

Assisted Living Facilities Proposed Rules - 10/08/2020 DRAFT

1 4659.XXXX APPLICABILITY AND PURPOSE.

2 Parts 4659.XXXX to 4659.XXXX, establish the criteria and procedures for regulating assisted
3 living facilities and assisted living facilities with dementia care and must be read in conjunction
4 with Minnesota Statutes, chapter 144G. The licensee is legally responsible for ensuring
5 compliance by the licensee's facility, and any individual or entity acting on its behalf, with parts
6 4659.XXXX to 4659.XXXX and Minnesota Statutes, chapter 144G.

1 **4659.XXXX DEFINITIONS.**

2

3 Subpart 1. **Applicability.** For purposes of this chapter, the definitions in this part have the meanings
4 given them.

5 Subp. X. **Assisted living director or director.** “Assisted living director” or “director” has the meaning
6 given in Minnesota Statutes, section 144G.08, subdivision 6.

7 Subp. X. **Assisted living facility or facility.** “Assisted living facility” or “facility” has the meaning
8 given in Minnesota Statutes, section 144G.08, subdivision 7.

9 Subp. X. **Assisted living facility with dementia care or facility with dementia care.** “Assisted living
10 facility with dementia care” or “facility with dementia care” has the meaning given in Minnesota
11 Statutes, section 144G.08, subdivision 8.

12 Subp. X. **Assisted living services.** “Assisted living services” has the meaning given in Minnesota
13 Statutes, section 144G.08, subdivision 9.

14 Subp. X. **Board.** “Board” means the Board of Executives for Long Term Services and Supports.

15 Subp. X. **Case manager.** “Case manager” means an individual who provides case management services
16 and develops a resident’s coordinated service and support plan according to Minnesota Statutes, sections
17 256B.49, subdivision 15 and 256S.07 through 256S.10.

18 Subp. X. **Clinical nurse supervisor.** “Clinical nurse supervisor” means a facility’s registered nurse
19 required under Minnesota Statutes, section 144G.41, subdivision 4.

20 Subp. X. **Commissioner.** “Commissioner” means the commissioner of health.

21 Subp. X. **Competency evaluation.** “Competency evaluation” means the training and competency
22 evaluation required under Minnesota Statutes, section 144G.61.

23 Subp. X. **Competent.** “Competent” means appropriately trained and able to perform an assisted living
24 service, supportive service, or delegated health-care task or duty under this chapter and Minnesota
25 Statutes, chapter 144G.

26 Subp. X. **Department.** “Department” means the Department of Health.

27 Subp. X. **Dementia.** “Dementia” has the meaning given in Minnesota Statutes, section 144G.08,
28 subdivision 16.

29 Subp. X. **Elopement.** “Elopement” means when a resident leaves the premises or a safe area without
30 authorization and/or any necessary supervision to do so.

1 Subp. X. **Investigator.** “Investigator” means a department staff member who conducts complaint
2 investigations according to Minnesota Statutes, section 144G.30.

3 Subp. X. **Licensed health professional.** “Licensed health professional” has the meaning given in
4 Minnesota Statutes, section 144G.08, subdivision 29.

5 Subp. X. **Licensee.** “Licensee” has the meaning given in Minnesota Statutes, section 144G.08,
6 subdivision 32.

7 Subp. X. **Medication.** “Medication” has the meaning given in Minnesota Statutes, section 144G.08,
8 subdivision 37.

9 Subp. X. **Ombudsman.** “Ombudsman” means the Office of Ombudsman for Long-Term Care.

10 Subp. X. **Person-centered planning and service delivery.** “Person-centered planning and service
11 delivery” means providing supportive and assisted living services according to Minnesota Statutes,
12 section 245D.07, subdivision 1a, paragraph (b).

13 Subp. X. **Prospective resident.** “Prospective resident” means a non-resident individual who is seeking
14 to become a resident of an assisted living facility.

15 Subp. X. **Representatives.** “Representatives” includes both a designated representative as defined under
16 Minnesota Statutes, section 144G.08, subdivision 19, and a legal representative as defined under
17 Minnesota Statutes, section 144G.08, subdivision 28.

18 Subp. X. **Resident.** “Resident” has the meaning given in Minnesota Statutes, section 144G.08,
19 subdivision 59.

20 Subp. X. **Resident record.** “Resident record” has the meaning given in Minnesota Statutes, section
21 144G.08, subdivision 60.

22 Subp. X. **Safe location.** “Safe location” has the meaning given in Minnesota Statutes, section 144G.55,
23 subdivision 2.

24 Subp. X. **Service plan.** “Service plan” has the meaning given in Minnesota Statutes, section 144G.08,
25 subdivision 63.

26 Subp. X. **Supportive services.** “Supportive services” has the meaning given in Minnesota Statutes,
27 section 144G.08, subdivision 68.

28 Subp. X. **Survey.** “Survey” has the meaning given in Minnesota Statutes, section 144G.08, subdivision
29 69.

30 Subp. X. **Surveyor.** “Surveyor” has the meaning given in Minnesota Statutes, section 144G.08,
31 subdivision 70.

1 Subp. X. **Unlicensed personnel.** “Unlicensed personnel” has the meaning given in Minnesota Statutes,
2 section 144G.08, subdivision 73.

3 Subp. X. **Wandering.** “Wandering” means random or repetitive locomotion by a resident. This
4 movement may be goal-directed such as the resident appears to be searching for something such as an
5 exit, or may be non-goal-directed or aimless.

1 4659.XXXX RESPONSIBILITY TO MEET STANDARDS.

- 2 The facility must operate and provide housing and assisted living services according to parts
- 3 4659.XXXX to 4659.XXXX and Minnesota Statutes, chapter 144G.

4659.XXXX LICENSING IN GENERAL.

Subp. 1. **License required.** Effective August 1, 2021, no individual, organization, or government entity, unless licensed under Minnesota Statutes, chapter 144G, and in accordance to these rules, may:

- (1) manage, control, or operate an assisted living facility in Minnesota; or
- (2) advertise, market, or otherwise promote its facility as providing assisted living services or specialized care for individuals with Alzheimer's disease or other dementias.

Subp. 2. Issuance of assisted living facility license.

- A. Upon approving an application for an assisted living facility license, the commissioner must issue a single license for each building that is operated by the licensee as an assisted living facility and is located at a separate address, except as provided under item B.
- B. Upon approving an application for an assisted living facility license, the commissioner may issue a single license for two or more buildings on a campus that are operated by the same licensee as an assisted living facility.
 - (1) For the purposes of this subpart, "campus" means:
 - a. a single building having two or more addresses, located on the same property with a single property identification number;
 - b. two or more buildings, each with a separate address, located on the same property with a single property identification number; or
 - c. two or more buildings at different addresses, located on properties that share a portion of a legal property boundary, with different property identification numbers.
 - (2) An assisted living facility license for a campus must identify the address and licensed resident capacity of each building located on the campus in which assisted living services are provided.
 - (3) Before any building to be included on a campus advertises, markets, or promotes itself as providing specialized care for individuals with Alzheimer's disease or other dementias or a secured dementia care unit, the individual, organization, or government entity must apply for an assisted living facility with dementia care license for the campus, or apply for a separate assisted living facility with dementia care license for the building. These services may not be provided at the building until the license is issued by the commissioner.

Subp. 3. License to be posted.

- A. For a license issued under subpart 2, item A, the facility must post the original license certificate issued by the commissioner at the main public entrance of the facility.
- B. For a license issued under subpart 2, item B, a campus with multiple buildings must post the original license certificate issued by the commissioner at the main public entrance of each building licensed as a facility on the campus. A separate license certificate will be issued for each building on the campus.

Subp. 4. Required submissions to Ombudsman.

- A. A licensee must submit a complete, current, and unsigned copy of its assisted living contract to the ombudsman under Minnesota Statutes, section 144G.50, subdivision 1, paragraph (c)(1), within 30 calendar days of receiving a provisional license or a permanent license.
- B. The contract under item A must include all of the facility's standard provisions. If the licensee has multiple standard contracts, it must provide a copy of each contract to the ombudsman. The licensee is not required to submit a copy of each individual resident's contract to the ombudsman to be in compliance with this subpart. If the licensee changes its service offerings or the standard provisions in a contract, the facility must submit a complete and current contract to the ombudsman within 30 calendar days of the change.
- C. A licensee required to provide written disclosure to the ombudsman under Minnesota Statutes, section 325F.72, subdivision 1, must do so within 30 calendar days of receiving a provisional assisted living facility with dementia care license or, if a licensee does not receive a provisional license, within 30 calendar days after receiving a license.

Subp. 5. Location for Submissions to the Ombudsman.

Unless specific notice requirements are provided in rule or statute, notices that licensees are required to provide to the ombudsman under this rule, Minnesota Statutes, chapter 144G, and Minnesota Statutes, section 325F.72, must be provided in writing in the manner required by the ombudsman.

4659.XXXX ASSISTED LIVING LICENSURE; CONVERSION OF EXISTING ASSISTED LIVING PROVIDERS.

Subp. 1. License application required.

- A. A housing with services establishment registered under Minnesota Statutes, Chapter 144D that is providing assisted living services to residents at the time of license application, as allowed under Minnesota Statutes, sections 144G.01 through 144G.07, through an arranged home care provider licensed under Minnesota Statutes, chapter 144A, must convert to an assisted living facility license or an assisted living facility with dementia care license in order to continue to provide assisted living services in Minnesota on or after August 1, 2021.
- B. In order to convert the registered housing with services establishment identified under item A to an assisted living facility license or an assisted living facility with dementia care license, a completed license application must be submitted in accordance with the requirements in Minnesota Statutes, section 144G.12.
- C. Before issuing a license the commissioner must consider the license application submitted under item B as required under Minnesota Statutes, section 144G.15. Upon approval of the license application submitted under item B, the commissioner will issue a license that is not a provisional license under Minnesota Statutes, section 144G.08, subdivision 55.

Subp. 2. Expiration. This rule part expires July 31, 2022.

4659.XXXX ASSISTED LIVING LICENSURE; INITIAL LICENSE RENEWAL.

- A. All assisted living facility licenses and assisted living facility with dementia care licenses with an initial effective date in August 2021, will be valid through July 31, 2022. These licenses must be initially renewed on August 1, 2022.
- B. Notices for renewal will be issued by the department to all licensees by May 1, 2022. The notice will include the following information:
 - (1) instructions for how to complete the renewal process, including completion of the renewal application and payment of the annual license fee in accordance with Minnesota Statutes, section 144G.17;
 - (2) a new randomly assigned license renewal period that will apply for all future license renewals;
 - (3) instructions for licensees to request a change to the randomly assigned renewal period based on financial hardship;
 - (4) instructions for licensees with more than one assisted living facility license to request that all license renewal dates occur in the same month or in different months throughout a twelve month period.
- C. License fees for the first license renewal will be prorated based on the randomly assigned license renewal period starting from August 1, 2022, as follows:

Assigned renewal month; must be completed by the 1 st of the month:	The initial renewed license will be issued for:
January	5 months, ending December 31, 2022
February	6 months, ending January 31, 2023
March	7 months, ending February 28, 2023
April	8 months, ending March 31, 2023
May	9 months, ending April 30, 2023
June	10 months, ending May 31, 2023
July	11 months, ending June 30, 2023
August	12 months, ending July 31, 2023
September	13 months, ending August 31, 2023
October	14 months, ending September 30, 2023
November	15 months, ending October 31, 2023
December	16 months, ending November 30, 2023

- D. All prorated license fees will be based on the licensee's annual fee in accordance with the fee schedule established by the commissioner in Minnesota Statutes, section 144.122, paragraphs (d) and (f). The amount of the annual fee will be divided by twelve to establish the monthly equivalent of that fee and that amount will be multiplied by the number of months in the assigned prorated renewal period. This amount must be paid by the date in the renewal instructions the licensee in order to renew the license.
- E. This rule part expires December 31, 2023.

1 **4659.0040 VARIANCE.**

2 Subpart 1. **Request for variance.** A license applicant or licensee may request at any time that the
3 commissioner grant a variance from the provisions of this chapter. The request must be made in writing
4 to the commissioner and must specify the following:

- 5
- 6 (1) the name and address of the license applicant or licensee requesting the variance;
 - 7 (2) the rule requirement from which the variance is requested;
 - 8 (3) the time period for which the variance is requested;
 - 9 (4) the specific alternative actions, if any, that the license applicant or licensee proposes to follow;
 - 10 (5) the reasons for the request, including why the license applicant or licensee cannot comply with a
11 requirement in this chapter;
 - 12 (6) justification that the variance will not impair the services provided, and will not adversely affect
13 the health, safety, or welfare of residents, or the residents' rights under Minnesota Statutes,
14 chapter 144G, including the assisted living bill of rights; and
 - 15 (7) a signed statement attesting to the accuracy of the facts asserted in the variance request.

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17 The commissioner may require additional information from the license applicant or licensee before
18 acting on the request.

19
20 Subp. 2. **Criteria for evaluation.** The decision to grant or deny a variance must be based on the
21 department's evaluation of the following criteria:

- 22 (1) whether the alternative measures, if any, will comply with the intent of this chapter and are
23 equivalent to or superior to those prescribed in this chapter;
- 24 (2) whether compliance with this chapter will pose an undue burden upon the license applicant
25 or licensee; and
- 26 (3) whether the variance will adversely affect the health, safety, or welfare of the residents, or
27 any of the residents' rights under Minnesota Statutes, chapter 144G, including the assisted
28 living bill of rights.

29 Subp. 3. **Duration and Conditions.** The commissioner may limit the duration of any variance.
30 The commissioner may impose conditions on granting a variance that the commissioner considers
31 necessary to protect public health, safety, or the environment.

32 Subp. 4. **Granting a variance.** The department must notify the license applicant or licensee in
33 writing of its decision to grant a variance, and the notification must specify the period of time for which
34 the variance is effective and the alternative measures or conditions, if any, to be met by the license
35 applicant or licensee.

36 Subp. 5. **Renewal.** A licensee seeking to renew a variance must submit the request required
37 under subpart 1 at least 45 days before the expiration date of the variance.

38 Subp. 6. **Violation of variances.** A failure to comply with the terms of a variance shall be
39 deemed to be a violation of this chapter.

1 Subp. 7. **Denial, revocation, or refusal to renew.** The department must deny, revoke, or refuse
2 to renew a variance if:

- 3 (1) the variance will adversely impact the health, safety, or welfare of residents, or the residents'
4 rights under Minnesota Statutes, chapter 144G and the assisted living bill of rights;
- 5 (2) the license applicant or licensee has otherwise failed to demonstrate that a variance should be
6 granted under the criteria in subpart 2;
- 7 (3) the license applicant or licensee has failed to comply with the terms of the variance under
8 subparts 3 and 4;
- 9 (4) the license applicant or licensee notifies the commissioner in writing that it wishes to relinquish
10 the variance; or
- 11 (5) the revocation, denial, or refusal to renew a variance is required by a change in law.

12 The commissioner must notify the license applicant or licensee in writing of the reasons for the decision
13 to deny, revoke, or refuse to renew a variance and the right to appeal the decision under subpart 8.

14 Subp. 8. **Appeal procedure.** A license applicant or licensee may appeal the denial, revocation, or
15 refusal to renew a variance by requesting a hearing from the department. The request must be made in
16 writing to the commissioner and delivered personally or by mail within 10 calendar days after the
17 license applicant or licensee receives the notice. If mailed, the request must be postmarked within 10
18 calendar days after the license applicant or licensee receives the notice. The request for hearing must set
19 forth in detail the reasons why the license applicant or licensee contends the decision of the
20 commissioner should be reversed or modified. At the hearing, the facility has the burden of proving by a
21 preponderance of the evidence that the variance should be granted or renewed, except in a proceeding
22 challenging the revocation of a variance, where the department has the burden of proving by a
23 preponderance of the evidence that a revocation is appropriate. Hearings under this subpart must be
24 held under the Minnesota Revenue Recapture Act, Minnesota Rules parts 1400.8505 to 1400.8612.

1 **4659.0055 UNIFORM CHECKLIST DISCLOSURE OF SERVICES**

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3 **Subpart 1. Definition. The term used in this part has the meaning given in this**
4 **subpart.**

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6 “Uniform Checklist Disclosure of Services” or “checklist” means the checklist developed
7 and posted by the commissioner under subpart 2 and Minnesota Statutes, section
8 144G.40, subdivision 2 that an assisted living facility is required to provide to
9 prospective residents before a contract is executed to enhance understanding of policies
10 and services that are provided and are not provided by the facility.

11
12 **Subp. 2. Uniform checklist disclosure of services.**

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14 The commissioner must post a Uniform Checklist Disclosure of Services template with a
15 comprehensive list of assisted living services, developed according to Minnesota Statutes,
16 section 144G.40, subdivision 2(c), on the department’s website for facility use. The
17 commissioner must update the checklist on as as-needed basis.

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19 **Subp. 3. Submission of checklist to department.**

- 20 A. An applicant or licensee shall submit a completed checklist with the license
21 application or renewal.
22 B. Whenever a facility changes the services that it offers to provide under the
23 assisted living facility contract, it must submit an updated checklist to the
24 department within 30 calendar days of the change in services.

25
26 **Subp. 4. Use of uniform checklist disclosure of services.**

27 A facility shall:

- 28 A. provide an up-to-date checklist to each prospective resident and each prospective
29 resident’s representative who requests information about the facility;
30 B. provide the checklist separately from all other documents and forms; and
31 C. not use another form to substitute for the checklist.

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1 **4659.0060 EMERGENCY-DISASTER-AND-PREPAREDNESS PLAN.**

2 A. Assisted living facilities shall comply with the federal emergency preparedness regulations for
3 long-term care facilities under 42 CFR § 483.73, or successor requirements, which are hereby
4 incorporated by reference.

5 B. This part indicates documents, specifications, methods, and standards that are incorporated by
6 reference in parts 4569.XXXX to 4659.XXXX. This material is subject to frequent change and
7 is available from the source listed:

- 8 1) U.S. Centers for Medicare & Medicaid Services, “State Operations Manual Appendix Z–
9 Emergency Preparedness for All Provider and Certified Supplier Types: Interpretative
10 Guidance,” 7500 Security Boulevard, Baltimore, MD 21244.

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1 **4659.0065 MISSING RESIDENT PLAN.**

2 Subpart 1. **Applicability.**

3 A. This part applies only to a resident:

- 4 1) who receives assisted living services; and
- 5 2) who is incapable of taking appropriate action for self-preservation under
- 6 emergency conditions; or
- 7 3) is identified as at risk for wandering or elopement, according to the
- 8 resident's most recent assessment or review.

9 B. For purposes of this subpart, a resident is incapable of taking appropriate action for

10 self-preservation under emergency conditions if the resident:

- 11 1) is not ambulatory or mobile; or
- 12 2) lacks the physical or cognitive capability to:
- 13 a. recognize a danger, signal, or alarm requiring residents to evacuate
- 14 from a facility;
- 15 b. initiate and complete the evacuation without requiring more than
- 16 sporadic assistance from another person, such as help in opening a
- 17 door or getting into a wheelchair;
- 18 c. select an alternative means of escape or take appropriate action if
- 19 the primary evacuation route from the facility is blocked or
- 20 inaccessible; and
- 21 d. remain at a designated location outside the facility until further
- 22 instruction is given.

23 Subp. 2. **Missing resident policies and procedures.**

24 The facility must develop and follow a missing resident plan that includes at least the

25 following:

- 26 A. identification of a staff member for each shift who is responsible for implementing
- 27 the missing resident plan, ensuring at least one staff member who is responsible
- 28 for implementing the missing-resident plan is on site 24-hours a day, seven-days a
- 29 week;
- 30 B. a requirement that staff alert the staff member identified in Item A immediately if
- 31 it is suspected that a resident may be missing;
- 32 C. identification of staff by position description who are responsible for searching
- 33 for missing residents or suspected missing residents;

- 1 D. a requirement that staff conduct an immediate and thorough search of the facility,
- 2 the facility’s premises, and the immediate neighborhood in each direction when a
- 3 resident is suspected to be missing;
- 4 E. a requirement that a suspected missing resident is considered to be missing if the
- 5 resident is not located after staff complete Item D;
- 6 F. a requirement that staff immediately notify local law enforcement when a facility
- 7 determines (under Item E or otherwise) that a resident is missing;
- 8 G. a requirement that staff immediately contact the resident’s representatives and the
- 9 resident’s case manager, if applicable, when a resident is determined missing; and
- 10 H. a requirement that staff cooperate with local law enforcement and provide any
- 11 information that is necessary to identify and locate the missing resident.

12 When a resident goes missing or is suspected missing, a facility’s implementation of a
 13 missing resident plan does not relieve the facility of its obligation to provide assisted
 14 living services and appropriate care to all residents in the facility according to each
 15 resident's service plan, assisted living contract, and the requirements of this chapter and
 16 Minnesota Statutes, chapter 144G.

17 **Subp. 3. Additional notification required.**

18 After the missing resident is located, a staff member must immediately notify local law
 19 enforcement, the resident’s representatives, and the resident’s case manager, if any.

20 **Subp. 4. Review missing resident plan.**

21 The assisted living director and clinical nurse supervisor must review the missing resident
 22 plan at least quarterly and document any changes to the plan.

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1 **4659.0070 PROCEDURES FOR RESIDENT TERMINATION AND DISCHARGE PLANNING**

2 Subpart 1. **Pretermination meeting notice.**

- 3 A. Before issuing a notice of termination, the facility must schedule a pretermination
4 meeting under Minnesota Statutes, section 144G.52, subdivision 2, and provide
5 written notice of the meeting to the resident and the resident's representatives at
6 least five business days in advance.
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- 8 B. The facility must arrange the pretermination meeting to occur on a day that the
9 resident and the resident's representatives are able to attend.
10
- 11 C. For a resident who receives home and community-based waiver services under
12 Minnesota Statutes, chapter 256S, and Minnesota Statutes, section 256B.49, the
13 facility must provide written notice of the pretermination meeting to the resident's
14 case manager at least five business days in advance.
15
- 16 D. In addition to the notice requirements under Minnesota Statutes, section 144G.52,
17 subdivision 2, the pretermination meeting written notice under item A must
18 include:
19 1) a proposed time, date, and location of the meeting;
20 2) a detailed explanation of the reason(s) for the proposed termination;
21 3) a list of facility individuals who will attend the meeting;
22 4) an explanation that the resident may invite family members,
23 representatives, health professionals, and other individuals to participate in
24 the pretermination meeting;
25 5) contact information for the ombudsman and the Office for Ombudsman
26 for Mental Health and Developmental Disabilities and a statement that the
27 ombudsman offices provide advocacy services to residents;
28 6) the name and contact information of an individual at the facility whom the
29 resident may contact about the meeting or to request an accommodation;
30 7) notice that attendees may request reasonable accommodations for a
31 communication disability or if they speak a language other than English;
32 and
33 8) notice that if the resident's housing or services are terminated, the resident
34 has the right to appeal under Minnesota Statutes, section 144G.54 and
35 Minnesota Rules part 4659.XXXX (Termination Appeals).
36
- 37 E. The facility must provide written notice to the resident, the resident's
38 representatives, and the resident's case manager of any change to the date, time,
39 or location of the pre-termination meeting.
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1 **Subp. 2. Emergency relocation notice.**

2 A. If there is an emergency relocation under Minnesota Statutes, section 144G.52,
3 subdivision 9, and the licensee intends to issue a notice of termination following
4 the relocation, and an in-person pretermination meeting is impractical or
5 impossible, the facility must use telephonic, video, or other electronic format for
6 the meeting under Minnesota Statutes, section 144G.52, subdivision 2.

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8 B. If the pretermination meeting is held through telephonic, video, or other electronic
9 format under Minnesota Statutes, section 144G.52, subdivision 2(d), the facility
10 must ensure that the resident, the resident's representative, and any case manager
11 or representative of an ombudsman's office are able to participate in the
12 pretermination meeting. The facility must make reasonable efforts to ensure that
13 anyone else the resident invites to the meeting is able to participate.

14
15 C. If a pretermination meeting is held after an emergency relocation, the licensee
16 must issue a notice to the resident, the resident's representatives, and the
17 resident's case manager, if applicable, containing the information in subpart 1,
18 item D at least 24 hours in advance of the pretermination meeting. The notice
19 must include detailed instructions on how to access the means of communication
20 for the meeting.

21
22 D. If notice to the ombudsman is required under Minnesota Statutes, section
23 144G.52, subdivision 9(c)(3), the facility must provide the notice as soon as
24 practicable, and in any event no later than 24 hours after the notice requirement is
25 triggered.

26 **Subp. 3. Identifying and offering accommodations, modifications, and alternatives.**

27 In addition to the requirements in Minnesota Statutes, section 144G.52, subdivision
28 2(a)(2), at the pretermination meeting, the facility must collaborate with the resident and
29 the resident's representatives, case manager, and any other individual invited by the
30 resident, to identify and offer any potential reasonable accommodations, modifications,
31 interventions, or alternatives that can address the issues underlying the termination.

32 **Subp. 4. Summarizing pretermination meeting outcomes.**

33 Within 24 hours after the pretermination meeting, the facility must provide the resident
34 with a written summary of the meeting, including any agreements reached about any
35 accommodation, modification, intervention, or alternative that will be used to avoid
36 terminating the resident's assisted living contract.

Subp. 5. Providing Notice.

- 1 A. A facility must provide written notice of the resident's contract termination by
2 hand delivery or by first-class mail. Service of the notice must be proved by
3 affidavit of the person effectuating service.
4 B. If sent by mail, the facility must mail the notice to the resident's last known
5 address.
6 C. A facility providing a notice to the ombudsman under Minnesota Statutes, section
7 144G.52, subdivision 7, paragraph (a), must provide the notice as soon as
8 practicable, but in any event no later than two business days after the facility
9 provided notice to the resident. The notice must include a phone number for the
10 resident, or, if the resident does not have a phone number, the phone number of
11 the resident's representative or case manager.

Subp. 6. Resident-relocation evaluation.

- 13 A. If the facility terminates the resident's contract or the resident plans to move out
14 of the facility because the facility has initiated the pretermination or termination
15 process, the facility must prepare a written resident-relocation evaluation. The
16 evaluation must include:
17 1) the resident's current service plan;
18 2) a list of safe and appropriate housing and service providers that are in
19 reasonably close geographic proximity to the facility and are able to accept a
20 new resident;
21 3) the resident's needs and choices; and
22 4) the right of the resident to tour the safe location and appropriate service
23 provider, if applicable, prior to relocation.
24 B. The facility must provide a written copy of the resident relocation evaluation to
25 the resident and the resident's representatives and case manager as soon as
26 practicable but no later than the planning conference under subpart 7, item A.
27

Subp. 7. Resident-relocation plan.

- 29 A. If the facility terminates the resident's contract or the resident plans to move out
30 of the facility because the facility has initiated the pretermination or termination
31 process, the facility must hold a planning conference to develop a written
32 relocation plan with the resident, the resident's representative and case manager,
33 if any, and other individuals invited by the resident.
34 B. The relocation plan must incorporate the relocation evaluation developed in
35 subpart 6.
36 C. The resident-relocation plan must include:
37 1) the date and time that the resident will move;
38 2) the contact information of the receiving facility;
39 3) how the resident and the resident's personal property, including pets, will
40 be transported to the new housing provider

- 1 4) how the facility will care for and store the resident's belongings;
- 2 5) recommendations to assist the resident to adjust to the new living
- 3 environment;
- 4 6) recommendations for addressing the stress that a resident with dementia
- 5 may experience when moving to a new living environment, if applicable;
- 6 7) recommendations for ensuring the safe and proper transfer of the
- 7 resident's medications and durable medical equipment;
- 8 8) arrangements that have been made for the resident's follow-up care and
- 9 meals;
- 10 9) a plan for transferring and reconnecting phone, internet services, and any
- 11 electronic monitoring equipment; and
- 12 10) who is responsible for paying moving expenses and how the expenses will
- 13 be paid.

14 D. The facility must implement the relocation plan, must comply with the
 15 coordinated move requirements in Minnesota Statute, section 144G.55, and must
 16 provide a copy of the plan to the resident, and with the resident's consent, the
 17 resident's representatives and case manager, if applicable.

18 **Subp. 8. Providing resident-relocation information to receiving facility or other**
 19 **service provider.**

20 In addition to the requirements in Minnesota Statutes, section 144G.43, subdivision 4,
 21 and with the resident's consent, the facility must provide the following information in
 22 writing to the resident's receiving facility or other service provider:

- 23 A. the name and address of the facility, the dates of the resident's admission and
- 24 discharge, and the name and address of a person at the facility to contact for
- 25 additional information;
- 26 B. names and addresses of any significant social or community contacts the resident
- 27 has identified to the facility;
- 28 C. the resident's most recent service or care plan, if the resident has received services
- 29 from the facility; and
- 30 D. the resident's current "do not resuscitate" order and "physician order for life
- 31 sustaining treatment," if any.

32 **Subp. 9. Resident discharge summary.**

33 At the time of discharge, the facility must provide the resident, and, with the resident's
 34 consent, the resident's representatives and case manager, with a written discharge
 35 summary that includes:

- 36 A. a summary of the resident's stay that includes diagnoses, courses of illnesses,
- 37 allergies, treatments, and therapies, and pertinent lab, radiology, and consultation
- 38 results;
- 39 B. a final summary of the resident's status from the latest assessment or review
- 40 under Minnesota Statutes, section 144G.70, if applicable, which includes the

- 1 resident status, including baseline and current mental, behavioral, and functional
2 status;
- 3 C. a reconciliation of all pre-discharge medications with the resident's post-
4 discharge prescribed and over-the-counter medications; and
- 5 D. a post-discharge care plan that is developed with the resident and, with the
6 resident's consent, the resident's representatives, which will help the resident
7 adjust to a new living environment. The post-discharge care plan must indicate
8 where the resident plans to reside, any arrangements that have been made for the
9 resident's follow-up care, and any post-discharge medical and non-medical
10 services the resident will need.

11 **Subp. 10. Services pending appeal.**

12 If the resident needs additional services during a pending termination appeal, the facility
13 must contact and inform the resident's case manager of the resident's responsibility to
14 contract and ensure payment for those services according to Minnesota Statutes, section
15 144G.54, subdivision 6.

16 **Subp. 11. Expedited termination.**

- 17 A. A facility seeking an expedited termination under Minnesota Statutes, section
18 144G.52, subdivision 5, must comply with all of the requirements of this rule part.
- 19 B. If the facility seeks a termination or expedited termination on the basis of
20 Minnesota Statutes, section 144G.52, subdivision 5(b)(2), the facility must
21 provide the assessment that forms the basis of the expedited termination to the
22 resident with the notice of termination and include the name and contact
23 information of any medical professionals who performed the assessment.
24

1 **4659.0075 CONDITIONS FOR PLANNED CLOSURES.**

2 **Subpart 1. Planned closure; notifying commissioner and ombudsman.**

3 A. Before voluntarily closing, a facility must submit to the commissioner and the
4 ombudsman the following in writing:

5 1) the proposed closure plan; and

6 2) the name and contact information of another individual, in addition to
7 the facility director, responsible for the daily operation and management
8 of the facility during the facility's closure process.

9 B. A facility may not accept new residents or enter into new assisted living
10 contracts for any new residents as of the date that written notification of the
11 closure is submitted under item A.

12 C. A licensee must comply with the requirements of this rule part when the
13 licensee decides to not renew the housing contracts of all of its residents.

14 **Subp. 2. Proposed closure plan; contents.**

15 A facility's proposed closure plan must include:

16 A. the reason for the closure and the proposed date of closure;

17 B. a proposed timetable for relocating residents, and how the facility will
18 facilitate residents' relocations;

19 C. a list identifying each resident that will need to be relocated;

20 D. for those residents identified under item C:

21 1) the resident's current levels of care, whether the resident receives
22 services from the facility, and any special needs or medical conditions;

23 2) the resident's payment source and, if applicable, medical assistance
24 identification number;

25 3) the names and contact information of the resident's representatives and
26 case manager, if any; and

27 4) those residents who do not have a representative or case manager but that
28 the facility has reason to believe may have diminished cognitive capacity;

29 E. identification of at least two safe and appropriate housing providers and, for
30 residents receiving services, appropriate service providers that are in reasonably
31 close geographic proximity to the facility and may be able to accept a resident;

32 F. the roles and responsibilities of the licensee, assisted living director, and any
33 temporary managers or monitors during the closure process, and their contact

- 1 information;
- 2 G. policies and procedures for ongoing operations and management of the facility
- 3 during the closure process that ensure:
- 4 1) payment of all operating expenses;
- 5 2) staffing and resources to continue providing services, medications,
- 6 treatments, and supplies to meet each resident's needs, as ordered by the
- 7 resident's physician or practitioner, until closure;
- 8 3) residents' meals, medications, and treatments are not disrupted during
- 9 the closure process;
- 10 4) transportation of residents during discharge and transfer;
- 11 5) residents' telephone, internet services, and any electronic monitoring
- 12 equipment are transferred and reconnected;
- 13 6) residents' personal funds are accounted for, maintained, and reported
- 14 to the resident and resident's representative during the closure process;
- 15 and
- 16 7) residents' belongings are labeled and kept safe, and residents are given
- 17 contact information for retrieving missing items after the facility has
- 18 closed.

19 **Subp. 3. Commissioner acknowledgment of notice.**

- 20 A. Within fourteen calendar days of receiving notice under subpart 1, the commissioner
- 21 shall acknowledge receipt in writing of a facility's planned closure to the licensee.
- 22 B. Within 45 calendar days of acknowledging receipt of the notice under subpart
- 23 1, the commissioner shall approve the proposed closure plan and verify in writing
- 24 the effective date of the closure to the licensee.
- 25 1) During this period, the commissioner may contact the licensee about
- 26 necessary amendments to the closure plan before the commissioner
- 27 approves it and verifies the effective date of the closure.
- 28 2) During this period, the licensee must establish and maintain ongoing
- 29 communication with the commissioner regarding the status of the closure
- 30 of the facility and timely respond to the commissioner's inquiries.
- 31 C. When the commissioner receives written notices of at least three license
- 32 relinquishments or planned closures within 30 calendar days from the same
- 33 licensee, the commissioner shall approve and verify the effective date of each
- 34 closure in writing to the licensee within 75 calendar days of acknowledging
- 35 receipt of the third notice.

1 D. No residents may be relocated pursuant to a proposed closure plan until the
2 commissioner approves the proposed closure plan or until a modified closure plan
3 is agreed upon by the commissioner and the licensee.

4 **Subp. 4. Notice to residents.**

5 The licensee shall provide the same written notice of the closure to each resident and the
6 resident's representatives and case manager that was submitted in subpart 1 and approved
7 by the commissioner. The notice must include a primary facility contact that the resident
8 and the resident's representatives and case manager can contact to discuss relocating the
9 resident out of the facility due to the planned closure.

10 **Subp. 5. Resident relocation evaluation.**

11 A. After the commissioner approves the closure plan, the facility must prepare a
12 written resident relocation evaluation for each resident identified under subpart 2,
13 item C. The evaluation must include:

- 14 1) the resident's current service plans;
- 15 2) the list of safe and appropriate housing and service providers identified
16 under subpart 2, item E;
- 17 3) the resident's needs and choices; and
- 18 4) the right of the resident to tour the safe location and appropriate service
19 provider, if applicable, prior to relocation.

20 B. The facility must provide a written copy of the resident relocation evaluation to
21 the resident and the resident's representatives and case manager as soon as
22 practicable but no later than the planning conference under subpart 6, item A.

23 **Subp. 6. Resident relocation plan.**

24 A. The facility must hold a planning conference to develop a written resident
25 relocation plan with each resident and the resident's representative, case manager,
26 and other individuals invited by the resident to the planning conference.

27 B. The relocation plan must incorporate the relocation evaluation developed
28 in subpart 5.

29 C. The resident relocation plan must comply with part 4659.0070 (discharge
30 planning), subpart 7, item C.

31 D. The facility must implement the resident relocation plan, must comply with the
32 coordinated move requirements under Minnesota Statutes, section 144G.55, and
33 must provide a copy of the resident relocation plan to the resident, and with the
34 resident's consent, the resident's representatives and case manager, if applicable.

35 E. The department may visit the facility to monitor the closure process.

1 **Subp. 7. Resident relocation verification.**

2 Within fourteen calendar days of all residents having left the facility, the licensee, based
3 on information provided by the resident or resident's representative, case manager, or
4 family member, shall notify the commissioner in writing that the licensee completed the
5 closure and verify to the commissioner that the licensee complied with the coordinated
6 move requirements in Minnesota Statutes, section 144G.55.

7 **Subp. 8. Information regarding resident relocation to receiving provider.**

8 The facility must comply with part 4659.0070, subpart 8, for all residents that relocate
9 due to the closure.

10 **Subp. 9. Disbursing resident funds.**

11 Within 30 calendar days of the effective date of the facility closure, the facility must
12 follow the requirements of Minnesota Statute, section 144G.42, subdivision 5.

13 **Subp. 10. Resident discharge summary.**

14 When a resident moves out of the facility, the facility must provide the resident with a
15 written discharge summary that complies with part 4659.0070, subpart 9.

16 **Subp. 11. License forfeiture.**

17 The licensee forfeits its assisted living facility license or assisted living facility with
18 dementia care license upon the effective date of closure identified in subpart 3.

1 **4659.0100 INITIAL ASSESSMENTS AND CONTINUING ASSESSMENTS**

2 **Subpart 1. Admissions.**

- 3 A. The assisted living director, in cooperation with the clinical nurse supervisor, is
4 responsible for admitting residents to the facility according to the facility's
5 admission policies.
- 6 B. Unless otherwise provided by law, an assisted living facility must not admit or
7 retain a resident unless it can provide sufficient care and supervision to meet the
8 resident's needs, based on the resident's known physical, mental, or behavioral
9 condition.
- 10 C. Prospective residents who are denied admission must be informed of the reason
11 for the denial.

12 **Subp. 2. Nursing Assessment.**

- 13 A. A nursing assessment or reassessment under Minnesota Statutes, section 144G.70,
14 subdivision 2, paragraphs (b) and (c), must be conducted on a prospective resident
15 or resident receiving any of the assisted living services identified in Minnesota
16 Statutes, section 144G.08, subdivision 9, paragraphs 6 – 12.
- 17 B. The nursing assessment or reassessment under item A must:
- 18 1) address items A-N of part 4659.0105, subpart 2;
19 2) be conducted in person unless an exception under Minnesota Statutes,
20 section 144G.70, subdivision 2, paragraph (b) applies;
21 3) be conducted using a uniform assessment tool that complies with
22 Minnesota Rule part 4659.0105; and
23 4) be in writing, dated, and signed by the registered nurse who conducted the
24 assessment.

25 **Subp. 3. Individualized Review.**

- 26 A. An individualized review or subsequent review under Minnesota Statutes, section
27 144G.70, subdivision 2, paragraphs (c) and (d), must be conducted for a
28 prospective resident or resident receiving only the assisted living services
29 identified in Minnesota Statutes, section 144G.08, subdivision 9, paragraphs 1-5.
- 30 B. An individualized initial review or review under Minnesota Statutes, section
31 144G.70, subdivision 2, paragraph (d), for a prospective resident or resident must:
- 32 1) address items A-C and N of part 4659.0105, subpart 2;
33 2) be conducted in person unless an exception like that under Minnesota
34 Statutes, section 144G.70, subdivision 2, paragraph (b) applies;
35 3) be conducted using a uniform assessment tool that complies with
36 Minnesota Rule part 4659.0105; and
37 4) be in writing, dated, and signed by the individual who completed the
38 review.
- 39
- 40

1 **Subp. 4. Assessor; Qualifications.**
2 A. A registered nurse shall complete nursing assessments and reassessments.
3 B. A staff member who meets the qualifications set forth in Minnesota Statutes,
4 section 144G.60, subdivision 2, shall conduct the individualized initial review and
5 subsequent reviews.
6

6 **Subp. 5. Temporary Service Plan Admission.**
7 If a facility admits an individual according to a temporary service plan under Minnesota
8 Statutes, section 144G.70, subdivision 3, the nurse assessment must be conducted within
9 72 hours of initiating services.

10 **Subp. 6. Consumer Protections under Temporary Service Plan.**
11 An individual who is admitted to an assisted living facility under a temporary service
12 plan under Minnesota Statutes, section 144G.70, subdivision 3, and has not executed an
13 assisted living contract shall receive the same consumer protections and rights under
14 Chapter 144G provided to a resident who has executed an assisted living contract.

15 **Subp. 7. Weekend Assessments.**
16 An assisted living facility must be able to conduct a nursing assessment during the
17 weekend for a resident who is ready to be discharged from the hospital and return to the
18 facility.

1 **4659.0105 UNIFORM ASSESSMENT TOOL**

2 **Subpart 1. Definiton. The term used in part has meaning given in this subpart**

3 “Uniform Assessment Tool” means an assessment tool that meets the requirements of this
4 rule and is used by a licensee to comprehensively evaluate a resident’s or prospective
5 resident’s physical and cognitive needs.

6 **Subp. 2. Assessment Tool Elements.**

7 Each facility must develop a uniform assessment tool. The facility may use any
8 acceptable form or format for the tool, such as an online or a hard-copy paper assessment
9 tool, as long as the tool includes the elements identified in this subpart A uniform
10 assessment tool must address the following:

11 A. the resident's personal lifestyle preferences, including:

- 12 1) sleep schedule, dietary and social needs, leisure activities, and any other
13 customary routine that is important to the resident’s quality of life;
14 2) spiritual and cultural preferences; and
15 3) advance healthcare directives and end-of-life preferences, including
16 whether a person has or wants to seek a “do not resuscitate” order and “do
17 not attempt resuscitation order” or “physician/provider orders for life
18 sustaining treatment” order;

19 B. activities of daily living, including:

- 20 1) toileting pattern, bowel, and bladder control;
21 2) dressing, grooming, bathing, and personal hygiene;
22 3) mobility, including ambulation, transfers, and assistive devices; and
23 4) eating, dental status, oral care, and assistive devices and dentures, if
24 applicable;

25 C. independent activities of daily living, including:

- 26 1) ability to self-manage medications;
27 2) housework and laundry; and
28 3) transportation;

29 D. physical health status, including

- 30 1) a review of relevant health history and current health conditions including
31 medical and nursing diagnoses;
32 2) allergies and sensitivities related to medication, seasonality, environment,
33 and food and if any of the allergies or sensitivities are life threatening;
34 3) infectious conditions;
35 4) a review of medications according to Minnesota Statutes, section 144G.71,
36 subdivision 2, including prescriptions, over-the-counter medications, and
37 supplements, and for each:
38 a. the reason taken;
39 b. any side effects, contraindications, allergic or adverse reactions,
40 and actions to address these issues;

- 1 c. dosage;
 - 2 d. frequency of use;
 - 3 e. route administered or taken;
 - 4 f. any difficulties the resident faces in taking the medication;
 - 5 g. whether the resident self-administers the medication;
 - 6 h. the resident's preferences in how to take medication;
 - 7 i. interventions needed in management of medications to prevent
 - 8 diversion of medication by the resident or others who may have
 - 9 access to the medications; and
 - 10 j. provide instructions to the resident and resident's legal or
 - 11 designated representatives on interventions to manage the
 - 12 resident's medications and prevent diversion of medications.
- 13 5) a review of medical, dental, and emergency room visits in the past 12
 - 14 months, including visits to a primary health care provider, hospitalizations,
 - 15 surgeries, and care from a post-acute care facility;
 - 16 6) a review of any reports from a physical therapist, occupational therapist,
 - 17 speech therapist, or cognitive evaluations within the last 12 months;
 - 18 7) weight; and
 - 19 8) initial vital signs if indicated by health conditions or medications;
- 20 E. emotional and mental-health conditions, including:
- 21 1) review of history of and any diagnoses of mood disorders including
 - 22 depression, anxiety, bipolar disorder, and thought or behavioral disorders;
 - 23 2) current symptoms of mental health conditions and behavioral expressions
 - 24 of concerns; and
 - 25 3) effective medication treatment and non-medication interventions;
- 26 F. cognition, including:
- 27 1) review of any neurocognitive evaluations and diagnoses; and
 - 28 2) current memory, orientation, confusion, and decision-making status and
 - 29 ability;
- 30 G. communication and sensory capabilities, including:
- 31 1) hearing;
 - 32 2) vision;
 - 33 3) speech;
 - 34 4) assistive communication and sensory devices including hearing aids; and
 - 35 5) the ability to understand and be understood;
- 36 H. pain, including:
- 37 1) location, frequency, intensity, and duration; and
 - 38 2) effectiveness of medication and non-medication alternatives;
- 39 I. skin conditions;
- 40 J. nutritional and hydration status and preferences;
- 41 K. list of treatments, including type, frequency, and level of assistance needed;
- 42 L. nursing needs, including potential to receive nursing-delegated services;

- 1 M. risk indicators, including:
 2 1) risk for falls including history of falls;
 3 2) emergency-evacuation ability;
 4 3) complex medication regimen;
 5 4) risk for dehydration including history of urinary tract infections and
 6 current fluid intake pattern;
 7 5) risk for emotional or psychological distress due to personal losses;
 8 6) unsuccessful prior placements;
 9 7) elopement risk including history or previous elopements;
 10 8) smoking, including the ability to smoke without causing burns or injury to
 11 the resident or others or damage to property; and
 12 9) alcohol and drug use, including the resident's alcohol use or drug use not
 13 prescribed by a physician; and
 14 N. who has decision-making authority for the resident, including:
 15 1) the presence of any advance healthcare directive or other legal document
 16 that establishes a substitute decision-maker; and
 17 2) the scope of decision-making authority of a substitute decision maker
 18 under subitem (1);
 19 O. the need for follow-up referrals for additional medical or cognitive care by health
 20 professionals.

21 **Subp. 3. Recordkeeping.** Assessment tool results, including those from an assessment
 22 supplement, must be maintained in the resident's record as required under Minnesota
 23 Statutes, section 144G.43.

24 **Subp. 4. Licensee Attestation.**

25 An applicant for an assisted living facility license or a licensee renewing an assisted
 26 living facility license must attest to the commissioner in a manner determined by the
 27 commissioner that the uniform assessment tool used by the applicant or licensee complies
 28 with this rule part.

29 **Subp. 5. Department access to the Uniform Assessment Tool.**

30 At the time of a survey, investigation, or other licensing activity the licensee must
 31 provide the department access to or copy of the uniform assessment tool as required under
 32 Minnesota Statutes, section 144G.30, subdivision 4, to verify the compliance with this rule.

1 **4659.0130 RELINQUISHING AN ASSISTED LIVING FACILITY WITH DEMENTIA CARE**
2 **LICENSE.**

3 **Subpart 1. Voluntary relinquishment; notifying commissioner and ombudsman.**

- 4 A. Before relinquishing an assisted living facility with dementia care license, a licensee shall
5 submit to the commissioner and ombudsman in writing:
6 1) the transition plan; and
7 2) the name and contact information of another individual, in addition to the facility
8 director, responsible for the daily operation and management of the facility during
9 the relinquishment process.

10
11 **Subp. 2. Transitional plan; contents.**

12 In addition to the requirements under Minnesota Statutes, section 144G.80, subdivision 3,
13 paragraph (a), clause (2), the transition plan must include:

- 14
15 A. the reason for relinquishing the license and the proposed date of relinquishment;
16 B. the proposed timetable for resident transitions, the resources that the facility will provide,
17 and how the facility will facilitate resident transitions;
18 C. a list of residents who may require a change in service plan because of the relinquishment
19 and a description of the residents' respective levels of care, special needs, or conditions;
20 D. a list identifying each resident, if any, to whom the facility expects to issue a notice of
21 termination of housing or assisted living services because of relinquishment; and
22
23

24 **Subp. 3. Notice to residents.**

- 25 A. Along with the notice to residents required under Minnesota Statutes, section 144G.80,
26 subdivision 3, the facility shall:
27 1) notify all residents and their representatives and case managers, if any, in writing
28 of the license relinquishment, the proposed date that the license will be relinquished,
29 and the reason for the license relinquishment; and
30 2) provide a primary facility contact that the resident and the resident's representative
31 and case manager, if any, can contact to discuss transitioning the resident out of
32 the facility.
33 B. Once the facility has notified residents according to item A, the facility must revise
34 advertising materials and disclosure information to remove any reference that the facility
35 is an assisted living facility with dementia care and communicate to all potential residents
36 and new residents entering the facility that the licensee will be relinquishing its license.
37

38 **Subp. 4. Resident relocation evaluation.**

- 39 A. For each resident identified according to subpart 2, item D, whose contract the facility
40 terminates, the facility must prepare a resident relocation evaluation and comply with part
41 4659.0070, subpart 6.
42 B. The relocation evaluation under item A may include recommendations for continuing to
43 receive housing and assisted living services from the assisted living facility that is

1 relinquishing its assisted living facility with dementia care license.
2

3 **Subp. 5. Resident relocation plan.**

4 A. For each resident identified in subpart 2, item D, whose contract the facility terminates, the
5 facility must hold a planning conference to develop a relocation plan and comply with part
6 4659.0070, subpart 7.
7

8 **Subp. 6. Verifying resident relocation.**

9 Within fourteen calendar days of all residents identified in subpart 2, item D, whose contracts the
10 facility terminates, having left the facility, the licensee, based on information provided by each
11 resident or resident's representative, case manager, or family member, shall verify to the
12 commissioner in writing that the residents are safely relocated in accordance with this rule part
13 and the coordinated move requirements in Minnesota Statutes, section 144G.55.

14 **Subp. 7. Information regarding resident relocation to receiving provider.**

15 The facility must comply with part 4659.0070 (discharge planning), subpart 8, for all residents
16 that relocate due to the license relinquishment.

17 **Subp. 8. Disbursement of resident funds.**

18 Within 30 calendar days of the effective date of the license relinquishment, the facility must
19 follow the requirements of Minnesota Statutes, section 144G.42, subdivision 5, for all residents
20 that relocate due to the license relinquishment.

21 **Subp. 9. Resident discharge summary.**

22 When a resident moves out of the facility, the facility must provide the resident with a written
23 discharge summary that complies with part 4659.0070 (discharge planning), subpart 9.

24 **Subp. 10. Assisted living facility with dementia care license forfeiture.**

- 25 A. The licensee forfeits its assisted living facility with a dementia care license upon the
26 proposed date of license relinquishment under subpart 2, item A, unless the commissioner
27 has approved of an extension to that date in writing.
28 B. The commissioner shall reclassify the license to the assisted living facility license
29 category as of the date of relinquishment.
30 C. A licensee shall not reapply for an assisted living facility with dementia care license until
31 one year after the date of license relinquishment.

1 **4659.XXXX DISEASE PREVENTION AND INFECTION CONTROL.**

2 Subpart 1. **Communicable diseases.** Assisted living facilities must follow state requirements for
3 reporting of communicable diseases under Minnesota Rules, parts 4605.7040, 4605.7044,
4 4605.7050, 4605.7075, 4605.7080, and 4605.7090.

5 Subp. 2. **Infection control program.** The facility's infection control program required under
6 Minnesota Statutes, section 144G.41, must be consistent with current guidelines for infection
7 prevention and control for long term care facilities from the national Center for Disease Control
8 and Prevention (CDC) and comply with accepted health care, medical, and nursing standards for
9 infection control.

1 **4659.XXXX STAFFING.**

2 **Subpart 1. Definition. The term used in this part has the meaning given in this**
3 **subpart.**

4 “Direct-care staff” means staff who provide services for residents that include assistance
5 with activities of daily living, medication administration, resident-focused activities,
6 supervision, and support.

7 **Subp. 2. Clinical nurse supervisor.**

8 The facility’s clinical nurse supervisor may also fulfill any of the responsibilities that a
9 registered nurse is required to perform at the facility under Minnesota Statute, chapter
10 144G.

11 **Subp. 3. Direct-care staffing; plan required.**

12 A clinical nurse supervisor must develop and implement a written staffing plan that
13 provides an adequate number of qualified direct-care staff to meet the residents’ needs
14 24-hours a day, seven-days a week. When developing a direct-care staffing plan, the
15 clinical nurse supervisor must ensure that staffing levels are adequate to address the
16 following:

- 17 A. each resident’s needs, as identified in the resident’s service plan and assisted
18 living contract;
- 19 B. each resident’s acuity level, as determined by the most recent assessment or
20 individualized review;
- 21 C. the ability of staff to timely meet the residents’ scheduled and reasonably
22 foreseeable unscheduled needs given the physical layout of the facility premises;
- 23 D. whether the facility has a secured dementia care unit; and
- 24 E. staff experience, training and competency.
- 25

26 **Subp. 4. Daily Staffing Schedule.**

- 27 A. The clinical nurse supervisor must develop a 24-hour daily staffing schedule. The
28 schedule must:
- 29 1) include direct-care staff work schedules for each direct-care staff member
30 showing all work shifts, including days and hours worked; and
- 31 2) identify the direct-care staff member’s resident assignments or work
32 location.
- 33 B. The daily work schedule in Item A must be posted at the beginning of each work
34 shift in a central location on each floor of the facility, accessible to staff,
35 residents, volunteers and the public.
- 36

1 **Subp. 5. Direct-care staff availability.**

2
3 A minimum of two direct-care staff must be scheduled and available at all times
4 whenever a resident requires the assistance of two direct-care staff for scheduled and
5 unscheduled needs.

6 **Subp. 6. Direct-care staff availability: night supervision.**

7 During the hours of 10:00 p.m. to 6:00 a.m., direct-care staff shall respond to a resident's
8 request for assistance with health or safety needs as soon as possible, but no later than 10
9 minutes after the request is made.

8

1 **4659.XXXX TRAINING REQUIREMENTS.**

2 Subp. 1. **Training policy.** A facility must establish, implement, and keep current policies and
 3 procedures for staff orientation, training, and competency evaluation, and a process for evaluating
 staff performance as required under Minnesota Statutes, section 144G.41, subdivision 2, that
 meets:

- 4 (1) the orientation, training, and competency requirements under this rule part and Minnesota
 5 Statutes, section 144G.42, and sections 144G.60 through 144G.64; and
 6 (2) for a facility with an assisted living facility with dementia care license, the additional
 7 staff training requirements under Minnesota Statutes, sections 144G.80, 144G.82, and
 9 144G.83.

10
 11 Subp. 2. **Additional orientation.** In addition to the staff orientation requirements identified in
 12 subpart 1, the facility's training policy must include orientation training on:

- 13 (1) the staff person's job description upon hire and whenever there is a change to the job
 14 description that changes the nature of the job or how the job is to be performed;
 15 (2) the facility's organization chart and the roles of staff within the facility, and the services
 16 offered by the facility as identified in the uniform checklist disclosure of services; and
 17 (3) the identification of incidents of maltreatment as defined under Minnesota Statutes,
 18 section 626.5572, subdivision 15, including abuse, financial exploitation, and neglect,
 19 and an explanation that any act that constitutes maltreatment is prohibited.

20 Subp. 3. **Additional training requirements for assisted living facilities with dementia care**
 21 **licenses.**

22 A. In addition to the other training requirements identified in subpart 1, direct care dementia-
 23 trained staff under Minnesota Statute, section 144G.83, subdivision 1 and other staff having
 24 direct contact with residents of a facility that has an assisted living facility with dementia
 25 care license must receive training on the following topics:

- 26 (1) understanding cognitive impairment, and behavioral and psychological symptoms of
 27 dementia; and
 28 (2) standards of dementia care, including non-pharmacological dementia care practices
 29 that are person-centered and evidence-informed.

30
 31 B. A facility with an assisted living facility with dementia care license is responsible for
 32 ensuring and maintaining documentation that individuals providing or overseeing staff
 33 training relating to dementia and dementia care have the work experience and training
 34 required under Minnesota Statutes, section 144G.83, subdivision 3, and have successfully
 35 passed a skills competency or knowledge test required by the commissioner before the
 36 individual provides or oversees staff training. The commissioner must publish and update as
 37 needed a list of acceptable skills competency or knowledge tests on the department's website
 38 that are based on current best practice standards in the field of dementia care and meet
 39 requirements of Minnesota Statutes, section 144G.83, subdivision 3, clause (3).

40

1 Subp. 4. **Staff competency; retraining.** The facility's training policy must identify the
2 requirements for retraining staff when the facility determines that a staff person is not demonstrating
3 competency when performing assigned tasks. If retraining does not result in competency, the facility
4 must identify the additional steps it will follow to ensure the staff person achieves competency, the time
5 frame for completing the additional steps, and the actions the facility will take to protect resident rights
6 until competency is achieved.

7 Subp. 5. **Portability of staff training.**

- 8 A. Unlicensed personnel providing assisted living services who transfer from one licensed
9 assisted living facility to another or who are newly hired by a licensed assisted living facility
10 may satisfy the training requirements under Minnesota Statutes, section 144G.61, subdivision
11 2 by providing written proof of previously completed training within the past 18 months.
12
13 B. The facility must complete an evaluation of the competency of the unlicensed personnel in
14 the areas where the previously completed training is being accepted by the facility before the
15 staff person may provide assisted living services to residents. Competency evaluations must
16 be conducted by a competency evaluator under Minnesota Statute, section 144G.61,
17 subdivision 1 and maintained under Minnesota Statute, section 144G.42, subdivision 8 and
18 subpart 6 of this rule part.
19

20 Subp. 6. **Training records and certificate.**

- 21 A. The facility must maintain a record of staff training and competency required under this rule and
22 Minnesota Statutes, chapter 144G that documents the following information for each
23 competency evaluation, training, retraining, and orientation topic:
24 (1) Facility name, location, and license number;
25 (2) Name of the training topic or training program, and the training methodology (such as
26 classroom style, web-based training, video, or one-to-one training);
27 (3) Date of the training and the competency evaluation, and the total amount of time of the
28 training and competency evaluation;
29 (4) Name and title of the instructor and the instructor's signature, and the name and title of
30 the competency evaluator, if different from the instructor, and the evaluator's signature
31 with a statement attesting that the employee successfully completed the training and
32 competency evaluation; and
33 (5) Name and title of the staff person completing the training, and the staff person's signature
34 with a statement attesting that the staff person successfully completed the training as
35 described on the certificate.
36 B. A copy of the certificate of completed competency evaluation, training, retraining, or orientation
37 must be provided to the employee at the time the evaluation or training is completed.

1 **4659.XXXX Non-Renewal of Housing, Reduction in Services, and Required Notices.**

2 **Subpart 1. Relocation Requirements for Non-Renewal of Housing and Reduction in**
3 **Services.**

4 A facility that decides not to renew a resident's housing under Minnesota Statutes,
5 section 144G.53(a)(1) or that reduces a resident's services to the extent that the resident
6 is required to move under Minnesota Statutes, section 144G.55, subdivision 1, paragraph
7 (a) must comply with:

8 A. the following portions of rule part 4659.XXXX (discharge planning):

- 9 1) subpart 6;
10 2) subpart 7;
11 3) subpart 8; and
12 4) subpart 9.
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14 **Subp. 2. Service Reduction Notice.**

15 A. A facility providing notice to the ombudsman under Minnesota Statutes, section
16 144G.55, subdivision 1, paragraph (f), must provide the notice as soon as
17 practicable but no later than two calendar days after determining that the resident
18 will move.

19 B. The notice under item A must include:

- 20 1) the resident's name and contact information;
21 2) the names and contact information for the resident's representatives and
22 case manager, if any;
23 3) a description of the reduction of service; and
24 4) the reasons that the facility, resident, resident's representative, or case
25 manager has provided for why the reduction in services will require the
26 resident to move.

27 **Subp. 3. Change in Facility Operations Notice.**

28 A. A facility sending notice to the ombudsman or the Office of Ombudsman for
29 Mental Health and Developmental Disabilities under Minnesota Statutes, section
30 144G.56, subdivision 5, paragraph (a)(4), must provide the notice in writing and
31 as soon as practicable.

32 B. The notice under item A must include:

- 33 1) the effective date of the proposed transfer;
34 2) the facility's plan for notifying residents and their representatives, case
35 managers, and family members of the transfers;
36 3) the facility's plan for safely transferring residents and their belongings;
37 4) the facility's plans for minimizing the number of transfers, considering
38 residents' needs and preferences, and providing reasonable
39 accommodations to residents regarding the transfers; and

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5) the affected residents' names, living unit numbers, and phone numbers or, if the affected residents do not have phone numbers, their representatives phone numbers.

1 **4659.XXXX TERMINATION APPEALS; PROCEDURES AND TIMELINES FOR**
2 **APPEALS**

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Subp. 1. Resident Appeal Notice of Termination

- A. Upon receipt of the facility's written notice of an assisted living contract termination, a resident has:
- 1) 30 calendar days to appeal a termination under Minn. Stat. §144G.52, subd. 7(b) based on non-payment of rent or services, or violating the assisted living contract; and
 - 2) 15 calendar days to appeal an expedited termination of housing or services under Minn. Stat. §144G.52, subd. 7(c).

Subp. 2. Contact Commissioner to Start Appeal

- A. Within the timelines stated in subpart 1, Item A, the resident or a representative acting on the resident's behalf shall contact the department in writing to request an appeal of the termination. The request shall be made in writing and submitted by mail to the department. The failure of a resident to request a hearing within the provided timelines constitutes a waiver of the right to a hearing.

Subp. 3. Hearing Process.

- A. Hearings under Minn. Stat. § 144G.54 shall be held according to the Minnesota Revenue Recapture Act in Minnesota Rules, parts 1400.8505 to 1400.8612, unless the chief administrative law judge determines, under Minn. Stat. § 144G.54, subd. 3(c), that the hearing should be a formal contested case proceeding
- B. Formal contested case proceedings shall be held according to Minnesota Statutes, sections 14.57 to 14.62 and Minnesota Rules, parts 1400.5010 to 1400.8400.
- C. If the resident is unable to represent him or herself at the hearing or wishes to have a representative present on the resident's behalf, a representative of the resident may present the resident's appeal to the administrative law judge on the resident's behalf.
- D. In cases involving unrepresented residents, the administrative law judge shall take appropriate steps to identify and develop in the hearing relevant facts necessary for making an informed and fair decision. An unrepresented resident shall be provided an adequate opportunity to respond to testimony or other evidence presented at the hearing. The administrative law judge shall ensure that an unrepresented resident has a full and reasonable opportunity at the hearing to establish a record for appeal.

Subp. 4. Order of the commissioner.

If a hearing has been held, the commissioner may issue a final order within 14 calendar

1 days after receipt of the recommendation of the administrative law judge. The parties
2 may, within those 14 calendar days, submit additional written argument to the
3 commissioner on the recommendation and the commissioner will consider the written
4 arguments. If the commissioner does not issue a final order within 14 calendar days after
5 receipt of the recommendation, the recommendation of the administrative law judge
6 constitutes the final order. Final orders may be appealed in the manner provided in
7 sections 14.63 to 14.69.

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1 **4659.0050 Fines for Noncompliance.**

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3 Fines for violations of parts 4659.0075 and 4659.0130 will be assessed under Minnesota Statutes,
4 section 144G.31.