

NEW ASSISTED LIVING LICENSE LAW

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Hennepin County Law Library

By Suzanne Scheller, Scheller Legal Solutions LLC





AGENDA

How did we get here?

- History of the development of Assisted Living License Law

Where is here?

- Substance of Assisted Living License Law

Where do we go from here?

- How do attorneys and practitioners assist clients, under the new law

HOW DID WE GET HERE? — HISTORY OF AL LAW

Prior to 1995

- Nursing home models
- Growth of alternative care models and need for services
- Moratorium on new nursing homes, with exceptions (1983)

Prior to 1995

1995–2013

Housing with Services Registration (1995)
Dementia Care Program Status (2001)
Assisted living market title protection (2006)
Home Care licenses issued by class (until 2013)





HOW DID WE GET HERE? – HISTORY OF AL LAW

2013-2018

- Home care license law overhauled and two licenses issued (2013)
- MDH reports 600% increase in suspected maltreatment reports from 2010-2017 (2017)
- Governor's Consumer Workgroup (2017)
- Office of Legislative Auditor Program Audit Report of Office of Health Facility Complaints (2018)
- Legislation introduced and MDH convened stakeholder groups (2018)

2019 – Present

- Elder Abuse and Vulnerable Adult Protection Act (2019)
- Technical changes to assisted living license law (2020, 7th Special Session)
- Rulemaking complete (6/2021)
- Additional changes (2021, 1st Special Session)



HISTORY OF 2019 CHANGES: MDH STAKEHOLDER MEETINGS

- Summer/Fall 2018 - MDH convened six stakeholder groups
 - Assisted Living License
 - Dementia Care Unit Certification
 - Assisted Living Report Card
 - Consumer Rights
 - Quality/Safety Issues in Long-Term Care
 - Electronic Monitoring
- 1/2019 - Stakeholder joint report of recommendations
 - <https://www.health.state.mn.us/facilities/regulation/ohfc/prevworkgroups/finalrpt0119.pdf>



HOW DID WE GET HERE? — HISTORY OF AL LAW

Assisted living license is effective 8/1/2021

- Rulemaking complete
- Applications received and provisional licenses issued
- MDH surveys being conducted
- Assisted Living Directors are being licensed by BELTSS

Approximately 2,000 of the 2,500 former HWS registrants have applied for ALF license

- Approximately 1,400 Assisted living facility license
- Approximately 600 Assisted living facility with dementia care license

Currently not a mapping of former HWS to AL license (HWS cleared)

WHERE IS HERE? — SUBSTANCE OF AL LAW

- Overview of relevant laws
 - Minn. Stat. 144G.08-.9999
 - Minn. Stat. 325F.72, .721, .722
- Rules
 - Minn .R. 4659



WHERE IS HERE? — SUBSTANCE OF ASSISTED LIVING LICENSE LAW - OVERVIEW

Create	Create Assisted Living Facility License. Minn. Stat. §144G.08, subd. 7; §144G.10, subd. 2(a)(1)
↓	
Create	Create Assisted Living Facility with Dementia Care License - Minn. Stat. §144G.08, subd. 8; §144G.10, subd. 2(a)(2) & (b)
↓	
Create	Create single license and single contract for both housing and services. Minn. Stat. §144G.50, subd. 1
↓	
Create	Create ownership and managerial disclosure requirements. Minn. Stat. §144G.12.
↓	
Create	Create physical plant and building design requirements. Minn. Stat. §144G.45.
↓	
Expand	Expand anti-retaliation provisions. Minn. Stat. §144G.92.
↓	
Create	Create state board oversight of assisted living directors. Minn. Stat. §144A.291, subd. 2; §144G.10.
↓	
Create	Create process for terminations of housing and services as well as appeals. Minn. Stat. §144G.52-.55.



PROVISIONS NOT INCLUDED IN 2019 ELDER CARE AND VULNERABLE ADULT PROTECTION ACT



No private right of action for violation of bills of rights



No prohibition against deceptive marketing



No general damages for vulnerable adults who are injured and die of unrelated causes
(Minn. Stat. § 573.02, subd. 2)



No minimum staffing level requirements (see 144G.41; Minn. R. 4659.0180, Subp. 3, 5&6)



No increase in AL fines for regulatory violations



AL DIRECTOR LICENSE — MINN. STAT. 144A.291, SUBD. 2; 144G.10

Board of Executives of Long-Term Services and Supports (formerly Board on Nursing Home Administrators)

Creates Assisted Living Director qualifications

- Application for licensure within six months of hire
- Complete required training within one year of hire
- Pass examination approved by the Board
- Prior to 7/1/2021, applicants do not have to complete required training but must degree, experience or training to qualify

Must complete 30 hours of training every 2 years



ASSISTED LIVING LICENSE

- Create two new Assisted Living License categories
 - Assisted Living Facility License (144G.08, subd. 7a)
 - Assisted Living Facility License with Dementia Care (144G.08, subd. 8)



DEFINITION OF ASSISTED LIVING — 144G.08, SUBD. 7



Sleeping accommodations and services to one or more adults (with many exclusions)



Offers one or more assisted living services of the following (whether or not the particular resident accepts any services)



ASSISTED LIVING SERVICES – 144G.08, SUBD. 9

- ADL assistance
- Standby assistance or hands-on assistance with transfers
- Verbal or visual medication reminders, medication set up, or medication management
- Verbal or visual reminders to perform treatments or exercises
- Prepare modified diets
- Provide services of advanced practice registered nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker
- Perform tasks delegated to unlicensed personnel
- Provide treatment and therapies
- Assist residents with eating, if complicated eating problems
- Provide complex or specialty health care services
- Provide a “supportive service” (i.e. laundry, shopping, food prep, “I’m okay” checks) plus at least one “assisted living service”



ASSISTED LIVING GENERAL CONCEPTS

- Create one contract for housing and services (if services are desired)
- Establish an “assisted living director”
 - Administrator of an assisted living facility
 - Regulatory oversight through the “Board of Executives for Long Term Services and Supports” (formerly the Board of Nursing Home Administrators) under 144A.20



AL LICENSE APPLICATION REQUIREMENTS

- Impose a penalty of a misdemeanor or possible fine for operating an assisted living facility without a license. Minn. Stat. 144G.10, subd. 4.
- Create a provisional license for new assisted living license applicants under Minn. Stat. 144G.16 that
 - Is valid for one year
 - Requires an initial survey within one year of obtaining a provisional license
- Allow for a one-year license renewal for non-provisional licensees, upon application for renewal. Minn. Stat. 144G.17
- Authorize the commissioner of health to consider compliance history and truthfulness of statements made to the commissioner, as factors in issuance of any license. Minn. Stat. 144G.20.



MINIMUM REQUIREMENTS FOR AL. MINN. STAT. 144G.41

- Comply with the Nurse Practice Act, sections 148.171 to 148.285
- Utilize person-centered planning and service delivery
- Maintain a system of delegation of health care activities to unlicensed personnel by a registered nurse, including supervision
- Provide a means for residents to request assistance 24/7 and to respond to such requests by having a staff person who is
 - Awake
 - Located on the campus in order to respond in a reasonable time
 - Capable of communicating with residents and following directions
 - If a secured dementia care unit, the staff person must be physically present in such unit
- Permit access of residents to food at any time



MINIMUM REQUIREMENTS FOR AL. MINN. STAT. 144G.41

- Allow residents to choose visitors and time of visits
- Allow resident to choose a roommate if a shared unit
- Notify the resident of his or her right to a lockable door on the unit
- Implement a staffing plan to determine staffing levels that
 - Evaluates the appropriateness of the staffing levels at least two times per year
 - Ensures staffing at all times to meet the scheduled and reasonably foreseeable needs of each resident as required by assessments and service plans
 - Ensures the facility can effectively respond to emergencies



MINIMUM REQUIREMENTS FOR AL. MINN. STAT. 144G.08, SUBD. 68

- Offer to provide or make available at least the following services
 - Three nutritious meals and snacks each day with menus in advance
 - Weekly housekeeping and laundry
 - Assistance with arranging transportation and accessing community resources and social services, upon the request of the resident
 - Culturally sensitive programs
 - Daily program of social and recreational activities, including in the community





Meet the definition of an Assisted Living Facility

Required for the following

- Advertises the provision of specialized care for individuals with Alzheimer's and other dementias; or
- Offers a secured dementia care unit

ADDITIONAL REQUIREMENTS FOR AL WITH DEMENTIA CARE. MINN. STAT. 144G.80

Demonstrate competency as criteria for an application, including the experience of applicant in managing residents with dementia and the compliance history of the applicant



If no experience, then the applicant must employ a consultant for at least six months of operation



The commissioner shall conduct an onsite inspection prior to issuing a license to ensure compliance with physical environment requirements



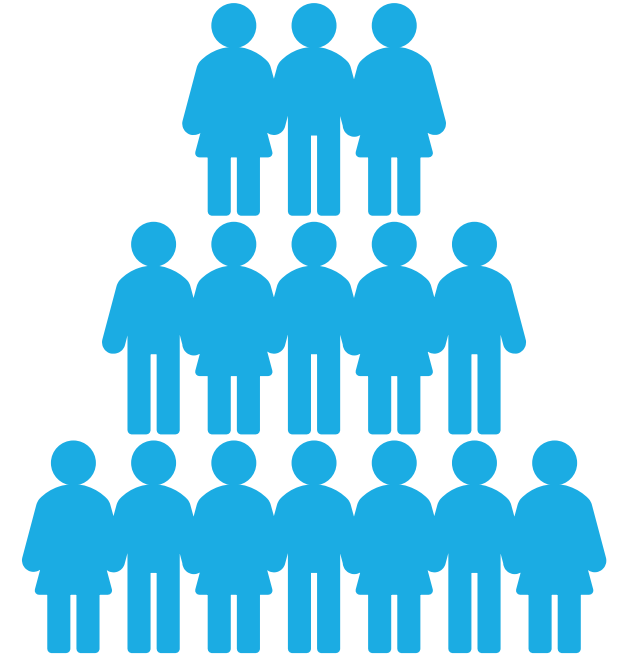
AL WITH DEMENTIA CARE. MINN. STAT. 144G.82

- Responsibilities of administration include
 - Director must complete at least 10 hours of annual continuing educational requirements
 - Implement policies and procedures in areas specific to residents with dementia



AL WITH DEMENTIA CARE - STAFFING & TRAINING. MINN. STAT. 144G.83

- Staff should be instructed in person-centered care and direct care staff must be specially trained to work with residents with Alzheimer's and other dementias
- Staff levels must be sufficient to meet the scheduled and unscheduled needs of residents
- Staff training supervisors must have experience in the care of individuals with dementia



SERVICES FOR RESIDENTS WITH DEMENTIA. MINN. STAT. 144G.84

- Services for residents with dementia, in addition to minimum services required of an assisted living
 - Assistance with ADLs that address the cognitive and physical limitations of the resident
 - Educate residents and representatives of transitions in care
 - Provide choices for meaningful engagement, including an evaluation for activities and developing an individualized activity plan
 - Include behavioral symptoms that negatively impact the resident, in the service plan
 - Offer support to family and others
 - Offer access to secured outdoor space



ESTABLISH RESPONSIBILITIES FOR HOUSING & SERVICES. MINN. STAT. 144G.10

- The facility is directly responsible for all housing and service-related matters provided, regardless of any management contract
- The resident is not required to utilize any service provided
- The facility must provide a written disclosure of their type of license and services provided
- Assisted living facilities are subject to landlord-tenant law under Minn. Stat. §504B, *et al.* Minn. Stat. 144G.11



CREATE SINGLE CONTRACT FOR HOUSING AND SERVICES. MINN. STAT. 144G.50



**Provide a signed copy of the
contract to the resident**



**Offer the resident the opportunity
to identify a designated
representative**



Contain certain provisions

Legal name and license number of the facility
Contact information for licensee and agents
Disclose type of license and other services



CREATE SINGLE CONTRACT FOR HOUSING AND SERVICES. MINN. STAT. 144G.50



Notice of the resident's right to appeal the termination of an assisted living contract



Description of the housing and services provided for the contracted amount including any limitations on such services



Delineation on the grounds for discharge, eviction or transfer



Notify of resident's right to obtain services from an unaffiliated service provider



CREATE SINGLE CONTRACT FOR HOUSING AND SERVICES MINN. STAT. 144G.50

- Description of the facility's policies related to medical assistance waivers and the housing support program, including
 - Whether the facility is enrolled to provide customized living services or housing support, along with any limitations on the numbers of people served
 - Whether the facility requires a resident to privately pay for a period of time prior to accepting payment under medical assistance, and if so the length of time
 - A statement that medical assistance waivers provide payment for services but not rent, and that the resident may be eligible for assistance with rent through the housing support program
 - The contact information to obtain a long-term care consultation



PERFORM ASSESSMENTS & CREATE SERVICE PLANS — MINN. STAT. 144G.70

- An assessment of the prospective resident must be performed prior to executing a contract for services or prior to the move-in date of the resident
- Reassessment must occur within 14 days of initiation of services, upon change in condition of the resident, and no more than 90 days from the last assessment
- Any request to discontinue life-sustaining treatment must undergo a process of notice to a physician and the facility is not required to discontinue treatment





**TWO MAIN PATHS
TO DISCHARGE**

**Termination of
the assisted
living contract**

**Non-Renewal of
Housing**

TERMINATION OF THE ASSISTED LIVING CONTRACT. MINN. STAT. 144G.52

- “Termination” is defined as facility-initiated termination of either housing or nonrenewal of all assisted living services
- Requirements prior to termination of the contract (whether housing or services)
 - Facility must schedule and participate in a meeting with the resident and the resident’s legal and designated representative
 - Explain in detail the reasons for the proposed termination
 - Offer reasonable accommodations or modifications to avoid the termination, such as securing services from another provider



TERMINATIONS DUE TO VIOLATION OF THE ASSISTED LIVING CONTRACT - MINN. STAT. 144G.52

- The facility must provide written notice of the ability to cure the violation
- Termination may not occur if the resident cures the violation
- Written notice of the ability to cure is not required for violations that threaten the health or safety of the resident or other, or for illegal conduct
- A facility may not terminate the assisted living contract if the reasons for termination may be resolved by choosing another provider



NON-RENEWAL OF HOUSING UNDER CERTAIN CONDITIONS. MINN. STAT. 144G.53

- Non-renewal may occur under two circumstances
 - 60-day notice and assistance with relocation planning; or
 - Follow the termination procedure under Minn. Stat. §144G.52
- The facility must
 - Provide notice to proper parties
 - Ensure a coordinated move to a safe location and/or a safe service provider that is appropriate for the resident, under Minn. Stat. §144G.55, subd. 2
 - Prepare a written plan for the move
- The resident may decline the facility's suggestion and instead choose another provider



APPEAL TERMINATION OF HOUSING OR SERVICES - MINN. STAT. 144G.54

- Permissible grounds to appeal termination
 - Factual disputes as to a permissible basis for the termination
 - The termination would result in great harm to the resident, except if greater risk of harm to other resident or staff
 - The resident has cured the reasons for termination or a reasonable accommodation is identified
 - The facility terminated the contract in violation of state or federal law



PROCESS TO APPEAL TERMINATION - MINN. STAT. 144G.54

The Office of Administrative Hearings must conduct an expedited hearing not later than 14 days after receiving the request



The hearing is held at the facility where the resident resides



The administrative law judge shall issue a recommendation to the commissioner within ten business days after the hearing



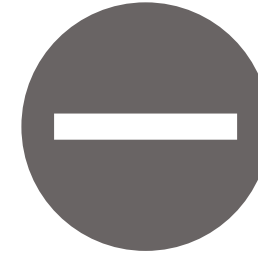
APPEAL TERMINATION - MINN. STAT. 144G.54



Burden of proof

Facility bears the burden of proof to establish by a preponderance of the evidence that termination was permissible, if appeal based on facility's violation of law

Resident bears the burden of proof to establish by a preponderance of the evidence that termination would result in great harm or that resident has cured the breach



Termination of housing or service shall not occur while an appeal is pending



COORDINATED MOVE AFTER TERMINATION - MINN. STAT. 144G.55



Ensure a coordinated move to a safe location and/or service provider that is appropriate for the resident, prior to any hearing



Consult with the resident, representatives, and related professionals to make arrangements for the move



The resident may decline to move to the identified facility



If a reduction of services

60-day notice is required, including detailed explanation of reasons for transfer

Resident is allowed to remain in facility and seek another provider



EXPEDITED TERMINATIONS OF HOUSING OR SERVICES MAY OCCUR IF (MINN. STAT. 144G.52, SUBD. 5(A))



The resident has engaged in conduct that substantially interferes with the rights, health, or safety of other residents;



The resident has engaged in conduct that substantially and intentionally interferes with the safety or physical health of facility staff; or



The resident has committed an unlawful act as listed in Minn. Stat. §504B.171



EXPEDITED TERMINATIONS OF SERVICES MAY OCCUR IF (MINN. STAT. 144G.52, SUBD. 5(B))



The resident has engaged in conduct that substantially interferes with the resident's health or safety;



The resident's assessed needs exceed the scope of services agreed upon in the assisted living contract and are not included in the services the facility disclosed in the uniform checklist; or



Extraordinary circumstances exist, causing the facility to be unable to provide the resident with the services disclosed in the uniform checklist that are necessary to meet the resident's needs.



MINIMUM SITE REQUIREMENTS – MINN. STAT. 144G.45

- Public utilities must be available and water and septic systems in place
- Accessibility to fire department services and emergency medical services
- A secured dementia unit must also have a hazard vulnerability assessment and approved automatic sprinkler system
- Provide a comprehensive fire protection system
- Design must comply with the Facility Guidelines Institute “Guidelines for Design and Construction of Residential Health, Care and Support Facilities,” if six or more residents
- Assisted living facilities must meet the NFPA Standard 101, Life Safety Code, Residential Board and Care Occupancies chapter, if six or more residents
- Assisted living facilities with dementia care must meet the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter
- For new construction on or after 8/1/2021, construction plans must be submitted to the commissioner and approved, including signed by architects and engineers registered in MN
- A variance or waiver of the site requirements may be applied for



CORPORATE DISCLOSURE REQUIREMENTS AND DEFINITION OF CONTROLLING INDIVIDUALS

- Defines “controlling individual” as an owner as well as officer, managerial official, and any entity with at least five percent in the assisted living facility. Minn. Stat. 144G.08, subd. 15.
- Requires identification of all those with ownership interest in the license application – Minn. Stat. 144G.12, subd. 1(2).
- Requires identification of an authorized agent to accept service on behalf of the licensee. Minn. Stat. 144G.12, subd. 2; 144G.08, subd. 11.



CORPORATE DISCLOSURE REQUIREMENTS AND DEFINITION OF CONTROLLING INDIVIDUALS

- Prohibits the transfer of an assisted living license to another party – Minn. Stat. 144G.19
- A new license must be issued if any of the following occurs:
 - Change in corporate structure to a different type of legal entity
 - Dissolution of licensee or merger of licensee with another entity
 - Accumulation of transfer of 50% or more of the license in in the last six months to a different person or a person with less than 5% ownership at the time of the first transaction
 - Circumstances which cause the withdrawal of the licensee's responsibility for the facility
- The new licensee must provide 60-day written notice of the anticipated change in license date
- Allows the commissioner to bar a controlling individual under certain circumstances, in addition to possibly imposing penalty restrictions or a stay of adverse action. Minn. Stat. 144G.20.



OTHER - CORPORATE DISCLOSURE REQUIREMENTS

- One licensee is required for both housing and services and is responsible for compliance with Minn. Stat. §144G.08-.9999 and Minn. R. 4659. Minn. Stat. §144G.12, subd. 1(1); Minn. Stat. §144G.08, subd. 32.
- Notification must be given to MDH prior to any changes in managerial officials or authorized agents. MDH must also receive notification of changes in licensed resident capacity. Minn. Stat. §144G.18.
- **If several assisted living buildings are on the same campus, only one license is required (at the highest level of licensure) with disclosure as to which buildings may be offering licensed assisted living with dementia care services. Minn. Stat. §144G.08, subd. 4a; §144G.10, subd. 1.



OTHER AL LICENSE PROVISIONS

- Create an Assisted Living Bill of Rights – Minn. Stat. 144G.91
- Direct proper notices to residents– Minn. Stat. 144G.90
 - Notice of rights and legal advocacy services must be provided to residents
 - Notice of dementia training program
 - Notice of contact information of staff person at the facility who can provide assistance with health care or supportive services available to residents
 - Notice of contact information for new manager and authorized agent when changes in ownership



OTHER AL LICENSE PROVISIONS

- Surveys of assisted living facilities – Minn. Stat. 144G.30-.33
 - The commissioner shall conduct surveys at least every two years
 - Follow-up surveys may be conducted to determine if deficiencies are corrected, and must be conducted if a level 3 or 4 violation is found
 - Correction orders may be issued upon a survey or complaint investigation and must be sent to the facility within 30 days after the survey exit date



CHANGES TO AL LICENSE AND RULEMAKING

- 2020 Seventh Special Session Technical Corrections
- 2021 Rulemaking
- 2021 First Special Session



WHERE DO WE GO FROM HERE? HIGHLIGHTS FOR ATTORNEYS AND PRACTITIONERS

- *Assisted Living Contracts*
- *MDH Surveys*
- *Pre-Admission Assessment*
- *Staffing and Training*
- *Dementia Care*
- *Uniform Disclosure of Assisted Living Services and Amenities*
- *Physical Plant requirements*
- *Assisted Living Bill of Rights.*
- *Retaliation*
- *Termination Procedures*



ASSISTED LIVING CONTRACTS

- One single contract for housing and services is required, with the licensee responsible for both components. Minn. Stat. §144G.40, subd. 1.
- A facility is required to enter into a new, single contract with the resident for both housing and services pursuant to Minn. Stat. §144G.50, subd. 1(a). This contract must be placed in the resident's file.
- The contract must contain certain information: 1) housing; 2) assisted living services; and the resident's service plan if any. Minn. Stat. §144G.50, subd. 1(b).



ASSISTED LIVING CONTRACTS

- The contract must include
 - Business operations information, including the licensee, type of license, controlling individuals, managerial officials, and authorized agent. Minn. Stat. §144G.50, subd. 2.
 - Fee and payment information. Minn. Stat. §144G.50, subd. 2.
 - Delineation of the grounds for termination of the contract and the right to appeal the termination. Minn. Stat. §144G.50, subd. 2.
- The opportunity for the resident to designate a representative. Minn. Stat. §144G.50, subd. 3.
 - The contract must not include:
 - Additions or addendums without the written agreement of the resident. Minn. Stat. §144G.50, subd. 1(f).
 - Waivers of liability for injury are prohibited in the contract. Minn. Stat. §144G.50, subd. 5.
- Arbitration clauses are permitted with proper notification requirements. Minn. Stat. §144G.51.



ATTORNEY TIPS FOR AL CONTRACT

- Watch for definition of signor
 - “Responsible party” is defined under Minn. Stat. 144.6501 for nursing homes. Some AL contracts redefine the term to be a personal guarantor.
 - Resident sign if at all possible (otherwise a legal representative)
- Waivers of liability for injury are prohibited
- Watch for Arbitration Clauses
 - Imbalanced terms
 - Proper notice requirements



ATTORNEY TIPS FOR AL CONTRACT

- Reasons for termination should be listed
- Right to appeal should be listed
- Designate a representative if possible
- Get all exhibits and attachments
- Know the service plan connected to the contract





- Surveys by MDH for all new applicants are to be completed within one year under the requirements of a provisional license. This applies to all applications submitted for the 8/1/2021 assisted living licensure. Minn. Stat. §144G.16.
- Once a facility (non-provisional) license is issued, surveys occur once every two years. Minn. Stat. §144G.30.



MDH SURVEYS

- **Be aware that previous surveys under the HWS registration system may no longer be available. Therefore, if the home care licensee prior to 8/1/2021 is now licensed as an assisted living, their previous surveys will not be posted on the MDH website as of now. In general, there is currently not a correlation or tying back from the new to old licensee for the purpose of posting surveys. New surveys under provisional assisted living licenses have begun and are not yet posted.
- Maltreatment investigations continue to be posted under the previous name of the licensee, prior to 8/1/2021.

PRE- ADMISSION ASSESSMENT

- New residents must receive a pre-admission assessment conducted by an RN prior to being admitted to an assisted living. Minn. Stat. §144G.70, subd. 2(b); Minn. R. 4659.0140.
- Ongoing assessments must be conducted by an RN while an LPN may conduct “Initial Reviews” for those not receiving higher level or more complex health-related services. Minn. Stat. §144G.70, subd. 2(d).
- For the assessments, the facility must develop a Uniform Assessment Tool. Minn. R. 4659.0150.



STAFFING AND TRAINING

- Important staffing provisions were added to Minn. R. 4659.0180:
 - The clinical nurse supervisor (who is an RN) must develop a staffing plan to ensure adequate direct-care staff to meet resident needs 24/7. Subp. 3.
 - A daily staffing schedule is to be posted in the facility, with appropriate reductions. Subp. 4(B).
 - A minimum of two direct care staff must be available at all times to meet both scheduled reasonably foreseeable and unscheduled needs of the resident. Subp. 5.
 - From 10 pm – 6 am, direct care staff shall respond to resident requests for assistance within a reasonable time. Subp. 6.
- In all assisted living licensed entities, one or more persons must be awake and in the building or an attached building 24/7 to respond to requests of the resident. Minn. Stat. §144G.41, subd. 1(12).



STAFFING AND TRAINING

- In a building licensed as assisted living with dementia care, there must be a staff member awake at the facility 24/7. Minn. Stat. §144G.81, subd. 4.
- There are no staffing ratios or minimum level of staffing requirements per number of residents.
- An RN must be available for consultation at all times, via telephone or other means. Minn. Stat. §144G.62, subd. 1 and Minn. Stat. §144G.41, subd. 1(14).



STAFFING AND TRAINING

- Temporary staff are subject to the same staffing requirements in Minn. Stat. §144G.60 and are considered to be staff of the facility. Minn. Stat. §144G.60, subd. 5.
- Unlicensed personnel must meet several competency and training requirements under Minn. Stat. §144G.61, subd. 2. A licensed staff member may delegate tasks to unlicensed personnel but must supervise the unlicensed personnel according to the tasks delegated. Minn. Stat. §144G.62, subds. 3-5.
- All staff must complete orientation to the assisted living law and related topics as well as to each resident. Minn. Stat. §144G.63.
- Additional training is required for staff who have not met competency requirements. Minn. R. 4659.0190, subp. 4.





- All staff must have some training in dementia care, regardless of whether the entity is licensed as an assisted living with dementia care. Minn. Stat. §144G.63, subd. ; Minn. Stat. §144G.64.
- Applicants for an assisted living with dementia care license must meet additional qualifications, such as experience serving those with dementia or contracted with someone with experience with such services. Minn. Stat. §144G.80.
- Those licensees offering a secured dementia unit must also satisfy certain building and fire safety code requirements, including mitigating vulnerability hazards and installing automatic sprinkler systems by 8/1/2029. Minn. Stat. §144G.81, subd. 1.



DEMENTIA CARE

- For assisted living facility with dementia care licenses, staff training must go beyond the requirements for an assisted living license and include the provisions of Minn. Stat. §144G.83.
- Assisted living facilities with dementia care must offer certain services to residents, including incorporating person-centered approaches and activities as well as physical activity and outdoor space. Minn. Stat. §144G.84.
- Additional training requirements for staff providing direct care of resident in a licensed assisted living facility with dementia care are found at Minn. R. 4659.0190, subp. 3.



**UNIFORM
DISCLOSURE OF
ASSISTED
LIVING
SERVICES AND
AMENITIES**

- Prior to signing the assisted living contract, the resident shall be provided with the Uniform Disclosures required under Minn. Stat. §144G.40, subd. 2, including the license of the facility and services offered. *See Attached Uniform Disclosure Form.*
- The facility license must be displayed in the facility. Minn. Stat. §144G.42, subd. 1.
- An oral description of the services shall also be provided.

PHYSICAL PLANT REQUIREMENTS

- All facilities must have smoke alarms in each room, regardless of whether the building was constructed prior to 8/1/2021. Minn. Stat. §144G.45, subd. 2(a). Minn. Stat. §144G.45, subd. 2(2).
- **New licenses or construction on or after 8/1/2021 must comply with the building design, Life Safety Code, and construction requirements of Minn. Stat. §144G.45, subds. 4, 5 & 6. Those entities who met certain criteria, such as those who were HWS registrants and providing services prior to 8/1/2021, are exempt from certain building design requirements. Furthermore, any licensee may request a variance or waiver from certain physical plant requirements pursuant to Minn. Stat. §144G.45, subd. 7.
- Assisted living facilities with six or more residents must comply with the building design and Life Safety Codes provisions under Minn. Stat. §144G.45, subds. 4 & 5.



ASSISTED LIVING BILL OF RIGHTS

- The Assisted Living Bill of Rights includes many of the items from the Home Care and Health Care Bill of Rights, plus additional protections. Notably, the resident retains the right to choose their own provider, the right to visitors of their choosing, and the right to form resident and family councils. Minn. Stat. §144G.91.
- No private right of action is included in the Assisted Living Bill of Rights.



RETALIATION

- Retaliation is prohibited under Minn. Stat. §144G.92.
- The MDH may determine whether retaliation has occurred.



TERMINATION PROCEDURES

- A facility may terminate the services or housing of the resident but must follow certain procedures found at Minn. Stat. §144G.52-.55, as summarized below.
 - a. Pre-termination meeting at least five days prior to any termination notice to learn the basis for the proposed termination and to allow curing of the reasons for termination, such as payment of an outstanding bill or securing another service provider. Minn. Stat. §144G.52, subd. 2; Minn. R. 4659.0120, subp. 1(A).
 - b. 30-day notice for termination, except that an expedited termination may occur pursuant to Minn. Stat. §144G.52, subd. 5.
 - c. Assistance by the facility with a coordinated move to another suitable location for the resident. Minn. Stat. §144G.55.
- A resident has 30 days to appeal a regular termination and 15 days to appeal an expedited termination. Minn. R. 4659.210, subp. 1(A)&(B).
- A facility may engage in an emergency relocation of the resident pursuant to Minn. Stat. §144G.52, subd. 9.



TERMINATION PROCEDURES

- The resident has a right to return if housing has not been terminated, under Minn. Stat. §144G.52, subd. 10.
- A facility may elect to not renew a resident's lease with 60-day notice and meeting some additional requirements such as a coordinated move under Minn. Stat. §144G.55 and creating a relocation plan pursuant to Minn. R. 4659.0120, subp. 6-8, but not the same requirements as termination. Minn. Stat. §144G.53.
- If a resident is transferred to another care provider, the sending facility must timely send basic information about the resident to the receiving facility, including but not limited to contact information, current treatment and medication orders, diagnoses and allergies, and any health care directives. Minn. Stat. §144G.43, subd. 4.





THANK YOU

- Questions?
- Suzanne Scheller
suzy@schellerlegalsolutions.com