

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2080

02/20/2023 Authored by Noor, Zeleznikar and Hornstein
The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to health; making changes to assisted living facilities and services;
1.3 amending Minnesota Statutes 2022, sections 144G.19, subdivision 4; 144G.41,
1.4 subdivision 1; 144G.42, subdivision 6; 144G.45, subdivisions 4, 5; 144G.63,
1.5 subdivision 1; 144G.70, subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 144G.19, subdivision 4, is amended to read:

1.8 Subd. 4. Change of licensee. Notwithstanding any other provision of law, a change of
1.9 licensee under subdivision 2 does not require the facility to meet the design requirements
1.10 of section 144G.45, subdivisions 4 to 6 and 5, or 144G.81, subdivision 3.

1.11 Sec. 2. Minnesota Statutes 2022, section 144G.41, subdivision 1, is amended to read:

1.12 Subdivision 1. Minimum requirements. All assisted living facilities shall:

- 1.13 (1) distribute to residents the assisted living bill of rights;
1.14 (2) provide services in a manner that complies with the Nurse Practice Act in sections
1.15 148.171 to 148.285;
1.16 (3) utilize a person-centered planning and service delivery process;
1.17 (4) have and maintain a system for delegation of health care activities to unlicensed
1.18 personnel by a registered nurse, including supervision and evaluation of the delegated
1.19 activities as required by the Nurse Practice Act in sections 148.171 to 148.285;
1.20 (5) provide a means for residents to request assistance for health and safety needs 24
1.21 hours per day, seven days per week;

- 2.1 (6) allow residents the ability to furnish and decorate the resident's unit within the terms
2.2 of the assisted living contract;
- 2.3 (7) permit residents access to food at any time;
- 2.4 (8) allow residents to choose the resident's visitors and times of visits;
- 2.5 (9) allow the resident the right to choose a roommate if sharing a unit;
- 2.6 (10) notify the resident of the resident's right to have and use a lockable door to the
2.7 resident's unit. The licensee shall provide the locks on the unit. Only a staff member with
2.8 a specific need to enter the unit shall have keys, and advance notice must be given to the
2.9 resident before entrance, when possible. An assisted living facility must not lock a resident
2.10 in the resident's unit;
- 2.11 (11) develop and implement a staffing plan for determining its staffing level that:
- 2.12 (i) includes an evaluation, to be conducted at least twice a year, of the appropriateness
2.13 of staffing levels in the facility;
- 2.14 (ii) ensures sufficient staffing at all times to meet the scheduled and reasonably
2.15 foreseeable unscheduled needs of each resident as required by the residents' assessments
2.16 and service plans on a 24-hour per day basis; and
- 2.17 (iii) ensures that the facility can respond promptly and effectively to individual resident
2.18 emergencies and to emergency, life safety, and disaster situations affecting staff or residents
2.19 in the facility;
- 2.20 (12) ensure that one or more persons are available 24 hours per day, seven days per
2.21 week, who are responsible for responding to the requests of residents for assistance with
2.22 health or safety needs. Such persons must be:
- 2.23 (i) awake;
- 2.24 (ii) located in the same building, in an attached building, or on a contiguous campus
2.25 with the facility in order to respond within a reasonable amount of time;
- 2.26 (iii) capable of communicating with residents;
- 2.27 (iv) capable of providing or summoning the appropriate assistance; and
- 2.28 (v) capable of following directions;
- 2.29 (13) offer to provide or make available at least the following services to residents:
- 2.30 (i) at least three nutritious meals daily with snacks available seven days per week,
2.31 according to the recommended dietary allowances in the United States Department of

3.1 Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The
 3.2 following apply:

3.3 (A) menus must be prepared at least one week in advance, and made available to all
 3.4 residents. The facility must encourage residents' involvement in menu planning. Meal
 3.5 substitutions must be of similar nutritional value if a resident refuses a food that is served.
 3.6 Residents must be informed in advance of menu changes;

3.7 (B) except as provided in subitem (C), food must be prepared and served according to
 3.8 the Minnesota Food Code, Minnesota Rules, chapter 4626; and

3.9 (C) ~~the facility cannot require a resident to include and pay for meals in their contract;~~
 3.10 the following exceptions to the requirements in the Minnesota Food Code under Minnesota
 3.11 Rules, chapter 4626, apply to an assisted living facility with a licensed capacity of ten or
 3.12 fewer residents:

3.13 ~~(ii)~~ (i) weekly housekeeping;

3.14 ~~(iii)~~ (ii) weekly laundry service;

3.15 ~~(iv)~~ (iii) upon the request of the resident, provide direct or reasonable assistance with
 3.16 arranging for transportation to medical and social services appointments, shopping, and
 3.17 other recreation, and provide the name of or other identifying information about the persons
 3.18 responsible for providing this assistance;

3.19 ~~(v)~~ (iv) upon the request of the resident, provide reasonable assistance with accessing
 3.20 community resources and social services available in the community, and provide the name
 3.21 of or other identifying information about persons responsible for providing this assistance;

3.22 ~~(vi)~~ (v) provide culturally sensitive programs; ~~and~~

3.23 ~~(vii)~~ (vi) have a daily program of social and recreational activities that are based upon
 3.24 individual and group interests, physical, mental, and psychosocial needs, and that creates
 3.25 opportunities for active participation in the community at large; ~~and~~

3.26 (vii) notwithstanding Minnesota Rules, part 4626.0033, item A, the facility may share
 3.27 a certified food protection manager (CFPM) with another facility or may employ a CFPM
 3.28 on a part-time basis;

3.29 (viii) notwithstanding Minnesota Rules, part 4626.1070, item A, the facility is not
 3.30 required to install a dedicated handwashing sink but may instead elect to designate one well
 3.31 of a two-compartment sink as the designated handwashing sink;

4.1 (ix) notwithstanding Minnesota Rules, parts 4626.1325, item A, subitem (1), and
 4.2 4626.1335, item A, the facility may have a textured ceiling so long as it is clean and in good
 4.3 repair; and

4.4 (x) Minnesota Rules, parts 4626.0545 and 4626.1375, do not apply; and

4.5 (14) provide staff access to an on-call registered nurse 24 hours per day, seven days per
 4.6 week.

4.7 Sec. 3. Minnesota Statutes 2022, section 144G.42, subdivision 6, is amended to read:

4.8 **Subd. 6. Compliance with requirements for reporting maltreatment of vulnerable**
 4.9 **adults; abuse prevention plan.** (a) The assisted living facility must comply with the
 4.10 requirements for the reporting of maltreatment of vulnerable adults in section 626.557. The
 4.11 facility must establish and implement a written procedure to ensure that all cases of suspected
 4.12 maltreatment are reported.

4.13 (b) The facility must develop and implement an individual abuse prevention plan for
 4.14 ~~each vulnerable adult~~ resident receiving assisted living services from the facility. The plan
 4.15 shall contain an individualized review or assessment of the person's susceptibility to abuse
 4.16 by another individual, including other ~~vulnerable adults~~ residents; the person's risk of abusing
 4.17 other ~~vulnerable adults~~ residents; and statements of the specific measures to be taken to
 4.18 minimize the risk of abuse to that person and other ~~vulnerable adults~~ residents. For purposes
 4.19 of the abuse prevention plan, abuse includes self-abuse.

4.20 Sec. 4. Minnesota Statutes 2022, section 144G.45, subdivision 4, is amended to read:

4.21 **Subd. 4. Design requirements.** (a) All assisted living facilities with six or more residents
 4.22 must meet the provisions relevant to assisted living facilities in the 2018 edition of the
 4.23 Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health,
 4.24 Care and Support Facilities" and of adopted rules. ~~This~~ Except as provided in paragraph
 4.25 (b), the minimum design standard must be met for all new licenses or new construction. In
 4.26 addition to the guidelines, assisted living facilities shall provide the option of a bath in
 4.27 addition to a shower for all residents.

4.28 (b) The minimum design standard is not required for a new license when the applicant
 4.29 seeks a license under section 144G.16 to provide services in an existing building, so long
 4.30 as the use complies with all applicable state and local governing laws, regulations, standards,
 4.31 ordinances, and codes for fire safety, building, and zoning requirements as required by

5.1 section 144G.45, subdivision 3, and provided use of the building does not constitute a
5.2 distinct hazard to life under section 144G.45, subdivision 2, paragraph (g).

5.3 ~~(b)~~ (c) If the commissioner decides to update the edition of the guidelines specified in
5.4 paragraph (a) for purposes of this subdivision, the commissioner must notify the chairs and
5.5 ranking minority members of the legislative committees and divisions with jurisdiction over
5.6 health care and public safety of the planned update by January 15 of the year in which the
5.7 new edition will become effective. Following notice from the commissioner, the new edition
5.8 shall become effective for assisted living facilities beginning August 1 of that year, unless
5.9 provided otherwise in law. The commissioner shall, by publication in the State Register,
5.10 specify a date by which facilities must comply with the updated edition. The date by which
5.11 facilities must comply shall not be sooner than six months after publication of the
5.12 commissioner's notice in the State Register.

5.13 Sec. 5. Minnesota Statutes 2022, section 144G.45, subdivision 5, is amended to read:

5.14 **Subd. 5. Assisted living facilities; Life Safety Code.** (a) All assisted living facilities
5.15 with six or more residents must meet the applicable provisions of the 2018 edition of the
5.16 NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter.
5.17 Except as provided in paragraph (b), the minimum design standard shall be met for all new
5.18 licenses or new construction.

5.19 (b) The minimum design standard is not required for a new license when the applicant
5.20 seeks a license under section 144G.16 to provide services in an existing building, so long
5.21 as the use complies with all applicable state and local governing laws, regulations, standards,
5.22 ordinances, and codes for fire safety, building, and zoning requirements as required by
5.23 section 144G.45, subdivision 3, and provided use of the building does not constitute a
5.24 distinct hazard to life under section 144G.45, subdivision 2, paragraph (g).

5.25 ~~(b)~~ (c) If the commissioner decides to update the Life Safety Code for purposes of this
5.26 subdivision, the commissioner must notify the chairs and ranking minority members of the
5.27 legislative committees and divisions with jurisdiction over health care and public safety of
5.28 the planned update by January 15 of the year in which the new Life Safety Code will become
5.29 effective. Following notice from the commissioner, the new edition shall become effective
5.30 for assisted living facilities beginning August 1 of that year, unless provided otherwise in
5.31 law. The commissioner shall, by publication in the State Register, specify a date by which
5.32 facilities must comply with the updated Life Safety Code. The date by which facilities must
5.33 comply shall not be sooner than six months after publication of the commissioner's notice
5.34 in the State Register.

6.1 Sec. 6. Minnesota Statutes 2022, section 144G.63, subdivision 1, is amended to read:

6.2 Subdivision 1. **Orientation of staff and supervisors.** (a) All staff providing and
6.3 supervising direct services must complete an orientation to assisted living facility licensing
6.4 requirements and regulations before providing assisted living services to residents. The
6.5 orientation may be incorporated into the training required under subdivision 5. The orientation
6.6 need only be completed once for each staff person and is not transferable to another facility,
6.7 except as provided in paragraph (b).

6.8 (b) A staff member is not required to repeat the orientation required under subdivision
6.9 2 if the staff member transfers from one licensed assisted living facility to another facility
6.10 that is operated by the same licensee or by a licensee that is affiliated with the same corporate
6.11 organization as the licensee of the first facility, or to another facility that is managed by the
6.12 same entity as the manager of the first facility. The facility to which the staff member
6.13 transfers shall document that the staff member completed the orientation at the prior facility.

6.14 Sec. 7. Minnesota Statutes 2022, section 144G.70, subdivision 2, is amended to read:

6.15 Subd. 2. **Initial reviews, assessments, and monitoring.** (a) Residents who are not
6.16 receiving any assisted living services shall not be required to undergo an initial nursing
6.17 assessment.

6.18 (b) An assisted living facility shall conduct a nursing assessment by a registered nurse
6.19 of the physical and cognitive needs of the prospective resident and propose a temporary
6.20 service plan prior to the date on which a prospective resident executes a contract with a
6.21 facility or the date on which a prospective resident moves in, whichever is earlier. If
6.22 necessitated by either the geographic distance between the prospective resident and the
6.23 facility, or urgent or unexpected circumstances, the assessment may be conducted using
6.24 telecommunication methods based on practice standards that meet the resident's needs and
6.25 reflect person-centered planning and care delivery.

6.26 (c) Resident reassessment and monitoring must be conducted no more than 14 calendar
6.27 days after initiation of services. Ongoing resident reassessment and monitoring must be
6.28 conducted as needed based on changes in the needs of the resident and cannot exceed 90
6.29 calendar days from the last date of the assessment. Notwithstanding Minnesota Rules, part
6.30 4659.0140, subparts 2, item B, subitem (4), and 4, item A, an assessment that is conducted
6.31 for purposes of meeting the 90-day reassessment requirement under this paragraph, and that
6.32 is not triggered by a change in a resident's condition, may be a focused assessment conducted
6.33 and signed by a licensed nurse other than a registered nurse.

7.1 (d) For residents only receiving assisted living services specified in section 144G.08,
7.2 subdivision 9, clauses (1) to (5), the facility shall complete an individualized initial review
7.3 of the resident's needs and preferences. The initial review must be completed within 30
7.4 calendar days of the start of services. Resident monitoring and review must be conducted
7.5 as needed based on changes in the needs of the resident and cannot exceed 90 calendar days
7.6 from the date of the last review.

7.7 (e) A facility must inform the prospective resident of the availability of and contact
7.8 information for long-term care consultation services under section 256B.0911, prior to the
7.9 date on which a prospective resident executes a contract with a facility or the date on which
7.10 a prospective resident moves in, whichever is earlier.