

CHAPTER 144D

ELDERLY HOUSING WITH SERVICES ESTABLISHMENT

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144D.01 DEFINITIONS.

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

Subd. 2. **Adult.** "Adult" means a natural person who has attained the age of 18 years.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health or the commissioner's designee.

Subd. 4. **Elderly housing with services establishment or establishment.** "Elderly housing with services establishment" or "establishment" means an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more health-related or supportive service, whether offered or provided directly by the establishment or by another entity arranged for by the establishment.

Elderly housing with services establishment does not include:

- (1) a nursing home licensed under chapter 144A;
- (2) a hospital, boarding care home, or supervised living facility licensed under sections 144.50 to 144.56;
- (3) a board and lodging establishment licensed under chapter 157 and Minnesota Rules, parts 9520.0500 to 9520.0670, 9525.0215 to 9525.0355, 9525.0500 to 9525.0660, or 9530.4100 to 9530.4450;
- (4) a board and lodging establishment which serves as a shelter for battered women or other similar purpose;
- (5) a family adult foster care home licensed under Minnesota Rules, parts 9543.0010 to 9543.0150; or
- (6) private homes in which the residents are related by kinship, law, or affinity with the providers of services.

Subd. 5. **Supportive services.** "Supportive services" means arranging for medical services, health-related services, social services, transportation, help with personal laundry, or handling or assisting with personal funds of residents.

Subd. 6. **Health-related services.** "Health-related services" include professional nursing services, home health aide tasks, and home care aide tasks identified in Minnesota Rules, parts 4668.0100, subparts 1 and 2; and 4668.0110, subpart 1, or the central storage of medication for residents under section 144A.485, subdivision 2, clause (6).

History: 1995 c 207 art 9 s 29

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 29, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.

144D.02 REGISTRATION REQUIRED.

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

History: 1995 c 207 art 9 s 30

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 30, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.

144D.03 REGISTRATION.

Subdivision 1. Registration procedures. The commissioner shall establish forms and procedures for annual registration of elderly housing with services establishments. The commissioner shall charge an annual registration fee of \$35. No fee shall be refunded. A registered establishment shall notify the commissioner within 30 days of any change in the business name or address of the establishment, the name or mailing address of the owner or owners, or the name or mailing address of the managing agent. There shall be no fee for submission of the notice.

Subd. 2. Registration information. The establishment shall provide the following information to the commissioner in order to be registered:

- (1) the business 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 are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;
- (3) the name and mailing address of the managing agent, whether through management agreement or lease agreement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any;
- (4) verification that the establishment has entered into an elderly housing with services contract, as required in section 144D.04, with each resident or resident's representative;
- (5) the name and address of at least one natural person who shall be responsible for dealing with the commissioner on all matters provided for in sections 144D.01 to 144D.06, and on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent, if any; and
- (6) the signature of the authorized representative of the owner or owners or, if the owner or owners are not natural persons, signatures of at least two authorized representatives of each owner, one of which shall be an officer of the owner.

Personal service on the person identified under clause (5) by the owner or owners in the registration shall be considered service on the owner or owners, and it shall not be a defense to any action that personal service was not made on each individual or entity. The designation of one or more individuals under this subdivision shall not affect the legal responsibility of the owner or owners under sections 144D.01 to 144D.06.

History: 1995 c 207 art 9 s 31

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 31, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.

144D.04 ELDERLY HOUSING WITH SERVICES CONTRACTS.

Subdivision 1. Contract required. No elderly housing with services establishment may operate in this state unless a written elderly housing with services contract, as defined in subdivision 2, is executed between the establishment and each resident or resident's representative and unless the establishment operates in accordance with the terms of the contract. The resident or the resident's representative shall be given a complete copy of the contract and all supporting documents and attachments and any changes whenever changes are made.

Subd. 2. Contents of contract. An elderly 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) 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 address of at least one natural person who is authorized to accept service on behalf of the owner or owners and managing agent;

(5) 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) term of the contract;

(7) description of the services to be provided to the resident in the base rate to be paid by resident;

(8) description of any additional services available for an additional fee from the establishment directly or through arrangements with the establishment;

(9) fee schedules outlining the cost of any additional services;

(10) description of the process through which the contract may be modified, amended, or terminated;

(11) description of the establishment's complaint resolution process available to residents;

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

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

(14) criteria used by the establishment to determine who may continue to reside in the elderly housing with services establishment;

(15) billing and payment procedures and requirements;

(16) statement regarding the ability of residents to receive services from service providers with whom the establishment does not have an arrangement; and

(17) statement regarding the availability of public funds for payment for residence or services in the establishment.

Subd. 3. Contracts in permanent files. Elderly housing with services contracts and related documents executed by each resident or resident's representative shall be maintained by the establishment in files from the date of execution until three years after the contract is terminated. The contracts shall be made available for on-site inspection by the commissioner upon request at any time.

History: 1995 c 207 art 9 s 32

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 32, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.

144D.05 AUTHORITY OF COMMISSIONER.

The commissioner shall, upon receipt of information which may indicate the failure of the elderly housing with services establishment, a resident, a resident's representative, or a service provider to comply with a legal requirement to which one or more of them may be subject, make appropriate referrals to other governmental agencies and entities having jurisdiction over the subject matter. The commissioner may also make referrals to any public or private agency the commissioner considers available for appropriate assistance to those involved.

The commissioner shall have standing to bring an action for injunctive relief in the district court in the district in which an establishment is located to compel the elderly housing with services establishment to meet the requirements of this chapter or other requirements of the state or of any county or local governmental unit to which the establishment is otherwise subject. Proceedings for securing an injunction may be brought by the commissioner through the attorney general or through the appropriate county attorney. The sanctions in this section do not restrict the availability of other sanctions.

History: 1995 c 207 art 9 s 33

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 33, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.

144D.06 OTHER LAWS.

An elderly housing with services establishment shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it in addition to registration under this chapter, except that an establishment registered under this chapter is

exempt, at its option, from the requirement of obtaining and maintaining an adult foster care license under Minnesota Rules, parts 9543.0010 to 9543.0150, or a lodging license under chapter 157. An elderly housing with services establishment is subject to the provisions of sections 504.01 to 504.28 and 566.01 to 566.175. An elderly housing with services establishment which is also described in section 157.031 is exempt from the requirements of that section while it is registered under this chapter.

History: 1995 c 207 art 9 s 34

NOTE: This section, as added by Laws 1995, chapter 207, article 9, section 34, is effective August 1, 1996. See Laws 1995, chapter 207, article 9, section 62, subdivision 4.