

144A.161 NURSING HOME AND BOARDING CARE HOME RESIDENT RELOCATION.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to subdivisions 2 to 10.

(a) "Closure" means the cessation of operations of a facility and the delicensure and decertification of all beds within the facility.

(b) "Curtailment," "reduction," or "change" refers to any change in operations which would result in or encourage the relocation of residents.

(c) "Facility" means a nursing home licensed pursuant to this chapter, or a certified boarding care home licensed pursuant to sections 144.50 to 144.56.

(d) "Licensee" means the owner of the facility or the owner's designee or the commissioner of health for a facility in receivership.

(e) "County social services agency" means the county or multicounty social service agency authorized under sections 393.01 and 393.07, as the agency responsible for providing social services for the county in which the nursing home is located.

(f) "Plan" means a process developed under subdivision 3, paragraph (b), for the closure, curtailment, reduction, or change in operations in a facility and the subsequent relocation of residents.

(g) "Relocation" means the discharge of a resident and movement of the resident to another facility or living arrangement as a result of the closing, curtailment, reduction, or change in operations of a nursing home or boarding care home.

Subd. 1a. **Scope.** Where a facility is undertaking closure, curtailment, reduction, or change in operations, or where a housing with services unit registered under chapter 144D is closed because the space that it occupies is being replaced by a nursing facility bed that is being reactivated from layaway status, the facility and the county social services agency must comply with the requirements of this section.

Subd. 2. **Initial notice from licensee.** (a) A licensee shall notify the following parties in writing when there is an intent to close or curtail, reduce, or change operations which would result in or encourage the relocation of residents:

- (1) the commissioner of health;
- (2) the commissioner of human services;
- (3) the county social services agency;
- (4) the Office of Ombudsman for Long-Term Care; and
- (5) the Office of Ombudsman for Mental Health and Developmental Disabilities.

(b) The written notice shall include the names, telephone numbers, facsimile numbers, and e-mail addresses of the persons in the facility responsible for coordinating the licensee's efforts in the planning process, and the number of residents potentially affected by the closure or curtailment, reduction, or change in operations.

(c) After providing written notice under this section, and prior to admission, the facility must fully inform prospective residents and their families of the intent to close or curtail, reduce, or change operations, and of the relocation plan.

Subd. 3. **Planning process.** (a) The county social services agency shall, within five working days of receiving initial notice of the licensee's intent to close or curtail, reduce, or change operations, provide the licensee and all parties identified in subdivision 2, paragraph (a), with the names, telephone numbers, facsimile numbers, and e-mail addresses of those persons responsible for coordinating county social services agency efforts in the planning process.

(b) Within ten working days of receipt of the notice under paragraph (a), the county social services agency and licensee shall meet to develop the relocation plan. The county social services agency shall inform the Departments of Health and Human Services, the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities of the date, time, and location of the meeting so that their representatives may attend. The relocation plan must be completed within 45 days of receipt of the initial notice. However, the plan may be finalized on an earlier schedule agreed to by all parties. To the extent practicable, consistent with requirements to protect the safety and health of residents, the commissioner may authorize the planning process under this subdivision to occur concurrent with the 60-day notice required under subdivision 5a. The plan shall:

- (1) identify the expected date of closure, curtailment, reduction, or change in operations;
- (2) outline the process for public notification of the closure, curtailment, reduction, or change in operations;
- (3) identify efforts that will be made to include other stakeholders in the relocation process;
- (4) outline the process to ensure 60-day advance written notice to residents, family members, and designated representatives;
- (5) present an aggregate description of the resident population remaining to be relocated and the population's needs;
- (6) outline the individual resident assessment process to be utilized;
- (7) identify an inventory of available relocation options, including home and community-based services;
- (8) identify a timeline for submission of the list identified in subdivision 5c, paragraph (b);
- (9) identify a schedule for the timely completion of each element of the plan; and
- (10) identify the steps the licensee and the county social services agency will take to address the relocation needs of individual residents who may be difficult to place due to specialized care needs such as behavioral health problems.

(c) All parties to the plan shall refrain from any public notification of the intent to close or curtail, reduce, or change operations until a relocation plan has been established. If the planning process occurs concurrently with the 60-day notice period, this requirement does not apply once 60-day notice is given.

Subd. 4. **Responsibilities of licensee for resident relocations.** The licensee shall provide for the safe, orderly, and appropriate relocation of residents. The licensee and facility staff shall cooperate with representatives from the county social services agency, the Department of Health, the Department of Human Services, the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities in planning for and implementing the relocation of residents.

Subd. 5. Licensee responsibilities prior to relocation. (a) The licensee shall establish an interdisciplinary team responsible for coordinating and implementing the plan. The interdisciplinary team shall include representatives from the county social services agency, the Office of Ombudsman for Long-Term Care, facility staff that provide direct care services to the residents, and facility administration.

(b) The licensee shall provide a summary document to the county social services agency that includes the following information on each resident to be relocated:

- (1) name;
- (2) date of birth;
- (3) Social Security number;
- (4) payment source and medical assistance identification number, if applicable;
- (5) county of financial responsibility;
- (6) date of admission to the facility;
- (7) all diagnoses;
- (8) the name of and contact information for the resident's physician;
- (9) the name and contact information for the resident's family or other designated representative;
- (10) the names of and contact information for any case managers, if known; and
- (11) information on the resident's status related to commitment and probation.

(c) The licensee shall consult with the county social services agency on the availability and development of available resources and on the resident relocation process.

Subd. 5a. Licensee responsibilities to provide notice. At least 60 days before the proposed date of closing, curtailment, reduction, or change in operations as agreed to in the plan, the licensee shall send a written notice of closure or curtailment, reduction, or change in operations to each resident being relocated, the resident's family member or designated representative, and the resident's attending physician. The notice must include the following:

- (1) the date of the proposed closure, curtailment, reduction, or change in operations;
- (2) the name, address, telephone number, facsimile number, and e-mail address of the individual or individuals in the facility responsible for providing assistance and information;
- (3) notification of upcoming meetings for residents, families and designated representatives, and resident and family councils to discuss the relocation of residents;
- (4) the name, address, and telephone number of the county social services agency contact person; and
- (5) the name, address, and telephone number of the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

The notice must comply with all applicable state and federal requirements for notice of transfer or discharge of nursing home residents.

Subd. 5b. **Licensee responsibility regarding medical information.** The licensee shall request the attending physician provide or arrange for the release of medical information needed to update resident medical records and prepare all required forms and discharge summaries.

Subd. 5c. **Licensee responsibility regarding placement information.** (a) The licensee shall provide sufficient preparation to residents to ensure safe, orderly, and appropriate discharge and relocation. The licensee shall assist residents in finding placements that respond to personal preferences, such as desired geographic location.

(b) The licensee shall prepare a resource list with several relocation options for each resident. The list must contain the following information for each relocation option, when applicable:

(1) the name, address, and telephone and facsimile numbers of each facility with appropriate, available beds or services;

(2) the certification level of the available beds;

(3) the types of services available; and

(4) the name, address, and telephone and facsimile numbers of appropriate available home and community-based placements, services, and settings or other options for individuals with special needs.

The list shall be made available to residents and their families or designated representatives, and upon request to the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, and the county social services agency.

(c) The Senior LinkAge line may make available via a Web site the name, address, and telephone and facsimile numbers of each facility with available beds, the certification level of the available beds, the types of services available, and the number of beds that are available as updated daily by the listed facilities. The licensee must provide residents, their families or designated representatives, the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, and the county social services agency with the toll-free number and Web site address for the Senior LinkAge line.

Subd. 5d. **Licensee responsibility to meet with residents and families.** Following the establishment of the plan, the licensee shall conduct meetings with residents, families and designated representatives, and resident and family councils to notify them of the process for resident relocation. Representatives from the local county social services agency, the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, the commissioner of health, and the commissioner of human services shall receive advance notice of the meetings.

Subd. 5e. **Licensee responsibility for site visits.** The licensee shall assist residents desiring to make site visits to facilities with available beds or other appropriate living options to which the resident may relocate, unless it is medically inadvisable, as documented by the attending physician in the resident's care record. The licensee shall provide or arrange transportation for site visits to facilities or other living options within a 50-mile radius to which the resident may relocate, or within a larger radius if no suitable options are available within 50 miles. The licensee shall provide available written materials to residents on a potential new facility or living option.

Subd. 5f. **Licensee responsible for resident property, funds, and telephone service.** (a) The licensee shall complete an inventory of resident personal possessions and provide a copy of

the final inventory to the resident and the resident's designated representative prior to relocation. The licensee shall be responsible for the transfer of the resident's possessions for all relocations within a 50-mile radius of the facility, or within a larger radius if no suitable options are available within 50 miles. The licensee shall complete the transfer of resident possessions in a timely manner, but no later than the date of the actual physical relocation of the resident.

(b) The licensee shall complete a final accounting of personal funds held in trust by the facility and provide a copy of this accounting to the resident and the resident's family or the resident's designated representative. The licensee shall be responsible for the transfer of all personal funds held in trust by the facility. The licensee shall complete the transfer of all personal funds in a timely manner.

(c) The licensee shall assist residents with the transfer and reconnection of service for telephones or, for residents who are deaf or blind, other personal communication devices or services. The licensee shall pay the costs associated with reestablishing service for telephones or other personal communication devices or services, such as connection fees or other onetime charges. The transfer or reconnection of personal communication devices or services shall be completed in a timely manner.

Subd. 5g. Licensee responsibilities for final notice and records transfer. (a) The licensee shall provide the resident, the resident's family or designated representative, and the resident's attending physician final written notice prior to the relocation of the resident. The notice must:

(1) be provided seven days prior to the actual relocation, unless the resident agrees to waive the right to advance notice; and

(2) identify the date of the anticipated relocation and the destination to which the resident is being relocated.

(b) The licensee shall provide the receiving facility or other health, housing, or care entity with complete and accurate resident records including information on family members, designated representatives, guardians, social service caseworkers, or other contact information. These records must also include all information necessary to provide appropriate medical care and social services. This includes, but is not limited to, information on preadmission screening, Level I and Level II screening, minimum data set (MDS), and all other assessments, resident diagnoses, social, behavioral, and medication information.

(c) For residents with special care needs, the licensee shall consult with the receiving facility or other placement entity and provide staff training or other preparation as needed to assist in providing for the special needs.

Subd. 6. Responsibilities of licensee during relocation. (a) The licensee shall make arrangements or provide for the transportation of residents to the new facility or placement within a 50-mile radius, or within a larger radius if no suitable options are available within 50 miles. The licensee shall provide a staff person to accompany the resident during transportation, upon request of the resident, the resident's family, or designated representative. The discharge and relocation of residents must comply with all applicable state and federal requirements and must be conducted in a safe, orderly, and appropriate manner. The licensee must ensure that there is no disruption in providing meals, medications, or treatments of a resident during the relocation process.

(b) Beginning the week following development of the initial relocation plan, the licensee shall submit weekly status reports to the commissioners of health and human services or their designees and to the county social services agency. The initial status report must identify:

- (1) the relocation plan developed;
 - (2) the interdisciplinary team members; and
 - (3) the number of residents to be relocated.
- (c) Subsequent status reports must identify:
- (1) any modifications to the plan;
 - (2) any change of interdisciplinary team members;
 - (3) the number of residents relocated;
 - (4) the destination to which residents have been relocated;
 - (5) the number of residents remaining to be relocated; and
 - (6) issues or problems encountered during the process and resolution of these issues.

Subd. 7. **Responsibilities of licensee following relocation.** The licensee shall retain or make arrangements for the retention of all remaining resident records for the period required by law. The licensee shall provide the Department of Health access to these records. The licensee shall notify the Department of Health of the location of any resident records that have not been transferred to the new facility or other health care entity.

Subd. 8. **Responsibilities of county social services agency.** (a) The county social services agency shall participate in the meeting as outlined in subdivision 3, paragraph (b), to develop a relocation plan.

(b) The county social services agency shall designate a representative to the interdisciplinary team established by the licensee responsible for coordinating the relocation efforts.

(c) The county social services agency shall serve as a resource in the relocation process.

(d) Concurrent with the notice sent to residents from the licensee as provided in subdivision 5a, the county social services agency shall provide written notice to residents, family, or designated representatives describing:

- (1) the county's role in the relocation process and in the follow-up to relocations;
- (2) a county social services agency contact name, address, and telephone number; and
- (3) the name, address, and telephone number of the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

(e) The county social services agency designee shall meet with appropriate facility staff to coordinate any assistance in the relocation process. This coordination shall include participating in group meetings with residents, families, and designated representatives to explain the relocation process.

(f) The county social services agency shall monitor compliance with all components of the plan. If the licensee is not in compliance, the county social services agency shall notify the commissioners of the Departments of Health and Human Services.

(g) Except as requested by the resident, family member, or designated representative and within the parameters of the Vulnerable Adults Act, the county social services agency may halt a relocation that it deems inappropriate or dangerous to the health or safety of a resident. The county social services agency shall pursue remedies to protect the resident during the relocation process, including, but not limited to, assisting the resident with filing an appeal of transfer or discharge, notification of all appropriate licensing boards and agencies, and other remedies available to the county under section 626.557, subdivision 10.

(h) A member of the county social services agency staff shall visit residents relocated within 100 miles of the county within 30 days after the relocation. This requirement does not apply to changes in operation where the facility moved to a new location and residents chose to move to that new location. The requirement also does not apply to residents admitted after the notice of closure and discharged prior to the actual closure. County social services agency staff shall interview the resident and family or designated representative, observe the resident on site, and review and discuss pertinent medical or social records with appropriate facility staff to:

- (1) assess the adjustment of the resident to the new placement;
- (2) recommend services or methods to meet any special needs of the resident; and
- (3) identify residents at risk.

(i) The county social services agency may conduct subsequent follow-up visits in cases where the adjustment of the resident to the new placement is in question.

(j) Within 60 days of the completion of the follow-up visits, the county social services agency shall submit a written summary of the follow-up work to the Departments of Health and Human Services in a manner approved by the commissioners.

(k) The county social services agency shall submit to the Departments of Health and Human Services a report of any issues that may require further review or monitoring.

(l) The county social services agency shall be responsible for the safe and orderly relocation of residents in cases where an emergent need arises or when the licensee has abrogated its responsibilities under the plan.

Subd. 9. **Penalties.** Upon the recommendation of the commissioner of health, the commissioner of human services may eliminate a closure rate adjustment under subdivision 10 for violations of this section.

Subd. 10. **Facility closure rate adjustment.** Upon the request of a closing facility, the commissioner of human services must allow the facility a closure rate adjustment equal to a 50 percent payment rate increase to reimburse relocation costs or other costs related to facility closure. This rate increase is effective on the date the facility's occupancy decreases to 90 percent of capacity days after the written notice of closure is distributed under subdivision 5 and shall remain in effect for a period of up to 60 days. The commissioner shall delay the implementation of rate adjustments under section 256B.437, subdivisions 3, paragraph (b), and 6, paragraph (a), to offset the cost of this rate adjustment.

Subd. 11. **County costs.** The commissioner of human services shall allocate up to \$450 in total state and federal funds per nursing facility bed that is closing, within the limits of the appropriation specified for this purpose, to be used for relocation costs incurred by counties for resident relocation under this section or planned closures under section 256B.437. To be eligible

for this allocation, a county in which a nursing facility closes must provide to the commissioner a detailed statement in a form provided by the commissioner of additional costs, not to exceed \$450 in total state and federal funds per bed closed, that are directly incurred related to the county's role in the relocation process.

History: *1Sp2001 c 9 art 5 s 9; 2002 c 379 art 1 s 113; 2005 c 56 s 1; 2006 c 282 art 20 s 7-16; 2007 c 147 art 7 s 75; 2010 c 352 art 1 s 3*