executives for Long Term Services and Supports, and makes the following changes to board membership:</p> <ul style="list-style-type: none"> ▪ provides that one of the nursing home administrator members may be an administrator for a proprietary nursing home or an assisted living facility; ▪ adds one member who is an assisted living director of an assisted living facility; ▪ increases the number of professional nurse members from one to two, and provides that one must practice in nursing homes and one must practice in assisted living facilities; and ▪ states that the public members must not be current health-related license holders.

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
7	<p>Criteria.</p> <p>Amends § 144A.20, subd. 1. Authorizes the board to issue licenses to qualified persons as assisted living directors, and strikes language establishing qualifications for nursing home administrators (these qualifications are moved to a new subdivision 3).</p>
8	<p>Nursing home administrator qualifications.</p> <p>Adds subd. 3 to § 144A.20. Establishes qualifications for nursing home administrators (these qualifications were moved from subdivision 1).</p>
9	<p>Assisted living director qualifications; ongoing training.</p> <p>Adds subd. 4 to § 144A.20. Authorizes the board to issue licenses to qualified persons as assisted living directors, requires applicants to meet the qualifications for licensure or be scheduled to complete required training within one year of hire, and requires an applicant to:</p> <ul style="list-style-type: none"> ▪ complete an approved training course and pass an examination; ▪ be currently licensed as a nursing home administrator or validated as a health services executive and have core knowledge of assisted living facility laws; or ▪ apply for licensure by July 1, 2021, and satisfy one of the listed education, training, or experience requirements. <p>Requires an assisted living director to complete at least 30 hours of training every two years on operating an assisted living facility and the needs of residents. Requires a director to maintain records of training for at least the most recent three years and make those records available to Department of Health surveyors upon request.</p>
10	<p>Administrator licenses.</p> <p>Amends § 144A.21. Provides that assisted living director licenses are not transferrable, and makes changes to conform with the board’s new name and new authority to license assisted living directors.</p>
11	<p>Jurisdiction of board.</p> <p>Amends § 144A.23. Makes changes to conform with the board’s new name and new authority to license assisted living directors.</p>
12	<p>Duties of board.</p> <p>Amends § 144A.24. Makes changes to conform with the board’s new name and new authority to license assisted living directors. Also strikes a sentence requiring courses required for license renewal to be designed solely to improve professional skills and to not exceed 50 hours of classroom attendance per year.</p>

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
13	<p>Mandatory proceedings.</p> <p>Amends § 144A.251. Makes changes to conform with the board’s new name and new authority to license assisted living directors.</p>
14	<p>Costs; penalties.</p> <p>Amends § 144A.2511. Makes changes to conform with the board’s new name and new authority to license assisted living directors.</p>
15	<p>Reciprocity with other states and equivalency of health services executive.</p> <p>Amends § 144A.26. Allows the board to issue a health services executive license and specifies that to obtain this license a person must have been validated by a national organization as a health services executive and must meet the minimum qualifications of a nursing home administrator, assisted living administrator, and home and community-based service provider.</p>
16	<p>Statement of rights.</p> <p>Amends § 144A.44, subd. 1. Paragraph (a) amends the home care bill of rights to make it apply to clients who receive home care services in a licensed assisted living facility, modifies existing rights, and gives clients the right to place an electronic monitoring device in the client’s space in compliance with state law.</p> <p>Paragraph (b) provides that a provider who violates a right is subject to fines and licensing action.</p> <p>Paragraph (c) requires providers to take the listed steps to help clients exercise their rights.</p> <p>Paragraph (d) prohibits a provider from requiring or asking a client to waive any rights listed in this subdivision.</p>
17	<p>Comprehensive home care license provider.</p> <p>Amends § 144A.471, subd. 7. Adds treatment and therapies to the list of services provided by a provider with a comprehensive home care license.</p>
18	<p>Exclusions from home care licensure.</p> <p>Amends § 144A.471, subd. 9. Strikes clauses that allow the following, without a home care license:</p> <ul style="list-style-type: none"> ▪ an employee of a nursing home, boarding care home, or home care provider to respond to occasional emergency calls from individuals in a residential setting attached to or next to the nursing home, boarding care home, or home care services location; and ▪ an employee of a nursing home, boarding care home, or home care provider to provide occasional minor services for free to individuals in a residential

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
	setting attached to or next to the nursing home, boarding care home, or home care services location.
19	<p>Fees; application, change of ownership, renewal, and failure to notify.</p> <p>Amends § 144A.472, subd. 7. Adds a fine of \$1,000 for a home care provider with a temporary license that fails to notify the commissioner of health within five days after it begins providing services to clients. Requires fines collected under this subdivision to be deposited in a special revenue account and annually appropriated to the commissioner to implement recommendations of the home care provider advisory council.</p>
20	<p>Follow-up surveys.</p> <p>Amends § 144A.474, subd. 9. Strikes language prohibiting the commissioner from imposing a fine for a violation identified in a follow-up survey.</p>
21	<p>Fines.</p> <p>Amends § 144A.474, subd. 11. Provides that home care provider fines imposed under this subdivision may be imposed immediately without giving the provider an opportunity to correct the violation. Increases fine amounts for Level 2, Level 3, and Level 4 violations, and establishes fine amounts for maltreatment violations. For every violation, requires the commissioner to issue an immediate fine, and requires the provider to correct the violation within the required time frame. Allows for appeals of immediate fines. Directs fines collected for Level 1, 2, 3, or 4 violations to be deposited in a dedicated special revenue account and annually appropriates that money to the commissioner to implement recommendations of the home care provider advisory council. Directs fines collected for maltreatment violations to be deposited in a dedicated special revenue account and appropriated to the commissioner to provide compensation to clients who experienced maltreatment.</p>
22	<p>Maltreatment compensation fund.</p> <p>Amends § 144A.474, subd. 14. Directs the commissioner to pay a fine assessed on a home care provider for a maltreatment violation to the client who experienced the maltreatment, if the client chooses to receive a compensation payment of \$1,000 or \$5,000, depending on the level of maltreatment and the fine assessed, and if the client agrees to accept compensation under this subdivision and waives any other civil claims arising from the maltreatment incident. Requires the commissioner to notify the client that the client may reject a compensation payment and pursue a civil action.</p>
23	<p>Expedited hearing.</p> <p>Amends § 144A.475, subd. 3b. Adds a cross-reference to Minnesota Rules governing expedited administrative hearings, for a home care provider’s appeal of a temporary license suspension or issuance of a conditional license.</p>

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
24	<p>Plan required.</p> <p>Amends § 144A.475, subd. 5. If the commissioner refuses to renew a home care provider license, requires the process of nonrenewal to include a plan for the provider to transfer the care of affected clients to other providers. Requires home care providers to cooperate with county adult protection and county managers and the ombudsman for long-term care in transferring clients to qualified providers. If the provider does not comply with notice requirements to clients, requires the commissioner to notify clients that the provider’s license is subject to an enforcement action. Also allows lead agencies, county adult protection and county managers, and the Office of Ombudsman for Long-Term Care to provide this information. Allows a home care provider to continue operating while home care clients are transferred to other providers.</p>
25	<p>Prior criminal convictions; owner and managerial officials.</p> <p>Amends § 144A.476, subd. 1. Requires a background study of owners and managerial officials before the commissioner issues a home care provider license as a result of an approved change in ownership.</p>
26	<p>Department of Health licensed home care provide advisory council.</p> <p>Amends § 144A.4799. Allows persons who have received home care services within five years of applying to serve on the home care provider advisory council, and adds a member of a county health and human services department or adult protection office to the advisory council beginning July 1, 2021. In the advisory council’s duties, directs the advisory council to provide recommendations on ways to improve protection of the public under existing law and to recommend projects to improve resident lives, support providers in providing quality care, and help providers improve their compliance with state law.</p>
27	<p>Long-term care facility.</p> <p>Amends § 256I.9741, subd. 1. Amends the definition of long-term care facility in chapter 256I (housing support program) to include assisted living facilities and assisted living facilities with dementia care.</p>
28	<p>Supportive housing.</p> <p>Amends § 256I.03, subd. 15. Amends the definition of supportive housing in chapter 256I to mean housing that is not time-limited and provides or coordinates services needed for a resident to maintain housing stability.</p>
29	<p>License required, staffing qualifications.</p> <p>Amends § 256I.04, subd. 2a. Allows facilities licensed under chapter 144I to receive housing support under this chapter, and modifies language allowing certain facilities exempt from state licensure to receive housing support. Requires certain supportive</p>

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
	housing establishments that serve people experiencing long-term homelessness to participate in a coordinated assessment system.
30	<p data-bbox="355 394 773 420">Adult protection grant allocations.</p> <p data-bbox="355 436 557 462">Adds § 256M.42.</p> <p data-bbox="453 506 1403 642">Subd. 1. Formula. Directs the commissioner of human services to allocate state money to county boards and tribal governments that have assumed county agency duties, for adult protective services or for duties of acting as a lead investigative agency. Grants shall be allocated as follows:</p> <ul data-bbox="511 680 1365 856" style="list-style-type: none"> <li data-bbox="511 680 1365 747">▪ 25 percent based on the number of reports of suspected vulnerable adult maltreatment where the county or tribe is responsible; and <li data-bbox="511 751 1365 856">▪ 75 percent based on the number of screened-in reports for adult protective services or vulnerable adult maltreatment investigations where the county or tribe is responsible. <p data-bbox="453 894 1354 961">Prohibits the commissioner from changing the formula in this subdivision or recommending a change to the legislature without public review and input.</p> <p data-bbox="453 999 1354 1100">Subd. 2. Payment. Requires payments in fiscal year 2020 to be disbursed to counties and tribal governments by October 10, 2019, and by July 10 in subsequent fiscal years.</p> <p data-bbox="453 1138 1422 1270">Subd. 3. Prohibition on supplanting existing money. Requires grant funds to be used for staffing for protection of vulnerable adults or to expand adult protective services, and prohibits grant funds from being used to supplant current county or tribe expenditures for these purposes.</p>
31	<p data-bbox="355 1325 829 1350">Person to whom disclosure is required.</p> <p data-bbox="355 1367 1403 1612">Amends § 325F.72, subd. 1. Makes a section establishing disclosure requirements of a facility’s care for persons with dementia apply to assisted living facilities with dementia care, rather than housing with services establishments that provide special programs or units for residents with Alzheimer’s disease or a related disorder (to conform with establishment of licensure for assisted living facilities with dementia care). Also expands disclosure requirements to the legal and designated representatives of potential residents.</p>
32	<p data-bbox="355 1667 461 1692">Content.</p> <p data-bbox="355 1709 1419 1841">Amends § 325F.72, subd. 2. In the list of information that an assisted living facility with dementia care must disclose, replaces the term “special care unit” with “secured dementia care unit” and clarifies that residents must be given a written notice of changes in the fee schedule 30 calendar days before a change.</p>

Section	Description – Article 4: Assisted Living Licensure Conforming Changes; Director Licensure
33	<p>Facility.</p> <p>Amends § 626.5572, subd. 6. Amends the definition of facility for the maltreatment of vulnerable adults act to include assisted living facilities licensed under chapter 144I. This makes the requirements for facilities in the maltreatment of vulnerable adults act apply to assisted living facilities.</p>
34	<p>Revisor instruction.</p> <p>Directs the revisor of statutes to replace “Board of Examiners for Nursing Home Administrators” with “Board of Executives for Long Term Services and Supports” where it appears in statutes.</p>
35	<p>Repealer.</p> <p>Paragraph (a) repeals section 144A.472, subdivision 4 (requiring multiple units of a home care provider to be separately licensed if they cannot share supervision and administration from a main office).</p> <p>Paragraph (b) repeals sections 144A.441 (assisted living bill of rights addendum) and 144A.442 (service termination for assisted living clients).</p>

Article 5: Appropriations

This article appropriates money to the commissioner of human services and the commissioner of health for administrative and regulatory functions relating to the protection of vulnerable adults and assisted living licensure.

Section	Description – Article 5: Appropriations
1	<p>Commissioner of human services.</p> <p>Appropriates \$7,687,000 in fiscal year 2020 and \$6,860,000 in fiscal year 2021 from the general fund to the commissioner of human services for vulnerable adult protection and assisted living licensure activities.</p>

Section	Description – Article 5: Appropriations
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2	Commissioner of health.
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	Appropriates \$9,656,000 in fiscal year 2020 and \$9,416,000 in fiscal year 2021 from the general fund to the commissioner of health for vulnerable adult protection and assisted living licensure activities.
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	Also appropriates \$1,103,000 in fiscal year 2020 and \$1,103,000 in fiscal year 2021 from the state government special revenue fund to the commissioner of health to improve the frequency of home care provider inspections and implement assisted living licensure activities, and directs the commissioner to transfer previously deposited fine revenue from the state government special revenue fund to a dedicated special revenue account to implement the recommendations of the home care advisory council.
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