

# NOTICE OF HEARING

## HEALTH REGULATION DIVISION

### **Proposed Rules Governing Assisted Living Licensure and Consumer Protections for Assisted Living Residents, Minnesota Rules, chapter 4659; Revisor's ID Number R-4605, OAH docket number 65-9000-3715**

#### Public Hearing

The Department of Health (department) intends to adopt its proposed Rules Governing Assisted Living Licensure and Consumer Protections for Assisted Living Residents (assisted-living rules) after a public hearing conducted according to the procedures of the Office of Administrative Hearings, Minnesota Rules, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, Minnesota Statutes, sections 14.131 to 14.20. The department will hold a virtual public hearing via WebEx. An Administrative Law Judge will conduct the hearing on **Tuesday, January 19, 2021, from 9:30 am to 4:00 pm, and Wednesday, January 20, 2021, from 9:30 am to 4:00 pm**. If necessary, the department will schedule additional hearing days. At the hearing, all interested or affected persons may submit oral statements, written statements, or other tangible materials. You may submit statements or materials without appearing at the hearing.

You can register to join with video and audio through an internet connection with a computer or tablet. You also may participate by telephone. All of the information about how to attend the hearing by either WebEx or telephone will be posted here: [MDH Assisted Living Home Page \(www.health.state.mn.us/facilities/regulation/assistedliving/index.html\)](http://www.health.state.mn.us/facilities/regulation/assistedliving/index.html).

#### Administrative Law Judge

Administrative Law Judge Ann C. O'Reilly will conduct the hearing. The judge can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7875, and fax (651) 539-0310. You should direct questions about the rule-hearing procedure to the administrative law judge's legal assistant, Lisa Armstrong. You can contact her at [Lisa.Armstrong@state.mn.us](mailto:Lisa.Armstrong@state.mn.us) or (651) 361-7888.

#### Rules Subject, Statutory Authority, and Department Contact Person

The proposed assisted living rules are authorized by Minnesota Statutes, section 144G.09, subdivision 3. The rules clarify assisted living statutory requirements under Minnesota Statutes, chapter 144G, and make the statute more specific. The specific subjects covered are Applicability and Purpose, Definitions, Responsibility to Meet Standards, Licensing in General, Conversion of Existing Properties, Initial License Renewal, Variance, Uniform Checklist Disclosure of Services; Emergency and Disaster Preparedness Plan, Missing Resident Plan, Procedure for Resident Termination and Discharge Planning, Conditions for Planned Closure Planning, Initial Assessments and Continuing Assessments, Uniform Assessment Tool, Relinquishing an Assisted Living Facility with Dementia Care License, Disease Prevention and Control, Staffing, Training Requirements, Non-Renewal of Housing, Fines for Noncompliance, and Termination Appeals.

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A copy of the proposed rules is available at the agency's website: [MDH Assisted Living Home Page \(www.health.state.mn.us/facilities/regulation/assistedliving/index.html\)](http://www.health.state.mn.us/facilities/regulation/assistedliving/index.html). A free copy of the rules is available upon request from the department by calling either (651) 539-3049 or 1 (844) 926-1061, or emailing [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us).

### Statement of Need and Reasonableness

The statement of need and reasonableness (SONAR) justifies why the proposed rules are needed and why the proposed rules reasonably accomplish the department's goal of protecting the health, safety, and welfare of assisted-living residents. The SONAR describes who will be affected by the proposed rules, estimates the proposed rule costs, and explains and justifies the proposed rule language. A copy of the SONAR is available at the agency's website: [MDH Assisted Living Home Page \(www.health.state.mn.us/facilities/regulation/assistedliving/index.html\)](http://www.health.state.mn.us/facilities/regulation/assistedliving/index.html). The SONAR is also available from the department upon request by calling either (651) 539-3049 or 1 (844) 926-1061, or emailing [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us). If you request a copy, you may have to pay for the department's printing and mailing costs.

### Comments

You and all interested or affected persons, including representatives of associations, legal entities, and other interested groups, may participate at the hearing. The administrative law judge will accept your views either orally at the hearing or in writing at any time before the hearing record closes. Please submit written comments to the administrative law judge via the [Office of Administrative Hearings Rulemaking eComments website \(https://minnesotaoah.granicusideas.com/discussions\)](https://minnesotaoah.granicusideas.com/discussions).

If it is not possible for you to use the eComments website, you may submit your written comments in person, by U.S. mail, or by fax to the judge using the contact information contained in the Administrative Law Judge section of this notice. Any comments or materials that you present or submit must relate to the proposed rules.

After the hearing, you may submit written comments to the administrative law judge using the eComments website (the preferred method) or by mail, fax, or personal delivery. These comments must be submitted within five working days after the hearing date. At the hearing, the administrative law judge may order this five-day comment period be extended for no more than 20 calendar days.

After the comment period, there is a five-working-day rebuttal period during which the department and any interested person may respond in writing to any new information that was submitted during the comment period after the hearing. No additional evidence may be submitted during the five-day rebuttal period.

The Office of Administrative Hearings must receive all comments and evidence no later than 4:30 p.m. on the day the comment period or rebuttal period ends. All submitted comments or evidence is public information and will be available for review at the Office of Administrative Hearings.

The department respectfully requests that any person submitting written comments or evidence to the administrative law judge before the hearing or during the comment or rebuttal period also submit a copy to the department contact person.

## Alternative Format/Accommodation

Upon request, the proposed rules, SONAR, and any other information in this notice can be made available in an alternative format, such as large print, Braille, or audio. To make a request or if you need an accommodation to make this hearing accessible, please contact the department by calling either (651) 539-3049 or 1 (844) 926-1061, or emailing [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us).

## Modifications

The department may modify the proposed rules as a result of the rule-hearing process. The department must support any modifications by evidence and views presented during the rule-hearing process. The adopted rules may not be substantially different than the proposed rules unless the agency follows the procedure under Minnesota Rules, part 1400.2110. If the proposed rules affect you in any way, the agency encourages you to participate.

## After the Hearing and Comment Periods

After the hearing record closes, the administrative law judge will issue a report on the proposed rules. You may ask to be notified when the judge's report is available; you can make this request at the hearing or in writing to the judge. You may also ask the department to notify you when it adopts the rules and files them with the secretary of state; you may ask to register with the department to receive notice of future rule proceedings. You may make these requests at the hearing or in writing to the department contact person.

## Lobbyist Registration

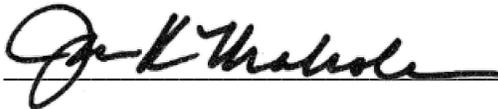
Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

## Order

I order that the rulemaking hearing be held at the date, time, and location listed above.

December 2, 2020

Date



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Jan Malcolm  
Commissioner  
Minnesota Department of Health