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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4458

04/23/2018 Authored by Zerwas
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy
05/01/2018 Adoption of Report: Re-referred to the Committee on Health and Human Services Finance
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act

1.2 relating to health; establishing the Vulnerable Adult Maltreatment Prevention and
1.3 Accountability Act; modifying provisions governing nursing homes, home care
1.4 providers, housing with services establishments, and assisted living services;
1.5 modifying requirements related to reporting maltreatment of vulnerable adults;
1.6 modifying requirements for data sharing and data classifications; modifying a
1.7 criminal penalty; establishing working groups; requiring reports; amending
1.8 Minnesota Statutes 2016, sections 144.6501, subdivision 3, by adding a subdivision;
1.9 144.651, subdivisions 1, 2, 4, 14, 16, 20, 21; 144A.10, subdivision 1; 144A.44,
1.10 subdivision 1; 144A.442; 144A.45, subdivisions 1, 2; 144A.473, subdivision 2;
1.11 144A.474, subdivisions 2, 8, 9; 144A.4791, subdivision 10; 144A.53, subdivisions
1.12 1, 4, by adding subdivisions; 144D.01, subdivision 1; 144D.02; 144D.04, by adding
1.13 a subdivision; 144G.01, subdivision 1; 325F.71; 609.2231, subdivision 8; 626.557,
1.14 subdivisions 3, 4, 9, 9a, 9b, 9c, 9d, 10b, 12b, 14, 17; 626.5572, subdivision 6;
1.15 Minnesota Statutes 2017 Supplement, sections 144A.10, subdivision 4; 144A.474,
1.16 subdivision 11; 144D.04, subdivision 2; 256.045, subdivisions 3, 4; proposing
1.17 coding for new law in Minnesota Statutes, chapters 144; 144D; 144G; repealing
1.18 Minnesota Statutes 2016, section 256.021.

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

1.20 Section 1. **CITATION.**

1.21 Sections 1 to 61 may be cited as the "Vulnerable Adult Maltreatment Prevention and
1.22 Accountability Act of 2018."

1.23 Sec. 2. Minnesota Statutes 2016, section 144.6501, subdivision 3, is amended to read:

1.24 Subd. 3. **Contracts of admission.** (a) A facility shall make complete unsigned copies
1.25 of its admission contract available to potential applicants and to the state or local long-term
1.26 care ombudsman immediately upon request.

2.1 (b) A facility shall post conspicuously within the facility, in a location accessible to
2.2 public view, either a complete copy of its admission contract or notice of its availability
2.3 from the facility.

2.4 (c) An admission contract must be printed in black type of at least ten-point type size.
2.5 The facility shall give a complete copy of the admission contract to the resident or the
2.6 resident's legal representative promptly after it has been signed by the resident or legal
2.7 representative.

2.8 (d) The admission contract must contain the name, address, and contact information of
2.9 the current owner, manager, and if different from the owner, license holder of the facility,
2.10 and the name and physical mailing address of at least one natural person who is authorized
2.11 to accept service of process.

2.12 ~~(d)~~ (e) An admission contract is a consumer contract under sections 325G.29 to 325G.37.

2.13 ~~(e)~~ (f) All admission contracts must state in bold capital letters the following notice to
2.14 applicants for admission: "NOTICE TO APPLICANTS FOR ADMISSION. READ YOUR
2.15 ADMISSION CONTRACT. ORAL STATEMENTS OR COMMENTS MADE BY THE
2.16 FACILITY OR YOU OR YOUR REPRESENTATIVE ARE NOT PART OF YOUR
2.17 ADMISSION CONTRACT UNLESS THEY ARE ALSO IN WRITING. DO NOT RELY
2.18 ON ORAL STATEMENTS OR COMMENTS THAT ARE NOT INCLUDED IN THE
2.19 WRITTEN ADMISSION CONTRACT."

2.20 Sec. 3. Minnesota Statutes 2016, section 144.6501, is amended by adding a subdivision
2.21 to read:

2.22 Subd. 3a. **Changes to contracts of admission.** Within 30 days of a change in ownership,
2.23 management, or license holder, the facility must provide prompt written notice to the resident
2.24 or resident's legal representative of a new owner, manager, and if different from the owner,
2.25 license holder of the facility, and the name and physical mailing address of any new or
2.26 additional natural person not identified in the admission contract who is newly authorized
2.27 to accept service of process.

2.28 Sec. 4. Minnesota Statutes 2016, section 144.651, subdivision 1, is amended to read:

2.29 Subdivision 1. **Legislative intent.** It is the intent of the legislature and the purpose of
2.30 this section to promote the interests and well being of the patients and residents of health
2.31 care facilities. It is the intent of this section that every patient's and resident's civil and
2.32 religious liberties, including the right to independent personal decisions and knowledge of

3.1 available choices, must not be infringed and that the facility must encourage and assist in
3.2 the fullest possible exercise of these rights. The rights provided under this section are
3.3 established for the benefit of patients and residents. No health care facility may require or
3.4 request a patient or resident to waive any of these rights at any time or for any reason
3.5 including as a condition of admission to the facility. Any guardian or conservator of a patient
3.6 or resident or, in the absence of a guardian or conservator, an interested person, may seek
3.7 enforcement of these rights on behalf of a patient or resident. An interested person may also
3.8 seek enforcement of these rights on behalf of a patient or resident who has a guardian or
3.9 conservator through administrative agencies or in district court having jurisdiction over
3.10 guardianships and conservatorships. Pending the outcome of an enforcement proceeding
3.11 the health care facility may, in good faith, comply with the instructions of a guardian or
3.12 conservator. ~~It is the intent of this section that every patient's civil and religious liberties,~~
3.13 ~~including the right to independent personal decisions and knowledge of available choices,~~
3.14 ~~shall not be infringed and that the facility shall encourage and assist in the fullest possible~~
3.15 ~~exercise of these rights.~~

3.16 Sec. 5. Minnesota Statutes 2016, section 144.651, subdivision 2, is amended to read:

3.17 Subd. 2. **Definitions.** (a) For the purposes of this section and section 144.6511, the terms
3.18 defined in this subdivision have the meanings given them.

3.19 (b) "Patient" means:

3.20 (1) a person who is admitted to an acute care inpatient facility for a continuous period
3.21 longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or
3.22 mental health of that person~~.~~;

3.23 (2) a minor who is admitted to a residential program as defined in section 253C.01;

3.24 (3) for purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, and 18 to 20, ~~"patient" also~~
3.25 ~~means~~ a person who receives health care services at an outpatient surgical center or at a
3.26 birth center licensed under section 144.615~~. "Patient" also means a minor who is admitted~~
3.27 ~~to a residential program as defined in section 253C.01.~~; and

3.28 (4) for purposes of subdivisions 1, 3 to 16, 18, 20 and 30, ~~"patient" also means~~ any
3.29 person who is receiving mental health treatment on an outpatient basis or in a community
3.30 support program or other community-based program.

3.31 (c) "Resident" means a person who is admitted to:

3.32 (1) a nonacute care facility including extended care facilities~~,~~;

(2) a nursing ~~homes, and~~ home;

(3) a boarding care ~~homes~~ home for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age~~.~~; and

(4) for purposes of ~~all subdivisions except~~ subdivisions ~~28 and 29, "resident" also means a person who is admitted to~~ 1 to 27 and 30 to 33, a facility licensed as a board and lodging facility under Minnesota Rules, ~~parts 4625.0100 to 4625.2355~~ chapter 4625, or a supervised living facility under Minnesota Rules, ~~parts 4665.0100 to 4665.9900~~ chapter 4665, and which operates a rehabilitation program licensed under Minnesota Rules, parts ~~9530.6405~~ 9530.6510 to 9530.6590.

(d) "Health care facility" or "facility" means:

(1) an acute care inpatient facility;

(2) a residential program as defined in section 253C.01;

(3) for purposes of subdivisions 1, 4 to 9, 12, 13, 15, 16, and 18 to 20, an outpatient surgical center or a birth center licensed under section 144.615;

(4) for purposes of subdivisions 1, 3 to 16, 18, 20, and 30, a setting in which outpatient mental health services are provided, or a community support program or other community-based program providing mental health treatment;

(5) a nonacute care facility, including extended care facilities;

(6) a nursing home;

(7) a boarding care home for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age; or

(8) for the purposes of subdivisions 1 to 27 and 30 to 33, a facility licensed as a board and lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates a rehabilitation program licensed under Minnesota Rules, parts 9530.6510 to 9530.6590.

Sec. 6. Minnesota Statutes 2016, section 144.651, subdivision 4, is amended to read:

Subd. 4. **Information about rights.** (a) Patients and residents shall, at admission, be told that there are legal rights for their protection during their stay at the facility or throughout their course of treatment and maintenance in the community and that these are described in an accompanying written statement in plain language and in terms patients and residents can understand of the applicable rights and responsibilities set forth in this section. The

5.1 written statement must be developed by the commissioner, in consultation with stakeholders,
5.2 and must also include the name, address, and telephone number of the state or county agency
5.3 to contact for additional information or assistance. In the case of patients admitted to
5.4 residential programs as defined in section 253C.01, the written statement shall also describe
5.5 the right of a person 16 years old or older to request release as provided in section 253B.04,
5.6 subdivision 2, and shall list the names and telephone numbers of individuals and organizations
5.7 that provide advocacy and legal services for patients in residential programs.

5.8 (b) Reasonable accommodations shall be made for people who have communication
5.9 disabilities and those who speak a language other than English.

5.10 (c) Current facility policies, inspection findings of state and local health authorities, and
5.11 further explanation of the written statement of rights shall be available to patients, residents,
5.12 their guardians or their chosen representatives upon reasonable request to the administrator
5.13 or other designated staff person, consistent with chapter 13, the Data Practices Act, and
5.14 section 626.557, relating to vulnerable adults.

5.15 Sec. 7. Minnesota Statutes 2016, section 144.651, subdivision 14, is amended to read:

5.16 Subd. 14. **Freedom from maltreatment.** (a) Patients and residents shall be free from
5.17 maltreatment as defined in the Vulnerable Adults Protection Act. "Maltreatment" means
5.18 conduct described in section 626.5572, subdivision 15, or the intentional and nontherapeutic
5.19 infliction of physical pain or injury, or any persistent course of conduct intended to produce
5.20 mental or emotional distress. Patients and residents shall receive notification from the lead
5.21 investigative agency regarding a report of alleged maltreatment, disposition of a report, and
5.22 appeal rights, as provided under section 626.557, subdivision 9c.

5.23 (b) Every patient and resident shall also be free from nontherapeutic chemical and
5.24 physical restraints, except in fully documented emergencies, or as authorized in writing
5.25 after examination by a patient's or resident's physician for a specified and limited period of
5.26 time, and only when necessary to protect the resident from self-injury or injury to others.

5.27 Sec. 8. Minnesota Statutes 2016, section 144.651, subdivision 16, is amended to read:

5.28 Subd. 16. **Confidentiality of records.** Patients and residents shall be assured confidential
5.29 treatment of their personal, financial, and medical records, and may approve or refuse their
5.30 release to any individual outside the facility. Residents shall be notified when personal
5.31 records are requested by any individual outside the facility and may select someone to
5.32 accompany them when the records or information are the subject of a personal interview.
5.33 Patients and residents have a right to access their own records and written information from

those records. Copies of records and written information from the records shall be made available in accordance with this subdivision and sections 144.291 to 144.298. This right does not apply to complaint investigations and inspections by the Department of Health, where required by third-party payment contracts, or where otherwise provided by law.

Sec. 9. Minnesota Statutes 2016, section 144.651, subdivision 20, is amended to read:

Subd. 20. **Grievances.** (a) Patients and residents shall be encouraged and assisted, throughout their stay in a facility or their course of treatment, to understand and exercise their rights as patients, residents, and citizens. Patients and residents may voice grievances, assert the rights granted under this section personally, and recommend changes in policies and services to facility staff and others of their choice, free from restraint, interference, coercion, discrimination, retaliation, or reprisal, including threat of discharge. ~~Notice of the grievance procedure of the facility or program, as well as addresses and telephone numbers for the Office of Health Facility Complaints and the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12) shall be posted in a conspicuous place.~~

(b) The facility must investigate and attempt resolution of the complaint or grievance. The patient or resident has the right to be informed of the name of the individual who is responsible for handling grievances.

(c) Notice must be posted in a conspicuous place of the facility's or program's grievance procedure, as well as telephone numbers and, where applicable, addresses for the common entry point, as defined in section 626.5572, subdivision 5, the protection and advocacy agency, and the area ombudsman for long-term care pursuant to the Older Americans Act, section 307(a)(12).

(d) Every acute care inpatient facility, every residential program as defined in section 253C.01, every nonacute care facility, and every facility employing more than two people that provides outpatient mental health services shall have a written internal grievance procedure that, at a minimum, sets forth the process to be followed; specifies time limits, including time limits for facility response; provides for the patient or resident to have the assistance of an advocate; requires a written response to written grievances; and provides for a timely decision by an impartial decision maker if the grievance is not otherwise resolved. Compliance by hospitals, residential programs as defined in section 253C.01 which are hospital-based primary treatment programs, and outpatient surgery centers with section 144.691 and compliance by health maintenance organizations with section 62D.11 is deemed to be compliance with the requirement for a written internal grievance procedure.

7.1 Sec. 10. Minnesota Statutes 2016, section 144.651, subdivision 21, is amended to read:

7.2 Subd. 21. **Communication privacy.** Patients and residents may associate and
7.3 communicate privately with persons of their choice and enter and, except as provided by
7.4 the Minnesota Commitment Act, leave the facility as they choose. Patients and residents
7.5 shall have access, at their own expense, unless provided by the facility, to writing instruments,
7.6 stationery, ~~and~~ postage, and Internet service. Personal mail shall be sent without interference
7.7 and received unopened unless medically or programmatically contraindicated and
7.8 documented by the physician in the medical record. There shall be access to a telephone
7.9 where patients and residents can make and receive calls as well as speak privately. Facilities
7.10 which are unable to provide a private area shall make reasonable arrangements to
7.11 accommodate the privacy of patients' or residents' calls. Upon admission to a facility where
7.12 federal law prohibits unauthorized disclosure of patient or resident identifying information
7.13 to callers and visitors, the patient or resident, or the legal guardian or conservator of the
7.14 patient or resident, shall be given the opportunity to authorize disclosure of the patient's or
7.15 resident's presence in the facility to callers and visitors who may seek to communicate with
7.16 the patient or resident. To the extent possible, the legal guardian or conservator of a patient
7.17 or resident shall consider the opinions of the patient or resident regarding the disclosure of
7.18 the patient's or resident's presence in the facility. This right is limited where medically
7.19 inadvisable, as documented by the attending physician in a patient's or resident's care record.
7.20 Where programmatically limited by a facility abuse prevention plan pursuant to section
7.21 626.557, subdivision 14, paragraph (b), this right shall also be limited accordingly.

7.22 Sec. 11. **[144.6511] CONSUMER TRANSPARENCY.**

7.23 (a) Deceptive marketing and business practices are prohibited.

7.24 (b) For the purposes of this section, it is a deceptive practice for a facility to:

7.25 (1) make any false, fraudulent, deceptive, or misleading statements in marketing,
7.26 advertising, or written description or representation of care or services, whether in written
7.27 or electronic form;

7.28 (2) arrange for or provide health care or services other than those contracted for;

7.29 (3) fail to deliver any care or services the provider or facility promised that the facility
7.30 was able to provide;

7.31 (4) fail to inform the patient or resident in writing of any limitations to care services
7.32 available prior to executing a contract for admission;

8.1 (5) fail to fulfill a written promise that the facility shall continue the same services and
8.2 the same lease terms if a private pay resident converts to the elderly waiver program;

8.3 (6) fail to disclose in writing the purpose of a nonrefundable community fee or other fee
8.4 prior to contracting for services with a patient or resident;

8.5 (7) advertise or represent, in writing, that the facility is or has a special care unit, such
8.6 as for dementia or memory care, without complying with training and disclosure requirements
8.7 under sections 144D.065 and 325F.72, and any other applicable law; or

8.8 (8) define the terms "facility," "contract of admission," "admission contract," "admission
8.9 agreement," "legal representative," or "responsible party" to mean anything other than the
8.10 meanings of those terms under section 144.6501.

8.11 Sec. 12. Minnesota Statutes 2016, section 144A.10, subdivision 1, is amended to read:

8.12 Subdivision 1. **Enforcement authority.** The commissioner of health is the exclusive
8.13 state agency charged with the responsibility and duty of inspecting all facilities required to
8.14 be licensed under section 144A.02, and issuing correction orders and imposing fines as
8.15 provided in this section, Minnesota Rules, chapter 4658, or any other applicable law. The
8.16 commissioner of health shall enforce the rules established pursuant to sections 144A.01 to
8.17 144A.155, subject only to the authority of the Department of Public Safety respecting the
8.18 enforcement of fire and safety standards in nursing homes and the responsibility of the
8.19 commissioner of human services under sections 245A.01 to 245A.16 or 252.28.

8.20 The commissioner may request and must be given access to relevant information, records,
8.21 incident reports, or other documents in the possession of a licensed facility if the
8.22 commissioner considers them necessary for the discharge of responsibilities. For the purposes
8.23 of inspections and securing information to determine compliance with the licensure laws
8.24 and rules, the commissioner need not present a release, waiver, or consent of the individual.
8.25 A facility's refusal to cooperate in providing lawfully requested information is grounds for
8.26 a correction order or fine. The identities of patients or residents must be kept private as
8.27 defined by section 13.02, subdivision 12.

8.28 Sec. 13. Minnesota Statutes 2017 Supplement, section 144A.10, subdivision 4, is amended
8.29 to read:

8.30 Subd. 4. **Correction orders.** Whenever a duly authorized representative of the
8.31 commissioner of health finds upon inspection of a nursing home, that the facility or a
8.32 controlling person or an employee of the facility is not in compliance with sections 144.411

9.1 to 144.417, 144.651, 144.6503, 144A.01 to 144A.155, or 626.557 or the rules promulgated
9.2 thereunder, a correction order shall be issued to the facility. The correction order shall state
9.3 the deficiency, cite the specific rule or statute violated, state the suggested method of
9.4 correction, and specify the time allowed for correction. Upon receipt of a correction order,
9.5 a facility shall develop and submit to the commissioner a corrective action plan based on
9.6 the correction order. The corrective action plan must specify the steps the facility will take
9.7 to correct the violation and to prevent such violations in the future, how the facility will
9.8 monitor its compliance with the corrective action plan, and when the facility plans to
9.9 complete the steps in the corrective action plan. The commissioner is presumed to accept
9.10 a corrective action plan unless the commissioner notifies the submitting facility that the
9.11 plan is not accepted within 15 calendar days after the plan is submitted to the commissioner.
9.12 The commissioner shall monitor the facility's compliance with the corrective action plan.
9.13 If the commissioner finds that the nursing home had uncorrected or repeated violations
9.14 which create a risk to resident care, safety, or rights, the commissioner shall notify the
9.15 commissioner of human services.

9.16 Sec. 14. Minnesota Statutes 2016, section 144A.44, subdivision 1, is amended to read:

9.17 Subdivision 1. **Statement of rights.** A person who receives home care services has these
9.18 rights:

9.19 (1) the right to receive written information about rights before receiving services,
9.20 including what to do if rights are violated;

9.21 (2) the right to receive care and services according to a suitable and up-to-date plan, and
9.22 subject to accepted health care, medical or nursing standards, to take an active part in
9.23 developing, modifying, and evaluating the plan and services;

9.24 (3) the right to be told before receiving services the type and disciplines of staff who
9.25 will be providing the services, the frequency of visits proposed to be furnished, other choices
9.26 that are available for addressing home care needs, and the potential consequences of refusing
9.27 these services;

9.28 (4) the right to be told in advance of any recommended changes by the provider in the
9.29 service plan and to take an active part in any decisions about changes to the service plan;

9.30 (5) the right to refuse services or treatment;

9.31 (6) the right to know, before receiving services or during the initial visit, any limits to
9.32 the services available from a home care provider;

10.1 (7) the right to be told before services are initiated what the provider charges for the
10.2 services; to what extent payment may be expected from health insurance, public programs,
10.3 or other sources, if known; and what charges the client may be responsible for paying;

10.4 (8) the right to know that there may be other services available in the community,
10.5 including other home care services and providers, and to know where to find information
10.6 about these services;

10.7 (9) the right to choose freely among available providers and to change providers after
10.8 services have begun, within the limits of health insurance, long-term care insurance, medical
10.9 assistance, or other health programs;

10.10 (10) the right to have personal, financial, and medical information kept private, and to
10.11 be advised of the provider's policies and procedures regarding disclosure of such information;

10.12 (11) the right to access the client's own records and written information from those
10.13 records in accordance with sections 144.291 to 144.298;

10.14 (12) the right to be served by people who are properly trained and competent to perform
10.15 their duties;

10.16 (13) the right to be treated with courtesy and respect, and to have the client's property
10.17 treated with respect;

10.18 (14) the right to be free from physical and verbal abuse, neglect, financial exploitation,
10.19 and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment
10.20 of Minors Act;

10.21 (15) the right to reasonable, advance notice of changes in services or charges;

10.22 (16) the right to know the provider's reason for termination of services;

10.23 (17) the right to at least ten days' advance notice of the termination of a service by a
10.24 provider, except in cases where:

10.25 (i) the client engages in conduct that significantly alters the terms of the service plan
10.26 with the home care provider;

10.27 (ii) the client, person who lives with the client, or others create an abusive or unsafe
10.28 work environment for the person providing home care services; or

10.29 (iii) an emergency or a significant change in the client's condition has resulted in service
10.30 needs that exceed the current service plan and that cannot be safely met by the home care
10.31 provider;

11.1 (18) the right to a coordinated transfer when there will be a change in the provider of
11.2 services;

11.3 (19) the right to complain about services that are provided, or fail to be provided, and
11.4 the lack of courtesy or respect to the client or the client's property;

11.5 (20) the right to recommend changes in policies and services to the home care provider,
11.6 provider staff, and others of the person's choice, free from restraint, interference, coercion,
11.7 discrimination, or reprisal, including threat of termination of services;

11.8 ~~(20)~~ (21) the right to know how to contact an individual associated with the home care
11.9 provider who is responsible for handling problems and to have the home care provider
11.10 investigate and attempt to resolve the grievance or complaint;

11.11 ~~(21)~~ (22) the right to know the name and address of the state or county agency to contact
11.12 for additional information or assistance; and

11.13 ~~(22)~~ (23) the right to assert these rights personally, or have them asserted by the client's
11.14 representative or by anyone on behalf of the client, without retaliation.

11.15 Sec. 15. Minnesota Statutes 2016, section 144A.442, is amended to read:

11.16 **144A.442 ~~ASSISTED LIVING CLIENTS; SERVICE~~ ARRANGED HOME CARE**
11.17 **PROVIDER RESPONSIBILITIES; TERMINATION OF SERVICES.**

11.18 Subdivision 1. **Contents of service termination notice.** If an arranged home care
11.19 provider, as defined in section 144D.01, subdivision 2a, who is not also Medicare certified
11.20 terminates a service agreement or service plan with an assisted living client, as defined in
11.21 section 144G.01, subdivision 3, the home care provider shall provide the assisted living
11.22 client and the legal or designated representatives of the client, if any, with a written notice
11.23 of termination ~~which~~ that includes the following information:

11.24 (1) the effective date of termination;

11.25 (2) the reason for termination;

11.26 (3) without extending the termination notice period, an affirmative offer to meet with
11.27 the assisted living client or client representatives within no more than five business days of
11.28 the date of the termination notice to discuss the termination;

11.29 (4) contact information for a reasonable number of other home care providers in the
11.30 geographic area of the assisted living client, as required by section 144A.4791, subdivision
11.31 10;

12.1 (5) a statement that the provider will participate in a coordinated transfer of the care of
12.2 the client to another provider or caregiver, as required by section 144A.44, subdivision 1,
12.3 clause (18);

12.4 (6) the name and contact information of a representative of the home care provider with
12.5 whom the client may discuss the notice of termination;

12.6 (7) a copy of the home care bill of rights; and

12.7 (8) a statement that the notice of termination of home care services by the home care
12.8 provider does not constitute notice of termination of the housing with services contract with
12.9 a housing with services establishment.

12.10 Subd. 2. **Discontinuation of services.** An arranged home care provider's responsibilities
12.11 when voluntarily discontinuing services to all clients are governed by section 144A.4791,
12.12 subdivision 10.

12.13 Sec. 16. Minnesota Statutes 2016, section 144A.45, subdivision 1, is amended to read:

12.14 Subdivision 1. **Regulations.** The commissioner shall regulate home care providers
12.15 pursuant to sections 144A.43 to 144A.482. The regulations shall include the following:

12.16 (1) provisions to assure, to the extent possible, the health, safety, well-being, and
12.17 appropriate treatment of persons who receive home care services while respecting a client's
12.18 autonomy and choice;

12.19 (2) requirements that home care providers furnish the commissioner with specified
12.20 information necessary to implement sections 144A.43 to 144A.482;

12.21 (3) standards of training of home care provider personnel;

12.22 (4) standards for provision of home care services;

12.23 (5) standards for medication management;

12.24 (6) standards for supervision of home care services;

12.25 (7) standards for client evaluation or assessment;

12.26 (8) requirements for the involvement of a client's health care provider, the documentation
12.27 of health care providers' orders, if required, and the client's service plan;

12.28 (9) standards for the maintenance of accurate, current client records;

12.29 (10) the establishment of basic and comprehensive levels of licenses based on services
12.30 provided; and

13.1 (11) provisions to enforce these regulations and the home care bill of rights, including
13.2 provisions for issuing penalties and fines as allowed under law.

13.3 Sec. 17. Minnesota Statutes 2016, section 144A.45, subdivision 2, is amended to read:

13.4 Subd. 2. **Regulatory functions.** The commissioner shall:

13.5 (1) license, survey, and monitor without advance notice, home care providers in
13.6 accordance with sections 144A.43 to 144A.482;

13.7 (2) survey every temporary licensee within one year of the temporary license issuance
13.8 date subject to the temporary licensee providing home care services to a client or clients;

13.9 (3) survey all licensed home care providers on an interval that will promote the health
13.10 and safety of clients;

13.11 (4) with the consent of the client, visit the home where services are being provided;

13.12 (5) issue correction orders and assess civil penalties in accordance with section sections
13.13 144.653, subdivisions 5 to 8, 144A.474, and 144A.475, for violations of sections 144A.43
13.14 to 144A.482;

13.15 (6) take action as authorized in section 144A.475; and

13.16 (7) take other action reasonably required to accomplish the purposes of sections 144A.43
13.17 to 144A.482.

13.18 Sec. 18. Minnesota Statutes 2016, section 144A.473, subdivision 2, is amended to read:

13.19 Subd. 2. **Temporary license.** (a) For new license applicants, the commissioner shall
13.20 issue a temporary license for either the basic or comprehensive home care level. A temporary
13.21 license is effective for up to one year from the date of issuance. Temporary licensees must
13.22 comply with sections 144A.43 to 144A.482.

13.23 (b) During the temporary license year period, the commissioner shall survey the temporary
13.24 licensee within 90 calendar days after the commissioner is notified or has evidence that the
13.25 temporary licensee is providing home care services.

13.26 (c) Within five days of beginning the provision of services, the temporary licensee must
13.27 notify the commissioner that it is serving clients. The notification to the commissioner may
13.28 be mailed or e-mailed to the commissioner at the address provided by the commissioner. If
13.29 the temporary licensee does not provide home care services during the temporary license
13.30 year period, then the temporary license expires at the end of the year period and the applicant
13.31 must reapply for a temporary home care license.

14.1 (d) A temporary licensee may request a change in the level of licensure prior to being
14.2 surveyed and granted a license by notifying the commissioner in writing and providing
14.3 additional documentation or materials required to update or complete the changed temporary
14.4 license application. The applicant must pay the difference between the application fees
14.5 when changing from the basic level to the comprehensive level of licensure. No refund will
14.6 be made if the provider chooses to change the license application to the basic level.

14.7 (e) If the temporary licensee notifies the commissioner that the licensee has clients within
14.8 45 days prior to the temporary license expiration, the commissioner may extend the temporary
14.9 license for up to 60 days in order to allow the commissioner to complete the on-site survey
14.10 required under this section and follow-up survey visits.

14.11 Sec. 19. Minnesota Statutes 2016, section 144A.474, subdivision 2, is amended to read:

14.12 Subd. 2. **Types of home care surveys.** (a) "Initial full survey" means the survey of a
14.13 new temporary licensee conducted after the department is notified or has evidence that the
14.14 temporary licensee is providing home care services to determine if the provider is in
14.15 compliance with home care requirements. Initial full surveys must be completed within 14
14.16 months after the department's issuance of a temporary basic or comprehensive license.

14.17 <u>(b) "Change in ownership survey" means a full survey of a new licensee due to a change</u>
14.18 <u>in ownership. Change in ownership surveys must be completed within six months after the</u>
14.19 <u>department's issuance of a new license due to a change in ownership.</u>

14.20 ~~(b)~~ <u>(c)</u> "Core survey" means periodic inspection of home care providers to determine
14.21 ongoing compliance with the home care requirements, focusing on the essential health and
14.22 safety requirements. Core surveys are available to licensed home care providers who have
14.23 been licensed for three years and surveyed at least once in the past three years with the latest
14.24 survey having no widespread violations beyond Level 1 as provided in subdivision 11.
14.25 Providers must also not have had any substantiated licensing complaints, substantiated
14.26 complaints against the agency under the Vulnerable Adults Act or Maltreatment of Minors
14.27 Act, or an enforcement action as authorized in section 144A.475 in the past three years.

14.28 (1) The core survey for basic home care providers must review compliance in the
14.29 following areas:

14.30 (i) reporting of maltreatment;

14.31 (ii) orientation to and implementation of the home care bill of rights;

14.32 (iii) statement of home care services;

15.1 (iv) initial evaluation of clients and initiation of services;

15.2 (v) client review and monitoring;

15.3 (vi) service plan implementation and changes to the service plan;

15.4 (vii) client complaint and investigative process;

15.5 (viii) competency of unlicensed personnel; and

15.6 (ix) infection control.

15.7 (2) For comprehensive home care providers, the core survey must include everything
15.8 in the basic core survey plus these areas:

15.9 (i) delegation to unlicensed personnel;

15.10 (ii) assessment, monitoring, and reassessment of clients; and

15.11 (iii) medication, treatment, and therapy management.

15.12 ~~(c)~~ (d) "Full survey" means the periodic inspection of home care providers to determine
15.13 ongoing compliance with the home care requirements that cover the core survey areas and
15.14 all the legal requirements for home care providers. A full survey is conducted for all
15.15 temporary licensees and for providers who do not meet the requirements needed for a core
15.16 survey, and when a surveyor identifies unacceptable client health or safety risks during a
15.17 core survey. A full survey must include all the tasks identified as part of the core survey
15.18 and any additional review deemed necessary by the department, including additional
15.19 observation, interviewing, or records review of additional clients and staff.

15.20 ~~(d)~~ (e) "Follow-up surveys" means surveys conducted to determine if a home care
15.21 provider has corrected deficient issues and systems identified during a core survey, full
15.22 survey, or complaint investigation. Follow-up surveys may be conducted via phone, e-mail,
15.23 fax, mail, or on-site reviews. Follow-up surveys, other than complaint surveys, shall be
15.24 concluded with an exit conference and written information provided on the process for
15.25 requesting a reconsideration of the survey results.

15.26 ~~(e)~~ (f) Upon receiving information alleging that a home care provider has violated or is
15.27 currently violating a requirement of sections 144A.43 to 144A.482, the commissioner shall
15.28 investigate the complaint according to sections 144A.51 to 144A.54.

15.29 Sec. 20. Minnesota Statutes 2016, section 144A.474, subdivision 8, is amended to read:

15.30 Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the
15.31 commissioner finds upon survey or during a complaint investigation that a home care

16.1 provider, a managerial official, or an employee of the provider is not in compliance with
16.2 sections 144A.43 to 144A.482. The correction order shall cite the specific statute and
16.3 document areas of noncompliance and the time allowed for correction.

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

16.10 (c) By the correction order date, the home care provider must ~~document in the provider's~~
16.11 ~~records any action taken to comply with the correction order. The commissioner may request~~
16.12 ~~a copy of this documentation and the home care provider's action to respond to the correction~~
16.13 ~~order in future surveys, upon a complaint investigation, and as otherwise needed.~~ develop
16.14 and submit to the commissioner a corrective action plan based on the correction order. The
16.15 corrective action plan must specify the steps the provider will take to comply with the
16.16 correction order and how to prevent noncompliance in the future, how the provider will
16.17 monitor its compliance with the corrective action plan, and when the provider plans to
16.18 complete the steps in the corrective action plan. The commissioner is presumed to accept
16.19 a corrective action plan unless the commissioner notifies the submitting home care provider
16.20 that the plan is not accepted within 15 calendar days after the plan is submitted to the
16.21 commissioner. The commissioner shall monitor the provider's compliance with the corrective
16.22 action plan.

16.23 Sec. 21. Minnesota Statutes 2016, section 144A.474, subdivision 9, is amended to read:

16.24 Subd. 9. **Follow-up surveys.** For providers that have Level 3 or Level 4 violations under
16.25 subdivision 11, or any violations determined to be widespread, the department shall conduct
16.26 a follow-up survey within 90 calendar days of the survey. When conducting a follow-up
16.27 survey, the surveyor will focus on whether the previous violations have been corrected and
16.28 may also address any new violations that are observed while evaluating the corrections that
16.29 have been made. If a new violation is identified on a follow-up survey, ~~no fine will be~~
16.30 ~~imposed unless it is not corrected on the next follow-up survey~~ the surveyor shall issue a
16.31 correction order for the new violation and may impose an immediate fine for the new
16.32 violation.

17.1 Sec. 22. Minnesota Statutes 2017 Supplement, section 144A.474, subdivision 11, is
17.2 amended to read:

17.3 Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed
17.4 based on the level and scope of the violations described in paragraph (c) as follows:

17.5 (1) Level 1, no fines or enforcement;

17.6 (2) Level 2, fines ranging from $0 to $500, in addition to any of the enforcement
17.7 mechanisms authorized in section 144A.475 for widespread violations;

17.8 (3) Level 3, fines ranging from $500 to $1,000, in addition to any of the enforcement
17.9 mechanisms authorized in section 144A.475; and

17.10 (4) Level 4, fines ranging from $1,000 to $5,000, in addition to any of the enforcement
17.11 mechanisms authorized in section 144A.475.

17.12 (b) Correction orders for violations are categorized by both level and scope and fines
17.13 shall be assessed as follows:

17.14 (1) level of violation:

17.15 (i) Level 1 is a violation that has no potential to cause more than a minimal impact on
17.16 the client and does not affect health or safety;

17.17 (ii) Level 2 is a violation that did not harm a client's health or safety but had the potential
17.18 to have harmed a client's health or safety, but was not likely to cause serious injury,
17.19 impairment, or death;

17.20 (iii) Level 3 is a violation that harmed a client's health or safety, not including serious
17.21 injury, impairment, or death, or a violation that has the potential to lead to serious injury,
17.22 impairment, or death; and

17.23 (iv) Level 4 is a violation that results in serious injury, impairment, or death.

17.24 (2) scope of violation:

17.25 (i) isolated, when one or a limited number of clients are affected or one or a limited
17.26 number of staff are involved or the situation has occurred only occasionally;

17.27 (ii) pattern, when more than a limited number of clients are affected, more than a limited
17.28 number of staff are involved, or the situation has occurred repeatedly but is not found to be
17.29 pervasive; and

17.30 (iii) widespread, when problems are pervasive or represent a systemic failure that has
17.31 affected or has the potential to affect a large portion or all of the clients.

(c) If the commissioner finds that the applicant or a home care provider required to be licensed under sections 144A.43 to 144A.482 has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner may impose ~~a~~ an additional fine for noncompliance with a correction order. A notice of noncompliance with a correction order must be mailed to the applicant's or provider's last known address. The ~~noncompliance~~ notice of noncompliance with a correction order must list the violations not corrected and any fines imposed.

(d) The license holder must pay the fines assessed on or before the payment date specified on a correction order or on a notice of noncompliance with a correction order. If the license holder fails to ~~fully comply with the order~~ pay a fine by the specified date, the commissioner may issue a ~~second~~ late payment fine or suspend the license until the license holder ~~complies by paying the fine~~ pays all outstanding fines. A timely appeal shall stay payment of the late payment fine until the commissioner issues a final order.

(e) A license holder shall promptly notify the commissioner in writing when a violation specified in ~~the order~~ a notice of noncompliance with a correction order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the ~~order~~ notice of noncompliance with a correction order, the commissioner may issue ~~a second~~ an additional fine for noncompliance with a notice of noncompliance with a correction order. The commissioner shall notify the license holder by mail to the last known address in the licensing record that ~~a second~~ an additional fine has been assessed. The license holder may appeal the ~~second~~ additional fine as provided under this subdivision.

(f) A home care provider that has been assessed a fine under this subdivision or subdivision 8 has a right to a reconsideration or a hearing under this section and chapter 14.

(g) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder shall be liable for payment of the fine.

(h) In addition to any fine imposed under this section, the commissioner may assess costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

(i) Fines collected under this subdivision shall be deposited in the state government special revenue fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines collected must be used by the commissioner for special projects to improve home care in Minnesota as recommended by the advisory council established in section 144A.4799.

19.1 Sec. 23. Minnesota Statutes 2016, section 144A.4791, subdivision 10, is amended to read:

19.2 Subd. 10. **Termination of service plan.** (a) Except as provided in section 144A.442, if
19.3 a home care provider terminates a service plan with a client, and the client continues to need
19.4 home care services, the home care provider shall provide the client and the client's
19.5 representative, if any, with a written notice of termination which includes the following
19.6 information:

19.7 (1) the effective date of termination;

19.8 (2) the reason for termination;

19.9 (3) a list of known licensed home care providers in the client's immediate geographic
19.10 area;

19.11 (4) a statement that the home care provider will participate in a coordinated transfer of
19.12 care of the client to another home care provider, health care provider, or caregiver, as
19.13 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

19.14 (5) the name and contact information of a person employed by the home care provider
19.15 with whom the client may discuss the notice of termination; and

19.16 (6) if applicable, a statement that the notice of termination of home care services does
19.17 not constitute notice of termination of the housing with services contract with a housing
19.18 with services establishment.

19.19 (b) When the home care provider voluntarily discontinues services to all clients, the
19.20 home care provider must notify the commissioner, lead agencies, and ombudsman for
19.21 long-term care about its clients and comply with the requirements in this subdivision.

19.22 Sec. 24. Minnesota Statutes 2016, section 144A.53, subdivision 1, is amended to read:

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

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

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

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

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

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

(f) Issue correction orders and assess civil fines pursuant to ~~section~~ sections 144.653, 144A.10, 144A.45, and 144A.474; Minnesota Rules, chapters 4655, 4658, 4664, and 4665; or any other law ~~which~~ or rule that provides for the issuance of correction orders or fines to health facilities, residential care homes, or home care ~~provider, or under section 144A.45~~ providers. This authority includes the authority to issue correction orders and assess civil fines for violations identified in the appeal or review process. A health facility's, residential care home's, or ~~home's~~ home care provider's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order or fine.

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

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

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

21.1 Sec. 25. Minnesota Statutes 2016, section 144A.53, subdivision 4, is amended to read:

21.2 Subd. 4. **Referral of complaints.** (a) If a complaint received by the director relates to
21.3 a matter more properly within the jurisdiction of law enforcement, an occupational licensing
21.4 board, or other governmental agency, the director shall forward the complaint to that agency
21.5 appropriately and shall inform the complaining party of the forwarding. The

21.6 (b) An agency shall promptly act in respect to the complaint, and shall inform the
21.7 complaining party and the director of its disposition. If a governmental agency receives a
21.8 complaint which is more properly within the jurisdiction of the director, it shall promptly
21.9 forward the complaint to the director, and shall inform the complaining party of the
21.10 forwarding.

21.11 (c) If the director has reason to believe that an official or employee of an administrative
21.12 agency, a home care provider, residential care home, or health facility, or a client or resident
21.13 of any of these entities has acted in a manner warranting criminal or disciplinary proceedings,
21.14 the director shall refer the matter to the state commissioner of health, the commissioner of
21.15 human services, an appropriate prosecuting authority, or other appropriate agency.

21.16 Sec. 26. Minnesota Statutes 2016, section 144A.53, is amended by adding a subdivision
21.17 to read:

21.18 Subd. 5. **Safety and quality improvement technical panel.** The director shall establish
21.19 an expert technical panel to examine and make recommendations, on an ongoing basis, on
21.20 how to apply proven safety and quality improvement practices and infrastructure to settings
21.21 and providers that provide long-term services and supports. The technical panel must include
21.22 representation from nonprofit Minnesota-based organizations dedicated to patient safety or
21.23 innovation in health care safety and quality, Department of Health staff with expertise in
21.24 issues related to adverse health events, the University of Minnesota, organizations
21.25 representing long-term care providers and home care providers in Minnesota, national patient
21.26 safety experts, and other experts in the safety and quality improvement field. The technical
21.27 panel shall periodically provide recommendations to the legislature on legislative changes
21.28 needed to promote safety and quality improvement practices in long-term care settings and
21.29 with long-term care providers.

21.30 Sec. 27. Minnesota Statutes 2016, section 144A.53, is amended by adding a subdivision
21.31 to read:

21.32 Subd. 6. **Training and operations panel.** (a) The director shall establish a training and
21.33 operations panel within the Office of Health Facility Complaints to examine and make

22.1 recommendations, on an ongoing basis, on continual improvements to the operation of the
22.2 office. The training and operations panel shall be composed of office staff, including
22.3 investigators and intake and triage staff, one or more representatives of the commissioner's
22.4 office, and employees from any other divisions in the Department of Health with relevant
22.5 knowledge or expertise. The training and operations panel may also consult with employees
22.6 from other agencies in state government with relevant knowledge or expertise.

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

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

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

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

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

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

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

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

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

Sec. 28. Minnesota Statutes 2016, section 144D.01, subdivision 1, is amended to read:

Subdivision 1. **Scope.** As used in ~~sections 144D.01 to 144D.06~~ this chapter, the following terms have the meanings given them.

Sec. 29. Minnesota Statutes 2016, section 144D.02, is amended to read:

144D.02 REGISTRATION REQUIRED.

No entity may establish, operate, conduct, or maintain a housing with services establishment in this state without registering and operating as required in sections 144D.01 to ~~144D.06~~ 144D.11.

Sec. 30. Minnesota Statutes 2017 Supplement, section 144D.04, subdivision 2, is amended to read:

Subd. 2. **Contents of contract.** A housing with services contract, which need not be entitled as such to comply with this section, shall include at least the following elements in itself or through supporting documents or attachments:

(1) the name, street address, and mailing address of the establishment;

(2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;

(3) the name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;

(4) the name and physical mailing address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;

(5) a statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;

(6) the term of the contract;

(7) a description of the services to be provided to the resident in the base rate to be paid by the resident, including a delineation of the portion of the base rate that constitutes rent and a delineation of charges for each service included in the base rate;

(8) a description of any additional services, including home care services, available for an additional fee from the establishment directly or through arrangements with the establishment, and a schedule of fees charged for these services;

(9) a conspicuous notice informing the tenant of the policy concerning the conditions under which and the process through which the contract may be modified, amended, or terminated, including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;

(10) a description of the establishment's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;

(11) the resident's designated representative, if any;

(12) the establishment's referral procedures if the contract is terminated;

(13) requirements of residency used by the establishment to determine who may reside or continue to reside in the housing with services establishment;

(14) billing and payment procedures and requirements;

(15) a statement regarding the ability of a resident to receive services from service providers with whom the establishment does not have an arrangement;

(16) a statement regarding the availability of public funds for payment for residence or services in the establishment; ~~and~~

(17) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the establishment is located~~.~~;

25.1 (18) a statement that a resident has the right to request a reasonable accommodation;
25.2 and

25.3 (19) a statement describing the conditions under which a contract may be amended.

25.4 Sec. 31. Minnesota Statutes 2016, section 144D.04, is amended by adding a subdivision
25.5 to read:

25.6 Subd. 2b. **Changes to contract.** The housing with services establishment must provide
25.7 prompt written notice to the resident or resident's legal representative of a new owner or
25.8 manager of the housing with services establishment, and the name and physical mailing
25.9 address of any new or additional natural person not identified in the admission contract who
25.10 is authorized to accept service of process.

25.11 Sec. 32. **[144D.044] INFORMATION REQUIRED TO BE POSTED.**

25.12 A housing with services establishment must post conspicuously within the establishment,
25.13 in a location accessible to public view, the following information:

25.14 (1) the name, mailing address, and contact information of the current owner or owners
25.15 of the establishment and, if the owner or owners are not natural persons, identification of
25.16 the type of business entity of the owner or owners;

25.17 (2) the name, mailing address, and contact information of the managing agent, through
25.18 management agreement or lease agreement, of the establishment, if different from the owner
25.19 or owners, and the name and contact information of the on-site manager, if any; and

25.20 (3) the name and mailing address of at least one natural person who is authorized to
25.21 accept service of process on behalf of the owner or owners and managing agent.

25.22 Sec. 33. **[144D.095] TERMINATION OF SERVICES.**

25.23 A termination of services initiated by an arranged home care provider is governed by
25.24 section 144A.442.

25.25 Sec. 34. Minnesota Statutes 2016, section 144G.01, subdivision 1, is amended to read:

25.26 Subdivision 1. **Scope; other definitions.** For purposes of sections 144G.01 to ~~144G.05~~
25.27 144G.08, the following definitions apply. In addition, the definitions provided in section
25.28 144D.01 also apply to sections 144G.01 to ~~144G.05~~ 144G.08.

26.1 Sec. 35. **[144G.07] TERMINATION OF LEASE.**

26.2 A lease termination initiated by a registered housing with services establishment using
26.3 "assisted living" is governed by section 144D.09.

26.4 Sec. 36. **[144G.08] TERMINATION OF SERVICES.**

26.5 A termination of services initiated by an arranged home care provider as defined in
26.6 section 144D.01, subdivision 2a, is governed by section 144A.442.

26.7 Sec. 37. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 3, is amended
26.8 to read:

26.9 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

26.10 (1) any person applying for, receiving or having received public assistance, medical
26.11 care, or a program of social services granted by the state agency or a county agency or the
26.12 federal Food Stamp Act whose application for assistance is denied, not acted upon with
26.13 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
26.14 to have been incorrectly paid;

26.15 (2) any patient or relative aggrieved by an order of the commissioner under section
26.16 252.27;

26.17 (3) a party aggrieved by a ruling of a prepaid health plan;

26.18 (4) except as provided under chapter 245C,:

26.19 (i) any individual or facility determined by a lead investigative agency to have maltreated
26.20 a vulnerable adult under section 626.557 after they have exercised their right to administrative
26.21 reconsideration under section 626.557; and

26.22 (ii) any vulnerable adult who is the subject of a maltreatment investigation under section
26.23 626.557 or a guardian or health care agent of the vulnerable adult, after the right to
26.24 administrative reconsideration under section 626.557, subdivision 9d, has been exercised;

26.25 (5) any person whose claim for foster care payment according to a placement of the
26.26 child resulting from a child protection assessment under section 626.556 is denied or not
26.27 acted upon with reasonable promptness, regardless of funding source;

26.28 (6) any person to whom a right of appeal according to this section is given by other
26.29 provision of law;

27.1 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
27.2 under section 256B.15;

27.3 (8) an applicant aggrieved by an adverse decision to an application or redetermination
27.4 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

27.5 (9) except as provided under chapter 245A, an individual or facility determined to have
27.6 maltreated a minor under section 626.556, after the individual or facility has exercised the
27.7 right to administrative reconsideration under section 626.556;

27.8 (10) except as provided under chapter 245C, an individual disqualified under sections
27.9 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
27.10 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
27.11 individual has committed an act or acts that meet the definition of any of the crimes listed
27.12 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
27.13 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
27.14 determination under clause (4) or (9) and a disqualification under this clause in which the
27.15 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
27.16 a single fair hearing. In such cases, the scope of review by the human services judge shall
27.17 include both the maltreatment determination and the disqualification. The failure to exercise
27.18 the right to an administrative reconsideration shall not be a bar to a hearing under this section
27.19 if federal law provides an individual the right to a hearing to dispute a finding of
27.20 maltreatment;

27.21 (11) any person with an outstanding debt resulting from receipt of public assistance,
27.22 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
27.23 Department of Human Services or a county agency. The scope of the appeal is the validity
27.24 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
27.25 the debt;

27.26 (12) a person issued a notice of service termination under section 245D.10, subdivision
27.27 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
27.28 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

27.29 (13) an individual disability waiver recipient based on a denial of a request for a rate
27.30 exception under section 256B.4914; or

27.31 (14) a person issued a notice of service termination under section 245A.11, subdivision
27.32 11, that is not otherwise subject to appeal under subdivision 4a.

28.1 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
28.2 is the only administrative appeal to the final agency determination specifically, including
28.3 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
28.4 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
28.5 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
28.6 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
28.7 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
28.8 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
28.9 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
28.10 available when there is no district court action pending. If such action is filed in district
28.11 court while an administrative review is pending that arises out of some or all of the events
28.12 or circumstances on which the appeal is based, the administrative review must be suspended
28.13 until the judicial actions are completed. If the district court proceedings are completed,
28.14 dismissed, or overturned, the matter may be considered in an administrative hearing.

28.15 (c) For purposes of this section, bargaining unit grievance procedures are not an
28.16 administrative appeal.

28.17 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
28.18 clause (5), shall be limited to the issue of whether the county is legally responsible for a
28.19 child's placement under court order or voluntary placement agreement and, if so, the correct
28.20 amount of foster care payment to be made on the child's behalf and shall not include review
28.21 of the propriety of the county's child protection determination or child placement decision.

28.22 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
28.23 whether the proposed termination of services is authorized under section 245D.10,
28.24 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
28.25 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
28.26 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
28.27 termination of services, the scope of the hearing shall also include whether the case
28.28 management provider has finalized arrangements for a residential facility, a program, or
28.29 services that will meet the assessed needs of the recipient by the effective date of the service
28.30 termination.

28.31 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
28.32 under contract with a county agency to provide social services is not a party and may not
28.33 request a hearing under this section, except if assisting a recipient as provided in subdivision
28.34 4.

29.1 (g) An applicant or recipient is not entitled to receive social services beyond the services
29.2 prescribed under chapter 256M or other social services the person is eligible for under state
29.3 law.

29.4 (h) The commissioner may summarily affirm the county or state agency's proposed
29.5 action without a hearing when the sole issue is an automatic change due to a change in state
29.6 or federal law.

29.7 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
29.8 appeal, an individual or organization specified in this section may contest the specified
29.9 action, decision, or final disposition before the state agency by submitting a written request
29.10 for a hearing to the state agency within 30 days after receiving written notice of the action,
29.11 decision, or final disposition, or within 90 days of such written notice if the applicant,
29.12 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
29.13 13, why the request was not submitted within the 30-day time limit. The individual filing
29.14 the appeal has the burden of proving good cause by a preponderance of the evidence.

29.15 Sec. 38. Minnesota Statutes 2017 Supplement, section 256.045, subdivision 4, is amended
29.16 to read:

29.17 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,
29.18 or 4a shall be conducted according to the provisions of the federal Social Security Act and
29.19 the regulations implemented in accordance with that act to enable this state to qualify for
29.20 federal grants-in-aid, and according to the rules and written policies of the commissioner
29.21 of human services. County agencies shall install equipment necessary to conduct telephone
29.22 hearings. A state human services judge may schedule a telephone conference hearing when
29.23 the distance or time required to travel to the county agency offices will cause a delay in the
29.24 issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings
29.25 may be conducted by telephone conferences unless the applicant, recipient, former recipient,
29.26 person, or facility contesting maltreatment objects. A human services judge may grant a
29.27 request for a hearing in person by holding the hearing by interactive video technology or
29.28 in person. The human services judge must hear the case in person if the person asserts that
29.29 either the person or a witness has a physical or mental disability that would impair the
29.30 person's or witness's ability to fully participate in a hearing held by interactive video
29.31 technology. The hearing shall not be held earlier than five days after filing of the required
29.32 notice with the county or state agency. The state human services judge shall notify all
29.33 interested persons of the time, date, and location of the hearing at least five days before the
29.34 date of the hearing. Interested persons may be represented by legal counsel or other

30.1 representative of their choice, including a provider of therapy services, at the hearing and
30.2 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
30.3 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
30.4 have the opportunity to examine the contents of the case file and all documents and records
30.5 to be used by the county or state agency at the hearing at a reasonable time before the date
30.6 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
30.7 (4), (9), and (10), either party may subpoena the private data relating to the investigation
30.8 prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible
30.9 under section 13.04, provided the identity of the reporter may not be disclosed.

30.10 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
30.11 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
30.12 for any other purpose outside the hearing provided for in this section without prior order of
30.13 the district court. Disclosure without court order is punishable by a sentence of not more
30.14 than 90 days imprisonment or a fine of not more than $1,000, or both. These restrictions on
30.15 the use of private data do not prohibit access to the data under section 13.03, subdivision
30.16 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
30.17 request, the county agency shall provide reimbursement for transportation, child care,
30.18 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
30.19 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
30.20 evidence, except that privileged by law, commonly accepted by reasonable people in the
30.21 conduct of their affairs as having probative value with respect to the issues shall be submitted
30.22 at the hearing and such hearing shall not be "a contested case" within the meaning of section
30.23 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and
30.24 may not submit evidence after the hearing except by agreement of the parties at the hearing,
30.25 provided the petitioner has the opportunity to respond.

30.26 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
30.27 determinations of maltreatment or disqualification made by more than one county agency,
30.28 by a county agency and a state agency, or by more than one state agency, the hearings may
30.29 be consolidated into a single fair hearing upon the consent of all parties and the state human
30.30 services judge.

30.31 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
30.32 vulnerable adult, the human services judge shall notify the vulnerable adult who is the
30.33 subject of the maltreatment determination and, if known, a guardian of the vulnerable adult
30.34 appointed under section 524.5-310, or a health care agent designated by the vulnerable adult
30.35 in a health care directive that is currently effective under section 145C.06 and whose authority

31.1 to make health care decisions is not suspended under section 524.5-310, of the hearing and
31.2 shall notify the facility or individual who is the alleged perpetrator of maltreatment. The
31.3 notice must be sent by certified mail and inform the vulnerable adult or the alleged perpetrator
31.4 of the right to file a signed written statement in the proceedings. A guardian or health care
31.5 agent who prepares or files a written statement for the vulnerable adult must indicate in the
31.6 statement that the person is the vulnerable adult's guardian or health care agent and sign the
31.7 statement in that capacity. The vulnerable adult, the guardian, or the health care agent may
31.8 file a written statement with the human services judge hearing the case no later than five
31.9 business days before commencement of the hearing. The human services judge shall include
31.10 the written statement in the hearing record and consider the statement in deciding the appeal.
31.11 This subdivision does not limit, prevent, or excuse the vulnerable adult or alleged perpetrator
31.12 from being called as a witness testifying at the hearing or grant the vulnerable adult, the
31.13 guardian, or health care agent a right to participate in the proceedings or appeal the human
31.14 services judge's decision in the case. The lead investigative agency must consider including
31.15 the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead
31.16 investigative agency determines that participation in the hearing would endanger the
31.17 well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the
31.18 lead investigative agency shall inform the human services judge of the basis for this
31.19 determination, which must be included in the final order. If the human services judge is not
31.20 reasonably able to determine the address of the vulnerable adult, the guardian, the alleged
31.21 perpetrator, or the health care agent, the human services judge is not required to send a
31.22 hearing notice under this subdivision.

31.23 Sec. 39. Minnesota Statutes 2016, section 325F.71, is amended to read:

31.24 **325F.71 SENIOR CITIZENS, VULNERABLE ADULTS, AND ~~DISABLED~~**
31.25 **PERSONS WITH DISABILITIES; ADDITIONAL CIVIL PENALTY FOR**
31.26 **DECEPTIVE ACTS.**

31.27 Subdivision 1. **Definitions.** For the purposes of this section, the following words have
31.28 the meanings given them:

31.29 (a) "Senior citizen" means a person who is 62 years of age or older.

31.30 (b) "~~Disabled~~ Person with a disability" means a person who has an impairment of physical
31.31 or mental function or emotional status that substantially limits one or more major life
31.32 activities.

31.33 (c) "Major life activities" means functions such as caring for one's self, performing
31.34 manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

32.1 (d) "Vulnerable adult" has the meaning given in section 626.5572, subdivision 21.

32.2 Subd. 2. **Supplemental civil penalty.** (a) In addition to any liability for a civil penalty
32.3 pursuant to sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67,
32.4 regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person
32.5 who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated
32.6 against one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a disability,
32.7 is liable for an additional civil penalty not to exceed $10,000 for each violation, if one or
32.8 more of the factors in paragraph (b) are present.

32.9 (b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the
32.10 amount of the penalty, the court shall consider, in addition to other appropriate factors, the
32.11 extent to which one or more of the following factors are present:

32.12 (1) whether the defendant knew or should have known that the defendant's conduct was
32.13 directed to one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
32.14 disability;

32.15 (2) whether the defendant's conduct caused one or more senior citizens, vulnerable adults,
32.16 or ~~disabled~~ persons with a disability to suffer: loss or encumbrance of a primary residence,
32.17 principal employment, or source of income; substantial loss of property set aside for
32.18 retirement or for personal or family care and maintenance; substantial loss of payments
32.19 received under a pension or retirement plan or a government benefits program; or assets
32.20 essential to the health or welfare of the senior citizen, vulnerable adult, or ~~disabled~~ person
32.21 with a disability;

32.22 (3) whether one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
32.23 disability are more vulnerable to the defendant's conduct than other members of the public
32.24 because of age, poor health or infirmity, impaired understanding, restricted mobility, or
32.25 disability, and actually suffered physical, emotional, or economic damage resulting from
32.26 the defendant's conduct; or

32.27 (4) whether the defendant's conduct caused senior citizens, vulnerable adults, or ~~disabled~~
32.28 persons with a disability to make an uncompensated asset transfer that resulted in the person
32.29 being found ineligible for medical assistance.

32.30 Subd. 3. **Restitution to be given priority.** Restitution ordered pursuant to the statutes
32.31 listed in subdivision 2 shall be given priority over imposition of civil penalties designated
32.32 by the court under this section.

Subd. 4. **Private remedies.** A person injured by a violation of this section may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.

Sec. 40. Minnesota Statutes 2016, section 609.2231, subdivision 8, is amended to read:

Subd. 8. **Vulnerable adults.** (a) As used in this subdivision, "vulnerable adult" has the meaning given in section 609.232, subdivision 11.

(b) Whoever assaults ~~and inflicts demonstrable bodily harm on~~ a vulnerable adult, knowing or having reason to know that the person is a vulnerable adult, is guilty of a gross misdemeanor.

Sec. 41. Minnesota Statutes 2016, section 626.557, subdivision 3, is amended to read:

Subd. 3. **Timing of report.** (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall ~~immediately~~ report the information to the common entry point as soon as possible but in no event longer than 24 hours. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, paragraph (a), clause (4).

(b) A person not required to report under the provisions of this section may voluntarily report as described above.

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

(e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this

34.1 subdivision. If the reporter or a facility, at any time believes that an investigation by a lead
34.2 investigative agency will determine or should determine that the reported error was not
34.3 neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c),
34.4 clause (5), the reporter or facility may provide to the common entry point or directly to the
34.5 lead investigative agency information explaining how the event meets the criteria under
34.6 section 626.5572, subdivision 17, paragraph (c), clause (5). The lead investigative agency
34.7 shall consider this information when making an initial disposition of the report under
34.8 subdivision 9c.

34.9 Sec. 42. Minnesota Statutes 2016, section 626.557, subdivision 4, is amended to read:

34.10 Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall
34.11 immediately make an oral report to the common entry point. The common entry point may
34.12 accept electronic reports submitted through a Web-based reporting system established by
34.13 the commissioner. Use of a telecommunications device for the deaf or other similar device
34.14 shall be considered an oral report. The common entry point may not require written reports.
34.15 To the extent possible, the report must be of sufficient content to identify the vulnerable
34.16 adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of
34.17 previous maltreatment, the name and address of the reporter, the time, date, and location of
34.18 the incident, and any other information that the reporter believes might be helpful in
34.19 investigating the suspected maltreatment. The common entry point must provide a method
34.20 for the reporter to electronically submit evidence to support the maltreatment report, including
34.21 but not limited to uploading photographs, videos, or documents. A mandated reporter may
34.22 disclose not public data, as defined in section 13.02, and medical records under sections
34.23 144.291 to 144.298, to the extent necessary to comply with this subdivision.

34.24 (b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified
34.25 under Title 19 of the Social Security Act, a nursing home that is licensed under section
34.26 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital
34.27 that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code
34.28 of Federal Regulations, title 42, section 482.66, may submit a report electronically to the
34.29 common entry point instead of submitting an oral report. ~~The report may be a duplicate of~~
34.30 ~~the initial report the facility submits electronically to the commissioner of health to comply~~
34.31 ~~with the reporting requirements under Code of Federal Regulations, title 42, section 483.13.~~
34.32 The commissioner of health may modify these reporting requirements to include items
34.33 required under paragraph (a) that are not currently included in the electronic reporting form.

35.1 (c) All reports must be directed to the common entry point, including reports from
35.2 federally licensed facilities, vulnerable adults, and interested persons.

35.3 Sec. 43. Minnesota Statutes 2016, section 626.557, subdivision 9, is amended to read:

35.4 Subd. 9. **Common entry point designation.** (a) Each county board shall designate a
35.5 common entry point for reports of suspected maltreatment, for use until the commissioner
35.6 of human services establishes a common entry point. Two or more county boards may
35.7 jointly designate a single common entry point. The commissioner of human services shall
35.8 establish a common entry point effective July 1, 2015. The common entry point is the unit
35.9 responsible for receiving the report of suspected maltreatment under this section.

35.10 (b) The common entry point must be available 24 hours per day to take calls from
35.11 reporters of suspected maltreatment. The common entry point staff must receive training
35.12 on how to screen and dispatch reports efficiently and in accordance with this section. The
35.13 common entry point shall use a standard intake form that includes:

35.14 (1) the time and date of the report;

35.15 (2) the name, address, and telephone number of the person reporting;

35.16 (3) the time, date, and location of the incident;

35.17 (4) the names of the persons involved, including but not limited to, perpetrators, alleged
35.18 victims, and witnesses;

35.19 (5) whether there was a risk of imminent danger to the alleged victim;

35.20 (6) a description of the suspected maltreatment;

35.21 (7) the disability, if any, of the alleged victim;

35.22 (8) the relationship of the alleged perpetrator to the alleged victim;

35.23 (9) whether a facility was involved and, if so, which agency licenses the facility;

35.24 (10) any action taken by the common entry point;

35.25 (11) whether law enforcement has been notified;

35.26 (12) whether the reporter wishes to receive notification of the initial and final reports;
35.27 and

35.28 (13) if the report is from a facility with an internal reporting procedure, the name, mailing
35.29 address, and telephone number of the person who initiated the report internally.

36.1 (c) The common entry point is not required to complete each item on the form prior to
36.2 dispatching the report to the appropriate lead investigative agency.

36.3 (d) The common entry point shall immediately report to a law enforcement agency any
36.4 incident in which there is reason to believe a crime has been committed.

36.5 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,
36.6 those agencies shall take the report on the appropriate common entry point intake forms
36.7 and immediately forward a copy to the common entry point.

36.8 (f) The common entry point ~~staff~~ must ~~receive training on how to screen and dispatch~~
36.9 ~~reports efficiently and in accordance with this section.~~ cross-reference multiple complaints
36.10 to the lead investigative agency concerning:

36.11 (1) the same alleged perpetrator, facility, or licensee;

36.12 (2) the same vulnerable adult; or

36.13 (3) the same incident.

36.14 (g) The commissioner of human services shall maintain a centralized database for the
36.15 collection of common entry point data, lead investigative agency data including maltreatment
36.16 report disposition, and appeals data. The common entry point shall have access to the
36.17 centralized database and must log the reports into the database and immediately identify
36.18 and locate prior reports of abuse, neglect, or exploitation.

36.19 (h) When appropriate, the common entry point staff must refer calls that do not allege
36.20 the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might
36.21 resolve the reporter's concerns.

36.22 (i) A common entry point must be operated in a manner that enables the commissioner
36.23 of human services to:

36.24 (1) track critical steps in the reporting, evaluation, referral, response, disposition, and
36.25 investigative process to ensure compliance with all requirements for all reports;

36.26 (2) maintain data to facilitate the production of aggregate statistical reports for monitoring
36.27 patterns of abuse, neglect, or exploitation;

36.28 (3) serve as a resource for the evaluation, management, and planning of preventative
36.29 and remedial services for vulnerable adults who have been subject to abuse, neglect, or
36.30 exploitation;

36.31 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness
36.32 of the common entry point; and

37.1 (5) track and manage consumer complaints related to the common entry point., including
37.2 tracking and cross-referencing multiple complaints concerning:

37.3 (i) the same alleged perpetrator, facility, or licensee;

37.4 (ii) the same vulnerable adult; and

37.5 (iii) the same incident.

37.6 (j) The commissioners of human services and health shall collaborate on the creation of
37.7 a system for referring reports to the lead investigative agencies. This system shall enable
37.8 the commissioner of human services to track critical steps in the reporting, evaluation,
37.9 referral, response, disposition, investigation, notification, determination, and appeal processes.

37.10 Sec. 44. Minnesota Statutes 2016, section 626.557, subdivision 9a, is amended to read:

37.11 Subd. 9a. **Evaluation and referral of reports made to common entry point.** (a) The
37.12 common entry point must screen the reports of alleged or suspected maltreatment for
37.13 immediate risk and make all necessary referrals as follows:

37.14 (1) if the common entry point determines that there is an immediate need for emergency
37.15 adult protective services, the common entry point agency shall immediately notify the
37.16 appropriate county agency;

37.17 (2) if the common entry point determines an immediate need exists for response by law
37.18 enforcement, including the urgent need to secure a crime scene, interview witnesses, remove
37.19 the alleged perpetrator, or safeguard the vulnerable adult's property, or if the report contains
37.20 suspected criminal activity against a vulnerable adult, the common entry point shall
37.21 immediately notify the appropriate law enforcement agency;

37.22 (3) the common entry point shall refer all reports of alleged or suspected maltreatment
37.23 to the appropriate lead investigative agency as soon as possible, but in any event no longer
37.24 than two working days;

37.25 (4) if the report contains information about a suspicious death, the common entry point
37.26 shall immediately notify the appropriate law enforcement agencies, the local medical
37.27 examiner, and the ombudsman for mental health and developmental disabilities established
37.28 under section 245.92. Law enforcement agencies shall coordinate with the local medical
37.29 examiner and the ombudsman as provided by law; and

37.30 (5) for reports involving multiple locations or changing circumstances, the common
37.31 entry point shall determine the county agency responsible for emergency adult protective

38.1 services and the county responsible as the lead investigative agency, using referral guidelines
38.2 established by the commissioner.

38.3 (b) If the lead investigative agency receiving a report believes the report was referred
38.4 by the common entry point in error, the lead investigative agency shall immediately notify
38.5 the common entry point of the error, including the basis for the lead investigative agency's
38.6 belief that the referral was made in error. The common entry point shall review the
38.7 information submitted by the lead investigative agency and immediately refer the report to
38.8 the appropriate lead investigative agency.

38.9 Sec. 45. Minnesota Statutes 2016, section 626.557, subdivision 9b, is amended to read:

38.10 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct
38.11 investigations of any incident in which there is reason to believe a crime has been committed.
38.12 Law enforcement shall initiate a response immediately. If the common entry point notified
38.13 a county agency for emergency adult protective services, law enforcement shall cooperate
38.14 with that county agency when both agencies are involved and shall exchange data to the
38.15 extent authorized in subdivision 12b, paragraph ~~(g)~~ (k). County adult protection shall initiate
38.16 a response immediately. Each lead investigative agency shall complete the investigative
38.17 process for reports within its jurisdiction. A lead investigative agency, county, adult protective
38.18 agency, licensed facility, or law enforcement agency shall cooperate with other agencies in
38.19 the provision of protective services, coordinating its investigations, and assisting another
38.20 agency within the limits of its resources and expertise and shall exchange data to the extent
38.21 authorized in subdivision 12b, paragraph ~~(g)~~ (k). The lead investigative agency shall obtain
38.22 the results of any investigation conducted by law enforcement officials, and law enforcement
38.23 shall obtain the results of any investigation conducted by the lead investigative agency to
38.24 determine if criminal action is warranted. The lead investigative agency has the right to
38.25 enter facilities and inspect and copy records as part of investigations. The lead investigative
38.26 agency has access to not public data, as defined in section 13.02, and medical records under
38.27 sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to
38.28 conduct its investigation. Each lead investigative agency shall develop guidelines for
38.29 prioritizing reports for investigation. Nothing in this subdivision alters the duty of the lead
38.30 investigative agency to serve as the agency responsible for investigating reports made under
38.31 this section.

Sec. 46. Minnesota Statutes 2016, section 626.557, subdivision 9c, is amended to read:

Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a) ~~Upon request of the reporter,~~ The lead investigative agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) The lead investigative agency must provide the following information to the vulnerable adult or the vulnerable adult's guardian or health care agent, if known, within five days of receipt of the report:

(1) the nature of the maltreatment allegations, including the report of maltreatment as allowed under law;

(2) the name of the facility or other location at which alleged maltreatment occurred;

(3) the name of the alleged perpetrator if the lead investigative agency believes disclosure of the name is necessary to protect the vulnerable adult's physical, emotional, or financial interests;

(4) protective measures that may be recommended or taken as a result of the maltreatment report;

(5) contact information for the investigator or other information as requested and allowed under law; and

(6) confirmation of whether the lead investigative agency is investigating the matter and, if so:

(i) an explanation of the process and estimated timeline for the investigation; and

(ii) a statement that the lead investigative agency will provide an update on the investigation approximately every three weeks upon request by the vulnerable adult or the vulnerable adult's guardian or health care agent and a report when the investigation is concluded.

(c) The lead investigative agency may assign multiple reports of maltreatment for the same or separate incidences related to the same vulnerable adult to the same investigator, as deemed appropriate. Reports related to the same vulnerable adult must, at a minimum, be cross-referenced.

~~(b)~~ (d) Upon conclusion of every investigation it conducts, the lead investigative agency shall make a final disposition as defined in section 626.5572, subdivision 8.

40.1 ~~(c)~~ (e) When determining whether the facility or individual is the responsible party for
40.2 substantiated maltreatment or whether both the facility and the individual are responsible
40.3 for substantiated maltreatment, the lead investigative agency shall consider at least the
40.4 following mitigating factors:

40.5 (1) whether the actions of the facility or the individual caregivers were in accordance
40.6 with, and followed the terms of, an erroneous physician order, prescription, resident care
40.7 plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible
40.8 for the issuance of the erroneous order, prescription, plan, or directive or knows or should
40.9 have known of the errors and took no reasonable measures to correct the defect before
40.10 administering care;

40.11 (2) the comparative responsibility between the facility, other caregivers, and requirements
40.12 placed upon the employee, including but not limited to, the facility's compliance with related
40.13 regulatory standards and factors such as the adequacy of facility policies and procedures,
40.14 the adequacy of facility training, the adequacy of an individual's participation in the training,
40.15 the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a
40.16 consideration of the scope of the individual employee's authority; and

40.17 (3) whether the facility or individual followed professional standards in exercising
40.18 professional judgment.

40.19 ~~(d)~~ (f) When substantiated maltreatment is determined to have been committed by an
40.20 individual who is also the facility license holder, both the individual and the facility must
40.21 be determined responsible for the maltreatment, and both the background study
40.22 disqualification standards under section 245C.15, subdivision 4, and the licensing actions
40.23 under section 245A.06 or 245A.07 apply.

40.24 ~~(e)~~ (g) The lead investigative agency shall complete its final disposition within 60
40.25 calendar days. If the lead investigative agency is unable to complete its final disposition
40.26 within 60 calendar days, the lead investigative agency shall notify the following persons
40.27 provided that the notification will not endanger the vulnerable adult or hamper the
40.28 investigation: (1) the vulnerable adult or the vulnerable adult's guardian or health care agent,
40.29 when known, if the lead investigative agency knows them to be aware of the investigation;
40.30 and (2) the facility, where applicable. The notice shall contain the reason for the delay and
40.31 the projected completion date. If the lead investigative agency is unable to complete its final
40.32 disposition by a subsequent projected completion date, the lead investigative agency shall
40.33 again notify the vulnerable adult or the vulnerable adult's guardian or health care agent,
40.34 when known if the lead investigative agency knows them to be aware of the investigation,

41.1 and the facility, where applicable, of the reason for the delay and the revised projected
41.2 completion date provided that the notification will not endanger the vulnerable adult or
41.3 hamper the investigation. The lead investigative agency must notify the health care agent
41.4 of the vulnerable adult only if the health care agent's authority to make health care decisions
41.5 for the vulnerable adult is currently effective ~~under section 145C.06~~ and not suspended
41.6 under section 524.5-310 ~~and the investigation relates to a duty assigned to the health care~~
41.7 ~~agent by the principal~~. A lead investigative agency's inability to complete the final disposition
41.8 within 60 calendar days or by any projected completion date does not invalidate the final
41.9 disposition.

41.10 ~~(f)~~ (h) Within ten calendar days of completing the final disposition, the lead investigative
41.11 agency shall provide a copy of the public investigation memorandum under subdivision
41.12 12b, paragraph ~~(b), clause (1)~~ (d), when required to be completed under this section, to the
41.13 following persons:

41.14 (1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known,
41.15 unless the lead investigative agency knows that the notification would endanger the
41.16 well-being of the vulnerable adult;

41.17 (2) the reporter, ~~if~~ unless the reporter requested ~~notification~~ otherwise when making the
41.18 report, provided this notification would not endanger the well-being of the vulnerable adult;

41.19 (3) the alleged perpetrator, if known;

41.20 (4) the facility; ~~and~~

41.21 (5) the ombudsman for long-term care, or the ombudsman for mental health and
41.22 developmental disabilities, as appropriate~~.~~;

41.23 (6) law enforcement; and

41.24 (7) the county attorney, as appropriate.

41.25 ~~(g)~~ (i) If, as a result of a reconsideration, review, or hearing, the lead investigative agency
41.26 changes the final disposition, or if a final disposition is changed on appeal, the lead
41.27 investigative agency shall notify the parties specified in paragraph ~~(f)~~ (h).

41.28 ~~(h)~~ (j) The lead investigative agency shall notify the vulnerable adult who is the subject
41.29 of the report or the vulnerable adult's guardian or health care agent, if known, and any person
41.30 or facility determined to have maltreated a vulnerable adult, of their appeal or review rights
41.31 under this section or section ~~256.021~~ 256.045.

~~(i)~~ (k) The lead investigative agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead investigative agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead investigative agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

~~(j)~~ (l) In order to avoid duplication, licensing boards shall consider the findings of the lead investigative agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

~~(k)~~ (m) The lead investigative agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 47. Minnesota Statutes 2016, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment

determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. ~~The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition.~~ The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead investigative agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration

44.1 decision, the individual may request a fair hearing under section 256.045. If an individual
44.2 requests a fair hearing on the maltreatment determination and the disqualification, the scope
44.3 of the fair hearing shall include both the maltreatment determination and the disqualification.

44.4 (f) If a maltreatment determination or a disqualification based on serious or recurring
44.5 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
44.6 sanction under section 245A.07, the license holder has the right to a contested case hearing
44.7 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
44.8 under section 245A.08, the scope of the contested case hearing must include the maltreatment
44.9 determination, disqualification, and licensing sanction or denial of a license. In such cases,
44.10 a fair hearing must not be conducted under section 256.045. Except for family child care
44.11 and child foster care, reconsideration of a maltreatment determination under this subdivision,
44.12 and reconsideration of a disqualification under section 245C.22, must not be conducted
44.13 when:

44.14 (1) a denial of a license under section 245A.05, or a licensing sanction under section
44.15 245A.07, is based on a determination that the license holder is responsible for maltreatment
44.16 or the disqualification of a license holder based on serious or recurring maltreatment;

44.17 (2) the denial of a license or licensing sanction is issued at the same time as the
44.18 maltreatment determination or disqualification; and

44.19 (3) the license holder appeals the maltreatment determination or disqualification, and
44.20 denial of a license or licensing sanction.

44.21 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
44.22 determination or disqualification, but does not appeal the denial of a license or a licensing
44.23 sanction, reconsideration of the maltreatment determination shall be conducted under sections
44.24 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
44.25 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
44.26 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
44.27 626.557, subdivision 9d.

44.28 If the disqualified subject is an individual other than the license holder and upon whom
44.29 a background study must be conducted under chapter 245C, the hearings of all parties may
44.30 be consolidated into a single contested case hearing upon consent of all parties and the
44.31 administrative law judge.

44.32 (g) Until August 1, 2002, an individual or facility that was determined by the
44.33 commissioner of human services or the commissioner of health to be responsible for neglect
44.34 under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001,

45.1 that believes that the finding of neglect does not meet an amended definition of neglect may
45.2 request a reconsideration of the determination of neglect. The commissioner of human
45.3 services or the commissioner of health shall mail a notice to the last known address of
45.4 individuals who are eligible to seek this reconsideration. The request for reconsideration
45.5 must state how the established findings no longer meet the elements of the definition of
45.6 neglect. The commissioner shall review the request for reconsideration and make a
45.7 determination within 15 calendar days. The commissioner's decision on this reconsideration
45.8 is the final agency action.

45.9 (1) For purposes of compliance with the data destruction schedule under subdivision
45.10 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a
45.11 result of a reconsideration under this paragraph, the date of the original finding of a
45.12 substantiated maltreatment must be used to calculate the destruction date.

45.13 (2) For purposes of any background studies under chapter 245C, when a determination
45.14 of substantiated maltreatment has been changed as a result of a reconsideration under this
45.15 paragraph, any prior disqualification of the individual under chapter 245C that was based
45.16 on this determination of maltreatment shall be rescinded, and for future background studies
45.17 under chapter 245C the commissioner must not use the previous determination of
45.18 substantiated maltreatment as a basis for disqualification or as a basis for referring the
45.19 individual's maltreatment history to a health-related licensing board under section 245C.31.

45.20 Sec. 48. Minnesota Statutes 2016, section 626.557, subdivision 10b, is amended to read:

45.21 Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop
45.22 guidelines for prioritizing reports for investigation. When investigating a report, the lead
45.23 investigative agency shall conduct the following activities, as appropriate:

45.24 (1) interview of the alleged victim;

45.25 (2) interview of the reporter and others who may have relevant information;

45.26 (3) interview of the alleged perpetrator;

45.27 (4) examination of the environment surrounding the alleged incident;

45.28 (5) review of pertinent documentation of the alleged incident; and

45.29 (6) consultation with professionals.

45.30 (b) The lead investigator must contact the alleged victim or, if known, the alleged victim's
45.31 guardian or health care agent, within five days after initiation of an investigation to provide
45.32 the investigator's name and contact information and communicate with the alleged victim

46.1 or the alleged victim's guardian or health care agent approximately every three weeks during
46.2 the course of the investigation.

46.3 Sec. 49. Minnesota Statutes 2016, section 626.557, subdivision 12b, is amended to read:

46.4 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a
46.5 lead investigative agency, the county social service agency shall maintain appropriate
46.6 records. Data collected by the county social service agency under this section are welfare
46.7 data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data
46.8 under this paragraph that are inactive investigative data on an individual who is a vendor
46.9 of services are private data on individuals, as defined in section 13.02. The identity of the
46.10 reporter may only be disclosed as provided in paragraph (c) (g).

46.11 (b) Data maintained by the common entry point are confidential private data on
46.12 individuals or protected nonpublic data as defined in section 13.02, provided that the name
46.13 of the reporter is confidential data on individuals. Notwithstanding section 138.163, the
46.14 common entry point shall maintain data for three calendar years after date of receipt and
46.15 then destroy the data unless otherwise directed by federal requirements.

46.16 (b) (c) The commissioners of health and human services shall prepare an investigation
46.17 memorandum for each report alleging maltreatment investigated under this section. County
46.18 social service agencies must maintain private data on individuals but are not required to
46.19 prepare an investigation memorandum. During an investigation by the commissioner of
46.20 health or the commissioner of human services, data collected under this section are
46.21 confidential data on individuals or protected nonpublic data as defined in section 13.02,
46.22 provided that data may be shared with the vulnerable adult or guardian or health care agent
46.23 if both commissioners determine that sharing of the data is needed to protect the vulnerable
46.24 adult. Upon completion of the investigation, the data are classified as provided in clauses
46.25 (1) to (3) and paragraph (c) paragraphs (d) to (g).

46.26 (1) (d) The investigation memorandum must contain the following data, which are public:

46.27 (i) (1) the name of the facility investigated;

46.28 (ii) (2) a statement of the nature of the alleged maltreatment;

46.29 (iii) (3) pertinent information obtained from medical or other records reviewed;

46.30 (iv) (4) the identity of the investigator;

46.31 (v) (5) a summary of the investigation's findings;

47.1 ~~(vi)~~ (6) statement of whether the report was found to be substantiated, inconclusive,
47.2 false, or that no determination will be made;

47.3 ~~(vii)~~ (7) a statement of any action taken by the facility;

47.4 ~~(viii)~~ (8) a statement of any action taken by the lead investigative agency; and

47.5 ~~(ix)~~ (9) when a lead investigative agency's determination has substantiated maltreatment,
47.6 a statement of whether an individual, individuals, or a facility were responsible for the
47.7 substantiated maltreatment, if known.

47.8 The investigation memorandum must be written in a manner which protects the identity
47.9 of the reporter and of the vulnerable adult and may not contain the names or, to the extent
47.10 possible, data on individuals or private data on individuals listed in ~~clause (2)~~ paragraph
47.11 (e).

47.12 ~~(2)~~ (e) Data on individuals collected and maintained in the investigation memorandum
47.13 are private data on individuals, including:

47.14 ~~(i)~~ (1) the name of the vulnerable adult;

47.15 ~~(ii)~~ (2) the identity of the individual alleged to be the perpetrator;

47.16 ~~(iii)~~ (3) the identity of the individual substantiated as the perpetrator; and

47.17 ~~(iv)~~ (4) the identity of all individuals interviewed as part of the investigation.

47.18 ~~(3)~~ (f) Other data on individuals maintained as part of an investigation under this section
47.19 are private data on individuals upon completion of the investigation.

47.20 ~~(e)~~ (g) After the assessment or investigation is completed, the name of the reporter must
47.21 be confidential~~.~~, except:

47.22 (1) the subject of the report may compel disclosure of the name of the reporter only with
47.23 the consent of the reporter; or

47.24 (2) upon a written finding by a court that the report was false and there is evidence that
47.25 the report was made in bad faith.

47.26 This subdivision does not alter disclosure responsibilities or obligations under the Rules
47.27 of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal
47.28 prosecution, the district court shall do an in-camera review prior to determining whether to
47.29 order disclosure of the identity of the reporter.

48.1 ~~(d)~~ (h) Notwithstanding section 138.163, data maintained under this section by the
48.2 commissioners of health and human services must be maintained under the following
48.3 schedule and then destroyed unless otherwise directed by federal requirements:

48.4 (1) data from reports determined to be false, maintained for three years after the finding
48.5 was made;

48.6 (2) data from reports determined to be inconclusive, maintained for four years after the
48.7 finding was made;

48.8 (3) data from reports determined to be substantiated, maintained for seven years after
48.9 the finding was made; and

48.10 (4) data from reports which were not investigated by a lead investigative agency and for
48.11 which there is no final disposition, maintained for three years from the date of the report.

48.12 ~~(e)~~ (i) The commissioners of health and human services shall annually publish on their
48.13 Web sites the number and type of reports of alleged maltreatment involving licensed facilities
48.14 reported under this section, the number of those requiring investigation under this section,
48.15 and the resolution of those investigations. On a biennial basis, the commissioners of health
48.16 and human services shall jointly report the following information to the legislature and the
48.17 governor:

48.18 (1) the number and type of reports of alleged maltreatment involving licensed facilities
48.19 reported under this section, the number of those requiring investigations under this section,
48.20 the resolution of those investigations, and which of the two lead agencies was responsible;

48.21 (2) trends about types of substantiated maltreatment found in the reporting period;

48.22 (3) ~~if there are upward trends for types of maltreatment substantiated,~~ recommendations
48.23 for preventing, addressing, and responding to ~~them~~ substantiated maltreatment;

48.24 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

48.25 (5) whether and where backlogs of cases result in a failure to conform with statutory
48.26 time frames and recommendations for reducing backlogs if applicable;

48.27 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

48.28 (7) any other information that is relevant to the report trends and findings.

48.29 ~~(f)~~ (j) Each lead investigative agency must have a record retention policy.

48.30 ~~(g)~~ (k) Lead investigative agencies, prosecuting authorities, and law enforcement agencies
48.31 may exchange not public data, as defined in section 13.02, if the agency or authority

requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. ~~The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section.~~ Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

~~(h)~~ (l) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

~~(i)~~ (m) Notwithstanding paragraph (a) or (b), a lead investigative agency may share common entry point or investigative data and may notify other affected parties, including the vulnerable adult and their authorized representative, if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

~~(j)~~ (n) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 50. Minnesota Statutes 2016, section 626.557, subdivision 14, is amended to read:

Subd. 14. **Abuse prevention plans.** (a) Each facility, except home health agencies and personal care ~~attendant services providers~~ assistance provider agencies, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of: (1) the person's susceptibility to abuse by other individuals, including other vulnerable adults; (2) the person's risk of abusing other vulnerable adults; and (3) statements

50.1 of the specific measures to be taken to minimize the risk of abuse to that person and other
50.2 vulnerable adults. For the purposes of this paragraph, the term "abuse" includes self-abuse.

50.3 (c) If the facility, except home health agencies and personal care attendant services
50.4 providers, knows that the vulnerable adult has committed a violent crime or an act of physical
50.5 aggression toward others, the individual abuse prevention plan must detail the measures to
50.6 be taken to minimize the risk that the vulnerable adult might reasonably be expected to pose
50.7 to visitors to the facility and persons outside the facility, if unsupervised. Under this section,
50.8 a facility knows of a vulnerable adult's history of criminal misconduct or physical aggression
50.9 if it receives such information from a law enforcement authority or through a medical record
50.10 prepared by another facility, another health care provider, or the facility's ongoing
50.11 assessments of the vulnerable adult.

50.12 (d) The commissioner of health must issue a correction order and may impose an
50.13 immediate fine upon a finding that the facility has failed to comply with this subdivision.

50.14 Sec. 51. Minnesota Statutes 2016, section 626.557, subdivision 17, is amended to read:

50.15 Subd. 17. **Retaliation prohibited.** (a) A facility or person shall not retaliate against any
50.16 person who reports in good faith suspected maltreatment pursuant to this section, or against
50.17 a vulnerable adult with respect to whom a report is made, because of the report.

50.18 (b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility
50.19 or person which retaliates against any person because of a report of suspected maltreatment
50.20 is liable to that person for actual damages, punitive damages up to $10,000, and attorney
50.21 fees.

50.22 (c) There shall be a rebuttable presumption that any adverse action, as defined below,
50.23 within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse
50.24 action" refers to action taken by a facility or person involved in a report against the person
50.25 making the report or the person with respect to whom the report was made because of the
50.26 report, and includes, but is not limited to:

50.27 (1) discharge or transfer from the facility;

50.28 (2) discharge from or termination of employment;

50.29 (3) demotion or reduction in remuneration for services;

50.30 (4) restriction or prohibition of access to the facility or its residents; or

50.31 (5) any restriction of rights set forth in section 144.651, 144A.44, or 144A.441.

51.1 Sec. 52. Minnesota Statutes 2016, section 626.5572, subdivision 6, is amended to read:

51.2 Subd. 6. **Facility.** (a) "Facility" means:

51.3 (1) a hospital or other entity required to be licensed under sections 144.50 to 144.58;

51.4 (2) a nursing home required to be licensed to serve adults under section 144A.02;

51.5 (3) a facility or service required to be licensed under chapter 245A;

51.6 (4) a home care provider licensed or required to be licensed under sections 144A.43 to
51.7 144A.482;

51.8 (5) a hospice provider licensed under sections 144A.75 to 144A.755;

51.9 (6) a housing with services establishment registered under chapter 144D, including an
51.10 entity operating under chapter 144G, assisted living title protection; or

51.11 (7) a person or organization that offers, provides, or arranges for personal care assistance
51.12 services under the medical assistance program as authorized under sections 256B.0625,
51.13 subdivision 19a, 256B.0651 to 256B.0654, 256B.0659, or 256B.85.

51.14 (b) For personal care assistance services identified in paragraph (a), clause (7), that are
51.15 provided in the vulnerable adult's own home or in another unlicensed location other than
51.16 an unlicensed setting listed in paragraph (a), the term "facility" refers to the provider, person,
51.17 or organization that offers, provides, or arranges for personal care assistance services, and
51.18 does not refer to the vulnerable adult's home or other location at which services are rendered.

51.19 Sec. 53. **REPORT; SAFETY AND QUALITY IMPROVEMENT PRACTICES.**

51.20 By January 15, 2019, the safety and quality improvement technical panel established
51.21 under Minnesota Statutes, section 144A.53, subdivision 5, shall provide recommendations
51.22 to the legislature on legislative changes needed to promote safety and quality improvement
51.23 practices in long-term care settings and with long-term care providers. The recommendations
51.24 must address:

51.25 (1) how to implement a system for adverse health events reporting, learning, and
51.26 prevention in long-term care settings and with long-term care providers; and

51.27 (2) interim actions to improve systems for the timely analysis of reports and complaints
51.28 submitted to the Office of Health Facility Complaints to identify common themes and key
51.29 prevention opportunities, and to disseminate key findings to providers across the state for
51.30 the purposes of shared learning and prevention.

52.1 Sec. 54. **REPORTS; OFFICE OF HEALTH FACILITY COMPLAINTS' RESPONSE**
52.2 **TO VULNERABLE ADULT MALTREATMENT ALLEGATIONS.**

52.3 (a) On a quarterly basis until January 2021, and annually thereafter, the commissioner
52.4 of health must publish on the Department of Health Web site, a report on the Office of
52.5 Health Facility Complaints' response to allegations of maltreatment of vulnerable adults.
52.6 The report must include:

52.7 (1) a description and assessment of the office's efforts to improve its internal processes
52.8 and compliance with federal and state requirements concerning allegations of maltreatment
52.9 of vulnerable adults, including any relevant timelines;

52.10 (2)(i) the number of reports received by type of reporter; (ii) the number of reports
52.11 investigated; (iii) the percentage and number of reported cases awaiting triage; (iv) the
52.12 number and percentage of open investigations; (v) the number and percentage of reports
52.13 that have failed to meet state or federal timelines for triaging, investigating, or making a
52.14 final disposition of an investigation by cause of delay; and (vi) processes the office will
52.15 implement to bring the office into compliance with state and federal timelines for triaging,
52.16 investigating, and making final dispositions of investigations;

52.17 (3) a trend analysis of internal audits conducted by the office; and

52.18 (4) trends and patterns in maltreatment of vulnerable adults, licensing violations by
52.19 facilities or providers serving vulnerable adults, and other metrics as determined by the
52.20 commissioner.

52.21 (b) The commissioner shall maintain on the Department of Health Web site reports
52.22 published under this section for at least the past three years.

52.23 Sec. 55. **ASSISTED LIVING AND DEMENTIA CARE LICENSING WORKING**
52.24 **GROUP.**

52.25 Subdivision 1. **Establishment; membership.** (a) An assisted living and dementia care
52.26 licensing working group is established.

52.27 (b) The commissioner of health shall appoint the following members of the working
52.28 group:

52.29 (1) four providers from the senior housing with services profession, two providing
52.30 services in the seven-county metropolitan area and two providing services outside the
52.31 seven-county metropolitan area. The providers appointed must include providers from
52.32 establishments of different sizes;

53.1 (2) two persons who reside in senior housing with services establishments, or family
53.2 members of persons who reside in senior housing with services establishments. One resident
53.3 or family member must reside in the seven-county metropolitan area and one resident or
53.4 family member must reside outside the seven-county metropolitan area;

53.5 (3) one representative from the Home Care and Assisted Living Program Advisory
53.6 Council;

53.7 (4) one representative of a health plan company;

53.8 (5) one representative from Care Providers of Minnesota;

53.9 (6) one representative from LeadingAge Minnesota;

53.10 (7) one representative from the Alzheimer's Association;

53.11 (8) one representative from the Metropolitan Area Agency on Aging and one
53.12 representative from an area agency on aging other than the Metropolitan Area Agency on
53.13 Aging;

53.14 (9) one representative from the Minnesota Rural Health Association;

53.15 (10) one federal compliance official; and

53.16 (11) one representative from the Minnesota Home Care Association.

53.17 (c) The following individuals shall also be members of the working group:

53.18 (1) two members of the house of representatives, one appointed by the speaker of the
53.19 house and one appointed by the minority leader;

53.20 (2) two members of the senate, one appointed by the majority leader and one appointed
53.21 by the minority leader;

53.22 (3) one member of the Minnesota Council on Disability or a designee, appointed by the
53.23 council;

53.24 (4) one member of the Commission of Deaf, Deafblind and Hard of Hearing Minnesotans
53.25 or a designee, appointed by the commission;

53.26 (5) the commissioner of health or a designee;

53.27 (6) the commissioner of human services or a designee;

53.28 (7) the ombudsman for long-term care or a designee; and

53.29 (8) one member of the Minnesota Board of Aging, appointed by the board.

54.1 (d) The appointing authorities under this subdivision must complete the appointments
54.2 no later than July 1, 2018.

54.3 Subd. 2. **Duties; recommendations.** (a) The assisted living and dementia care licensing
54.4 working group shall consider and make recommendations on a new regulatory framework
54.5 for assisted living and dementia care. In developing the licensing framework, the working
54.6 group must address at least the following:

54.7 (1) the appropriate level of regulation, including licensure, registration, or certification;

54.8 (2) coordination of care;

54.9 (3) the scope of care to be provided and limits on acuity levels of residents;

54.10 (4) consumer rights;

54.11 (5) building design and physical environment;

54.12 (6) dietary services;

54.13 (7) support services;

54.14 (8) transition planning;

54.15 (9) the installation and use of electronic monitoring in settings in which assisted living
54.16 or dementia care services are provided;

54.17 (10) staff training and qualifications;

54.18 (11) options for the engagement of seniors and their families;

54.19 (12) notices and financial requirements; and

54.20 (13) compliance with federal Medicaid waiver requirements for home and
54.21 community-based services settings.

54.22 (b) Facilities and providers licensed by the commissioner of human services shall be
54.23 exempt from licensing requirements for assisted living recommended under this section.

54.24 Subd. 3. **Meetings.** The commissioner of health or a designee shall convene the first
54.25 meeting of the working group no later than August 1, 2018. The members of the working
54.26 group shall elect a chair from among the group's members at the first meeting, and the
54.27 commissioner of health or a designee shall serve as the working group's chair until a chair
54.28 is elected. Meetings of the working group shall be open to the public.

54.29 Subd. 4. **Compensation.** Members of the working group appointed under subdivision
54.30 1, paragraph (b), shall serve without compensation or reimbursement for expenses.

55.1 Subd. 5. **Administrative support.** The commissioner of health shall provide
55.2 administrative support for the working group and arrange meeting space.

55.3 Subd. 6. **Report.** By January 15, 2019, the working group must submit a report with
55.4 findings, recommendations, and draft legislation to the chairs and ranking minority members
55.5 of the legislative committees with jurisdiction over health and human services policy and
55.6 finance.

55.7 Subd. 7. **Expiration.** The working group expires January 16, 2019, or the day after the
55.8 working group submits the report required under subdivision 6, whichever is earlier.

55.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

55.10 Sec. 56. **DEMENTIA CARE CERTIFICATION WORKING GROUP.**

55.11 Subdivision 1. **Establishment; membership.** (a) A dementia care certification working
55.12 group is established.

55.13 (b) The commissioner of health shall appoint the following members of the working
55.14 group:

55.15 (1) two caregivers of persons who have been diagnosed with Alzheimer's disease or
55.16 other dementia, one caregiver residing in the seven-county metropolitan area and one
55.17 caregiver residing outside the seven-county metropolitan area;

55.18 (2) two providers from the senior housing with services profession, one providing services
55.19 in the seven-county metropolitan area and one providing services outside the seven-county
55.20 metropolitan area;

55.21 (3) two geriatricians, one of whom serves a diverse or underserved community;

55.22 (4) one psychologist who specializes in dementia care;

55.23 (5) one representative of the Alzheimer's Association;

55.24 (6) one representative from Care Providers of Minnesota;

55.25 (7) one representative from LeadingAge Minnesota; and

55.26 (8) one representative from the Minnesota Home Care Association.

55.27 (c) The following individuals shall also be members of the working group:

55.28 (1) two members of the house of representatives, one appointed by the speaker of the
55.29 house and one appointed by the minority leader;

56.1 (2) two members of the senate, one appointed by the majority leader and one appointed
56.2 by the minority leader;

56.3 (3) the commissioner of health or a designee;

56.4 (4) the commissioner of human services or a designee;

56.5 (5) the ombudsman for long-term care or a designee;

56.6 (6) one member of the Minnesota Board on Aging, appointed by the board; and

56.7 (7) the executive director of the Minnesota Board on Aging, who shall serve as a
56.8 nonvoting member of the working group.

56.9 (d) The appointing authorities under this subdivision must complete their appointments
56.10 no later than July 1, 2018.

56.11 Subd. 2. **Duties; recommendations.** The dementia care certification working group
56.12 shall consider and make recommendations regarding the certification of providers offering
56.13 dementia care services to clients diagnosed with Alzheimer's disease or other dementias.
56.14 The working group must:

56.15 (1) develop standards in the following areas that nursing homes, boarding care homes,
56.16 and housing with services establishments offering care for clients diagnosed with Alzheimer's
56.17 disease or other dementias must meet in order to obtain dementia care certification, including
56.18 staffing, egress control, access to secured outdoor spaces, specialized therapeutic activities,
56.19 and specialized life enrichment programming;

56.20 (2) develop requirements for disclosing dementia care certification standards to
56.21 consumers; and

56.22 (3) develop mechanisms for enforcing dementia care certification standards.

56.23 Subd. 3. **Meetings.** The commissioner of health or a designee shall convene the first
56.24 meeting of the working group no later than August 1, 2018. The members of the working
56.25 group shall elect a chair from among the group's members at the first meeting, and the
56.26 commissioner of health or a designee shall serve as the working group's chair until a chair
56.27 is elected. Meetings of the working group shall be open to the public.

56.28 Subd. 4. **Compensation.** Members of the working group appointed under subdivision
56.29 1, paragraph (b), shall serve without compensation or reimbursement for expenses.

56.30 Subd. 5. **Administrative support.** The commissioner of health shall provide
56.31 administrative support for the working group and arrange meeting space.

57.1 Subd. 6. **Report.** By January 15, 2019, the working group must submit a report with
57.2 findings, recommendations, and draft legislation to the chairs and ranking minority members
57.3 of the legislative committees with jurisdiction over health and human services policy and
57.4 finance.

57.5 Subd. 7. **Expiration.** The working group expires January 16, 2019, or the day after the
57.6 working group submits the report required under subdivision 6, whichever is earlier.

57.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

57.8 Sec. 57. **ASSISTED LIVING REPORT CARD WORKING GROUP.**

57.9 Subdivision 1. **Establishment; membership.** (a) An assisted living report card working
57.10 group, tasked with researching and making recommendations on the development of an
57.11 assisted living report card, is established.

57.12 (b) The commissioner of human services shall appoint the following members of the
57.13 working group:

57.14 (1) two persons who reside in senior housing with services establishments, one residing
57.15 in an establishment in the seven-county metropolitan area and one residing in an
57.16 establishment outside the seven-county metropolitan area;

57.17 (2) four representatives of the senior housing with services profession, two providing
57.18 services in the seven-county metropolitan area and two providing services outside the
57.19 seven-county metropolitan area;

57.20 (3) one family member of a person who resides in a senior housing with services
57.21 establishment in the seven-county metropolitan area, and one family member of a person
57.22 who resides in a senior housing with services establishment outside the seven-county
57.23 metropolitan area;

57.24 (4) a representative from the Home Care and Assisted Living Program Advisory Council;

57.25 (5) a representative from the University of Minnesota with expertise in data and analytics;

57.26 (6) a representative from Care Providers of Minnesota; and

57.27 (7) a representative from LeadingAge Minnesota.

57.28 (c) The following individuals shall also be appointed to the working group:

57.29 (1) the commissioner of human services or a designee;

57.30 (2) the commissioner of health or a designee;

58.1 (3) the ombudsman for long-term care or a designee;

58.2 (4) one member of the Minnesota Board on Aging, appointed by the board; and

58.3 (5) the executive director of the Minnesota Board on Aging who shall serve on the
58.4 working group as a nonvoting member.

58.5 (d) The appointing authorities under this subdivision must complete the appointments
58.6 no later than July 1, 2018.

58.7 Subd. 2. **Duties.** The assisted living report card working group shall consider and make
58.8 recommendations on the development of an assisted living report card. The quality metrics
58.9 considered shall include, but are not limited to:

58.10 (1) an annual customer satisfaction survey measure using the CoreQ questions for
58.11 assisted-living residents and family members;

58.12 (2) a measure utilizing level 3 or 4 citations from Department of Health home care survey
58.13 findings and substantiated Office of Health Facility Complaints findings against a home
58.14 care provider;

58.15 (3) a home care staff retention measure; and

58.16 (4) a measure that scores a provider's staff according to their level of training and
58.17 education.

58.18 Subd. 3. **Meetings.** The commissioner of human services or a designee shall convene
58.19 the first meeting of the working group no later than August 1, 2018. The members of the
58.20 working group shall elect a chair from among the group's members at the first meeting, and
58.21 the commissioner of human services or a designee shall serve as the working group's chair
58.22 until a chair is elected. Meetings of the working group shall be open to the public.

58.23 Subd. 4. **Compensation.** Members of the working group shall serve without compensation
58.24 or reimbursement for expenses.

58.25 Subd. 5. **Administrative support.** The commissioner of human services shall provide
58.26 administrative support and arrange meeting space for the working group.

58.27 Subd. 6. **Report.** By January 15, 2019, the working group must submit a report with
58.28 findings, recommendations, and draft legislation to the chairs and ranking minority members
58.29 of the legislative committees with jurisdiction over health and human services policy and
58.30 finance.

58.31 Subd. 7. **Expiration.** The working group expires January 16, 2019, or the day after the
58.32 working group submits the report required in subdivision 6, whichever is later.

59.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

59.2 Sec. 58. **DIRECTION TO COMMISSIONER OF HEALTH; PROGRESS IN**
59.3 **IMPLEMENTING RECOMMENDATIONS OF LEGISLATIVE AUDITOR.**

59.4 By March 1, 2019, the commissioner of health must submit a report to the chairs and
59.5 ranking minority members of the legislative committees with jurisdiction over health, human
59.6 services, or aging on the progress toward implementing each recommendation of the Office
59.7 of the Legislative Auditor with which the commissioner agreed in the commissioner's letter
59.8 to the legislative auditor dated March 1, 2018. The commissioner shall include in the report
59.9 existing data collected in the course of the commissioner's continuing oversight of the Office
59.10 of Health Facility Complaints sufficient to demonstrate the implementation of the
59.11 recommendations with which the commissioner agreed.

59.12 Sec. 59. **DIRECTION TO COMMISSIONER OF HEALTH; POSTING**
59.13 **SUBSTANTIATED MALTREATMENT REPORTS.**

59.14 The commissioner of health must post every substantiated report of maltreatment of a
59.15 vulnerable adult at the Web site of the Office of Health Facility Complaints.

59.16 Sec. 60. **DIRECTION TO COMMISSIONER OF HEALTH; PROVIDER**
59.17 **EDUCATION.**

59.18 (a) The commissioner of health shall develop decision-making tools, including decision
59.19 trees, regarding provider self-reported maltreatment allegations, and shall share these tools
59.20 with providers. As soon as practicable, the commissioner shall update the decision-making
59.21 tools as necessary, including whenever federal or state requirements change, and shall inform
59.22 providers when the updated tools are available. The commissioner shall develop
59.23 decision-making tools that clarify and encourage reporting whether the provider is licensed
59.24 or registered under federal or state law, while also educating providers on any distinctions
59.25 in reporting under federal versus state law.

59.26 (b) The commissioner of health shall conduct rigorous trend analyses of maltreatment
59.27 reports, triage decisions, investigation determinations, enforcement actions, and appeals to
59.28 identify trends and patterns in reporting of maltreatment, substantiated maltreatment, and
59.29 licensing violations and shall share these findings with providers and interested stakeholders.

59.30 Sec. 61. **REPEALER.**

59.31 Minnesota Statutes 2016, section 256.021, is repealed.

256.021 VULNERABLE ADULT MALTREATMENT REVIEW PANEL.

Subdivision 1. **Creation.** (a) The commissioner of human services shall establish a review panel for purposes of reviewing lead investigative agency determinations regarding maltreatment of a vulnerable adult in response to requests received under section 626.557, subdivision 9d, paragraph (b). The panel shall hold quarterly meetings for purposes of conducting reviews under this section.

(b) The review panel consists of:

(1) the commissioners of health and human services or their designees;

(2) the ombudsman for long-term care and ombudsman for mental health and developmental disabilities, or their designees;

(3) a member of the board on aging, appointed by the board; and

(4) a representative from the county human services administrators appointed by the commissioner of human services or the administrator's designee.

Subd. 2. **Review procedure.** (a) If a vulnerable adult or an interested person acting on behalf of the vulnerable adult requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the investigation memorandum and may review any other data on the investigation maintained by the lead investigative agency that are pertinent and necessary to its review of the final disposition. If more than one person requests a review under this section with respect to the same final disposition, the review panel shall combine the requests into one review. The panel shall submit its written request for the case file and other documentation relevant to the review to the supervisor of the investigator conducting the investigation under review.

(b) Within 30 days of the review under this section, the panel shall notify the director or manager of the lead investigative agency and the vulnerable adult or interested person who requested the review as to whether the panel concurs with the final disposition or whether the lead investigative agency must reconsider the final disposition. If the panel determines that the lead investigative agency must reconsider the final disposition, the panel must make specific recommendations to the director or manager of the lead investigative agency. The recommendation must include an explanation of the factors that form the basis of the recommendation to reconsider the final disposition and must specifically identify the disputed facts, the disputed application of maltreatment definitions, the disputed application of responsibility for maltreatment, and the disputed weighing of evidence, whichever apply. Within 30 days the lead investigative agency shall conduct a review and report back to the panel with its determination and the specific rationale for its final disposition. At a minimum, the specific rationale must include a detailed response to each of the factors identified by the panel that formed the basis for the recommendations of the panel.

(c) Upon receiving the report of reconsideration from the lead investigative agency, the panel shall communicate the decision in writing to the vulnerable adult or interested person acting on behalf of the vulnerable adult who requested the review. The panel shall include the specific rationale provided by the lead investigative agency as part of the communication.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.557 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the lead investigative agency to reconsider its final disposition, and the number of cases where the final disposition is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created or received as part of a review under this section are private data on individuals as defined in section 13.02.