ARTICLE 12

HOME CARE PROVIDERS

Section 1. Minnesota Statutes 2012, section 144.051, is amended by adding a subdivision to read:

Subd. 3. Data classification; private data. For providers regulated under sections 144A.043 to 144A.482, the following data collected, created, or maintained by the commissioner are classified as "private data" as defined in section 13.02, subdivision 12:

(1) data submitted by or on behalf of applicants for licenses prior to issuance of the license;
(2) the identity of complainants who have made reports concerning licensees or applicants unless the complainant consents to the disclosure;
(3) the identity of individuals who provide information as part of surveys and investigations;
(4) Social Security numbers; and
(5) health record data.

Sec. 2. Minnesota Statutes 2012, section 144.051, is amended by adding a subdivision to read:

Subd. 4. Data classification; public data. For providers regulated under sections 144A.043 to 144A.482, the following data collected, created, or maintained by the commissioner are classified as "public data" as defined in section 13.02, subdivision 15:

(1) all application data on licensees, license numbers, license status;
(2) licensing information about licenses previously held under this chapter;
(3) correction orders, including information about compliance with the order and whether the fine was paid;
(4) final enforcement actions pursuant to chapter 14;
(5) orders for hearing, findings of fact and conclusions of law; and
(6) when the licensee and department agree to resolve the matter without a hearing, the agreement and specific reasons for the agreement are public data.

Sec. 3. Minnesota Statutes 2012, section 144.051, is amended by adding a subdivision to read:

Subd. 5. Data classification; confidential data. For providers regulated under sections 144A.043 to 144A.482, the following data collected, created, or maintained by the Department of Health are classified as "confidential data" as defined in section 13.02.
subdivision 3: active investigative data relating to the investigation of potential violations of law by licensee including data from the survey process before the correction order is issued by the department.

Sec. 4. Minnesota Statutes 2012, section 144.051, is amended by adding a subdivision to read:

Subd. 6. Release of private or confidential data. For providers regulated under sections 144A.043 to 144A.482, the department may release private or confidential data, except Social Security numbers, to the appropriate state, federal, or local agency and law enforcement office to enhance investigative or enforcement efforts or further public health protective process. Types of offices include, but are not limited to, Adult Protective Services, Office of the Ombudsmen for Long-Term Care and Office of the Ombudsmen for Mental Health and Developmental Disabilities, the health licensing boards, Department of Human Services, county or city attorney's offices, police, and local or county public health offices.

Sec. 5. Minnesota Statutes 2012, section 144A.43, is amended to read:

**144A.43 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 144.699, subdivision 2, and 144A.43 to 144A.482.

Subd. 1a. **Agent.** "Agent" means the person upon whom all notices and orders shall be served and who is authorized to accept service of notices and orders on behalf of the home care provider.

Subd. 1b. **Applicant.** "Applicant" means an individual, organization, association, corporation, unit of government, or other entity that applies for a temporary license, license, or renewal of their home care provider license under section 144A.472.

Subd. 1c. **Client.** "Client" means a person to whom home care services are provided.

Subd. 1d. **Client record.** "Client record" means all records that document information about the home care services provided to the client by the home care provider.

Subd. 1e. **Client representative.** "Client representative" means a person who, because of the client's needs, makes decisions about the client's care on behalf of the client. A client representative may be a guardian, health care agent, family member, or other agent of the client. Nothing in this section expands or diminishes the rights of persons to act on behalf of clients under other law.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.
Subd. 2a. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Subd. 2b. **Department.** "Department" means the Minnesota Department of Health.

Subd. 2c. **Dietary supplement.** "Dietary supplement" means a product taken by mouth that contains a "dietary ingredient" intended to supplement the diet. Dietary ingredients may include vitamins, minerals, herbs or other botanicals, amino acids, and substances such as enzymes, organ tissue, glandulars, or metabolites.

Subd. 2d. **Dietician.** "Dietitian" is a person licensed under sections 148.621 to 148.633.

Subd. 2e. **Dietetics or nutrition practice.** "Dietetics or nutrition practice" is performed by a licensed dietician or licensed nutritionist and includes the activities of assessment, setting priorities and objectives, providing nutrition counseling, developing and implementing nutrition care services, and evaluating and maintaining appropriate standards of quality of nutrition care under sections 148.621 to 148.633.

Subd. 3. **Home care service.** "Home care service" means any of the following services when delivered in a place of residence to the home of a person whose illness, disability, or physical condition creates a need for the service:

1. nursing services, including the services of a home health aide;
2. personal care services not included under sections 148.171 to 148.285;
3. physical therapy;
4. speech therapy;
5. respiratory therapy;
6. occupational therapy;
7. nutritional services;
8. home management services when provided to a person who is unable to perform these activities due to illness, disability, or physical condition. Home management services include at least two of the following services: housekeeping, meal preparation, and shopping;
9. medical social services;
10. the provision of medical supplies and equipment when accompanied by the provision of a home care service; and
11. other similar medical services and health-related support services identified by the commissioner in rule.

"Home care service" does not include the following activities conducted by the commissioner of health or a board of health as defined in section 145A.02, subdivision 2: communicable disease investigations or testing; administering or monitoring a prescribed
therapy necessary to control or prevent a communicable disease; or the monitoring
of an individual's compliance with a health directive as defined in section 144.4172,
subdivision 6.

(1) assistive tasks provided by unlicensed personnel;

(2) services provided by a registered nurse or licensed practical nurse, physical
therapist, respiratory therapist, occupational therapist, speech-language pathologist,
dietitian or nutritionist, or social worker;

(3) medication and treatment management services; or

(4) the provision of durable medical equipment services when provided with any of
the home care services listed in clauses (1) to (3).

Subd. 3a. Hands-on-assistance. "Hands-on-assistance" means physical help by
another person without which the client is not able to perform the activity.

Subd. 3b. Home. "Home" means the client's temporary or permanent place of
residence.

Subd. 4. Home care provider. "Home care provider" means an individual,
organization, association, corporation, unit of government, or other entity that is regularly
engaged in the delivery of at least one home care service, directly or by contractual
arrangement, of home care services in a client's home for a fee and who has a valid current
temporary license or license issued under sections 144A.43 to 144A.482. At least one
home care service must be provided directly, although additional home care services may
be provided by contractual arrangements. "Home care provider" does not include:

(1) any home care or nursing services conducted by and for the adherents of any
recognized church or religious denomination for the purpose of providing care and
services for those who depend upon spiritual means, through prayer alone, for healing;

(2) an individual who only provides services to a relative;

(3) an individual not connected with a home care provider who provides assistance
with home management services or personal care needs if the assistance is provided
primarily as a contribution and not as a business;

(4) an individual not connected with a home care provider who shares housing with
and provides primarily housekeeping or homemaking services to an elderly or disabled
person in return for free or reduced-cost housing;

(5) an individual or agency providing home-delivered meal services;

(6) an agency providing senior companion services and other older American
volunteer programs established under the Domestic Volunteer Service Act of 1973,
Public Law 98-288;
(7) an employee of a nursing home licensed under this chapter or an employee of a
boarding care home licensed under sections 144.50 to 144.56 who responds to occasional
emergency calls from individuals residing in a residential setting that is attached to or
located on property contiguous to the nursing home or boarding care home;
(8) a member of a professional corporation organized under chapter 319B that does
not regularly offer or provide home care services as defined in subdivision 3;
(9) the following organizations established to provide medical or surgical services
that do not regularly offer or provide home care services as defined in subdivision 3:
a business trust organized under sections 318.01 to 318.04, a nonprofit corporation
organized under chapter 317A, a partnership organized under chapter 322, or any other
entity determined by the commissioner;
(10) an individual or agency that provides medical supplies or durable medical
equipment, except when the provision of supplies or equipment is accompanied by a
home care service;
(11) an individual licensed under chapter 147; or
(12) an individual who provides home care services to a person with a developmental
disability who lives in a place of residence with a family, foster family, or primary caregiver.

Subd. 5. Medication reminder. "Medication reminder" means providing a verbal
or visual reminder to a client to take medication. This includes bringing the medication
to the client and providing liquids or nutrition to accompany medication that a client is
self-administering.

Subd. 6. License. "License" means a basic or comprehensive home care license
issued by the commissioner to a home care provider.

Subd. 7. Licensed health professional. "Licensed health professional" means a
person, other than a registered nurse or licensed practical nurse, who provides home care
services within the scope of practice of the person's health occupation license, registration,
or certification as regulated and who is licensed by the appropriate Minnesota state board
or agency.

Subd. 8. Licensee. "Licensee" means a home care provider that is licensed under
this chapter.

Subd. 9. Managerial official. "Managerial official" means an administrator,
director, officer, trustee, or employee of a home care provider, however designated, who
has the authority to establish or control business policy.

Subd. 10. Medication. "Medication" means a prescription or over-the-counter drug.

For purposes of this chapter only, medication includes dietary supplements.
6.1 **Subd. 11. Medication administration.** "Medication administration" means performing a set of tasks to ensure a client takes medications, and includes the following:

6.2 (1) checking the client's medication record;

6.3 (2) preparing the medication as necessary;

6.4 (3) administering the medication to the client;

6.5 (4) documenting the administration or reason for not administering the medication;

6.6 and

6.7 (5) reporting to a nurse any concerns about the medication, the client, or the client's refusal to take the medication.

6.10 **Subd. 12. Medication management.** "Medication management" means the provision of any of the following medication-related services to a client:

6.12 (1) performing medication setup;

6.13 (2) administering medication;

6.14 (3) storing and securing medications;

6.15 (4) documenting medication activities;

6.16 (5) verifying and monitoring effectiveness of systems to ensure safe handling and administration;

6.18 (6) coordinating refills;

6.19 (7) handling and implementing changes to prescriptions;

6.20 (8) communicating with the pharmacy about the client's medications; and

6.21 (9) coordinating and communicating with the prescriber.

6.22 **Subd. 13. Medication setup.** "Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the client or by comprehensive home care staff.


6.27 **Subd. 15. Occupational therapist.** "Occupational therapist" means a person who is licensed under sections 148.6401 to 148.6450.

6.29 **Subd. 16. Over-the-counter drug.** "Over-the-counter drug" means a drug that is not required by federal law to bear the symbol "Rx only."

6.31 **Subd. 17. Owner.** "Owner" means a proprietor, general partner, limited partner who has five percent or more of equity interest in a limited partnership, a person who owns or controls voting stock in a corporation in an amount equal to or greater than five percent of the shares issued and outstanding, or a corporation that owns equity interest in a licensee or applicant for a license.
Subd. 18. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01.

Subd. 19. **Physical therapist.** "Physical therapist" means a person who is licensed under sections 148.65 to 148.78.

Subd. 20. **Physician.** "Physician" means a person who is licensed under chapter 147.

Subd. 21. **Prescriber.** "Prescriber" means a person who is authorized by sections 148.235; 151.01, subdivision 23; and 151.37, to prescribe prescription drugs.

Subd. 22. **Prescription.** "Prescription" has the meaning given in section 151.01.

Subd. 23. **Regularly scheduled.** "Regularly scheduled" means ordered or planned to be completed at predetermined times or according to a predetermined routine.

Subd. 24. **Reminder.** "Reminder" means providing a verbal or visual reminder to a client.

Subd. 25. **Respiratory therapist.** "Respiratory therapist" means a person who is licensed under chapter 147C.

Subd. 26. **Revenues.** "Revenues" means all money or the value of property or services received by a registrant and derived from the provision of home care services, including fees for services, grants, bequests, gifts, donations, appropriations of public money, and earned interest or dividends.

Subd. 27. **Service plan.** "Service plan" means the written plan between the client or client's representative and the temporary licensee or licensee about the services that will be provided to the client.

Subd. 28. **Social worker.** "Social worker" means a person who is licensed under chapter 148D or 148E.

Subd. 29. **Speech language pathologist.** "Speech language pathologist" has the meaning given in section 148.512.

Subd. 30. **Standby assistance.** "Standby assistance" means the presence of another person within arm's reach to minimize the risk of injury while performing daily activities through physical intervention or cuing.

Subd. 31. **Substantial compliance.** "Substantial compliance" means complying with the requirements in this chapter sufficiently to prevent unacceptable health or safety risks to the home care client.

Subd. 32. **Survey.** "Survey" means an inspection of a licensee or applicant for licensure for compliance with this chapter.

Subd. 33. **Surveyor.** "Surveyor" means a staff person of the department authorized to conduct surveys of home care providers and applicants.

Article 12 Sec. 5.
Subd. 34. **Temporary license.** "Temporary license" means the initial basic or comprehensive home care license the department issues after approval of a complete written application and before the department completes the temporary license survey and determines that the temporary licensee is in substantial compliance.

Subd. 35. **Treatment or therapy.** "Treatment" or "therapy" means the provision of care, other than medications, ordered or prescribed by a licensed health professional provided to a client to cure, rehabilitate, or ease symptoms.

Subd. 36. **Unit of government.** "Unit of government" means every city, county, town, school district, other political subdivisions of the state, and any agency of the state or federal government, which includes any instrumentality of a unit of government.

Subd. 37. **Unlicensed personnel.** "Unlicensed personnel" are individuals not otherwise licensed or certified by a governmental health board or agency who provide home care services in the client's home.

Subd. 38. **Verbal.** "Verbal" means oral and not in writing.

Sec. 6. Minnesota Statutes 2012, section 144A.44, is amended to read:

**144A.44 HOME CARE BILL OF RIGHTS.**

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

1. the right to receive written information about rights in advance of or during the initial evaluation visit before the initiation of treatment services, including what to do if rights are violated;

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

3. the right to be told in advance of or during the services that will be provided, the disciplines that will furnish care the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, other choices that are available for addressing home care needs, and the consequences of these choices including the potential consequences of refusing these services;

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

5. the right to refuse services or treatment;
(6) the right to know, in advance before receiving services or during the initial
visit, any limits to the services available from a home care provider, and the provider's
grounds for a termination of services;

(7) the right to know in advance of receiving care whether the services are covered
by health insurance, medical assistance, or other health programs, the charges for services
that will not be covered by Medicare, and the charges that the individual may have to pay;

(8) (7) the right to know be told before services are initiated what the provider
charges are for the services, no matter who will be paying the bill and if known to what
extent payment may be expected from health insurance, public programs or other sources,
and what charges the client may be responsible for paying;

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

(+10) (9) the right to choose freely among available providers and to change providers
after services have begun, within the limits of health insurance, long-term care insurance,
medical assistance, or other health programs;

(+11) (10) the right to have personal, financial, and medical information kept private,
and to be advised of the provider's policies and procedures regarding disclosure of such
information;

(+12) (11) the right to be allowed access to the client's own records and written
information from those records in accordance with sections 144.291 to 144.298;

(+13) (12) the right to be served by people who are properly trained and competent
to perform their duties;

(+14) (13) the right to be treated with courtesy and respect, and to have the patient's
client's property treated with respect;

(+15) (14) the right to be free from physical and verbal abuse, neglect, financial
exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and
the Maltreatment of Minors Act;

(+16) (15) the right to reasonable, advance notice of changes in services or charges;

including:

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

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

(i) the recipient of services client engages in conduct that significantly alters the
conditions of employment as specified in the employment contract between terms of
the service plan with the home care provider and the individual providing home care services, or creates;

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

(ii) (iii) an emergency for the informal caregiver or a significant change in the recipient's client's condition has resulted in service needs that exceed the current service provider agreement plan and that cannot be safely met by the home care provider;

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

(18) (19) the right to voice grievances regarding treatment or care that is complain about services that are provided, or fails to be, furnished, or regarding fail to be provided, and the lack of courtesy or respect to the patient client or the patient's client's property;

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

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

(21) (22) the right to assert these rights personally, or have them asserted by the patient's family or guardian when the patient has been judged incompetent, client's representative or by anyone on behalf of the client, without retaliation.

Subd. 2. Interpretation and enforcement of rights. These rights are established for the benefit of persons clients who receive home care services. "Home care services" means home care services as defined in section 144A.43, subdivision 3, and unlicensed personal care assistance services, including services covered by medical assistance under section 256B.0625, subdivision 19a. All home care providers, including those exempted under section 144A.471, must comply with this section. The commissioner shall enforce this section and the home care bill of rights requirement against home care providers exempt from licensure in the same manner as for licensees. A home care provider may not request or require a person client to surrender any of these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist relative to persons clients receiving home care services, persons providing home care services, or providers licensed under Laws 1987, chapter 378. A copy of these rights must be provided to an individual at the time home care services, including personal care assistance services, are initiated. The copy shall also contain the address and phone number of the Office of Health Facility
Complaints and the Office of Ombudsman for Long-Term Care and a brief statement
describing how to file a complaint with these offices. Information about how to contact
the Office of Ombudsman for Long-Term Care shall be included in notices of change in
client fees and in notices where home care providers initiate transfer or discontinuation of
services sections 144A.43 to 144A.482.

Sec. 7. Minnesota Statutes 2012, section 144A.45, is amended to read:

144A.45 REGULATION OF HOME CARE SERVICES.

Subdivision 1. Rules Regulations. The commissioner shall adopt rules for the
regulation of regulate home care providers pursuant to sections 144A.43 to 144A.47
144A.482. The rules regulations shall include the following:

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

(2) requirements that home care providers furnish the commissioner with specified
information necessary to implement sections 144A.43 to 144A.47 144A.482;

(3) standards of training of home care provider personnel which may vary according
to the nature of the services provided or the health status of the consumer;

(4) standards for provision of home care services;

(5) standards for medication management which may vary according to the
nature of the services provided, the setting in which the services are provided, or the
status of the consumer. Medication management includes the central storage, handling,
distribution, and administration of medications;

(6) standards for supervision of home care services requiring supervision by a
registered nurse or other appropriate health professional which must occur on site
at least every 62 days, or more frequently if indicated by a clinical assessment, and in
accordance with sections 148.171 to 148.285 and rules adopted thereunder, except that a
person performing home care aide tasks for a class B licensee providing paraprofessional
services does not require nursing supervision;

(7) standards for client evaluation or assessment which may vary according to
the nature of the services provided or the status of the consumer;

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

(9) the maintenance of accurate, current clinical client records;
(8) (10) the establishment of different classes of licenses for different types of providers and different standards and requirements for different kinds of home care based on services provided; and

(9) operating procedures required to implement (11) provisions to enforce these regulations and the home care bill of rights.

Subd. 1a. Home care aide tasks. Notwithstanding the provisions of Minnesota Rules, part 4668.0110, subpart 1, item E, home care aide tasks also include assisting toileting, transfers, and ambulation if the client is ambulatory and if the client has no serious acute illness or infectious disease.

Subd. 1b. Home-health aide qualifications. Notwithstanding the provisions of Minnesota Rules, part 4668.0100, subpart 5, a person may perform home health aide tasks if the person maintains current registration as a nursing assistant on the Minnesota nursing assistant registry. Maintaining current registration on the Minnesota nursing assistant registry satisfies the documentation requirements of Minnesota Rules, part 4668.0110, subpart 3.

Subd. 2. Regulatory functions. (a) The commissioner shall:

(1) evaluate, monitor, and license, survey, and monitor without advance notice, home care providers in accordance with sections 144A.45 to 144A.47, 144A.43 to 144A.482;

(2) inspect the office and records of a provider during regular business hours without advance notice to the home care provider;

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

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

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

(4) (5) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8, for violations of sections 144A.43 to 144A.47 or the rules adopted under those sections 144A.482;

(5) (6) take action as authorized in section 144A.46, subdivision 3, 144A.475; and

(6) (7) take other action reasonably required to accomplish the purposes of sections 144A.43 to 144A.47, 144A.482.

(b) In the exercise of the authority granted in sections 144A.43 to 144A.47, the commissioner shall comply with the applicable requirements of section 144.122, the Government Data Practices Act, and the Administrative Procedure Act.
Subd. 4. Medicaid reimbursement. Notwithstanding the provisions of section 256B.37 or state plan requirements to the contrary, certification by the federal Medicare program must not be a requirement of Medicaid payment for services delivered under section 144A.4605.

Subd. 5. Home care providers; services for Alzheimer’s disease or related disorder. (a) If a home care provider licensed under section 144A.46 or 144A.4605 markets or otherwise promotes services for persons with Alzheimer’s disease or related disorders, the facility’s direct care staff and their supervisors must be trained in dementia care.

(b) Areas of required training include:

(1) an explanation of Alzheimer’s disease and related disorders;

(2) assistance with activities of daily living;

(3) problem solving with challenging behaviors; and

(4) communication skills.

(c) The licensee shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Sec. 8. [144A.471] HOME CARE PROVIDER AND HOME CARE SERVICES.

Subdivision 1. License required. A home care provider may not open, operate, manage, conduct, maintain, or advertise itself as a home care provider or provide home care services in Minnesota without a temporary or current home care provider license issued by the commissioner of health.

Subd. 2. Determination of direct home care service. "Direct home care service" means a home care service provided to a client by the home care provider or its employees, and not by contract. Factors that must be considered in determining whether an individual or a business entity provides at least one home care service directly include, but are not limited to, whether the individual or business entity:

(1) has the right to control, and does control, the types of services provided;

(2) has the right to control, and does control, when and how the services are provided;

(3) establishes the charges;

(4) collects fees from the clients or receives payment from third-party payers on the clients' behalf;

(5) pays individuals providing services compensation on an hourly, weekly, or similar basis;

(6) treats the individuals providing services as employees for the purposes of payroll taxes and workers’ compensation insurance; and
(7) holds itself out as a provider of home care services or acts in a manner that
leads clients or potential clients to believe that it is a home care provider providing home
care services.

None of the factors listed in this subdivision is solely determinative.

Subd. 3. Determination of regularly engaged. "Regularly engaged" means
providing, or offering to provide, home care services as a regular part of a business. The
following factors must be considered by the commissioner in determining whether an
individual or a business entity is regularly engaged in providing home care services:

(1) whether the individual or business entity states or otherwise promotes that the
individual or business entity provides home care services;

(2) whether persons receiving home care services constitute a substantial part of the
individual's or the business entity's clientele; and

(3) whether the home care services provided are other than occasional or incidental
to the provision of services other than home care services.

None of the factors listed in this subdivision is solely determinative.

Subd. 4. Penalties for operating without license. A person involved in the
management, operation, or control of a home care provider that operates without an
appropriate license is guilty of a misdemeanor. This section does not apply to a person
who has no legal authority to affect or change decisions related to the management,
operation, or control of a home care provider.

Subd. 5. Basic and comprehensive levels of licensure. An applicant seeking
to become a home care provider must apply for either a basic or comprehensive home
care license.

Subd. 6. Basic home care license provider. Home care services that can be
provided with a basic home care license are assistive tasks provided by licensed or
unlicensed personnel that include:

(1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting,
and bathing;

(2) providing standby assistance;

(3) providing verbal or visual reminders to the client to take regularly scheduled
medication which includes bringing the client previously set-up medication, medication in
original containers, or liquid or food to accompany the medication;

(4) providing verbal or visual reminders to the client to perform regularly scheduled
treatments and exercises;

(5) preparing modified diets ordered by a licensed health professional; and
Subd. 7. Comprehensive home care license provider. Home care services that may be provided with a comprehensive home care license include any of the basic home care services listed in subdivision 6, and one or more of the following:

(1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietician or nutritionist, or social worker;

(2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;

(3) medication management services;

(4) hands-on assistance with transfers and mobility;

(5) assisting clients with eating when the clients have complicating eating problems as identified in the client record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or

(6) providing other complex or specialty health care services.

Subd. 8. Exemptions from home care services licensure. (a) Except as otherwise provided in this chapter, home care services that are provided by the state, counties, or other units of government must be licensed under this chapter.

(b) An exemption under this subdivision does not excuse the exempted individual or organization from complying with applicable provisions of the home care bill of rights in section 144A.44. The following individuals or organizations are exempt from the requirement to obtain a home care provider license:

(1) an individual or organization that offers, provides, or arranges for personal care assistance services under the medical assistance program as authorized under sections 256B.04, subdivision 16; 256B.0625, subdivision 19a; and 256B.0659;

(2) a provider that is licensed by the commissioner of human services to provide semi-independent living services for persons with developmental disabilities under sections 252.275 and Minnesota Rules, parts 9525.0900 to 9525.1020;

(3) a provider that is licensed by the commissioner of human services to provide home and community-based services for persons with developmental disabilities under section 256B.092 and Minnesota Rules, parts 9525.1800 to 9525.1930;

(4) an individual or organization that provides only home management services, if the individual or organization is registered under section 144A.482; or
(5) an individual who is licensed in this state as a nurse, dietitian, social worker, occupational therapist, physical therapist, or speech-language pathologist who provides health care services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

Subd. 9. Exclusions from home care licensure. The following are excluded from home care licensure and are not required to provide the home care bill of rights:

(1) an individual or business entity providing only coordination of home care that includes one or more of the following:

(i) determination of whether a client needs home care services, or assisting a client in determining what services are needed;

(ii) referral of clients to a home care provider;

(iii) administration of payments for home care services; or

(iv) administration of a health care home established under section 256B.0751;

(2) an individual who is not an employee of a licensed home care provider if the individual:

   (i) only provides services as an independent contractor to one or more licensed home care providers;

   (ii) provides no services under direct agreements or contracts with clients; and

   (iii) is contractually bound to perform services in compliance with the contracting home care provider's policies and service plans;

(3) a business that provides staff to home care providers, such as a temporary employment agency, if the business:

   (i) only provides staff under contract to licensed or exempt providers;

   (ii) provides no services under direct agreements with clients; and

   (iii) is contractually bound to perform services under the contracting home care provider's direction and supervision;

(4) any home care services conducted by and for the adherents of any recognized church or religious denomination for its members through spiritual means, or by prayer for healing;

(5) an individual who only provides home care services to a relative;

(6) an individual not connected with a home care provider that provides assistance with basic home care needs if the assistance is provided primarily as a contribution and not as a business;

(7) an individual not connected with a home care provider that shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;
(8) an individual or provider providing home-delivered meal services;
(9) an individual providing senior companion services and other Older American
Volunteer Programs (OAVP) established under the Domestic Volunteer Service Act of
1973, United States Code, title 42, chapter 66;
(10) an employee of a nursing home licensed under this chapter or an employee of a
boarding care home licensed under sections 144.50 to 144.56 who responds to occasional
emergency calls from individuals residing in a residential setting that is attached to or
located on property contiguous to the nursing home or boarding care home;
(11) a member of a professional corporation organized under chapter 319B that
does not regularly offer or provide home care services as defined in section 144A.43,
subdivision 3;
(12) the following organizations established to provide medical or surgical services
that do not regularly offer or provide home care services as defined in section 144A.43,
subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit
corporation organized under chapter 317A, a partnership organized under chapter 323, or
any other entity determined by the commissioner;
(13) an individual or agency that provides medical supplies or durable medical
equipment, except when the provision of supplies or equipment is accompanied by a
home care service;
(14) a physician licensed under chapter 147;
(15) an individual who provides home care services to a person with a developmental
disability who lives in a place of residence with a family, foster family, or primary caregiver;
(16) a business that only provides services that are primarily instructional and not
medical services or health-related support services;
(17) an individual who performs basic home care services for no more than 14 hours
each calendar week to no more than one client;
(18) an individual or business licensed as hospice as defined in sections 144A.75 to
144A.755 who is not providing home care services independent of hospice service;
(19) activities conducted by the commissioner of health or a board of health as
defined in section 145A.02, subdivision 2, including communicable disease investigations
or testing; or
(20) administering or monitoring a prescribed therapy necessary to control or
prevent a communicable disease, or the monitoring of an individual's compliance with a
health directive as defined in section 144.4172, subdivision 6.
Sec. 9. [144A.472] HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL.

Subdivision 1. License applications. Each application for a home care provider license must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the applicant's name, e-mail address, physical address, and mailing address, including the name of the county in which the applicant resides and has a principal place of business;

(2) the initial license fee in the amount specified in subdivision 7;

(3) e-mail address, physical address, mailing address, and telephone number of the principal administrative office;

(4) e-mail address, physical address, mailing address, and telephone number of each branch office, if any;

(5) names, e-mail and mailing addresses, and telephone numbers of all owners and managerial officials;

(6) documentation of compliance with the background study requirements of section 144A.476 for all persons involved in the management, operation, or control of the home care provider;

(7) documentation of a background study as required by section 144.057 for any individual seeking employment, paid or volunteer, with the home care provider;

(8) evidence of workers' compensation coverage as required by sections 176.181 and 176.182;

(9) documentation of liability coverage, if the provider has it;

(10) identification of the license level the provider is seeking;

(11) documentation that identifies the managerial official who is in charge of day-to-day operations and attestation that the person has reviewed and understands the home care provider regulations;

(12) documentation that the applicant has designated one or more owners, managerial officials, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or managerial official under this chapter;

(13) the signature of the officer or managing agent on behalf of an entity, corporation, association, or unit of government;

(14) verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures and keep them current:
(i) requirements in sections 626.556, reporting of maltreatment of minors, and
626.557, reporting of maltreatment of vulnerable adults;
(ii) conducting and handling background studies on employees;
(iii) orientation, training, and competency evaluations of home care staff, and a
process for evaluating staff performance;
(iv) handling complaints from clients, family members, or client representatives
regarding staff or services provided by staff;
(v) conducting initial evaluation of clients' needs and the providers' ability to provide
those services;
(vi) conducting initial and ongoing client evaluations and assessments and how
changes in a client's condition are identified, managed, and communicated to staff and
other health care providers as appropriate;
(vii) orientation to and implementation of the home care client bill of rights;
(viii) infection control practices;
(ix) reminders for medications, treatments, or exercises, if provided; and
(x) conducting appropriate screenings, or documentation of prior screenings, to
show that staff are free of tuberculosis, consistent with current United States Centers for
Disease Control standards; and

(15) other information required by the department.

Subd. 2. Comprehensive home care license applications. In addition to the
information and fee required in subdivision 1, applicants applying for a comprehensive
home care license must also provide verification that the applicant has the following
policies and procedures in place so that if a license is issued, the applicant will implement
the policies and procedures in this subdivision and keep them current:
(1) conducting initial and ongoing assessments of the client's needs by a registered
nurse or appropriate licensed health professional, including how changes in the client's
conditions are identified, managed, and communicated to staff and other health care
providers, as appropriate;
(2) ensuring that nurses and licensed health professionals have current and valid
licenses to practice;
(3) medication and treatment management;
(4) delegation of home care tasks by registered nurses or licensed health professionals;
(5) supervision of registered nurses and licensed health professionals; and
(6) supervision of unlicensed personnel performing delegated home care tasks.

Subd. 3. License renewal. (a) Except as provided in section 144A.475, a license
may be renewed for a period of one year if the licensee satisfies the following:
(1) submits an application for renewal in the format provided by the commissioner at least 30 days before expiration of the license;

(2) submits the renewal fee in the amount specified in subdivision 7;

(3) has provided home care services within the past 12 months;

(4) complies with sections 144A.43 to 144A.4799;

(5) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under subdivision 1;

(6) provides verification that all policies under subdivision 1, are current; and

(7) provides any other information deemed necessary by the commissioner.

(b) A renewal applicant who holds a comprehensive home care license must also provide verification that policies listed under subdivision 2 are current.

Subd. 4. **Multiple units.** Multiple units or branches of a licensee must be separately licensed if the commissioner determines that the units cannot adequately share supervision and administration of services from the main office.

Subd. 5. **Transfers prohibited; changes in ownership.** Any home care license issued by the commissioner may not be transferred to another party. Before acquiring ownership of a home care provider business, a prospective applicant must apply for a new temporary license. A change of ownership is a transfer of operational control to a different business entity, and includes:

(1) transfer of the business to a different or new corporation;

(2) in the case of a partnership, the dissolution or termination of the partnership under chapter 323A, with the business continuing by a successor partnership or other entity;

(3) relinquishment of control of the provider to another party, including to a contract management firm that is not under the control of the owner of the business' assets;

(4) transfer of the business by a sole proprietor to another party or entity; or

(5) in the case of a privately held corporation, the change in ownership or control of 50 percent or more of the outstanding voting stock.

Subd. 6. **Notification of changes of information.** The temporary licensee or licensee shall notify the commissioner in writing within ten working days after any change in the information required in subdivision 1, except the information required in subdivision 1, clause (5), is required at the time of license renewal.

Subd. 7. ** Fees; application, change of ownership, and renewal.** (a) An initial applicant seeking initial temporary home care licensure must submit the following application fee to the commissioner along with a completed application:

(1) basic home care provider, $2,100; or

(2) comprehensive home care provider, $4,200.
(b) A home care provider who is filing a change of ownership as required under subdivision 5 must submit the following application fee to the commissioner, along with the documentation required for the change of ownership:

(1) basic home care provider, $2,100; or

(2) comprehensive home care provider, $4,200.

(c) A home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

<table>
<thead>
<tr>
<th>Provider Annual Revenue</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>greater than $1,500,000</td>
<td>$6,625</td>
</tr>
<tr>
<td>greater than $1,275,000 and no more than $1,500,000</td>
<td>$5,797</td>
</tr>
<tr>
<td>greater than $1,100,000 and no more than $1,275,000</td>
<td>$4,969</td>
</tr>
<tr>
<td>greater than $950,000 and no more than $1,100,000</td>
<td>$4,141</td>
</tr>
<tr>
<td>greater than $850,000 and no more than $950,000</td>
<td>$3,727</td>
</tr>
<tr>
<td>greater than $750,000 and no more than $850,000</td>
<td>$3,313</td>
</tr>
<tr>
<td>greater than $650,000 and no more than $750,000</td>
<td>$2,898</td>
</tr>
<tr>
<td>greater than $550,000 and no more than $650,000</td>
<td>$2,485</td>
</tr>
<tr>
<td>greater than $450,000 and no more than $550,000</td>
<td>$2,070</td>
</tr>
<tr>
<td>greater than $350,000 and no more than $450,000</td>
<td>$1,656</td>
</tr>
<tr>
<td>greater than $250,000 and no more than $350,000</td>
<td>$1,242</td>
</tr>
<tr>
<td>greater than $100,000 and no more than $250,000</td>
<td>$828</td>
</tr>
<tr>
<td>no more than $25,000</td>
<td>$166</td>
</tr>
</tbody>
</table>

(d) If requested, the home care provider shall provide the commissioner information to verify the provider's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(e) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.
(f) Fees and penalties collected under this section shall be deposited in the state
treasury and credited to the special state government revenue fund.

Sec. 10. [144A.473] ISSUANCE OF TEMPORARY LICENSE AND LICENSE

RENEWAL.

Subdivision 1. Temporary license and renewal of license. (a) The department
shall review each application to determine the applicant's knowledge of and compliance
with Minnesota home care regulations. Before granting a temporary license or renewing a
license, the commissioner may further evaluate the applicant or licensee by requesting
additional information or documentation or by conducting an on-site survey of the
applicant to determine compliance with sections 144A.43 to 144A.482.

(b) Within 14 calendar days after receiving an application for a license,
the commissioner shall acknowledge receipt of the application in writing. The
acknowledgment must indicate whether the application appears to be complete or whether
additional information is required before the application will be considered complete.

(c) Within 90 days after receiving a complete application, the commissioner shall
issue a temporary license, renew the license, or deny the license.

(d) The commissioner shall issue a license that contains the home care provider's
name, address, license level, expiration date of the license, and unique license number. All
licenses are valid for one year from the date of issuance.

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

(b) During the temporary license year, the commissioner shall survey the temporary
licensee after the commissioner is notified or has evidence that the temporary licensee
is providing home care services.

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

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

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

Subd. 3. Temporary licensee survey. (a) If the temporary licensee is in substantial
compliance with the survey, the commissioner shall issue either a basic or comprehensive
home care license. If the temporary licensee is not in substantial compliance with the
survey, the commissioner shall not issue a basic or comprehensive license and there will
be no contested hearing right under chapter 14.

(b) If the temporary licensee whose basic or comprehensive license has been denied
disagrees with the conclusions of the commissioner, then the licensee may request a
reconsideration by the commissioner or commissioner's designee. The reconsideration
request process will be conducted internally by the commissioner or commissioner's
designee, and chapter 14 does not apply.

(c) The temporary licensee requesting reconsideration must make the request in
writing and must list and describe the reasons why the licensee disagrees with the decision
to deny the basic or comprehensive home care license.

(d) A temporary licensee whose license is denied must comply with the requirements
for notification and transfer of clients in section 144A.475, subdivision 5.

Sec. 11. [144A.474] SURVEYS AND INVESTIGATIONS.

Subdivision 1. Surveys. The commissioner shall conduct surveys of each home care
provider. Survey frequency may be based on the license level, the provider's compliance
history, number of clients served, or other factors as determined by the department deemed
necessary to ensure the health, safety, and welfare of clients and compliance with the law.

Subd. 2. Scheduling surveys. Surveys and investigations shall be conducted
without advance notice to home care providers. Surveyors may contact the home care
provider on the day of a survey to arrange for someone to be available at the survey site.
The contact does not constitute advance notice.

Subd. 3. Information provided by home care provider. The home care provider
shall provide accurate and truthful information to the department during a survey,
investigation, or other licensing activities.
Subd. 4. **Providing client records.** Upon request of a surveyor, home care providers shall provide a list of current and past clients or client representatives that includes addresses and telephone numbers and any other information requested about the services to clients within a reasonable period of time.

Subd. 5. **Contacting and visiting clients.** Surveyors may contact or visit a home care provider's clients to gather information without notice to the home care provider. Before visiting a client, a surveyor shall obtain the client's or client's representative's permission by telephone, mail, or in person. Surveyors shall inform all clients or client's representatives of their right to decline permission for a visit.

Subd. 6. **Complaint investigations.** Upon receiving information alleging that a home care provider has violated or is currently violating a requirement of sections 144A.43 to 144A.482, 626.556, and 626.557, the commissioner shall investigate the complaint according to sections 144A.51 to 144A.54.

Subd. 7. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a home care provider, a controlling person, or an employee of the provider is not in compliance with sections 144A.43 to 144A.482, 626.556, or 626.557. The correction order shall cite the specific rule or statute and document areas of noncompliance and the time allowed for correction.

(b) The commissioner shall mail copies of any correction order to the last known address of the home care provider. A copy of each correction order and copies of any documentation supplied to the commissioner shall be kept on file by the home care provider, and public documents shall be made available for viewing by any person upon request. Copies may be kept electronically.

(c) By the correction order date, the home care provider must document in the provider's records any action taken to comply with the correction order. The commissioner may request a copy of this documentation and the home care provider's action to respond to the correction order in future surveys, upon a complaint investigation, and as otherwise needed.

Subd. 8. **Reconsideration of survey findings.** (a) If the applicant or licensee believes that the contents of the commissioner's order for correction are in error, the applicant or license holder may ask the commissioner to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be made in writing and must be postmarked and sent to the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder, and:

1. specify the parts of the correction order that are alleged to be in error;
(2) explain why they are in error; and

(3) include documentation to support the allegation of error.

(b) A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 9. Fines. (a) The commissioner may assess fines according to this subdivision.

(b) In addition to any enforcement action authorized under this chapter, the commissioner may assess a licensed home care provider a fine from $1,000 to $10,000 for any of the following violations:

(1) failure to report maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557;

(2) failure to establish and implement procedures for reporting suspected maltreatment as per section 144A.479, subdivision 6, paragraph (a);

(3) failure to complete and implement an abuse prevention plan as per section 144A.479, subdivision 6, paragraph (b);

(4) an act, omission, or practice that results in a client's illness, injury, or death or places the client at imminent risk including physical abuse, sexual abuse, questionable or wrongful death, serious unexplained injuries, or serious medical emergency;

(5) failure to obtain background check clearance or exemption for direct care staff prior to provision of services;

(6) willful violation of state licensing laws and regulations; and

(7) violation of employee health status guidance relating to control of infectious diseases such as tuberculosis.

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 identified in a survey or complaint investigation that were specified in the correction order or conditional license, the commissioner may impose a fine. A notice of noncompliance with a correction order must be mailed to the applicant's or provider's last known address. The noncompliance notice must list the violations not corrected.

d) Fines under this subdivision may be assessed according to paragraph (b), or the commissioner may assess a fine other than those identified in paragraph (b) from $500 to $2,000 per violation when the provider has failed to correct an order relating to violation of state licensing laws.

e) The license holder must pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies by paying the
fine. If the license holder receives state funds, the state, county, or municipal agencies or
departments responsible for administering the funds shall withhold payments and recover
any payments made while the license is suspended for failure to pay a fine. A timely
appeal shall stay payment of the fine until the commissioner issues a final order.

(f) A license holder shall promptly notify the commissioner in writing, including
by e-mail, when a violation specified in the order to forfeit a fine is corrected. If upon
reinspection the commissioner determines that a violation has not been corrected as
indicated by the order to forfeit a fine, the commissioner may issue a second fine. The
commissioner shall notify the license holder by mail to the last known address in the
licensing record that a second fine has been assessed. The license holder may appeal the
second fine as provided under this subdivision.

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

(h) 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 personally liable for payment of the fine. In the case
of a corporation, each controlling individual is personally and jointly liable for payment
of the fine.

(i) 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.

(j) 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 may be used by the commissioner for special projects to improve home care
regulations as recommended by the advisory council established in section 144A.4799.

Sec. 12. [144A.475] ENFORCEMENT.

Subdivision 1. Conditions. (a) The commissioner may refuse to grant a temporary
license, renew a license, suspend or revoke a license, or impose a conditional license if the
home care provider or owner or managerial official of the home care provider:

1) is in violation of, or during the term of the license has violated, any of the
requirements in sections 144A.471 to 144A.482;

2) permits, aids, or abets the commission of any illegal act in the provision of
home care;

3) performs any act detrimental to the health, safety, and welfare of a client;
(4) obtains the license by fraud or misrepresentation;

27.2  (5) knowingly made or makes a false statement of a material fact in the application

27.3  for a license or in any other record or report required by this chapter;

27.4  (6) denies representatives of the department access to any part of the home care

27.5  provider's books, records, files, or employees;

27.6  (7) interferes with or impedes a representative of the department in contacting the

27.7  home care provider's clients;

27.8  (8) interferes with or impedes a representative of the department in the enforcement

27.9  of this chapter or has failed to fully cooperate with an inspection, survey, or investigation

27.10 by the department;

27.11  (9) destroys or makes unavailable any records or other evidence relating to the home

27.12  care provider's compliance with this chapter;

27.13  (10) refuses to initiate a background study under section 144.057 or 245A.04;

27.14  (11) fails to timely pay any fines assessed by the department;

27.15  (12) violates any local, city, or township ordinance relating to home care services;

27.16  (13) has repeated incidents of personnel performing services beyond their

27.17  competency level; or

27.18  (14) has operated beyond the scope of the home care provider's license level,

27.19  (b) A violation by a contractor providing the home care services of the home care

27.20 provider is a violation by the home care provider.

Subd. 2. Terms to suspension or conditional license. A suspension or conditional

27.22 license designation may include terms that must be completed or met before a suspension

27.23 or conditional license designation is lifted. A conditional license designation may include

27.24 restrictions or conditions that are imposed on the provider. Terms for a suspension or

27.25 conditional license may include one or more of the following and the scope of each will be

27.26 determined by the commissioner:

27.27  (1) requiring a consultant to review, evaluate, and make recommended changes to

27.28 the home care provider's practices and submit reports to the commissioner at the cost of

27.29 the home care provider;

27.30  (2) requiring supervision of the home care provider or staff practices at the cost

27.31 of the home care provider by an unrelated person who has sufficient knowledge and

27.32 qualifications to oversee the practices and who will submit reports to the commissioner;

27.33  (3) requiring the home care provider or employees to obtain training at the cost of

27.34 the home care provider;

27.35  (4) requiring the home care provider to submit reports to the commissioner;
(5) prohibiting the home care provider from taking any new clients for a period of time; or

(6) any other action reasonably required to accomplish the purpose of this subdivision and section 144A.45, subdivision 2.

Subd. 3. Notice. Prior to any suspension, revocation, or refusal to renew a license, the home care provider shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 days if the commissioner determines that the health or safety of a consumer is in imminent danger, provided:

(1) advance notice is given to the home care provider;

(2) after notice, the home care provider fails to correct the problem;

(3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and

(4) there is an opportunity for a contested case hearing within the 90 days.

Subd. 4. Time limits for appeals. To appeal the assessment of civil penalties under section 144A.45, subdivision 2, clause (5), and an action against a license under this section, a provider must request a hearing no later than 15 days after the provider receives notice of the action.

Subd. 5. Plan required. (a) The process of suspending or revoking a license must include a plan for transferring affected clients to other providers by the home care provider, which will be monitored by the commissioner. Within three business days of being notified of the final revocation or suspension action, the home care provider shall provide the commissioner, the lead agencies as defined in section 256B.0911, and the ombudsman for long-term care with the following information:

(1) a list of all clients, including full names and all contact information on file;

(2) a list of each client's representative or emergency contact person, including full names and all contact information on file;

(3) the location or current residence of each client;

(4) the payor sources for each client, including payor source identification numbers; and

(5) for each client, a copy of the client's service plan, and a list of the types of services being provided.

(b) The revocation or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The home care provider shall cooperate with the commissioner and the lead agencies during the process of transferring care of clients to
29.1 qualified providers. Within three business days of being notified of the final revocation or
29.2 suspension action, the home care provider must notify and disclose to each of the home
29.3 care provider's clients, or the client's representative or emergency contact persons, that
29.4 the commissioner is taking action against the home care provider's license by providing a
29.5 copy of the revocation or suspension notice issued by the commissioner.
29.6 Subd. 6. Owners and managerial officials; refusal to grant license. (a) The
29.7 owner and managerial officials of a home care provider whose Minnesota license has not
29.8 been renewed or that has been revoked because of noncompliance with applicable laws or
29.9 rules shall not be eligible to apply for nor will be granted a home care license, including
29.10 other licenses under this chapter, or be given status as an enrolled personal care assistance
29.11 provider agency or personal care assistant by the Department of Human Services under
29.12 section 256B.0659 for five years following the effective date of the nonrenewal or
29.13 revocation. If the owner and managerial officials already have enrollment status, their
29.14 enrollment will be terminated by the Department of Human Services.
29.15 (b) The commissioner shall not issue a license to a home care provider for five
29.16 years following the effective date of license nonrenewal or revocation if the owner or
29.17 managerial official, including any individual who was an owner or managerial official
29.18 of another home care provider, had a Minnesota license that was not renewed or was
29.19 revoked as described in paragraph (a).
29.20 (c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall
29.21 suspend or revoke, the license of any home care provider that includes any individual
29.22 as an owner or managerial official who was an owner or managerial official of a home
29.23 care provider whose Minnesota license was not renewed or was revoked as described in
29.24 paragraph (a) for five years following the effective date of the nonrenewal or revocation.
29.25 (d) The commissioner shall notify the home care provider 30 days in advance of
29.26 the date of nonrenewal, suspension, or revocation of the license. Within ten days after
29.27 the receipt of the notification, the home care provider may request, in writing, that the
29.28 commissioner stay the nonrenewal, revocation, or suspension of the license. The home
29.29 care provider shall specify the reasons for requesting the stay; the steps that will be taken
29.30 to attain or maintain compliance with the licensure laws and regulations; any limits on the
29.31 authority or responsibility of the owners or managerial officials whose actions resulted in
29.32 the notice of nonrenewal, revocation, or suspension; and any other information to establish
29.33 that the continuing affiliation with these individuals will not jeopardize client health, safety,
29.34 or well-being. The commissioner shall determine whether the stay will be granted within
29.35 30 days of receiving the provider's request. The commissioner may propose additional
29.36 restrictions or limitations on the provider's license and require that the granting of the stay

Article 12 Sec. 12. 29
be contingent upon compliance with those provisions. The commissioner shall take into
consideration the following factors when determining whether the stay should be granted:

(1) the threat that continued involvement of the owners and managerial officials with
the home care provider poses to client health, safety, and well-being;

(2) the compliance history of the home care provider; and

(3) the appropriateness of any limits suggested by the home care provider.

If the commissioner grants the stay, the order shall include any restrictions or
limitation on the provider's license. The failure of the provider to comply with any
restrictions or limitations shall result in the immediate removal of the stay and the
commissioner shall take immediate action to suspend, revoke, or not renew the license.

Subd. 7. Request for hearing. A request for a hearing must be in writing and must:

(1) be mailed or delivered to the department or the commissioner's designee;

(2) contain a brief and plain statement describing every matter or issue contested; and

(3) contain a brief and plain statement of any new matter that the applicant or home
care provider believes constitutes a defense or mitigating factor.

Subd. 8. Informal conference. At any time, the applicant or home care provider
and the commissioner may hold an informal conference to exchange information, clarify
issues, or resolve issues.

Subd. 9. Injunctive relief. In addition to any other remedy provided by law, the
commissioner may bring an action in district court to enjoin a person who is involved in
the management, operation, or control of a home care provider or an employee of the
home care provider from illegally engaging in activities regulated by sections 144A.43 to
144A.482. The commissioner may bring an action under this subdivision in the district
court in Ramsey County or in the district in which a home care provider is providing
services. The court may grant a temporary restraining order in the proceeding if continued
activity by the person who is involved in the management, operation, or control of a home
care provider, or by an employee of the home care provider, would create an imminent
risk of harm to a recipient of home care services.

Subd. 10. Subpoena. In matters pending before the commissioner under sections
144A.43 to 144A.482, the commissioner may issue subpoenas and compel the attendance
of witnesses and the production of all necessary papers, books, records, documents, and
other evidentiary material. If a person fails or refuses to comply with a subpoena or
order of the commissioner to appear or testify regarding any matter about which the
person may be lawfully questioned or to produce any papers, books, records, documents,
or evidentiary materials in the matter to be heard, the commissioner may apply to the
district court in any district, and the court shall order the person to comply with the
commissioner's order or subpoena. The commissioner of health may administer oaths to
witnesses or take their affirmation. Depositions may be taken in or outside the state in the
manner provided by law for the taking of depositions in civil actions. A subpoena or other
process or paper may be served on a named person anywhere in the state by an officer
authorized to serve subpoenas in civil actions, with the same fees and mileage and in the
same manner as prescribed by law for a process issued out of a district court. A person
subpoenaed under this subdivision shall receive the same fees, mileage, and other costs
that are paid in proceedings in district court.

Sec. 13. [144A.476] BACKGROUND STUDIES.

Subdivision 1. Prior criminal convictions; owner and managerial officials. (a)
Before the commissioner issues a temporary license or renews a license, an owner or
managerial official is required to complete a background study under section 144.057. No
person may be involved in the management, operation, or control of a home care provider
if the person has been disqualified under chapter 245C. If an individual is disqualified
under section 144.056 or chapter 245C, the individual may request reconsideration of
the disqualification. If the individual requests reconsideration and the commissioner
sets aside or rescinds the disqualification, the individual is eligible to be involved in the
management, operation, or control of the provider. If an individual has a disqualification
under section 245C.15, subdivision 1, and the disqualification is affirmed, the individual's
disqualification is barred from a set aside, and the individual must not be involved in the
management, operation, or control of the provider.

(b) For purposes of this section, owners of a home care provider subject to the
background check requirement are those individuals whose ownership interest provides
sufficient authority or control to affect or change decisions related to the operation of the
home care provider. An owner includes a sole proprietor, a general partner, or any other
individual whose individual ownership interest can affect the management and direction
of the policies of the home care provider.

(c) For the purposes of this section, managerial officials subject to the background
check requirement are individuals who provide direct contact as defined in section 245C.02,
subdivision 11, or individuals who have the responsibility for the ongoing management or
direction of the policies, services, or employees of the home care provider. Data collected
under this subdivision shall be classified as private data under section 13.02, subdivision 12.

(d) The department shall not issue any license if the applicant or owner or managerial
official has been unsuccessful in having a background study disqualification set aside
under section 144.057 and chapter 245C; if the owner or managerial official, as an owner
or managerial official of another home care provider, was substantially responsible for
the other home care provider's failure to substantially comply with sections 144A.43 to
144A.482; or if an owner that has ceased doing business, either individually or as an
owner of a home care provider, was issued a correction order for failing to assist clients in
violation of this chapter.

Subd. 2. **Employees, contractors, and volunteers.** (a) Employees, contractors,
and volunteers of a home care provider are subject to the background study required by
section 144A.057, and may be disqualified under chapter 245C. Nothing in this section shall
be construed to prohibit a home care provider from requiring self-disclosure of criminal
conviction information.

(b) Termination of an employee in good faith reliance on information or records
obtained under paragraph (a) or subdivision 1, regarding a confirmed conviction does not
subject the home care provider to civil liability or liability for unemployment benefits.

Sec. 14. [144A.477] **COMPLIANCE.**

Subdivision 1. **Medicare-certified providers; coordination of surveys.** If feasible,
the commissioner shall survey licensees to determine compliance with this chapter at the
same time as surveys for certification for Medicare if Medicare certification is based on
compliance with the federal conditions of participation and on survey and enforcement
by the Department of Health as agent for the United States Department of Health and
Human Services.

Subd. 2. **Medicare-certified providers; equivalent requirements.** For home care
providers licensed to provide comprehensive home care services that are also certified for
participation in Medicare as a home health agency under Code of Federal Regulations,
title 42, part 484, the following state licensure regulations are considered equivalent to
the federal requirements:

(1) quality management, section 144A.479, subdivision 3;

(2) personnel records, section 144A.479, subdivision 7;

(3) acceptance of clients, section 144A.4791, subdivision 4;

(4) referrals, section 144A.4791, subdivision 5;

(5) client assessment, sections 144A.4791, subdivision 8, and 144A.4792,
subdivisions 2 and 3;

(6) individualized monitoring and reassessment, sections 144A.4791, subdivision 8, and 144A.4792, subdivisions 2 and 3;

(7) individualized service plan, sections 144A.4791, subdivision 9, 144A.4792, subdivision 5, and 144A.4793, subdivision 3;
(8) client complaint and investigation process, section 144A.4791, subdivision 11;
(9) prescription orders, section 144A.4792, subdivisions 13 to 16;
(10) client records, section 144A.4794, subdivisions 1 to 3;
(11) qualifications for unlicensed personnel performing delegated tasks, section
144A.4795;
(12) training and competency staff, section 144A.4795;
(13) training and competency for unlicensed personnel, section 144A.4795,
subdivision 7;
(14) delegation of home care services, section 144A.4795, subdivision 4;
(15) availability of contact person, section 144A.4797, subdivision 1; and
(16) supervision of staff, section 144A.4797, subdivisions 2 and 3.
Violations of requirements in clauses (1) to (16) may lead to enforcement actions
under section 144A.474.

Sec. 15. [144A.478] INNOVATION VARIANCE.
Subdivision 1. Definition. For purposes of this section, "innovation variance"
means a specified alternative to a requirement of this chapter. An innovation variance
may be granted to allow a home care provider to offer home care services of a type or
in a manner that is innovative, will not impair the services provided, will not adversely
affect the health, safety, or welfare of the clients, and is likely to improve the services
provided. The innovative variance cannot change any of the client's rights under section
144A.44, home care bill of rights.
Subd. 2. Conditions. The commissioner may impose conditions on the granting of
an innovation variance that the commissioner considers necessary.
Subd. 3. Duration and renewal. The commissioner may limit the duration of any
innovation variance and may renew a limited innovation variance.
Subd. 4. Applications; innovation variance. An application for innovation
variance from the requirements of this chapter may be made at any time, must be made in
writing to the commissioner, and must specify the following:
(1) the statute or law from which the innovation variance is requested;
(2) the time period for which the innovation variance is requested;
(3) the specific alternative action that the licensee proposes;
(4) the reasons for the request; and
(5) justification that an innovation variance will not impair the services provided,
will not adversely affect the health, safety, or welfare of clients, and is likely to improve
the services provided.
The commissioner may require additional information from the home care provider before acting on the request.

Subd. 5. Grants and denials. The commissioner shall grant or deny each request for an innovation variance in writing within 45 days of receipt of a complete request. Notice of a denial shall contain the reasons for the denial. The terms of a requested innovation variance may be modified upon agreement between the commissioner and the home care provider.

Subd. 6. Violation of innovation variances. A failure to comply with the terms of an innovation variance shall be deemed to be a violation of this chapter.

Subd. 7. Revocation or denial of renewal. The commissioner shall revoke or deny renewal of an innovation variance if:

1. it is determined that the innovation variance is adversely affecting the health, safety, or welfare of the licensee's clients;
2. the home care provider has failed to comply with the terms of the innovation variance;
3. the home care provider notifies the commissioner in writing that it wishes to relinquish the innovation variance and be subject to the statute previously varied; or
4. the revocation or denial is required by a change in law.

Sec. 16. [144A.479] HOME CARE PROVIDER RESPONSIBILITIES;

BUSINESS OPERATION.

Subdivision 1. Display of license. The original current license must be displayed in the home care providers' principal business office and copies must be displayed in any branch office. The home care provider must provide a copy of the license to any person who requests it.

Subd. 2. Advertising. Home care providers shall not use false, fraudulent, or misleading advertising in the marketing of services. For purposes of this section, advertising includes any verbal, written, or electronic means of communicating to potential clients about the availability, nature, or terms of home care services.

Subd. 3. Quality management. The home care provider shall engage in quality management appropriate to the size of the home care provider and relevant to the type of services the home care provider provides. The quality management activity means evaluating the quality of care by periodically reviewing client services, complaints made, and other issues that have occurred and determining whether changes in services, staffing, or other procedures need to be made in order to ensure safe and competent services to clients. Documentation about quality management activity must be available for two
years. Information about quality management must be available to the commissioner at
the time of the survey, investigation, or renewal.

Subd. 4. Provider restrictions. (a) This subdivision does not apply to licensees
that are Minnesota counties or other units of government.

(b) A home care provider or staff cannot accept powers-of-attorney from clients for
any purpose, and may not accept appointments as guardians or conservators of clients.

(c) A home care provider cannot serve as a client's representative.

Subd. 5. Handling of client's finances and property. (a) A home care provider
may assist clients with household budgeting, including paying bills and purchasing
household goods, but may not otherwise manage a client's property. A home care provider
must provide a client with receipts for all transactions and purchases paid with the clients'
funds. When receipts are not available, the transaction or purchase must be documented.
A home care provider must maintain records of all such transactions.

(b) A home care provider or staff may not borrow a client's funds or personal or
real property, nor in any way convert a client's property to the home care provider's or
staff's possession.

(c) Nothing in this section precludes a home care provider or staff from accepting
gifts of minimal value, or precludes the acceptance of donations or bequests made to a
home care provider that are exempt from income tax under section 501(c) of the Internal

Subd. 6. Reporting maltreatment of vulnerable adults and minors. (a) All
home care providers must comply with requirements for the reporting of maltreatment
of minors in section 626.556 and the requirements for the reporting of maltreatment
of vulnerable adults in section 626.557. Home care providers must report suspected
maltreatment of minors and vulnerable adults to the common entry point. Each home
care provider must establish and implement a written procedure to ensure that all cases
of suspected maltreatment are reported.

(b) Each home care provider must develop and implement an individual abuse
prevention plan for each vulnerable minor or adult for whom home care services are
provided by a home care provider. The plan shall contain an individualized review or
assessment of the person's susceptibility to abuse by another individual, including other
vulnerable adults or minors; the person's risk of abusing other vulnerable adults or minors;
and statements of the specific measures to be taken to minimize the risk of abuse to that
person and other vulnerable adults or minors. For purposes of the abuse prevention plan,
the term abuse includes self-abuse.
Subd. 7. **Employee records.** The home care provider must maintain current records
of each paid employee, regularly scheduled volunteers providing home care services, and
of each individual contractor providing home care services. The records must include
the following information:

1. evidence of current professional licensure, registration, or certification, if
   licensure, registration, or certification is required by this statute, or other rules;
2. records of orientation, required annual training and infection control training,
   and competency evaluations;
3. current job description, including qualifications, responsibilities, and
   identification of staff providing supervision;
4. documentation of annual performance reviews which identify areas of
   improvement needed and training needs;
5. for individuals providing home care services, verification that required health
   screenings under section 144A.4798 have taken place and the dates of those screenings; and
6. documentation of the background study as required under section 144.057.

Each employee record must be retained for at least three years after a paid employee,
home care volunteer, or contractor ceases to be employed by or under contract with the
home care provider. If a home care provider ceases operation, employee records must be
maintained for three years.

Sec. 17. **[144A.4791] HOME CARE PROVIDER RESPONSIBILITIES WITH
RESPECT TO CLIENTS.**

Subdivision 1. **Home care bill of rights; notification to client.** (a) The home

1. The care provider shall provide the client or the client's representative a written notice of the
2. rights under section 144A.44 in a language that the client or the client's representative
   can understand before the initiation of services to that client. If a written version is not
3. available, the home care bill of rights must be communicated to the client or client's
4. representative in a language they can understand.

(b) In addition to the text of the home care bill of rights in section 144A.44,
   subdivision 1, the notice shall also contain the following statement describing how to file
   a complaint with these offices.

   "If you have a complaint about the provider or the person providing your
   home care services, you may call, write, or visit the Office of Health Facility
   Complaints, Minnesota Department of Health. You may also contact the Office of
   Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health
   and Developmental Disabilities."
The statement should include the telephone number, Web site address, e-mail address, mailing address, and street address of the Office of Health Facility Complaints at the Minnesota Department of Health, the Office of the Ombudsman for Long-Term Care, and the Office of the Ombudsman for Mental Health and Developmental Disabilities. The statement should also include the home care provider's name, address, e-mail, telephone number, and name or title of the person at the provider to whom problems or complaints may be directed. It must also include a statement that the home care provider will not retaliate because of a complaint.

(c) The home care provider shall obtain written acknowledgment of the client's receipt of the home care bill of rights or shall document why an acknowledgment cannot be obtained. The acknowledgment may be obtained from the client or the client's representative. Acknowledgment of receipt shall be retained in the client's record.

Subd. 2. Notice of services for dementia, Alzheimer's disease, or related disorders. The home care provider that provides services to clients with dementia shall provide in written or electronic form, to clients and families or other persons who request it, a description of the training program and related training it provides, including the categories of employees trained, the frequency of training, and the basic topics covered. This information satisfies the disclosure requirements in section 325F.72, subdivision 2, clause (4).

Subd. 3. Statement of home care services. Prior to the initiation of services, a home care provider must provide to the client or the client's representative a written statement which identifies if they have a basic or comprehensive home care license, the services they are authorized to provide, and which services they cannot provide under the scope of their license. The home care provider shall obtain written acknowledgment from the clients that they have provided the statement or must document why they could not obtain the acknowledgment.

Subd. 4. Acceptance of clients. No home care provider may accept a person as a client unless the home care provider has staff, sufficient in qualifications, competency, and numbers, to adequately provide the services agreed to in the service plan and that are within the provider's scope of practice.

Subd. 5. Referrals. If a home care provider reasonably believes that a client is in need of another medical or health service, including a licensed health professional, or social service provider, the home care provider shall:

(1) determine the client's preferences with respect to obtaining the service; and

(2) inform the client of resources available, if known, to assist the client in obtaining services.
Subd. 6. **Initiation of services.** When a provider initiates services and the
individualized review or assessment required in subdivisions 7 and 8 has not been
completed, the provider must complete a temporary plan and agreement with the client for
services.

Subd. 7. **Basic individualized client review and monitoring.** (a) When services
being provided are basic home care services, an individualized initial review of the client's
needs and preferences must be conducted at the client's residence with the client or client's
representative. This initial review must be completed within 30 days after the initiation of
the home care services.

(b) Client monitoring and review must be conducted as needed based on changes
in the needs of the client and cannot exceed 90 days from the date of the last review.
The monitoring and review may be conducted at the client's residence or through the
utilization of telecommunication methods based on practice standards that meet the
individual client's needs.

Subd. 8. **Comprehensive assessment, monitoring, and reassessment.** (a) When
the services being provided are comprehensive home care services, an individualized
initial assessment must be conducted in-person by a registered nurse. When the services
are provided by other licensed health professionals, the assessment must be conducted by
the appropriate health professional. This initial assessment must be completed within five
days after initiation of home care services.

(b) Client monitoring and reassessment must be conducted in the client's home no
more than 14 days after initiation of services.

(c) Ongoing client monitoring and reassessment must be conducted as needed based
on changes in the needs of the client and cannot exceed 90 days from the last date of the
assessment. The monitoring and reassessment may be conducted at the client's residence
or through the utilization of telecommunication methods based on practice standards that
meet the individual client's needs.

Subd. 9. **Service plan, implementation, and revisions to service plan.** (a) No later
than 14 days after the initiation of services, a home care provider shall finalize a current
written service plan.

(b) The service plan and any revisions must include a signature or other
authentication by the home care provider and by the client or the client's representative
documenting agreement on the services to be provided. The service plan must be revised,
if needed, based on client review or reassessment under subdivisions 7 and 8. The provider
must provide information to the client about changes to the provider's fee for services and
how to contact the Office of the Ombudsman for Long-Term Care.
(c) The home care provider must implement and provide all services required by
the current service plan.

(d) The service plan and revised service plan must be entered into the client's record,
including notice of a change in a client's fees when applicable.

(e) Staff providing home care services must be informed of the current written
service plan.

(f) The service plan must include:

(1) a description of the home care services to be provided, the fees for services, and
the frequency of each service, according to the client's current review or assessment and
client preferences;

(2) the identification of the staff or categories of staff who will provide the services;

(3) the schedule and methods of monitoring reviews or assessments of the client;

(4) the frequency of sessions of supervision of staff and type of personnel who
will supervise staff; and

(5) a contingency plan that includes:

(i) the action to be taken by the home care provider and by the client or client's
representative if the scheduled service cannot be provided;

(ii) information and method for a client or client's representative to contact the
home care provider;

(iii) names and contact information of persons the client wishes to have notified
in an emergency or if there is a significant adverse change in the client's condition,
including identification of and information as to who has authority to sign for the client in
an emergency; and

(iv) the circumstances in which emergency medical services are not to be summoned
consistent with chapters 145B and 145C, and declarations made by the client under those
chapters.

Subd. 10. Termination of service plan. (a) If a home care provider terminates a
service plan with a client, and the client continues to need home care services, the home
care provider shall provide the client and the client's representative, if any, with a written
notice of termination which includes the following information:

(1) the effective date of termination;

(2) the reason for termination;

(3) a list of known licensed home care providers in the client's immediate geographic
area;
40.1 (4) a statement that the home care provider will participate in a coordinated transfer
40.2 of care of the client to another home care provider, health care provider, or caregiver, as
40.3 required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);
40.4 (5) the name and contact information of a person employed by the home care
40.5 provider with whom the client may discuss the notice of termination; and
40.6 (6) if applicable, a statement that the notice of termination of home care services
40.7 does not constitute notice of termination of the housing with services contract with a
40.8 housing with services establishment.
40.9 (b) When the home care provider voluntarily discontinues services to all clients, the
40.10 home care provider must notify the commissioner, lead agencies, and the ombudsman for
40.11 long-term care about its clients and comply with the requirements in this subdivision.
40.12 Subd. 11. Client complaint and investigative process. (a) The home care
40.13 provider must have a written policy and system for receiving, investigating, reporting,
40.14 and attempting to resolve complaints from its clients or clients' representatives. The
40.15 policy should clearly identify the process by which clients may file a complaint or concern
40.16 about home care services and an explicit statement that the home care provider will not
40.17 discriminate or retaliate against a client for expressing concerns or complaints. A home
40.18 care provider must have a process in place to conduct investigations of complaints made
40.19 by the client or the client's representative about the services in the client's plan that are or
40.20 are not being provided or other items covered in the client's home care bill of rights. This
40.21 complaint system must provide reasonable accommodations for any special needs of the
40.22 client or client's representative if requested.
40.23 (b) The home care provider must document the complaint, name of the client,
40.24 investigation, and resolution of each complaint filed. The home care provider must
40.25 maintain a record of all activities regarding complaints received, including the date the
40.26 complaint was received, and the home care provider's investigation and resolution of the
40.27 complaint. This complaint record must be kept for each event for at least two years after
40.28 the date of entry and must be available to the commissioner for review.
40.29 (c) The required complaint system must provide for written notice to each client or
40.30 client's representative that includes:
40.31 (1) the client's right to complain to the home care provider about the services received;
40.32 (2) the name or title of the person or persons with the home care provider to contact
40.33 with complaints;
40.34 (3) the method of submitting a complaint to the home care provider; and
40.35 (4) a statement that the provider is prohibited against retaliation according to
40.36 paragraph (d).
(d) A home care provider must not take any action that negatively affects a client in retaliation for a complaint made or a concern expressed by the client or the client's representative.

Subd. 12. Disaster planning and emergency preparedness plan. The home care provider must have a written plan of action to facilitate the management of the client's care and services in response to a natural disaster, such as flood and storms, or other emergencies that may disrupt the home care provider's ability to provide care or services. The licensee must provide adequate orientation and training of staff on emergency preparedness.

Subd. 13. Request for discontinuation of life-sustaining treatment. (a) If a client, family member, or other caregiver of the client requests that an employee or other agent of the home care provider discontinue a life-sustaining treatment, the employee or agent receiving the request:

(1) shall take no action to discontinue the treatment; and

(2) shall promptly inform their supervisor or other agent of the home care provider of the client's request.

(b) Upon being informed of a request for termination of treatment, the home care provider shall promptly:

(1) inform the client that the request will be made known to the physician who ordered the client's treatment;

(2) inform the physician of the client's request; and

(3) work with the client and the client's physician to comply with the provisions of the Health Care Directive Act in chapter 145C.

(c) This section does not require the home care provider to discontinue treatment, except as may be required by law or court order.

(d) This section does not diminish the rights of clients to control their treatments, refuse services, or terminate their relationships with the home care provider.

(e) This section shall be construed in a manner consistent with chapter 145B or 145C, whichever applies, and declarations made by clients under those chapters.

Sec. 18. [144A.4792] MEDICATION MANAGEMENT.

Subdivision 1. Medication management services; comprehensive home care license. (a) This subdivision applies only to home care providers with a comprehensive home care license that provides medication management services to clients. Medication management services may not be provided by a home care provider that has a basic home care license.
(b) A comprehensive home care provider who provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

(c) The written policies and procedures must address requesting and receiving prescriptions for medications; preparing and giving medications; verifying that prescription drugs are administered as prescribed; documenting medication management activities; controlling and storing medications; monitoring and evaluating medication use; resolving medication errors; communicating with the prescriber, pharmacist, and client and client representative, if any; disposing of unused medications; and educating clients and client representatives about medications. When controlled substances are being managed, the policies and procedures must also identify how the provider will ensure security and accountability for the overall management, control, and disposition of those substances in compliance with state and federal regulations and with subdivision 22.

Subd. 2. Provision of medication management services. (a) For each client who requests medication management services, the comprehensive home care provider shall, prior to providing medication management services, have a registered nurse, licensed health professional, or authorized prescriber under section 151.37 conduct an assessment to determine what mediation management services will be provided and how the services will be provided. This assessment must be conducted face-to-face with the client. The assessment must include an identification and review of all medications the client is known to be taking. The review and identification must include indications for medications, side effects, contraindications, allergic or adverse reactions, and actions to address these issues.

(b) The assessment must identify interventions needed in management of medications to prevent diversion of medication by the client or others who may have access to the medications. Diversion of medications means the misuse, theft, or illegal or improper disposition of medications.

Subd. 3. Individualized medication monitoring and reassessment. The comprehensive home care provider must monitor and reassess the client's medication management services as needed under subdivision 14 when the client presents with symptoms or other issues that may be medication-related and, at a minimum, annually.

Subd. 4. Client refusal. The home care provider must document in the client's record any refusal for an assessment for medication management by the client. The provider must discuss with the client the possible consequences of the client's refusal and document the discussion in the client's record.
Subd. 5. Individualized medication management plan. For each client receiving medication management services, the comprehensive home care provider must prepare and include in the service plan a written medication management plan. The written plan must be updated when changes are made to the plan. The plan must contain at least the following provisions:

1. a statement describing the medication management services that will be provided;
2. a description of storage of medications based on the client's needs and preferences, risk of diversion, and consistent with the manufacturer's directions;
3. procedures for documenting medications that clients are taking;
4. procedures for verifying all prescription drugs are administered as prescribed;
5. procedures for monitoring medication use to prevent possible complications or adverse reactions;
6. identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;
7. identification of medication management tasks that may be delegated to unlicensed personnel; and
8. procedures for staff notifying a registered nurse or appropriate licensed health professional when a problem arises with medication management services.

Subd. 6. Administration of medication. Medications may be administered by a nurse, physician, or other licensed health practitioner authorized to administer medications or by unlicensed personnel who have been delegated medication administration tasks by a registered nurse.

Subd. 7. Delegation of medication administration. When administration of medications is delegated to unlicensed personnel, the comprehensive home care provider must ensure that the registered nurse has:

1. instructed the unlicensed personnel in the proper methods to administer the medications with respect to each client, and the unlicensed personnel has demonstrated ability to competently follow the procedures;
2. specified, in writing, specific instructions for each client and documented those instructions in the client's records; and
3. communicated with the unlicensed personnel about the individual needs of the client.

Subd. 8. Documentation of administration of medications. Each medication administered by comprehensive home care provider staff must be documented in the client's record. The documentation must include the signature and title of the person who administered the medication. The documentation must include the medication
name, dosage, date and time administered, and method and route of administration. The staff must document the reason why medication administration was not completed as prescribed and document any follow-up procedures that were provided to meet the client's needs when medication was not administered as prescribed and in compliance with the client's medication management plan.

Subd. 9. **Documentation of medication set up.** Documentation of dates of medication set up, name of medication, quantity of dose, times to be administered, route of administration, and name of person completing medication set up must be done at time of set up.

Subd. 10. **Medications when client is away from home.** (a) A home care provider providing medication management services must develop a policy and procedures for the issuance of medications to clients for planned and unplanned times the client will be away from home and need to have their medications with them which complies with the following:

(1) for planned time away, the medications must be obtained from the pharmacy or set up by the registered nurse according to appropriate state and federal laws and nurse standards of practice; and

(2) for unplanned times away from home for temporary periods when an adequate medication supply cannot be obtained from the pharmacy or set up by the registered nurse in a timely manner, the provider may allow an unlicensed personnel to set up the medications.

(b) The task of medication set up may be done by an unlicensed personnel who is trained and has been determined competent according to subdivisions 6 and 7. Prior to providing the medications to the client, the unlicensed personnel must speak with the registered nurse to ensure that all appropriate precautions are taken. The unlicensed personnel may provide the client or the client's representative up to a 72-hour supply of the client's medications.

(c) When preparing the medications, the medications must be taken from the original containers prepared by the pharmacist and then placed in a suitable container. The container must be labeled with the client's name; the medication name, strength, dose, and route of administration; and the dates and times the medications are to be taken by the client and any other information that the client should know regarding the medications. For those medications which cannot be prepared in advance, the client must be given the original container and complete directions and information for the administration of that medication.

(d) The client or client's representative must also be provided in writing with the home care provider's name and contact information for the home care provider's registered nurse.
The unlicensed personnel must document in the client's record the date the medications were provided to the client; the name of medication; the medication's strength, dose, and routes and administration times; the amounts of medications that were provided to the client and to whom the medications were given. The registered nurse must review the set up of medication and documentation to ensure that the issuance of medications by the unlicensed personnel was handled appropriately.

Subd. 11. Prescribed and nonprescribed medication. The comprehensive home care provider must determine whether it will require a prescription for all medications it manages. The comprehensive home care provider must inform the client or the client's representative whether the comprehensive home care provider requires a prescription for all over-the-counter and dietary supplements before the comprehensive home care provider will agree to manage those medications.

Subd. 12. Medications; over-the-counter; dietary supplements not prescribed. A comprehensive home care provider providing medication management services for over-the-counter drugs or dietary supplements must retain those items in the original labeled container with directions for use prior to setting up for immediate or later administration. The provider must verify that the medications are up-to-date and stored as appropriate.

Subd. 13. Prescriptions. There must be a current written or electronically recorded prescription as defined in Minnesota Rules, part 6800.0100, subpart 11a, for all prescribed medications that the comprehensive home care provider is managing for the client.

Subd. 14. Renewal of prescriptions. Prescriptions must be renewed at least every 12 months or more frequently as indicated by the assessment in subdivision 2.

Prescriptions for controlled substances must comply with chapter 152.

Subd. 15. Verbal prescription orders. Verbal prescription orders from an authorized prescriber must be received by a nurse or pharmacist. The order must be handled according to Minnesota Rules, part 6800.6200.

Subd. 16. Written or electronic prescription. When a written or electronic prescription is received, it must be communicated to the registered nurse in charge and recorded or placed in the client's record.

Subd. 17. Records confidential. A prescription or order received verbally, in writing, or electronically must be kept confidential according to sections 144.291 to 144.298 and 144A.44.

Subd. 18. Medications provided by client or family members. When the comprehensive home care provider is aware of any medications or dietary supplements that are being used by the client and are not included in the assessment for medication...
management services, the staff must advise the registered nurse and document that in
the client's record.

Subd. 19. Storage of drugs. A comprehensive home care provider providing
storage of medications outside of the client's private living space must store all prescription
drugs in securely locked and substantially constructed compartments according to the
manufacturer's directions and permit only authorized personnel to have access.

Subd. 20. Prescription drugs. A prescription drug, prior to being set up for
immediate or later administration, must be kept in the original container in which it was
dispensed by the pharmacy bearing the original prescription label with legible information
including the expiration or beyond-use date of a time-dated drug.

Subd. 21. Prohibitions. No prescription drug supply for one client may be used or
saved for use by anyone other than the client.

Subd. 22. Disposition of drugs. (a) Any current medications being managed by the
comprehensive home care provider must be given to the client or the client's representative
when the client's service plan ends or medication management services are no longer part
of the service plan. Medications that have been stored in the client's private living space
for a client that is deceased or that have been discontinued or that have expired may be
given to the client or the client's representative for disposal.

(b) The comprehensive home care provider will dispose of any medications
remaining with the comprehensive home care provider that are discontinued or expired or
upon the termination of the service contract or the client's death according to state and
federal regulations for disposition of drugs and controlled substances.

(c) Upon disposition, the comprehensive home care provider must document in the
client's record the disposition of the medications including the medication's name, strength,
with the prescription number as applicable, quantity, to whom the medications were given, date of
disposition, and names of staff and other individuals involved in the disposition.

Subd. 23. Loss or spillage. (a) Comprehensive home care providers providing
medication management must develop and implement procedures for loss or spillage of all
controlled substances defined in Minnesota Rules, part 6800.4220. These procedures must
require that when a spillage of a controlled substance occurs, a notation must be made
in the client's record explaining the spillage and the actions taken. The notation must
be signed by the person responsible for the spillage and include verification that any
contaminated substance was disposed of according to state or federal regulations.

(b) The procedures must require the comprehensive home care provider of
medication management to investigate any known loss or unaccounted for prescription
drugs and take appropriate action required under state or federal regulations and document
the investigation in required records.

Sec. 19. [144A.4793] TREATMENT AND THERAPY MANAGEMENT

SERVICES.

Subdivision 1. Providers with a comprehensive home care license. This section
applies only to home care providers with a comprehensive home care license that provide
treatment or therapy management services to clients. Treatment or therapy management
services cannot be provided by a home care provider that has a basic home care license.

Subd. 2. Policies and procedures. (a) A comprehensive home care provider who
provides treatment and therapy management services must develop, implement, and
maintain up-to-date written treatment or therapy management policies and procedures.
The policies and procedures must be developed under the supervision and direction of
a registered nurse or appropriate licensed health professional consistent with current
practice standards and guidelines.

(b) The written policies and procedures must address requesting and receiving
orders or prescriptions for treatments or therapies, providing the treatment or therapy,
documenting of treatment or therapy activities, educating and communicating with clients
about treatments or therapy they are receiving, monitoring and evaluating the treatment
and therapy, and communicating with the prescriber.

Subd. 3. Individualized treatment or therapy management plan. For each
client receiving management of ordered or prescribed treatments or therapy services, the
comprehensive home care provider must include in the service plan a written management
plan which contains at least the following provisions:

(1) a statement of the type of services that will be provided;
(2) procedures for documenting treatments or therapies the client is receiving;
(3) procedures for monitoring treatments or therapy to prevent possible
complications or adverse reactions;
(4) identification of treatment or therapy tasks that will be delegated to unlicensed
personnel; and
(5) procedures for notifying a registered nurse or appropriate licensed health
professional when a problem arises with treatments or therapy services.

Subd. 4. Administration of treatments and therapy. Ordered or prescribed
treatments or therapies must be administered by a nurse, physician, or other licensed health
professional authorized to perform the treatment or therapy, or may be delegated or assigned
to unlicensed personnel by the licensed health professional according to the appropriate
practice standards for delegation or assignment. When administration of a treatment or
therapy is delegated or assigned to unlicensed personnel, the home care provider must
ensure that the registered nurse or authorized licensed health professional has:

(1) instructed the unlicensed personnel in the proper methods with respect to each
client and has demonstrated their ability to competently follow the procedures;

(2) specified, in writing, specific instructions for each client and documented those
instructions in the client's record; and

(3) communicated with the unlicensed personnel about the individual needs of
the client.

Subd. 5. Documentation of administration of treatments and therapies. Each
treatment or therapy administered by a comprehensive home care provider must be
documented in the client's record. The documentation must include the signature and title
of the person who administered the treatment or therapy and must include the date and
time of administration. When treatment or therapies are not administered as ordered or
prescribed, the provider must document the reason why it was not administered and any
follow-up procedures that were provided to meet the client's needs.

Subd. 6. Orders or prescriptions. There must be an up-to-date written or
electronically recorded order or prescription for all treatments and therapies. The order
must contain the name of the client, description of the treatment or therapy to be provided,
and the frequency and other information needed to administer the treatment or therapy.

Sec. 20. [144A.4794] CLIENT RECORD REQUIREMENTS.

Subdivision 1. Client record. (a) The home care provider must maintain records
for each client for whom it is providing services. Entries in the client records must be
current, legible, permanently recorded, dated, and authenticated with the name and title
of the person making the entry.

(b) Client records, whether written or electronic, must be protected against loss,
tampering, or unauthorized disclosure in compliance with chapter 13 and other applicable
relevant federal and state laws. The home care provider shall establish and implement
written procedures to control use, storage, and security of client's records and establish
criteria for release of client information.

(c) The home care provider may not disclose to any other person any personal,
financial, medical, or other information about the client, except:

(1) as may be required by law;

(2) to employees or contractors of the home care provider, another home care
provider, other health care practitioner or provider, or inpatient facility needing
information in order to provide services to the client, but only such information that
is necessary for the provision of services;
(3) to persons authorized in writing by the client or the client's representative to
receive the information, including third-party payers; and
(4) to representatives of the commissioner authorized to survey or investigate home
care providers under this chapter or federal laws.

Subd. 2. Access to records. The home care provider must ensure that the
appropriate records are readily available to employees or contractors authorized to access
the records. Client records must be maintained in a manner that allows for timely access,
printing, or transmission of the records.

Subd. 3. Contents of client record. Contents of a client record include the
following for each client:
(1) identifying information, including the client's name, date of birth, address, and
telephone number;
(2) the name, address, and telephone number of an emergency contact, family
members, client's representative, if any, or others as identified;
(3) names, addresses, and telephone numbers of the client's health and medical
service providers and other home care providers, if known;
(4) health information, including medical history, allergies, and when the provider
is managing medications, treatments or therapies that require documentation, and other
relevant health records;
(5) client's advance directives, if any;
(6) the home care provider's current and previous assessments and service plans;
(7) all records of communications pertinent to the client's home care services;
(8) documentation of significant changes in the client's status and actions taken in
response to the needs of the client including reporting to the appropriate supervisor or
health care professional;
(9) documentation of incidents involving the client and actions taken in response
to the needs of the client including reporting to the appropriate supervisor or health
care professional;
(10) documentation that services have been provided as identified in the service plan;
(11) documentation that the client has received and reviewed the home care bill
of rights;
(12) documentation that the client has been provided the statement of disclosure on
limitations of services under section 144A.4791, subdivision 3;
(13) documentation of complaints received and resolution;
discharge summary, including service termination notice and related
documentation, when applicable; and

other documentation required under this chapter and relevant to the client's
services or status.

Subd. 4. Transfer of client records. If a client transfers to another home care
provider or other health care practitioner or provider, or is admitted to an inpatient facility,
the home care provider, upon request of the client or the client's representative, shall take
steps to ensure a coordinated transfer including sending a copy or summary of the client's
record to the new home care provider, facility, or the client, as appropriate.

Subd. 5. Record retention. Following the client's discharge or termination of
services, a home care provider must retain a client's record for at least five years, or as
otherwise required by state or federal regulations. Arrangements must be made for secure
storage and retrieval of client records if the home care provider ceases business.

Sec. 21. [144A.4795] HOME CARE PROVIDER RESPONSIBILITIES; STAFF.

Subdivision 1. Qualifications, training, and competency. All staff providing
home care services must be trained and competent in the provision of home care services
consistent with current practice standards appropriate to the client's needs.

Subd. 2. Licensed health professionals and nurses. (a) Licensed health
professionals and nurses providing home care services as an employee of a licensed home
care provider must possess current Minnesota license or registration to practice.

(b) Licensed health professionals and registered nurses must be competent in
assessing client needs, planning appropriate home care services to meet client needs,
implementing services, and supervising staff if assigned.

(c) Nothing in this section limits or expands the rights of nurses or licensed health
professionals to provide services within the scope of their licenses or registrations, as
provided by law.

Subd. 3. Unlicensed personnel. (a) Unlicensed personnel providing basic home
care services must have:

(1) successfully completed a training and competency evaluation appropriate to
the services provided by the home care provider and the topics listed in subdivision 7,
paragraph (b); or

(2) demonstrated competency by satisfactorily completing a written or oral test on
the tasks the unlicensed personnel will perform and in the topics listed in subdivision
7, paragraph (b); and successfully demonstrate competency of topics in subdivision 7,
paragraph (b), clauses (5), (7), and (8), by a practical skills test.
Unlicensed personnel providing home care services for a basic home care provider may not perform delegated nursing or therapy tasks.

(b) Unlicensed personnel performing delegated nursing tasks for a comprehensive home care provider must have:

1. successfully completed training and demonstrated competency by successfully completing a written or oral test of the topics in subdivision 7, paragraphs (b) and (c), and a practical skills test on tasks listed in subdivision 7, paragraphs (b), clauses (5) and (7), and (c), clauses (3), (5), (6), and (7), and all the delegated tasks they will perform; or

2. satisfy the current requirements of Medicare for training or competency of home health aides or nursing assistants, as provided by Code of Federal Regulations, title 42, section 483 or section 484.36; or

3. before April 19, 1993, completed a training course for nursing assistants that was approved by the commissioner.

(c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned by a licensed health professional must meet the requirements for delegated tasks in subdivision 4 and any other training or competency requirements within the licensed health professional scope of practice relating to delegation or assignment of tasks to unlicensed personnel.

Subd. 4. Delegation of home care tasks. A registered nurse or licensed health professional may delegate tasks only to staff that are competent and possess the knowledge and skills consistent with the complexity of the tasks and according to the appropriate Minnesota Practice Act. The comprehensive home care provider must establish and implement a system to communicate up-to-date information to the registered nurse or licensed health professional regarding the current available staff and their competency so the registered nurse or licensed health professional has sufficient information to determine the appropriateness of delegating tasks to meet individual client needs and preferences.

Subd. 5. Individual contractors. When a home care provider contracts with an individual contractor excluded from licensure under section 144A.471 to provide home care services, the contractor must meet the same requirements required by this section for personnel employed by the home care provider.

Subd. 6. Temporary staff. When a home care provider contracts with a temporary staffing agency excluded from licensure under section 144A.471, those individuals must meet the same requirements required by this section for personnel employed by the home care provider and shall be treated as if they are staff of the home care provider.
52.1 Subd. 7. Requirements for instructors, training content, and competency evaluations for unlicensed personnel. (a) Instructors and competency evaluators must meet the following requirements:

52.2 (1) training and competency evaluations of unlicensed personnel providing basic home care services must be conducted by individuals with work experience and training in providing home care services listed in section 144A.471, subdivisions 6 and 7; and

52.3 (2) training and competency evaluations of unlicensed personnel providing comprehensive home care services must be conducted by a registered nurse, or another instructor may provide training in conjunction with the registered nurse. If the home care provider is providing services by licensed health professionals only, then that specific training and competency evaluation may be conducted by the licensed health professionals as appropriate.

52.4 (b) Training and competency evaluations for all unlicensed personnel must include the following:

52.5 (1) documentation requirements for all services provided;

52.6 (2) reports of changes in the client's condition to the supervisor designated by the home care provider;

52.7 (3) basic infection control, including blood-borne pathogens;

52.8 (4) maintenance of a clean and safe environment;

52.9 (5) appropriate and safe techniques in personal hygiene and grooming, including:

52.10 (i) hair care and bathing;

52.11 (ii) care of teeth, gums, and oral prosthetic devices;

52.12 (iii) care and use of hearing aids; and

52.13 (iv) dressing and assisting with toileting;

52.14 (6) training on the prevention of falls for providers working with the elderly or individuals at risk of falls;

52.15 (7) standby assistance techniques and how to perform them;

52.16 (8) medication, exercise, and treatment reminders;

52.17 (9) basic nutrition, meal preparation, food safety, and assistance with eating;

52.18 (10) preparation of modified diets as ordered by a licensed health professional;

52.19 (11) communication skills that include preserving the dignity of the client and showing respect for the client and the client's preferences, cultural background, and family;

52.20 (12) awareness of confidentiality and privacy;

52.21 (13) understanding appropriate boundaries between staff and clients and the client's family;

52.22 (14) procedures to utilize in handling various emergency situations; and
53.1 (15) awareness of commonly used health technology equipment and assistive devices.

53.2 (c) In addition to paragraph (b), training and competency evaluation for unlicensed personnel providing comprehensive home care services must include:

53.3 (1) observation, reporting, and documenting of client status;

53.4 (2) basic knowledge of body functioning and changes in body functioning, injuries, or other observed changes that must be reported to appropriate personnel;

53.5 (3) reading and recording temperature, pulse, and respirations of the client;

53.6 (4) recognizing physical, emotional, cognitive, and developmental needs of the client;

53.7 (5) safe transfer techniques and ambulation;

53.8 (6) range of motioning and positioning; and

53.9 (7) administering medications or treatments as required.

53.10 (d) When the registered nurse or licensed health professional delegates tasks, they must ensure that prior to the delegation the unlicensed personnel is trained in the proper methods to perform the tasks or procedures for each client and are able to demonstrate the ability to competently follow the procedures and perform the tasks. If an unlicensed personnel has not regularly performed the delegated home care task for a period of 24 consecutive months, the unlicensed personnel must demonstrate competency in the task to the registered nurse or appropriate licensed health professional. The registered nurse or licensed health professional must document instructions for the delegated tasks in the client's record.

Sec. 22. [144A.4796] ORIENTATION AND ANNUAL TRAINING

REQUIREMENTS.

Subdivision 1. Orientation of staff and supervisors to home care. All staff providing and supervising direct home care services must complete an orientation to home care licensing requirements and regulations before providing home care services to clients. The orientation may be incorporated into the training required under subdivision 6. The orientation need only be completed once for each staff person and is not transferable to another home care provider.

Subd. 2. Content. The orientation must contain the following topics:

(1) an overview of sections 144A.43 to 144A.4798;

(2) introduction and review of all the provider's policies and procedures related to the provision of home care services;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting the maltreatment of minors or vulnerable adults under sections 626.556 and 626.557;
(5) home care bill of rights, under section 144A.44;

(6) handling of clients' complaints; reporting of complaints and where to report
complaints including information on the Office of Health Facility Complaints and the
Common Entry Point;

(7) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care
Ombudsman at the Department of Human Services, county managed care advocates,
or other relevant advocacy services; and

(8) review of the types of home care services the employee will be providing and
the provider's scope of licensure.

Subd. 3. **Verification and documentation of orientation.** Each home care provider
shall retain evidence in the employee record of each staff person having completed the
orientation required by this section.

Subd. 4. **Orientation to client.** Staff providing home care services must be oriented
specifically to each individual client and the services to be provided. This orientation may
be provided in person, orally, in writing, or electronically.

Subd. 5. **Training required relating to Alzheimer's disease and related
 disorders.** For home care providers that market, promote, or provide services for persons
with Alzheimer's or related disorders, all direct care staff and their supervisors must
receive training that includes a current explanation of Alzheimer's disease and related
disorders, how to assist clients with activities of daily living, effective approaches to
use to problem solve when working with a client's challenging behaviors, and how to
communicate with clients who have Alzheimer's or related disorders.

Subd. 6. **Required annual training.** All staff that perform direct home care
services must complete at least eight hours of annual training for each 12 months of
employment. The training may be obtained from the home care provider or another source
and must include topics relevant to the provision of home care services. The annual
training must include:

1. training on reporting of maltreatment of minors under section 626.556 and
maltreatment of vulnerable adults under section 626.557, whichever is applicable to the
services provided;

2. review of the home care bill of rights in section 144A.44;

3. review of infection control techniques used in the home and implementation of
infection control standards including a review of hand washing techniques; the need for
and use of protective gloves, gowns, and masks; appropriate disposal of contaminated
materials and equipment, such as dressings, needles, syringes, and razor blades;
disinfecting reusable equipment; disinfecting environmental surfaces; and reporting of
communicable diseases; and

(4) review of the provider's policies and procedures relating to the provision of home
care services and how to implement those policies and procedures.

Subd. 7. Documentation. A home care provider must retain documentation in the
employee records of the staff that have satisfied the orientation and training requirements
of this section.

Sec. 23. [144A.4797] PROVISION OF SERVICES.

Subdivision 1. Availability of contact person to staff. (a) A home care provider
with a basic home care license must have a person available to staff for consultation on
items relating to the provision of services or about the client.

(b) A home care provider with a comprehensive home care license must have a
registered nurse available for consultation to staff performing delegated nursing tasks
and must have an appropriate licensed health professional available if performing other
delegated services such as therapies.

(c) The appropriate contact person must be readily available either in person, by
telephone, or by other means to the staff at times when the staff is providing services.

Subd. 2. Supervision of staff: basic home care services. (a) Staff who perform
basic home care services must be supervised periodically where the services are being
provided to verify that the work is being performed competently and to identify problems
and solutions to address issues relating to the staff's ability to provide the services. The
supervision of the unlicensed personnel must be done by staff of the home care provider
having the authority, skills, and ability to provide the supervision of unlicensed personnel
and who can implement changes as needed, and train staff.

(b) Supervision includes direct observation of unlicensed personnel while they
are providing the services and may also include indirect methods of gaining input such
as gathering feedback from the client. Supervisory review of staff must be provided at a
frequency based on the staff person's competency and performance.

(c) For an individual who is licensed as a home care provider, this section does
not apply.

Subd. 3. Supervision of staff providing delegated nursing or therapy home
care tasks. (a) Staff who perform delegated nursing or therapy home care tasks must be
supervised by an appropriate licensed health professional or a registered nurse periodically
where the services are being provided to verify that the work is being performed
competently and to identify problems and solutions related to the staff person's ability to
perform the tasks. Supervision of staff performing medication or treatment administration shall be provided by a registered nurse or appropriate licensed health professional and must include observation of the staff administering the medication or treatment and the interaction with the client.

(b) The direct supervision of staff performing delegated tasks must be provided within 30 days after the individual begins working for the home care provider and thereafter as needed based on performance. This requirement also applies to staff who have not performed delegated tasks for one year or longer.

Subd. 4. Documentation. A home care provider must retain documentation of supervision activities in the personnel records.

Subd. 5. Exemption. This section does not apply to an individual licensed under sections 144A.43 to 144A.4799.

Sec. 24. [144A.4798] EMPLOYEE HEALTH STATUS.

Subdivision 1. Tuberculosis (TB) prevention and control. A home care provider must establish and maintain a TB prevention and control program based on the most current guidelines issued by the Centers for Disease Control and Prevention (CDC).

Components of a TB prevention and control program include screening all staff providing home care services, both paid and unpaid, at the time of hire for active TB disease and latent TB infection, and developing and implementing a written TB infection control plan.

The commissioner shall make the most recent CDC standards available to home care providers on the department's Web site.

Subd. 2. Communicable diseases. A home care provider must follow current federal or state guidelines for prevention, control, and reporting of human immunodeficiency virus (HIV), hepatitis B virus (HBV), hepatitis C virus, or other communicable diseases as defined in Minnesota Rules, part 4605.7040.

Sec. 25. [144A.4799] DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER ADVISORY COUNCIL.

Subdivision 1. Membership. The commissioner of health shall appoint eight persons to a home care provider advisory council consisting of the following:

(1) three public members as defined in section 214.02 who shall be either persons who are currently receiving home care services or have family members receiving home care services, or persons who have family members who have received home care services within five years of the application date;
(2) three Minnesota home care licensees representing basic and comprehensive levels of licensure who may be a managerial official, an administrator, a supervising registered nurse, or an unlicensed personnel performing home care tasks;

(3) one member representing the Minnesota Board of Nursing; and

(4) one member representing the ombudsman for long-term care.

Subd. 2. Organizations and meetings. The advisory council shall be organized and administered under section 15.059 with per diems and costs paid within the limits of available appropriations. Meetings will be held quarterly and hosted by the department. Subcommittees may be developed as necessary by the commissioner. Advisory council meetings are subject to the Open Meeting Law under chapter 13D.

Subd. 3. Duties. At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed home care providers in this chapter such as:

(1) advice to the commissioner regarding community standards for home care practices;

(2) advice to the commissioner on enforcement of licensing standards and whether certain disciplinary actions are appropriate;

(3) advice to the commissioner about ways of distributing information to licensees and consumers of home care;

(4) advice to the commissioner about training standards;

(5) identify emerging issues and opportunities in the home care field, including the use of technology in home and telehealth capabilities; and

(6) perform other duties as directed by the commissioner.

Sec. 26. [144A.481] HOME CARE LICENSING IMPLEMENTATION FOR NEW LICENSEES AND TRANSITION PERIOD FOR CURRENT LICENSEES.

Subdivision 1. Initial home care licenses and changes of ownership. (a) Beginning October 1, 2013, all initial license applicants must apply for either a temporary basic or comprehensive home care license.

(b) Initial home care temporary licenses or licenses issued beginning October 1, 2013, will be issued according to the provisions in sections 144A.43 to 144A.4799 and fees in section 144A.472 and will be required to comply with this chapter.

(c) No initial temporary licenses or initial licenses will be accepted or issued between July 1, 2013, and October 1, 2013.

(d) Beginning July 1, 2013, changes in ownership applications will require payment of the new fees listed in section 144A.472.
Subd. 2. **Current home care licensees with licenses on July 1, 2013.** (a)

Beginning October 1, 2013, department licensed home care providers who are licensed
on July 1, 2013, must apply for either the basic or comprehensive home care license
on their regularly scheduled renewal date.

(b) By September 30, 2014, all home care providers must either have a basic or
comprehensive home care license or temporary license.

Sec. 27. **[144A.4811] APPLICATION OF HOME CARE LICENSURE DURING TRANSITION PERIOD.**

Renewal of home care licenses issued beginning October 1, 2013, will be issued
according to sections 144A.43 to 144A.4799 and, upon license renewal, providers must
comply with sections 144A.43 to 144A.4799. Prior to renewal, providers must comply
with the home care licensure law in effect on June 30, 2013.

Sec. 28. **[144A.482] REGISTRATION OF HOME MANAGEMENT PROVIDERS.**

(a) For purposes of this section, a home management provider is an individual or
organization that provides at least two of the following services: housekeeping, meal
preparation, and shopping, to a person who is unable to perform these activities due to
illness, disability, or physical condition.

(b) A person or organization that provides only home management services may not
operate in the state without a current certificate of registration issued by the commissioner
of health. To obtain a certificate of registration, the person or organization must annually
submit to the commissioner the name, mailing and physical address, e-mail address, and
telephone number of the individual or organization and a signed statement declaring that
the individual or organization is aware that the home care bill of rights applies to their
clients and that the person or organization will comply with the home care bill of rights
provisions contained in section 144A.44. An individual or organization applying for a
certificate must also provide the name, business address, and telephone number of each of
the individuals responsible for the management or direction of the organization.

(c) The commissioner shall charge an annual registration fee of $20 for individuals
and $50 for organizations. The registration fee shall be deposited in the state treasury and
credited to the state government special revenue fund.

(d) A home care provider that provides home management services and other home
care services must be licensed, but licensure requirements other than the home care bill of
rights do not apply to those employees or volunteers who provide only home management
services to clients who do not receive any other home care services from the provider.

A licensed home care provider need not be registered as a home management service provider, but must provide an orientation on the home care bill of rights to its employees or volunteers who provide home management services.

(e) An individual who provides home management services under this section must, within 120 days after beginning to provide services, attend an orientation session approved by the commissioner that provides training on the home care bill of rights and an orientation on the aging process and the needs and concerns of elderly and disabled persons.

(f) The commissioner may suspend or revoke a provider's certificate of registration or assess fines for violation of the home care bill of rights. Any fine assessed for a violation of the home care bill of rights by a provider registered under this section shall be in the amount established in the licensure rules for home care providers. As a condition of registration, a provider must cooperate fully with any investigation conducted by the commissioner, including providing specific information requested by the commissioner on clients served and the employees and volunteers who provide services. Fines collected under this paragraph shall be deposited in the state treasury and credited to the fund specified in the statute or rule in which the penalty was established.

(g) The commissioner may use any of the powers granted in sections 144A.43 to 144A.4799 to administer the registration system and enforce the home care bill of rights under this section.

Sec. 29. INTEGRATED LICENSING SYSTEM FOR HOME CARE AND HOME AND COMMUNITY-BASED SERVICES.

(a) The Department of Health Compliance Monitoring Division and the Department of Human Services Licensing Division shall jointly develop an integrated licensing system for providers of both home care services subject to licensure under Minnesota Statutes, chapter 144A, and for home and community-based services subject to licensure under Minnesota Statutes, chapter 245D. The integrated licensing system shall:

(1) require only one license of any provider of services under Minnesota Statutes, sections 144A.43 to 144A.482, and 245D.03, subdivision 1;

(2) promote quality services that recognize a person's individual needs and protect the person's health, safety, rights, and well-being;

(3) promote provider accountability through application requirements, compliance inspections, investigations, and enforcement actions;

(4) reference other applicable requirements in existing state and federal laws,

including the federal Affordable Care Act;
(5) establish internal procedures to facilitate ongoing communications between the agencies, and with providers and services recipients about the regulatory activities;
(6) create a link between the agency Web sites so that providers and the public can access the same information regardless of which Web site is accessed initially; and
(7) collect data on identified outcome measures as necessary for the agencies to report to the Centers for Medicare and Medicaid Services.
(b) The joint recommendations for legislative changes to implement the integrated licensing system are due to the legislature by February 15, 2014.
(c) Before implementation of the integrated licensing system, providers licensed as home care providers under Minnesota Statutes, chapter 144A, may also provide home and community-based services subject to licensure under Minnesota Statutes, chapter 245D, without obtaining a home and community-based services license under Minnesota Statutes, chapter 245D. During this time, the conditions under clauses (1) to (3) shall apply to these providers:
(1) the provider must comply with all requirements under Minnesota Statutes, chapter 245D, for services otherwise subject to licensure under Minnesota Statutes, chapter 245D;
(2) a violation of requirements under Minnesota Statutes, chapter 245D, may be enforced by the Department of Health under the enforcement authority set forth in Minnesota Statutes, section 144A.475; and
(3) the Department of Health will provide information to the Department of Human Services about each provider licensed under this section, including the provider's license application, licensing documents, inspections, information about complaints received, and investigations conducted for possible violations of Minnesota Statutes, chapter 245D.

Sec. 30. REPEALER.
(a) Minnesota Statutes 2012, sections 144A.46; and 144A.461, are repealed.
(b) Minnesota Rules, parts 4668.0002; 4668.0003; 4668.0005; 4668.0008;
4668.0012; 4668.0016; 4668.0017; 4668.0019; 4668.0030; 4668.0035; 4668.0040;
4668.0050; 4668.0060; 4668.0065; 4668.0070; 4668.0075; 4668.0080; 4668.0100;
4668.0110; 4668.0120; 4668.0130; 4668.0140; 4668.0150; 4668.0160; 4668.0170;
4668.0180; 4668.0190; 4668.0200; 4668.0218; 4668.0220; 4668.0230; 4668.0240;
4668.0800; 4668.0805; 4668.0810; 4668.0815; 4668.0820; 4668.0825; 4668.0830;
4668.0835; 4668.0840; 4668.0845; 4668.0855; 4668.0860; 4668.0865; 4668.0870;
4669.0001; 4669.0010; 4669.0020; 4669.0030; 4669.0040; and 4669.0050, are repealed.

Sec. 31. EFFECTIVE DATE.
Sections 1 to 30 are effective the day following final enactment.