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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 90

- 01/17/2019 Authored by Schultz, Olson, Bernardy, Becker-Finn, Cantrell and others
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
02/25/2019 Adoption of Report: Amended and re-referred to the Judiciary Finance and Civil Law Division
03/04/2019 Adoption of Report: Amended and re-referred to the Committee on Government Operations
03/07/2019 Adoption of Report: Re-referred to the Committee on Commerce
03/14/2019 Adoption of Report: Amended and re-referred to the Committee on Ways and Means
04/26/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
05/10/2019 Calendar for the Day, Amended
Read Third Time as Amended
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments
05/19/2019 Returned to the House as Amended by the Senate
The House concurred in the Senate Amendments and repassed the bill as Amended by the Senate
05/22/2019 Presented to Governor
Governor Approval

A bill for an act

relating to health; establishing consumer protections for residents of assisted living establishments; prohibiting deceptive marketing and business practices; establishing provisions for independent senior living facilities; establishing an assisted living establishment license; changing the name for Board of Examiners for Nursing Home Administrators; imposing fees; establishing a health services executive license; making certain conforming changes; providing penalties; granting rulemaking authority; requiring reports; appropriating money; amending Minnesota Statutes 2018, sections 144.051, subdivisions 4, 5, 6; 144.052, subdivision 1; 144.122; 144A.04, subdivision 5; 144A.19, subdivision 1; 144A.20, subdivision 1, by adding subdivisions; 144A.21; 144A.23; 144A.24; 144A.251; 144A.2511; 144A.26; 144A.44, subdivision 1; 144A.471, subdivisions 7, 9; 144A.472, subdivision 7; 144A.474, subdivisions 9, 11, by adding a subdivision; 144A.475, subdivisions 3b, 5; 144A.476, subdivision 1; 144A.4799; 256.9741, subdivision 1; 256I.03, subdivision 15; 256I.04, subdivision 2a; 325F.72, subdivisions 1, 2; 626.5572, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 144; 144G; 256M; 325F; proposing coding for new law as Minnesota Statutes, chapter 144I; repealing Minnesota Statutes 2018, sections 144A.441; 144A.442; 144A.472, subdivision 1; 144D.01; 144D.015; 144D.02; 144D.025; 144D.03; 144D.04; 144D.045; 144D.05; 144D.06; 144D.065; 144D.066; 144D.07; 144D.08; 144D.09; 144D.10; 144D.11; 144G.01; 144G.02; 144G.03; 144G.04; 144G.05; 144G.06.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

ASSISTED LIVING LICENSURE

Section 144.122 Minnesota Statutes 2018, section 144.122, is amended to read:

144.122 LICENSE, PERMIT, AND SURVEY FEES.

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the

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

148.7 (d) The department shall not issue any license if the applicant or owner or managerial  
 148.8 official has been unsuccessful in having a background study disqualification set aside under  
 148.9 section 144.057 and chapter 210C; if the owner or managerial official, as an owner or  
 148.10 managerial official of another home care provider, was substantially responsible for the  
 148.11 other home care provider's failure to substantially comply with sections 144A.43 to  
 148.12 144A.48; or if an owner that has ceased doing business, either individually or as an owner  
 148.13 of a home care provider, was issued a correction order for failing to assist clients in violation  
 148.14 of this chapter.

148.15 Sec. 26. Minnesota Statutes 2018, section 144A.4799, is amended to read:

148.16 **144A.4799 DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER**  
 148.17 **ADVISORY COUNCIL.**

148.18 Subdivision 1. **Membership.** The commissioner of health shall appoint eight persons  
 148.19 to a home care and assisted living program advisory council consisting of the following:

148.20 (1) three public members as defined in section 214.02 who shall be ~~either~~ persons who  
 148.21 are currently receiving home care services ~~or~~ persons who have received home care services  
 148.22 within five years of the application date, persons who have family members receiving home  
 148.23 care services, or persons who have family members who have received home care services  
 148.24 within five years of the application date;

148.25 (2) three Minnesota home care licensees representing basic and comprehensive levels  
 148.26 of licensure who may be a managerial official, an administrator, a supervising registered  
 148.27 nurse, or an unlicensed personnel performing home care tasks;

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

148.29 (4) one member representing the office of ombudsman for long-term care; and

148.30 (5) beginning July 1, 2021, one member of a county health and human services or county  
 148.31 adult protection office.

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

149.6 Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide  
149.7 advice regarding regulations of Department of Health licensed home care providers in this  
149.8 chapter, including advice on the following:

149.9 (1) community standards for home care practices;

149.10 (2) enforcement of licensing standards and whether certain disciplinary actions are  
149.11 appropriate;

149.12 (3) ways of distributing information to licensees and consumers of home care;

149.13 (4) training standards;

149.14 (5) identifying emerging issues and opportunities in the home care field, including;

149.15 (6) identifying the use of technology in home and telehealth capabilities;

149.16 ~~(6)~~ (7) allowable home care licensing modifications and exemptions, including a method  
149.17 for an integrated license with an existing license for rural licensed nursing homes to provide  
149.18 limited home care services in an adjacent independent living apartment building owned by  
149.19 the licensed nursing home; and

149.20 ~~(7)~~ (8) recommendations for studies using the data in section 62U.04, subdivision 4,  
149.21 including but not limited to studies concerning costs related to dementia and chronic disease  
149.22 among an elderly population over 60 and additional long-term care costs, as described in  
149.23 section 62U.10, subdivision 6.

149.24 (b) The advisory council shall perform other duties as directed by the commissioner.

149.25 (c) The advisory council shall annually ~~review the balance of the account in the state~~  
149.26 ~~government special revenue fund described in section 144A.474, subdivision 11, paragraph~~  
149.27 ~~(i), and make annual recommendations by January 15 directly to the chairs and ranking~~  
149.28 ~~minority members of the legislative committees with jurisdiction over health and human~~  
149.29 ~~services regarding appropriations to the commissioner for the purposes in section 144A.474,~~  
149.30 ~~subdivision 11, paragraph (i). The recommendations shall address ways the commissioner~~  
149.31 may improve protection of the public under existing statutes and laws and include but are  
149.32 not limited to projects that create and administer training of licensees and their employees

150.1 to improve residents lives, supporting ways that licensees can improve and enhance quality  
 150.2 care, ways to provide technical assistance to licensees to improve compliance; information  
 150.3 technology and data projects that analyze and communicate information about trends of  
 150.4 violations or lead to ways of improving client care; communications strategies to licensees  
 150.5 and the public; and other projects or pilots that benefit clients, families, and the public.

150.6 Sec. 27. Minnesota Statutes 2018, section 256.9741, subdivision 1, is amended to read:

150.7 Subdivision 1. **Long-term care facility.** "Long-term care facility" means a nursing home  
 150.8 licensed under sections 144A.02 to 144A.10; a boarding care home licensed under sections  
 150.9 144.50 to 144.56; an assisted living facility or an assisted living facility with dementia care  
 150.10 licensed under chapter 144I; or a licensed or registered residential setting that provides or  
 150.11 arranges for the provision of home care services.

150.12 Sec. 28. Minnesota Statutes 2018, section 256I.03, subdivision 15, is amended to read:

150.13 Subd. 15. **Supportive housing.** "Supportive housing" means housing ~~with support~~  
 150.14 ~~services according to the continuum of care coordinated assessment system established~~  
 150.15 ~~under Code of Federal Regulations, title 24, section 57.3~~ that is not time-limited and  
 150.16 provides or coordinates services necessary for a resident to maintain housing stability.

150.17 Sec. 29. Minnesota Statutes 2018, section 256I.04, subdivision 2a, is amended to read:

150.18 Subd. 2a. **License required; staffing qualifications.** (a) Except as provided in paragraph  
 150.19 (b), an agency may not enter into an agreement with an establishment to provide housing  
 150.20 support unless:

150.21 (1) the establishment is licensed by the Department of Health as a hotel and restaurant;  
 150.22 a board and lodging establishment; a boarding care home before March 1, 1985; or a  
 150.23 supervised living facility, and the service provider for residents of the facility is licensed  
 150.24 under chapter 245A. However, an establishment licensed by the Department of Health to  
 150.25 provide lodging need not also be licensed to provide board if meals are being supplied to  
 150.26 residents under a contract with a food vendor who is licensed by the Department of Health;

150.27 (2) the residence is: (i) licensed by the commissioner of human services under Minnesota  
 150.28 Rules, parts 9555.5050 to 9555.6265; (ii) certified by a county human services agency prior  
 150.29 to July 1, 1992, using the standards under Minnesota Rules, parts 9555.5050 to 9555.6265;  
 150.30 (iii) licensed by the commissioner under Minnesota Rules, parts 2960.0010 to 2960.0120,  
 150.31 with a variance under section 245A.04, subdivision 9; or (iv) licensed under section 245D.02,

155.1 long-term care. The base for this appropriation is \$2,512,000 in fiscal year 2022 and  
155.2 \$2,512,000 in fiscal year 2023.

155.3 (c) Of the amount in paragraph (a), \$1,456,000 in fiscal year 2020 and \$635,000 in fiscal  
155.4 year 2021 are for administrative and information technology costs to implement 24/7 capacity  
155.5 for Minnesota Adult Abuse Reporting Center. The base for this appropriation is \$472,000  
155.6 in fiscal year 2022 and \$472,000 in fiscal year 2023.

155.7 (d) Of the amount in paragraph (a), \$1,000,000 in fiscal year 2020 and \$1,500,000 in  
155.8 fiscal year 2021 are for grants for adult abuse maltreatment investigations and adult protective  
155.9 services to counties and tribes under Minnesota Statutes, section 256M.42. The base for  
155.10 this appropriation is \$2,050,000 in fiscal year 2022 and \$2,655,000 in fiscal year 2023.

155.11 (e) Of the amount in paragraph (a), \$2,682,000 in fiscal year 2020 and \$2,702,000 in  
155.12 fiscal year 2021 are for development and administration of a resident experience survey  
155.13 and family survey for long-term housing with services establishments and assisted living facilities.  
155.14 The base for this appropriation is \$2,593,000 in fiscal year 2022 and \$2,593,000 in fiscal  
155.15 year 2023. These appropriations are available in either year of the biennium.

155.16 (f) Of the amount in paragraph (a), \$1,093,000 in fiscal year 2020 is for improvements  
155.17 to the current operations of regulatory activities related to vulnerable adults. The base for  
155.18 this appropriation is \$218,000 in fiscal year 2022 and \$218,000 in fiscal year 2023.

155.19 **Sec. 2. COMMISSIONER OF HEALTH.**

155.20 **Subdivision 1. General fund appropriation.** (a) \$9,656,000 in fiscal year 2020 and  
155.21 \$9,416,000 in fiscal year 2021 are appropriated from the general fund to the commissioner  
155.22 of health to implement regulatory activities relating to vulnerable adults and assisted living  
155.23 licensure.

155.24 (b) Of the amount in paragraph (a), \$7,438,000 in fiscal year 2020 and \$4,302,000 in  
155.25 fiscal year 2021 are for improvements to the current regulatory activities, systems, analysis,  
155.26 reporting, and communications relating to regulation of vulnerable adults. The base for this  
155.27 appropriation is \$5,800,000 in fiscal year 2022 and \$5,369,000 in fiscal year 2023.

155.28 (c) Of the amount in paragraph (a), \$2,218,000 in fiscal year 2020 and \$5,114,000 in  
155.29 fiscal year 2021 are to establish assisted living licensure under Minnesota Statutes, section  
155.30 144I.01. This is a onetime appropriation.

155.31 **Subd. 2. State government special revenue fund appropriation.** \$1,103,000 in fiscal  
155.32 year 2020 and \$1,103,000 in fiscal year 2021 are appropriated from the state government  
155.33 special revenue fund to improve the frequency of home care provider inspections and to

156.1 implement assisted living licensure activities under Minnesota Statutes, section 144I.01.

156.2 The base for this appropriation is \$8,131,000 in fiscal year 2022 and \$8,339,000 in fiscal  
156.3 year 2023.

156.4 Subd. 3. **Transfer.** The commissioner shall transfer fine revenue previously deposited  
156.5 to the state government special revenue fund under Minnesota Statutes, section 144A.474,  
156.6 subdivision 11, estimated to be \$632,000 to a dedicated special revenue account in the state  
156.7 treasury established for the purposes of implementing the recommendations of the Home  
156.8 Care Advisory Council under Minnesota Statutes, section 144A.4799.