

CHAPTER 4668
DEPARTMENT OF HEALTH
HOME CARE LICENSURE

4668 0002	APPLICABILITY, AUTHORITY, AND SCOPE	4668 0100	HOME HEALTH AIDE TASKS
4668 0003	DEFINITIONS	4668 0180	CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY
4668 0008	SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE	4668 0220	SURVEYS AND INVESTIGATIONS
4668 0012	LICENSURE	4668 0230	FINES FOR UNCORRECTED VIOLATIONS
4668 0050	ACCEPTANCE, RETENTION, DISCONTINUATION OF SERVICES, AND DISCHARGE OF CLIENTS	4668 0805	ORIENTATION TO HOME CARE REQUIREMENTS
4668 0060	ADMINISTRATION	4668 0840	TRAINING AND COMPETENCY EVALUATION FOR UNLICENSED PERSONNEL
4668 0075	ORIENTATION TO HOME CARE REQUIREMENTS		

4668.0002 APPLICABILITY, AUTHORITY, AND SCOPE.

This chapter implements the licensing of home care providers under Minnesota Statutes, sections 144A.43 to 144A.47, under the authority of Minnesota Statutes, sections 144A.45, subdivision 1, and 144A.4605. Unless otherwise provided, all licensed home care providers must meet the requirements of this chapter. Provisions that apply only to specified classes of licensees are identified by those provisions. The commissioner may delegate any authority or responsibility to an agent of the department. This chapter must be read together with Minnesota Statutes, sections 144A.43 to 144A.47.

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0003 DEFINITIONS.

[For text of subs 1 to 14, see M.R.]

Subp 15. [Repealed, 28 SR 1639]

[For text of subs 16 to 17a, see M.R.]

Subp 18. **Licensee.** "Licensee" means a home care provider that is licensed under parts 4668.0002 to 4668.0870 and Minnesota Statutes, sections 144A.43 to 144A.47

[For text of subs 19 to 40, see M.R.]

Subp. 41 **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter and Minnesota Statutes; sections 144A.43 to 144A.47. Surveys include investigations of complaints

[For text of subs 42 to 45, see M.R.]

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0008 SERVICES INCLUDED IN AND EXCLUDED FROM LICENSURE.

[For text of subs 1 and 2, see M.R.]

Subp 3 **Contract services.** If a licensee contracts for a home care service with a business that is not subject to licensure under this chapter, it must require, in the contract, that the business comply with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47

[For text of subs 4 to 8, see M.R.]

Subp 9. **Exclusion of certain instructional and incidental services.** A business is not subject to Minnesota Statutes, sections 144A.43 to 144A.47, and is not required to be licensed under this chapter if the business only provides services that are primarily instructional and not medical services or health-related support services

[For text of subs 10 to 12, see M.R.]

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0012 LICENSURE.

Subpart 1 **License issued.** If a provider complies with the requirements of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47, the commissioner shall issue to the provider a certificate of licensure that will contain

- A. the provider's name and address,
- B. the class of license as provided in subpart 3,
- C. the beginning and expiration dates, and
- D. a unique license number

[For text of subp 2, see MR]

Subp. 3 **Classes of licenses.** In issuing a license under this part, the commissioner shall assign a license classification according to items A and B. A provider performing only home management tasks must be registered according to Minnesota Statutes, section 144A.461, and need not obtain a home care license

A. A provider must apply for one of the classes of the home care license listed in subitems (1) to (5).

(1) **Class A, or professional home care agency license.** Under this license, a provider may provide all home care services in a place of residence, including a residential center, at least one of which is nursing, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, medical social services, home health aide tasks, or the provision of medical supplies and equipment when accompanied by the provision of a home care service.

(2) **Class B, or paraprofessional agency license.** Under this license, a provider may perform home care aide tasks and home management tasks, as provided by parts 4668.0110 and 4668.0120

(3) **Class C, or individual paraprofessional license.** Under this license, a provider may perform home health aide, home care aide, and home management tasks.

(4) **Class E, or assisted living programs license.** Under this license, a provider may only provide assisted living services to residents of a residential center

(5) **Assisted living home care provider license.** Under this license, a provider may provide assisted living home care services solely for residents of one or more registered housing with services establishments, as provided by Minnesota Statutes, section 144A.4605

B. If a provider meets the requirements of more than one license class, the commissioner shall issue to the provider a separate license for each applicable class of home care licensure

Subp 4. Applicability of rules to classes.

A. A class A licensee must comply with parts 4668.0002 to 4668.0180, and 4668.0218 to 4668.0240, except that one certified for Medicare as a home health agency under Code of Federal Regulations, title 42, part 484, need not comply with the requirements listed in part 4668.0180, subpart 10

B. A class B licensee must comply with parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0190, and 4668.0218 to 4668.0240.

C. A class C licensee must comply with parts 4668.0002 to 4668.0035, 4668.0050 to 4668.0065, 4668.0075 to 4668.0170, 4668.0200, and 4668.0218 to 4668.0240.

D. A class E licensee must comply with parts 4668.0002 to 4668.0080, 4668.0110 to 4668.0170, 4668.0215, and 4668.0218 to 4668.0240

E. An assisted living home care provider licensee must comply with parts 4668.0002 to 4668.0050, 4668.0065, 4668.0070, 4668.0170, 4668.0218 to 4668.0240, and 4668.0800 to 4668.0870.

Subp 5 **New license.** A license shall be issued to an applicant that is not currently licensed if the applicant completes the application, pays the fee in full, and complies

MINNESOTA RULES 2004

143

HOME CARE LICENSURE 4668.0012

with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47. A license is effective for one year after the date the license is issued.

[For text of subp 6, see M.R.]

Subp. 7 **Agent.** Each application for a home care provider license or for renewal of a home care provider license shall designate one or more owners, managerial officials, or employees, as an agent:

A. who is authorized to transact business with the commissioner of health on all matters provided for in this chapter and Minnesota Statutes, sections 144A.43 to 144A.47; and

B. upon whom all notices and orders shall be served, and who is authorized to accept service of notices and orders on behalf of the licensee, in proceedings under this chapter and Minnesota Statutes, sections 144A.43 to 144A.47.

The designation of one or more persons under this subpart shall not affect the legal responsibility of any other owner or managerial official under this chapter and Minnesota Statutes, sections 144A.43 to 144A.47.

[For text of subps 8 and 9, see M.R.]

Subp. 10 **Prelicensing survey.** Before granting a license, the commissioner may investigate the applicant for compliance with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47.

Subp. 11 **Denial of license.** A license shall be denied if:

A. the applicant; an owner of the applicant, individually or as an owner of another home care provider; or another home care provider of which an owner of the applicant also was or is an owner; has ever been issued a correction order for failing to assist its clients, in violation of part 4668.0050, subpart 2, upon the licensee's decision to cease doing business as a home care provider;

B. the applicant is not in compliance with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47;

C. the applicant is disqualified under Minnesota Statutes, sections 144.057 and 245A.04,

D. the applicant or an owner or managerial official has been unsuccessful in having a disqualification under Minnesota Statutes, section 144.057 or 245A.04, set aside; or

E. the commissioner determines that an owner or managerial official, as an owner or managerial official of another licensee, was substantially responsible for the other licensee's failure to substantially comply with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47.

[For text of subp 12, see M.R.]

Subp. 13 **License renewals.** Except as provided in subpart 14 or 15, a license will be renewed for a period of one year if the licensee satisfies items A to C. The licensee must:

A. submit an application for renewal on forms provided by the commissioner at least 30 days before expiration of the license,

B. submit the renewal fee, in the amount provided by subpart 18; and

C. comply with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47.

Subp. 14. **Conditional license.** If a licensee is not in full compliance with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47, at the time of expiration of its license, and the violations do not warrant denial of renewal of the license, the commissioner shall issue a license for a limited period conditioned on the licensee achieving full compliance within the term of the license or the term of any correction orders.

Subp. 15 **Suspension, revocation, or denial of renewal of license.** The commissioner may deny renewal of a license, or may suspend, revoke, or make conditional a license, if the licensee, or an owner or managerial official of the licensee

A is in violation, or during the term of the license has violated, any of the requirements of this chapter or Minnesota Statutes, sections 144A.43 to 144A.47;

B. permits, aids, or abets the commission of any illegal act in the provision of home care,

C performs any act detrimental to the welfare of a client;

D. obtained the license by fraud or misrepresentation,

E. knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter,

F denies representatives of the commissioner access to any part of the provider, its books, records, or files, or employees;

G interferes with or impedes a representative of the commissioner in contacting the provider's clients,

H. interferes with or impedes a representative of the commissioner in the enforcement of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47,

I destroys or makes unavailable any records or other evidence relating to the licensee's compliance with this chapter and Minnesota Statutes, sections 144A.43 to 144A.47,

J refuses to initiate a background study under Minnesota Statutes, section 144.057 or 245A.04, or

K has failed to timely pay any fines assessed under part 4668.0230 or 4668.0800, subpart 6

[For text of subps 16 to 18, see M.R.]

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0050 ACCEPTANCE, RETENTION, DISCONTINUATION OF SERVICES, AND DISCHARGE OF CLIENTS.

Subpart 1 **Acceptance of clients.** No licensee may accept a person as a client unless the licensee has staff, sufficient in qualifications and numbers, to adequately provide the services agreed to in the service agreement, under part 4668.0140 for class A, B, C, and E licensees, or the service plan, under part 4668.0815, for assisted living home care provider licensees

[For text of subp 2, see M.R.]

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0060 ADMINISTRATION.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Availability of contact person.** Every class A, class B, or class E licensee that provides home health aide or home care aide tasks, must have a contact person available for consultation whenever a paraprofessional is performing home health aide or home care aide tasks for a client. The contact person must be available to the paraprofessional in person, by telephone, or by other means

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*

4668.0075 ORIENTATION TO HOME CARE REQUIREMENTS.

Subpart 1 **Orientation.** Every individual applicant for a license, and every person who provides direct care, supervision of direct care, or management of services for a licensee, shall complete an orientation to home care requirements before providing

home care services to clients. This orientation may be incorporated into the training required of paraprofessionals under part 4668.0130. This orientation need only be completed once.

Subp. 2. **Content.** The orientation required by subpart 1 must contain the following topics:

- A. an overview of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47,
- B. handling of emergencies and use of emergency services;
- C. reporting the maltreatment of vulnerable minors or adults under Minnesota Statutes, sections 626.556 and 626.557,
- D. home care bill of rights;
- E. handling of clients' complaints and reporting of complaints to the Office of Health Facility Complaints; and
- F. services of the ombudsman for older Minnesotans.

[For text of subps 3 to 5, see MR.]

Statutory Authority: MS s 144A.752

History: 28 SR 1639

4668.0100 HOME HEALTH AIDE TASKS.

Subpart 1 **Home health aide tasks.** For a class A or C licensee, a registered nurse may delegate medical or nursing services as tasks or a therapist may assign therapy services as tasks only to a person who satisfies the requirements of subpart 5. These delegated or assigned tasks, as set forth in this part, include home care aide tasks as set forth in part 4668.0110. Class A licensees providing home care aide tasks must satisfy the training and supervision requirements of this part, and not part 4668.0110. These tasks include:

[For text of items A to H, see M.R.]

[For text of subps 2 to 6, see MR.]

Subp. 7. **Documentation.** Class A licensees shall verify that persons employed or contracted by the licensees to perform home health aide tasks have satisfied the requirements of this part and shall retain documentation in the personnel records. Persons who perform home health aide tasks must provide documentation to the employing or contracting licensees of satisfying this part. Class C licensees shall retain documentation of satisfying this part.

[For text of subps 8 and 9, see M.R.]

Statutory Authority: MS s 144A.752

History: 28 SR 1639

4668.0180 CLASS A PROVIDER, PROFESSIONAL HOME CARE AGENCY.

[For text of subps 1 and 2, see MR.]

Subp 3 **Scope of services.** The licensee may provide all home care services, except that the licensee may provide a hospice program only if licensed as a hospice program under part 4664.0010, as provided by Minnesota Statutes, section 144A.753, subdivision 1.

[For text of subps 4 to 10, see MR.]

Statutory Authority: MS s 144A.752

History: 28 SR 1639

4668.0210 [Repealed, 28 SR 1639]

4668.0220 SURVEYS AND INVESTIGATIONS.

[For text of subps 1 and 2, see M.R.]

Subp 3. **Biennial surveys.** A licensee that has been licensed for at least two consecutive years and that has been in substantial compliance with this chapter and

Minnesota Statutes, sections 144A.43 to 144A.47, and has had no serious violations in that period, may be surveyed every second license term rather than during each license term.

Subp. 4 **Complaint investigations.** Upon receiving information that a licensee may be violating or may have violated a requirement of this chapter or Minnesota Statutes, sections 144A.43 to 144A.47, the commissioner shall investigate the complaint.

[For text of subps 5 to 10, see M R]

Statutory Authority: *MS s 144A 752*

History: 28 SR 1639

4668.0230 FINES FOR UNCORRECTED VIOLATIONS.

[For text of subpart 1, see M R]

Subp 2 **Fines for license classes.** Class A, class B, and class E licensees shall be assessed fines at 100 percent of the amounts provided in subpart 3. Class C licensees shall be assessed fines at 25 percent of the amounts provided in subpart 3

Subp 3 **Schedule of fines for violations of statutory provisions.** For each violation of a statutory provision subject to a fine under Minnesota Statutes, section 144 653, subdivision 6, the following fines shall be assessed for the respective provision that was violated in Minnesota Statutes:

[For text of items A to P, see M R]

Q section 144A.44, subdivision 1, clause (17), \$500, and

R section 144A 44, subdivision 2, \$250.

[For text of subp 4, see M.R.]

Subp 5 **Schedule of fines for violations of rules.** For each violation of a rule provision subject to a fine under Minnesota Statutes, section 144.653, subdivision 6, the following fines shall be assessed for the respective rule that was violated:

[For text of items A to HHHH, see M R]

III part 4668.0220, subpart 6, \$500, and

JJJ. part 4668.0220, subpart 8, \$500

Statutory Authority: *MS s 144A 752*

History: 28 SR 1639

4668.0805 ORIENTATION TO HOME CARE REQUIREMENTS.

[For text of subpart 1, see M R]

Subp 2 **Content.** The orientation required under subpart 1 must contain the following topics

A an overview of this chapter and Minnesota Statutes, sections 144A 43 to 144A 47,

B handling emergencies and using emergency services,

C reporting the maltreatment of vulnerable minors or adults under Minnesota Statutes, sections 626 556 and 626 557,

D. the home care bill of rights, Minnesota Statutes, section 144A 44;

E handling of clients' complaints and how clients and staff may report complaints to the Office of Health Facility Complaints, and

F the services of the ombudsman for older Minnesotans.

[For text of subps 3 to 6, see M R.]

Statutory Authority: *MS s 144A 752*

History: 28 SR 1639

4668.0840 TRAINING AND COMPETENCY EVALUATION FOR UNLICENSED PERSONNEL.

[For text of subpart 1, see M.R.]

Subp. 2. **Scope of training course and instructor.** The training required under part 4668 0835, subpart 2, must:

A. include each assisted living home care service offered to clients that the unlicensed person will perform, taught by a registered nurse with experience or training in the subject being taught,

B. include the core training requirements specified in subpart 3,

C. include the competency evaluation required under subpart 4; and

D. use a curriculum that meets the requirements of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47

Subp. 3 Core training of unlicensed personnel.

A. An unlicensed person performing assisted living home care services must successfully complete training or demonstrate competency in the topics described in subitems (1) to (12). The required topics are

(1) an overview of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47;

(2) recognizing and handling emergencies and using emergency services,

(3) reporting maltreatment of vulnerable minors or adults under Minnesota Statutes, sections 626.556 and 626.557,

(4) the home care bill of rights, Minnesota Statutes, section 144A.44,

(5) handling clients' complaints and reporting complaints to the Office of Health Facility Complaints,

(6) the services of the ombudsman for older Minnesotans,

(7) communication skills;

(8) observing, reporting, and documenting client status and the care or services provided,

(9) basic infection control,

(10) maintaining a clean, safe, and healthy environment,

(11) basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional, and

(12) physical, emotional, and developmental needs of clients, and ways to work with clients who have problems in these areas, including respect for the client, the client's property, and the client's family

B. The core training of unlicensed personnel must be taught by a registered nurse with experience or training in home care, except that item A, subitems (1) to (7), may be taught by another instructor under the direction of the registered nurse

C. The core training curriculum must meet the requirements of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47

Subp. 4. Competency evaluation.

A. The competency evaluation tests required under part 4668.0835, subpart 2, items A and B, must meet the requirements of this chapter and Minnesota Statutes, sections 144A.43 to 144A.47

B. A registered nurse must complete and document each competency evaluation

C. To qualify to perform assisted living home care services, a person must demonstrate competency by successfully completing.

(1) a written, oral, or practical test of the topics in subpart 3; and

(2) a written, oral, or practical test of all assisted living home care provider services that the person will perform

[For text of subps 5 and 6, see M.R.]

Statutory Authority: *MS s 144A.752*

History: *28 SR 1639*