

(4) complaint information or other information that identifies potential concerns for the quality of the care and services provided in the skilled nursing facility.

Subd. 6. **Facilities not approved for extended survey intervals.** The commissioner shall establish a process for surveying and monitoring of facilities which require a survey interval of less than 15 months. This information shall identify the steps that the commissioner must take to monitor the facility in addition to the standard survey.

Subd. 7. **Impact on survey agency's budget.** The implementation of an alternative survey process for the state must not result in any reduction of funding that would have been provided to the state survey agency for survey and enforcement activity based upon the completion of full standard surveys for each skilled nursing facility in the state.

Subd. 8. **Educational activities.** The commissioner shall expand the state survey agency's ability to conduct training and educational efforts for skilled nursing facilities, residents and family members, residents and family councils, long-term care ombudsman programs, and the general public.

Subd. 9. **Evaluation.** The commissioner shall develop a process for the evaluation of the effectiveness of an alternative survey process conducted under this section.

History: *1Sp2001 c 9 art 5 s 13; 2002 c 379 art 1 s 113*

144A.38 [Repealed, 1Sp2003 c 14 art 7 s 89]

HOME CARE PROGRAM

144A.43 DEFINITIONS.

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

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

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

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

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

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

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 2a. **Controlled substance.** "Controlled substance" has the meaning given in section 152.01, subdivision 4.

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

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

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

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

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

(1) assistive tasks provided by unlicensed personnel;

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

(3) medication and treatment management services; or

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

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

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

Subd. 4. **Home care provider.** "Home care provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery of at least one home care service, directly in a client's home for a fee and who has a valid current temporary license or license issued under sections 144A.43 to 144A.482.

Subd. 5. [Repealed by amendment, 2013 c 108 art 11 s 7]

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

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

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

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

Subd. 10. **Medication.** "Medication" means a prescription or over-the-counter drug. For purposes of this chapter only, medication includes dietary supplements.

Subd. 11. **Medication administration.** "Medication administration" means performing a set of tasks that include the following:

- (1) checking the client's medication record;
- (2) preparing the medication as necessary;
- (3) administering the medication to the client;
- (4) documenting the administration or reason for not administering the medication; and
- (5) reporting to a registered nurse or appropriate licensed health professional any concerns about the medication, the client, or the client's refusal to take the medication.

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

- (1) performing medication setup;
- (2) administering medication;
- (3) storing and securing medications;
- (4) documenting medication activities;
- (5) verifying and monitoring effectiveness of systems to ensure safe handling and administration;
- (6) coordinating refills;
- (7) handling and implementing changes to prescriptions;
- (8) communicating with the pharmacy about the client's medications; and
- (9) coordinating and communicating with the prescriber.

Subd. 12a. **Medication reconciliation.** "Medication reconciliation" means the process of identifying the most accurate list of all medications the client is taking, including the name, dosage, frequency, and route by comparing the client record to an external list of medications obtained from the client, hospital, prescriber, or other provider.

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

Subd. 14. **Nurse.** "Nurse" means a person who is licensed under sections 148.171 to 148.285.

Subd. 15. **Occupational therapist.** "Occupational therapist" means a person who is licensed under sections 148.6401 to 148.6449.

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

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

Subd. 18. **Pharmacist.** "Pharmacist" has the meaning given in section 151.01, subdivision 3.

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

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

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

Subd. 22. **Prescription.** "Prescription" has the meaning given in section 151.01, subdivision 16a.

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

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

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

Subd. 26. **Revenues.** "Revenues" means all money received by a licensee derived from the provision of home care services, including fees for services and appropriations of public money for home care services.

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

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

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

Subd. 30. **Standby assistance.** "Standby assistance" means the presence of another person to assist a client with an assistive task by providing cues, oversight, and minimal physical assistance.

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

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

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

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

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

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

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

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

History: 1987 c 378 s 3; 1989 c 194 s 1; 1989 c 304 s 137; 1992 c 513 art 6 s 5,6; 1995 c 207 art 9 s 20; 1997 c 22 art 2 s 2,8; 1997 c 113 s 1; 2002 c 252 s 2-4,24; 2009 c 174 art 2 s 4; 2013 c 108 art 11 s 7; 2014 c 275 art 1 s 135; 2016 c 158 art 1 s 59; 1Sp2017 c 6 art 11 s 54; 1Sp2019 c 9 art 11 s 38-40

144A.44 HOME CARE BILL OF RIGHTS.

Subdivision 1. **Statement of rights.** (a) A client who receives home care services in the community or in an assisted living facility licensed under chapter 144G has these rights:

(1) receive written information, in plain language, about rights before receiving services, including what to do if rights are violated;

(2) receive care and services according to a suitable and up-to-date plan, and subject to accepted health care, medical or nursing standards and person-centered care, to take an active part in developing, modifying, and evaluating the plan and services;

(3) be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, other choices that are available for addressing home care needs, and the potential consequences of refusing these services;

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

(5) refuse services or treatment;

(6) know, before receiving services or during the initial visit, any limits to the services available from a home care provider;

(7) be told before services are initiated what the provider charges for the services; to what extent payment may be expected from health insurance, public programs, or other sources, if known; and what charges the client may be responsible for paying;

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

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

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

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

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

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

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

(15) reasonable, advance notice of changes in services or charges;

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

(17) at least ten calendar days' advance notice of the termination of a service by a home care provider, except at least 30 calendar days' advance notice of the service termination shall be given by a home care provider for services provided to a client residing in an assisted living facility as defined in section 144G.08, subdivision 7. This clause does not apply in cases where:

(i) the client engages in conduct that significantly alters the terms of the service plan with the home care provider;

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

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

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

(19) complain to staff and others of the client's choice about services that are provided, or fail to be provided, and the lack of courtesy or respect to the client or the client's property and the right to recommend changes in policies and services, free from retaliation including the threat of termination of services;

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

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

(22) assert these rights personally, or have them asserted by the client's representative or by anyone on behalf of the client, without retaliation; and

(23) place an electronic monitoring device in the client's or resident's space in compliance with state requirements.

(b) When providers violate the rights in this section, they are subject to the fines and license actions in sections 144A.474, subdivision 11, and 144A.475.

(c) Providers must do all of the following:

(1) encourage and assist in the fullest possible exercise of these rights;

(2) provide the names and telephone numbers of individuals and organizations that provide advocacy and legal services for clients and residents seeking to assert their rights;

(3) make every effort to assist clients or residents in obtaining information regarding whether Medicare, medical assistance, other health programs, or public programs will pay for services;

(4) make reasonable accommodations for people who have communication disabilities, or those who speak a language other than English; and

(5) provide all information and notices in plain language and in terms the client or resident can understand.

(d) No provider may require or request a client or resident to waive any of the rights listed in this section at any time or for any reasons, including as a condition of initiating services or entering into an assisted living contract.

Subd. 2. Interpretation and enforcement of rights. These rights are established for the benefit of clients who receive home care services. All home care providers, including those exempted under section 144A.471, must comply with this section. The commissioner shall enforce this section and the home care bill of rights requirement against home care providers exempt from licensure in the same manner as for licensees. A home care provider may not request or require a client to surrender any of these rights as a condition of receiving services. This statement of rights does not replace or diminish other rights and liberties that may exist relative to clients receiving home care services, persons providing home care services, or providers licensed under sections 144A.43 to 144A.482.

History: 1987 c 378 s 4; 1991 c 133 s 1; 1998 c 407 art 2 s 81; 1Sp2001 c 9 art 1 s 39; 2002 c 379 art 1 s 113; 2007 c 147 art 7 s 75; art 10 s 15; 2009 c 79 art 8 s 7; 2013 c 108 art 11 s 8; 2014 c 275 art 1 s 135; 2019 c 60 art 1 s 47; art 4 s 16

144A.441 MS 2020 [Repealed, 2019 c 60 art 4 s 35]

144A.442 MS 2020 [Repealed, 2019 c 60 art 4 s 35]

144A.45 REGULATION OF HOME CARE SERVICES.

Subdivision 1. **Regulations.** The commissioner shall regulate home care providers pursuant to sections 144A.43 to 144A.482. The regulations shall include the following:

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

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

(3) standards of training of home care provider personnel;

(4) standards for provision of home care services;

(5) standards for medication management;

(6) standards for supervision of home care services;

(7) standards for client evaluation or assessment;

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

(9) the maintenance of accurate, current client records;

(10) the establishment of basic and comprehensive levels of licenses based on services provided; and

(11) provisions to enforce these regulations and the home care bill of rights.

Subd. 1a. [Repealed by amendment, 2013 c 108 art 11 s 9]

Subd. 1b. [Repealed by amendment, 2013 c 108 art 11 s 9]

Subd. 2. **Regulatory functions.** The commissioner shall:

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

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

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

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

(5) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8, for violations of sections 144A.43 to 144A.482;

(6) take action as authorized in section 144A.475; and

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

Subd. 3. [Repealed, 1997 c 113 s 22]

Subd. 4. [Repealed by amendment, 2013 c 108 art 11 s 9]

Subd. 5. [Repealed by amendment, 2013 c 108 art 11 s 9]

Subd. 6. MS 2018 [Repealed, 1Sp2019 c 9 art 11 s 112]

History: 1987 c 378 s 5; 1989 c 282 art 2 s 25; 1991 c 286 s 8; 1997 c 113 s 2,3; 1998 c 254 art 1 s 30,31; 2002 c 252 s 5,6,24; 2003 c 37 s 2; 2008 c 326 art 1 s 2,3; 2009 c 174 art 2 s 5,6; 2010 c 246 s 1,2; 2013 c 43 s 16; 2013 c 108 art 11 s 9; 2014 c 275 art 1 s 135

144A.46 [Repealed, 2014 c 275 art 1 s 134]

144A.4605 [Repealed, 2014 c 275 art 1 s 134]

144A.461 [Repealed, 2014 c 275 art 1 s 134]

144A.465 [Repealed, 2014 c 275 art 1 s 134]

144A.47 INFORMATION AND REFERRAL SERVICES.

The commissioner shall ensure that information and referral services relating to home care are available in all regions of the state. The commissioner shall collect and make available information about available home care services, sources of payment, providers, and the rights of consumers. The commissioner may require home care providers to provide information requested for the purposes of this section as a condition of registration or licensure. The commissioner may publish and make available:

(1) general information describing home care services in the state;

(2) limitations on hours, availability of services, and eligibility for third-party payments, applicable to individual providers; and

(3) other information the commissioner determines to be appropriate.

History: 1987 c 378 s 7; 1995 c 207 art 9 s 21

HOME CARE LICENSING

144A.471 HOME CARE PROVIDER AND HOME CARE SERVICES.

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

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

- (1) has the right to control, and does control, the types of services provided;
- (2) has the right to control, and does control, when and how the services are provided;
- (3) establishes the charges;
- (4) collects fees from the clients or receives payment from third-party payers on the clients' behalf;
- (5) pays individuals providing services compensation on an hourly, weekly, or similar basis;
- (6) treats the individuals providing services as employees for the purposes of payroll taxes and workers' compensation insurance; and
- (7) holds itself out as a provider of home care services or acts in a manner that leads clients or potential clients to believe that it is a home care provider providing home care services.

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

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

- (1) whether the individual or business entity states or otherwise promotes that the individual or business entity provides home care services;
- (2) whether persons receiving home care services constitute a substantial part of the individual's or the business entity's clientele; and
- (3) whether the home care services provided are other than occasional or incidental to the provision of services other than home care services.

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

Subd. 4. **Penalties for operating without license.** A person involved in the management, operation, or control of a home care provider that operates without an appropriate license is guilty of a misdemeanor.

This section does not apply to a person who has no legal authority to affect or change decisions related to the management, operation, or control of a home care provider.

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

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

- (1) assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing;
- (2) providing standby assistance;
- (3) providing verbal or visual reminders to the client to take regularly scheduled medication, which includes bringing the client previously set-up medication, medication in original containers, or liquid or food to accompany the medication;
- (4) providing verbal or visual reminders to the client to perform regularly scheduled treatments and exercises;
- (5) preparing modified diets ordered by a licensed health professional; and
- (6) assisting with laundry, housekeeping, meal preparation, shopping, or other household chores and services if the provider is also providing at least one of the activities in clauses (1) to (5).

Subd. 7. **Comprehensive home care license provider.** Home care services that may be provided with a comprehensive home care license include any of the basic home care services listed in subdivision 6, and one or more of the following:

- (1) services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian or nutritionist, or social worker;
- (2) tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;
- (3) medication management services;
- (4) hands-on assistance with transfers and mobility;
- (5) treatment and therapies;
- (6) assisting clients with eating when the clients have complicating eating problems as identified in the client record or through an assessment such as difficulty swallowing, recurrent lung aspirations, or requiring the use of a tube or parenteral or intravenous instruments to be fed; or
- (7) providing other complex or specialty health care services.

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

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

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

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

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

(4) an individual or organization that provides only home management services, if the individual or organization is registered under section 144A.482; or

(5) an individual who is licensed in this state as a nurse, dietitian, social worker, occupational therapist, physical therapist, or speech-language pathologist who provides health care services in the home independently and not through any contractual or employment relationship with a home care provider or other organization.

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

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

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

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

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

(iv) administration of a health care home established under section 62U.03;

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

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

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

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

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

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

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

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

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

- (5) an individual who only provides home care services to a relative;
- (6) an individual not connected with a home care provider that provides assistance with basic home care needs if the assistance is provided primarily as a contribution and not as a business;
- (7) an individual not connected with a home care provider that shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;
- (8) an individual or provider providing home-delivered meal services;
- (9) an individual providing senior companion services and other older American volunteer programs (OAVP) established under the Domestic Volunteer Service Act of 1973, United States Code, title 42, chapter 66;
- (10) a member of a professional corporation organized under chapter 319B that does not regularly offer or provide home care services as defined in section 144A.43, subdivision 3;
- (11) the following organizations established to provide medical or surgical services that do not regularly offer or provide home care services as defined in section 144A.43, subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under chapter 317A, a partnership organized under chapter 323, or any other entity determined by the commissioner;
- (12) an individual or agency that provides medical supplies or durable medical equipment, except when the provision of supplies or equipment is accompanied by a home care service;
- (13) a physician licensed under chapter 147;
- (14) an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family, foster family, or primary caregiver;
- (15) a business that only provides services that are primarily instructional and not medical services or health-related support services;
- (16) an individual who performs basic home care services for no more than 14 hours each calendar week to no more than one client;
- (17) an individual or business licensed as hospice as defined in sections 144A.75 to 144A.755 who is not providing home care services independent of hospice service;
- (18) activities conducted by the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, including communicable disease investigations or testing; or
- (19) administering or monitoring a prescribed therapy necessary to control or prevent a communicable disease, or the monitoring of an individual's compliance with a health directive as defined in section 144.4172, subdivision 6.

[See Note.]

History: 2013 c 108 art 11 s 10; 2014 c 262 art 5 s 6; 2014 c 275 art 1 s 135; 2014 c 291 art 7 s 28; 2016 c 179 s 6; 2019 c 60 art 4 s 17,18; 2020 c 115 art 3 s 39

NOTE: The language of subdivision 9 reflects the expiration of clauses in the amendment in Laws 2019, chapter 60, article 4, section 18.

144A.472 HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures and keep them current:

(i) requirements in chapter 260E, reporting of maltreatment of minors, and section 626.557, reporting of maltreatment of vulnerable adults;

(ii) conducting and handling background studies on employees;

(iii) orientation, training, and competency evaluations of home care staff, and a process for evaluating staff performance;

(iv) handling complaints from clients, family members, or client representatives regarding staff or services provided by staff;

- (v) conducting initial evaluation of clients' needs and the providers' ability to provide those services;
 - (vi) conducting initial and ongoing client evaluations and assessments and how changes in a client's condition are identified, managed, and communicated to staff and other health care providers as appropriate;
 - (vii) orientation to and implementation of the home care client bill of rights;
 - (viii) infection control practices;
 - (ix) reminders for medications, treatments, or exercises, if provided; and
 - (x) conducting appropriate screenings, or documentation of prior screenings, to show that staff are free of tuberculosis, consistent with current United States Centers for Disease Control and Prevention standards; and
- (15) other information required by the department.

Subd. 2. Comprehensive home care license applications. In addition to the information and fee required in subdivision 1, applicants applying for a comprehensive home care license must also provide verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures in this subdivision and keep them current:

- (1) conducting initial and ongoing assessments of the client's needs by a registered nurse or appropriate licensed health professional, including how changes in the client's conditions are identified, managed, and communicated to staff and other health care providers, as appropriate;
- (2) ensuring that nurses and licensed health professionals have current and valid licenses to practice;
- (3) medication and treatment management;
- (4) delegation of home care tasks by registered nurses or licensed health professionals;
- (5) supervision of registered nurses and licensed health professionals; and
- (6) supervision of unlicensed personnel performing delegated home care tasks.

Subd. 3. License renewal. (a) Except as provided in section 144A.475, a license may be renewed for a period of one year if the licensee satisfies the following:

- (1) submits an application for renewal in the format provided by the commissioner at least 30 days before expiration of the license;
- (2) submits the renewal fee in the amount specified in subdivision 7;
- (3) has provided home care services within the past 12 months;
- (4) complies with sections 144A.43 to 144A.4798;
- (5) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under subdivision 1;
- (6) provides verification that all policies under subdivision 1 are current; and
- (7) provides any other information deemed necessary by the commissioner.

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

Subd. 4. MS 2018 [Repealed, 2019 c 60 art 4 s 35]

Subd. 5. **Changes in ownership.** (a) A home care license issued by the commissioner may not be transferred to another party. Before acquiring ownership of or a controlling interest in a home care provider business, a prospective owner must apply for a new license. A change of ownership is a transfer of operational control of the home care provider business and includes:

- (1) transfer of the business to a different or new corporation;
- (2) in the case of a partnership, the dissolution or termination of the partnership under chapter 323A, with the business continuing by a successor partnership or other entity;
- (3) relinquishment of control of the provider to another party, including to a contract management firm that is not under the control of the owner of the business' assets;
- (4) transfer of the business by a sole proprietor to another party or entity; or
- (5) transfer of ownership or control of 50 percent or more of the controlling interest of a home care provider business not covered by clauses (1) to (4).

(b) An employee who was employed by the previous owner of the home care provider business prior to the effective date of a change in ownership under paragraph (a), and who will be employed by the new owner in the same or a similar capacity, shall be treated as if no change in employer occurred, with respect to orientation, training, tuberculosis testing, background studies, and competency testing and training on the policies identified in subdivision 1, clause (14), and subdivision 2, if applicable.

(c) Notwithstanding paragraph (b), a new owner of a home care provider business must ensure that employees of the provider receive and complete training and testing on any provisions of policies that differ from those of the previous owner within 90 days after the date of the change in ownership.

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

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

- (1) for a basic home care provider, \$2,100; or
- (2) for a comprehensive home care provider, \$4,200.

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

- (1) for a basic home care provider, \$2,100; or
- (2) for a comprehensive home care provider, \$4,200.

(c) For the period ending June 30, 2018, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee

Provider Annual Revenue	Fee
greater than \$1,500,000	\$6,625
greater than \$1,275,000 and no more than \$1,500,000	\$5,797
greater than \$1,100,000 and no more than \$1,275,000	\$4,969
greater than \$950,000 and no more than \$1,100,000	\$4,141
greater than \$850,000 and no more than \$950,000	\$3,727
greater than \$750,000 and no more than \$850,000	\$3,313
greater than \$650,000 and no more than \$750,000	\$2,898
greater than \$550,000 and no more than \$650,000	\$2,485
greater than \$450,000 and no more than \$550,000	\$2,070
greater than \$350,000 and no more than \$450,000	\$1,656
greater than \$250,000 and no more than \$350,000	\$1,242
greater than \$100,000 and no more than \$250,000	\$828
greater than \$50,000 and no more than \$100,000	\$500
greater than \$25,000 and no more than \$50,000	\$400
no more than \$25,000	\$200

(d) For the period between July 1, 2018, and June 30, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner in an amount that is ten percent higher than the applicable fee in paragraph (c). A home care provider's fee shall be based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted.

(e) Beginning July 1, 2020, a home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee

Provider Annual Revenue	Fee
greater than \$1,500,000	\$7,651
greater than \$1,275,000 and no more than \$1,500,000	\$6,695

greater than \$1,100,000 and no more than \$1,275,000	\$5,739
greater than \$950,000 and no more than \$1,100,000	\$4,783
greater than \$850,000 and no more than \$950,000	\$4,304
greater than \$750,000 and no more than \$850,000	\$3,826
greater than \$650,000 and no more than \$750,000	\$3,347
greater than \$550,000 and no more than \$650,000	\$2,870
greater than \$450,000 and no more than \$550,000	\$2,391
greater than \$350,000 and no more than \$450,000	\$1,913
greater than \$250,000 and no more than \$350,000	\$1,434
greater than \$100,000 and no more than \$250,000	\$957
greater than \$50,000 and no more than \$100,000	\$577
greater than \$25,000 and no more than \$50,000	\$462
no more than \$25,000	\$231

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

(g) At each annual renewal, a home care provider may elect to pay the highest renewal fee for its license category, and not provide annual revenue information to the commissioner.

(h) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(i) The fine for failure to comply with the notification requirements in section 144A.473, subdivision 2, paragraph (c), is \$1,000.

(j) Fees collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund. All fees are nonrefundable. Fees collected under paragraphs (c), (d), and (e) are nonrefundable even if received before July 1, 2017, for temporary licenses or licenses being issued effective July 1, 2017, or later.

(k) Fines and civil penalties collected under this subdivision shall be deposited in a dedicated special revenue account. On an annual basis, the balance in the special revenue account shall be appropriated to the commissioner to implement the recommendations of the advisory council established in section 144A.4799.

History: 2013 c 108 art 11 s 11; 2014 c 275 art 1 s 135; 1Sp2017 c 6 art 10 s 68; 2019 c 60 art 4 s 19; 1Sp2019 c 9 art 11 s 41,42; 1Sp2020 c 2 art 8 s 23

144A.473 ISSUANCE OF TEMPORARY LICENSE AND LICENSE RENEWAL.

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

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

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

(d) The commissioner shall issue a license that contains the home care provider's name, address, license level, expiration date of the license, and unique license number. All licenses, except for temporary licenses issued under subdivision 2, are valid for up to one year from the date of issuance.

Subd. 2. **Temporary license.** (a) For new license applicants, the commissioner shall issue a temporary license for either the basic or comprehensive home care level. A temporary license is effective for up to one year from the date of issuance, except that a temporary license may be extended according to subdivision 3. Temporary licensees must comply with sections 144A.43 to 144A.482.

(b) During the temporary license period, the commissioner shall survey the temporary licensee within 90 calendar days after the commissioner is notified or has evidence that the temporary licensee is providing home care services.

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

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

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

Subd. 3. **Temporary licensee survey.** (a) If the temporary licensee is in substantial compliance with the survey, the commissioner shall issue either a basic or comprehensive home care license. If the temporary licensee is not in substantial compliance with the survey, the commissioner shall either: (1) not issue a license and terminate the temporary license; or (2) extend the temporary license for a period not to exceed 90 days and apply conditions, as permitted under section 144A.475, subdivision 2, to the extension of a temporary

license. If the temporary licensee is not in substantial compliance with the survey within the time period of the extension, or if the temporary licensee does not satisfy the license conditions, the commissioner may deny the license.

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

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

(d) The reconsideration request and supporting documentation must be received by the commissioner within 15 calendar days after the date the temporary licensee receives the correction order.

(e) A temporary licensee whose license is denied is permitted to continue operating as a home care provider during the period of time when:

- (1) a reconsideration request is in process;
- (2) an extension of a temporary license is being negotiated;
- (3) the placement of conditions on a temporary license is being negotiated; or
- (4) a transfer of home care clients from the temporary licensee to a new home care provider is in process.

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

History: 2013 c 108 art 11 s 12; 2014 c 275 art 1 s 135; 2016 c 179 s 7; 1Sp2019 c 9 art 11 s 43

144A.474 SURVEYS AND INVESTIGATIONS.

Subdivision 1. **Surveys.** The commissioner shall conduct surveys of each home care provider. By June 30, 2016, the commissioner shall conduct a survey of home care providers on a frequency of at least once every three years. Survey frequency may be based on the license level, the provider's compliance history, the number of clients served, or other factors as determined by the department deemed necessary to ensure the health, safety, and welfare of clients and compliance with the law.

Subd. 2. **Types of home care surveys.** (a) "Initial full survey" means the survey of a new temporary licensee conducted after the department is notified or has evidence that the temporary licensee is providing home care services to determine if the provider is in compliance with home care requirements. Initial full surveys must be completed within 14 months after the department's issuance of a temporary basic or comprehensive license.

(b) "Change in ownership survey" means a full survey of a new licensee due to a change in ownership. Change in ownership surveys must be completed within six months after the department's issuance of a new license due to a change in ownership.

(c) "Core survey" means periodic inspection of home care providers to determine ongoing compliance with the home care requirements, focusing on the essential health and safety requirements. Core surveys are available to licensed home care providers who have been licensed for three years and surveyed at least once

in the past three years with the latest survey having no widespread violations beyond Level 1 as provided in subdivision 11. Providers must also not have had any substantiated licensing complaints, substantiated complaints against the agency under the Vulnerable Adults Act or Maltreatment of Minors Act, or an enforcement action as authorized in section 144A.475 in the past three years.

(1) The core survey for basic home care providers must review compliance in the following areas:

- (i) reporting of maltreatment;
- (ii) orientation to and implementation of the home care bill of rights;
- (iii) statement of home care services;
- (iv) initial evaluation of clients and initiation of services;
- (v) client review and monitoring;
- (vi) service plan implementation and changes to the service plan;
- (vii) client complaint and investigative process;
- (viii) competency of unlicensed personnel; and
- (ix) infection control.

(2) For comprehensive home care providers, the core survey must include everything in the basic core survey plus these areas:

- (i) delegation to unlicensed personnel;
- (ii) assessment, monitoring, and reassessment of clients; and
- (iii) medication, treatment, and therapy management.

(d) "Full survey" means the periodic inspection of home care providers to determine ongoing compliance with the home care requirements that cover the core survey areas and all the legal requirements for home care providers. A full survey is conducted for all temporary licensees, for licensees that receive licenses due to an approved change in ownership, for providers who do not meet the requirements needed for a core survey, and when a surveyor identifies unacceptable client health or safety risks during a core survey. A full survey must include all the tasks identified as part of the core survey and any additional review deemed necessary by the department, including additional observation, interviewing, or records review of additional clients and staff.

(e) "Follow-up surveys" means surveys conducted to determine if a home care provider has corrected deficient issues and systems identified during a core survey, full survey, or complaint investigation. Follow-up surveys may be conducted via phone, e-mail, fax, mail, or on-site reviews. Follow-up surveys, other than complaint surveys, shall be concluded with an exit conference and written information provided on the process for requesting a reconsideration of the survey results.

(f) Upon receiving information alleging that a home care provider has violated or is currently violating a requirement of sections 144A.43 to 144A.482, the commissioner shall investigate the complaint according to sections 144A.51 to 144A.54.

Subd. 3. **Survey process.** The survey process for core surveys shall include the following as applicable to the particular licensee and setting surveyed:

- (1) presurvey review of pertinent documents and notification to the ombudsman for long-term care;
- (2) an entrance conference with available staff;
- (3) communication with managerial officials or the registered nurse in charge, if available, and ongoing communication with key staff throughout the survey regarding information needed by the surveyor, clarifications regarding home care requirements, and applicable standards of practice;
- (4) presentation of written contact information to the provider about the survey staff conducting the survey, the supervisor, and the process for requesting a reconsideration of the survey results;
- (5) a brief tour of a sample of the housing with services establishments in which the provider is providing home care services;
- (6) a sample selection of home care clients;
- (7) information-gathering through client and staff observations, client and staff interviews, and reviews of records, policies, procedures, practices, and other agency information;
- (8) interviews of clients' family members, if available, with clients' consent when the client can legally give consent;
- (9) except for complaint surveys conducted by the Office of Health Facilities Complaints, an on-site exit conference, with preliminary findings shared and discussed with the provider, documentation that an exit conference occurred, and written information provided on the process for requesting a reconsideration of the survey results; and
- (10) postsurvey analysis of findings and formulation of survey results, including correction orders when applicable.

Subd. 4. **Scheduling surveys.** Surveys and investigations shall be conducted without advance notice to home care providers. Surveyors may contact the home care provider on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

Subd. 5. **Information provided by home care provider.** The home care provider shall provide accurate and truthful information to the department during a survey, investigation, or other licensing activities.

Subd. 6. **Providing client records.** Upon request of a surveyor, home care providers shall provide a list of current and past clients or client representatives that includes addresses and telephone numbers and any other information requested about the services to clients within a reasonable period of time.

Subd. 7. **Contacting and visiting clients.** Surveyors may contact or visit a home care provider's clients to gather information without notice to the home care provider. Before visiting a client, a surveyor shall obtain the client's or client's representative's permission by telephone, by mail, or in person. Surveyors shall inform all clients or client's representatives of their right to decline permission for a visit.

Subd. 8. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a home care provider, a managerial official, or an employee of the provider is not in compliance with sections 144A.43 to 144A.482. The correction order shall cite the specific statute and document areas of noncompliance and the time allowed for correction.

(b) The commissioner shall mail copies of any correction order to the last known address of the home care provider, or electronically scan the correction order and e-mail it to the last known home care provider

e-mail address, within 30 calendar days after the survey exit date. A copy of each correction order and copies of any documentation supplied to the commissioner shall be kept on file by the home care provider, and public documents shall be made available for viewing by any person upon request. Copies may be kept electronically.

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

Subd. 9. Follow-up surveys. For providers that have Level 3 or Level 4 violations under subdivision 11, or any violations determined to be widespread, the department shall conduct a follow-up survey within 90 calendar days of the survey. When conducting a follow-up survey, the surveyor will focus on whether the previous violations have been corrected and may also address any new violations that are observed while evaluating the corrections that have been made.

Subd. 10. Performance incentive. A licensee is eligible for a performance incentive if there are no violations identified in a core or full survey. The performance incentive is a ten percent discount on the licensee's next home care renewal license fee.

Subd. 11. Fines. (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in paragraph (b) and imposed immediately with no opportunity to correct the violation first as follows:

(1) Level 1, no fines or enforcement;

(2) Level 2, a fine of \$500 per violation, in addition to any of the enforcement mechanisms authorized in section 144A.475 for widespread violations;

(3) Level 3, a fine of \$3,000 per incident, in addition to any of the enforcement mechanisms authorized in section 144A.475;

(4) Level 4, a fine of \$5,000 per incident, in addition to any of the enforcement mechanisms authorized in section 144A.475;

(5) for maltreatment violations for which the licensee was determined to be responsible for the maltreatment under section 626.557, subdivision 9c, paragraph (c), a fine of \$1,000. A fine of \$5,000 may be imposed if the commissioner determines the licensee is responsible for maltreatment consisting of sexual assault, death, or abuse resulting in serious injury; and

(6) the fines in clauses (1) to (4) are increased and immediate fine imposition is authorized for both surveys and investigations conducted.

When a fine is assessed against a facility for substantiated maltreatment, the commissioner shall not also impose an immediate fine under this chapter for the same circumstance.

(b) Correction orders for violations are categorized by both level and scope and fines shall be assessed as follows:

(1) level of violation:

(i) Level 1 is a violation that has no potential to cause more than a minimal impact on the client and does not affect health or safety;

(ii) Level 2 is a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death;

(iii) Level 3 is a violation that harmed a client's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death; and

(iv) Level 4 is a violation that results in serious injury, impairment, or death;

(2) scope of violation:

(i) isolated, when one or a limited number of clients are affected or one or a limited number of staff are involved or the situation has occurred only occasionally;

(ii) pattern, when more than a limited number of clients are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive; and

(iii) widespread, when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the clients.

(c) If the commissioner finds that the applicant or a home care provider has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner shall provide a notice of noncompliance with a correction order by e-mail to the applicant's or provider's last known e-mail address. The noncompliance notice must list the violations not corrected.

(d) For every violation identified by the commissioner, the commissioner shall issue an immediate fine pursuant to paragraph (a), clause (6). The license holder must still correct the violation in the time specified. The issuance of an immediate fine can occur in addition to any enforcement mechanism authorized under section 144A.475. The immediate fine may be appealed as allowed under this subdivision.

(e) The license holder must pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies by paying the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

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

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

(h) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder shall be liable for payment of the fine.

(i) In addition to any fine imposed under this section, the commissioner may assess a penalty amount based on costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

(j) Fines collected under paragraph (a), clauses (1) to (4), shall be deposited in a dedicated special revenue account. On an annual basis, the balance in the special revenue account shall be appropriated to the commissioner to implement the recommendations of the advisory council established in section 144A.4799.

(k) Fines collected under paragraph (a), clause (5), shall be deposited in a dedicated special revenue account and appropriated to the commissioner to provide compensation according to subdivision 14 to clients subject to maltreatment. A client may choose to receive compensation from this fund, not to exceed \$5,000 for each substantiated finding of maltreatment, or take civil action. This paragraph expires July 31, 2021.

Subd. 12. **Reconsideration.** (a) The commissioner shall make available to home care providers a correction order reconsideration process. This process may be used to challenge the correction order issued, including the level and scope described in subdivision 11, and any fine assessed. During the correction order reconsideration request, the issuance for the correction orders under reconsideration are not stayed, but the department shall post information on the website with the correction order that the licensee has requested a reconsideration and that the review is pending.

(b) A licensed home care provider may request from the commissioner, in writing, a correction order reconsideration regarding any correction order issued to the provider. The written request for reconsideration must be received by the commissioner within 15 calendar days of the correction order receipt date. The correction order reconsideration shall not be reviewed by any surveyor, investigator, or supervisor that participated in the writing or reviewing of the correction order being disputed. The correction order reconsiderations may be conducted in person, by telephone, by another electronic form, or in writing, as determined by the commissioner. The commissioner shall respond in writing to the request from a home care provider for a correction order reconsideration within 60 days of the date the provider requests a reconsideration. The commissioner's response shall identify the commissioner's decision regarding each citation challenged by the home care provider.

(c) The findings of a correction order reconsideration process shall be one or more of the following:

(1) supported in full, the correction order is supported in full, with no deletion of findings to the citation;

(2) supported in substance, the correction order is supported, but one or more findings are deleted or modified without any change in the citation;

(3) correction order cited an incorrect home care licensing requirement, the correction order is amended by changing the correction order to the appropriate statutory reference;

(4) correction order was issued under an incorrect citation, the correction order is amended to be issued under the more appropriate correction order citation;

(5) the correction order is rescinded;

(6) fine is amended, it is determined that the fine assigned to the correction order was applied incorrectly;
or

(7) the level or scope of the citation is modified based on the reconsideration.

(d) If the correction order findings are changed by the commissioner, the commissioner shall update the correction order website.

(e) This subdivision does not apply to temporary licensees.

Subd. 13. **Home care surveyor training.** (a) Before conducting a home care survey, each home care surveyor must receive training on the following topics:

- (1) Minnesota home care licensure requirements;
- (2) Minnesota home care bill of rights;
- (3) Minnesota Vulnerable Adults Act and reporting of maltreatment of minors;
- (4) principles of documentation;
- (5) survey protocol and processes;
- (6) Offices of the Ombudsman roles;
- (7) Office of Health Facility Complaints;
- (8) Minnesota landlord-tenant and housing with services laws;
- (9) types of payors for home care services; and
- (10) Minnesota Nurse Practice Act for nurse surveyors.

(b) Materials used for the training in paragraph (a) shall be posted on the department website. Requisite understanding of these topics will be reviewed as part of the quality improvement plan in section 144A.483.

Subd. 14. MS 2020 [Expired, 2019 c 60 art 4 s 22]

History: 2013 c 108 art 11 s 13; 2014 c 275 art 1 s 135; 2014 c 291 art 6 s 13,14; 1Sp2017 c 6 art 10 s 69; 2019 c 60 art 4 s 20-22; 1Sp2019 c 9 art 11 s 44

144A.475 ENFORCEMENT.

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

- (1) is in violation of, or during the term of the license has violated, any of the requirements in sections 144A.471 to 144A.482;
- (2) permits, aids, or abets the commission of any illegal act in the provision of home care;
- (3) performs any act detrimental to the health, safety, and welfare of a client;
- (4) obtains the license by fraud or misrepresentation;
- (5) knowingly made or makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;
- (6) denies representatives of the department access to any part of the home care provider's books, records, files, or employees;
- (7) interferes with or impedes a representative of the department in contacting the home care provider's clients;

(8) interferes with or impedes a representative of the department in the enforcement of this chapter or has failed to fully cooperate with an inspection, survey, or investigation by the department;

(9) destroys or makes unavailable any records or other evidence relating to the home care provider's compliance with this chapter;

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

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

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

(13) has repeated incidents of personnel performing services beyond their competency level; or

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

(b) A violation by a contractor providing the home care services of the home care provider is a violation by the home care provider.

Subd. 2. Terms to suspension or conditional license. (a) A suspension or conditional license designation may include terms that must be completed or met before a suspension or conditional license designation is lifted. A conditional license designation may include restrictions or conditions that are imposed on the provider. Terms for a suspension or conditional license may include one or more of the following and the scope of each will be determined by the commissioner:

(1) requiring a consultant to review, evaluate, and make recommended changes to the home care provider's practices and submit reports to the commissioner at the cost of the home care provider;

(2) requiring supervision of the home care provider or staff practices at the cost of the home care provider by an unrelated person who has sufficient knowledge and qualifications to oversee the practices and who will submit reports to the commissioner;

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

(4) requiring the home care provider to submit reports to the commissioner;

(5) prohibiting the home care provider from taking any new clients for a period of time; or

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

(b) A home care provider subject to this subdivision may continue operating during the period of time home care clients are being transferred to other providers.

Subd. 3. Notice. (a) Prior to any suspension, revocation, or refusal to renew a license, the home care provider shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 days, or issue a conditional license if the commissioner determines that there are level 3 violations that do not pose an imminent risk of harm to the health or safety of persons in the provider's care, provided:

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

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

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

(4) there is an opportunity for a contested case hearing within the 30 days unless there is an extension granted by an administrative law judge pursuant to subdivision 3b.

(b) If the commissioner determines there are:

(1) level 4 violations; or

(2) violations that pose an imminent risk of harm to the health or safety of persons in the provider's care,

the commissioner may immediately temporarily suspend a license, prohibit delivery of services by a provider, or issue a conditional license without meeting the requirements of paragraph (a), clauses (1) to (4).

For the purposes of this subdivision, "level 3" and "level 4" have the meanings given in section 144A.474, subdivision 11, paragraph (b).

Subd. 3a. **Hearing.** Within 15 business days of receipt of the licensee's timely appeal of a sanction under this section, other than for a temporary suspension, the commissioner shall request assignment of an administrative law judge. The commissioner's request must include a proposed date, time, and place of hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 90 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause or for purposes of discussing settlement. In no case shall one or more extensions be granted for a total of more than 90 calendar days unless there is a criminal action pending against the licensee. If, while a licensee continues to operate pending an appeal of an order for revocation, suspension, or refusal to renew a license, the commissioner identifies one or more new violations of law that meet the requirements of level 3 or 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), the commissioner shall act immediately to temporarily suspend the license under the provisions in subdivision 3.

Subd. 3b. **Expedited hearing.** (a) Within five business days of receipt of the license holder's timely appeal of a temporary suspension or issuance of a conditional license, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge pursuant to Minnesota Rules, parts 1400.8505 to 1400.8612, within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail or personal service at least ten business days before the hearing. Certified mail to the last known address is sufficient. The scope of the hearing shall be limited solely to the issue of whether the temporary suspension or issuance of a conditional license should remain in effect and whether there is sufficient evidence to conclude that the licensee's actions or failure to comply with applicable laws are level 3 or 4 violations as defined in section 144A.474, subdivision 11, paragraph (b), or that there were violations that posed an imminent risk of harm to the health and safety of persons in the provider's care.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten business days from the date of hearing. The parties shall have ten calendar days to submit exceptions to the administrative law judge's report. The record shall close at the end of the ten-day period for submission of exceptions. The commissioner's final order shall be issued within ten business days from the close of the record. When an appeal of a temporary immediate suspension or conditional license is withdrawn or dismissed, the commissioner shall issue a final order affirming the temporary immediate suspension or conditional

license within ten calendar days of the commissioner's receipt of the withdrawal or dismissal. The license holder is prohibited from operation during the temporary suspension period.

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivisions 1 and 2 and the licensee appeals that sanction, the licensee is prohibited from operation pending a final commissioner's order after the contested case hearing conducted under chapter 14.

(d) A licensee whose license is temporarily suspended must comply with the requirements for notification and transfer of clients in subdivision 5. These requirements remain if an appeal is requested.

Subd. 3c. Immediate temporary suspension. (a) In addition to any other remedies provided by law, the commissioner may, without a prior contested case hearing, immediately temporarily suspend a license or prohibit delivery of services by a provider for not more than 90 days, or issue a conditional license, if the commissioner determines that there are:

- (1) level 4 violations; or
- (2) violations that pose an imminent risk of harm to the health or safety of persons in the provider's care.

(b) For purposes of this subdivision, "level 4" has the meaning given in section 144A.474, subdivision 11, paragraph (b).

(c) A notice stating the reasons for the immediate temporary suspension or conditional license and informing the license holder of the right to an expedited hearing under subdivision 3b must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately temporarily suspending a license or issuing a conditional license. The appeal must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within five calendar days after the license holder receives notice. If an appeal is made by personal service, it must be received by the commissioner within five calendar days after the license holder received the order.

(d) A license holder whose license is immediately temporarily suspended must comply with the requirements for notification and transfer of clients in subdivision 5. These requirements remain if an appeal is requested.

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

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

- (1) a list of all clients, including full names and all contact information on file;
- (2) a list of each client's representative or emergency contact person, including full names and all contact information on file;
- (3) the location or current residence of each client;

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

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

(b) The revocation, refusal to renew, or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The home care provider shall cooperate with the commissioner and the lead agencies, county adult protection and case managers, and the ombudsman for long-term care during the process of transferring care of clients to qualified providers. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension action, the home care provider must notify and disclose to each of the home care provider's clients, or the client's representative or emergency contact persons, that the commissioner is taking action against the home care provider's license by providing a copy of the revocation, refusal to renew, or suspension notice issued by the commissioner. If the provider does not comply with the disclosure requirements in this section, the commissioner shall notify the clients, client representatives, or emergency contact persons about the action being taken. Lead agencies, county adult protection and case managers, and the Office of Ombudsman for Long-Term Care may also provide this information. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

(c) A home care provider subject to this subdivision may continue operating during the period of time home care clients are being transferred to other providers.

Subd. 6. Owners and managerial officials; refusal to grant license. (a) The owner and managerial officials of a home care provider whose Minnesota license has not been renewed or that has been revoked because of noncompliance with applicable laws or rules shall not be eligible to apply for nor will be granted a home care license, including other licenses under this chapter, or be given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659 for five years following the effective date of the nonrenewal or revocation. If the owner and managerial officials already have enrollment status, their enrollment will be terminated by the Department of Human Services.

(b) The commissioner shall not issue a license to a home care provider for five years following the effective date of license nonrenewal or revocation if the owner or managerial official, including any individual who was an owner or managerial official of another home care provider, had a Minnesota license that was not renewed or was revoked as described in paragraph (a).

(c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend or revoke, the license of any home care provider that includes any individual as an owner or managerial official who was an owner or managerial official of a home care provider whose Minnesota license was not renewed or was revoked as described in paragraph (a) for five years following the effective date of the nonrenewal or revocation.

(d) The commissioner shall notify the home care provider 30 days in advance of the date of nonrenewal, suspension, or revocation of the license. Within ten days after the receipt of the notification, the home care provider may request, in writing, that the commissioner stay the nonrenewal, revocation, or suspension of the license. The home care provider shall specify the reasons for requesting the stay; the steps that will be taken to attain or maintain compliance with the licensure laws and regulations; any limits on the authority or responsibility of the owners or managerial officials whose actions resulted in the notice of nonrenewal, revocation, or suspension; and any other information to establish that the continuing affiliation with these individuals will not jeopardize client health, safety, or well-being. The commissioner shall determine whether the stay will be granted within 30 days of receiving the provider's request. The commissioner may propose

additional restrictions or limitations on the provider's license and require that the granting of the stay be contingent upon compliance with those provisions. The commissioner shall take into consideration the following factors when determining whether the stay should be granted:

- (1) the threat that continued involvement of the owners and managerial officials with the home care provider poses to client health, safety, and well-being;
- (2) the compliance history of the home care provider; and
- (3) the appropriateness of any limits suggested by the home care provider.

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

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

- (1) be mailed or delivered to the department or the commissioner's designee;
- (2) contain a brief and plain statement describing every matter or issue contested; and
- (3) contain a brief and plain statement of any new matter that the applicant or home care provider believes constitutes a defense or mitigating factor.

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

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

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

a process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.

History: 2013 c 108 art 11 s 14; 2014 c 275 art 1 s 135; 2014 c 291 art 6 s 15-17; 2016 c 179 s 8-10; 2019 c 60 art 4 s 23,24; 1Sp2019 c 9 art 11 s 45-47

144A.476 BACKGROUND STUDIES.

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

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

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

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

Subd. 2. **Employees, contractors, and volunteers.** (a) Employees, contractors, and volunteers of a home care provider are subject to the background study required by section 144.057, and may be disqualified under chapter 245C. Nothing in this section shall be construed to prohibit a home care provider from requiring self-disclosure of criminal conviction information.

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

History: 2013 c 108 art 11 s 15; 2014 c 275 art 1 s 135; 2019 c 60 art 4 s 25; 1Sp2019 c 9 art 11 s 48

144A.477 COMPLIANCE.

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

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

- (1) quality management, section 144A.479, subdivision 3;
- (2) personnel records, section 144A.479, subdivision 7;
- (3) acceptance of clients, section 144A.4791, subdivision 4;
- (4) referrals, section 144A.4791, subdivision 5;
- (5) client assessment, sections 144A.4791, subdivision 8, and 144A.4792, subdivisions 2 and 3;
- (6) individualized monitoring and reassessment, sections 144A.4791, subdivision 8, and 144A.4792, subdivisions 2 and 3;
- (7) individualized service plan, sections 144A.4791, subdivision 9, 144A.4792, subdivision 5, and 144A.4793, subdivision 3;
- (8) client complaint and investigation process, section 144A.4791, subdivision 11;
- (9) prescription orders, section 144A.4792, subdivisions 13 to 16;
- (10) client records, section 144A.4794, subdivisions 1 to 3;
- (11) qualifications for unlicensed personnel performing delegated tasks, section 144A.4795;
- (12) training and competency staff, section 144A.4795;
- (13) training and competency for unlicensed personnel, section 144A.4795, subdivision 7;
- (14) delegation of home care services, section 144A.4795, subdivision 4;
- (15) availability of contact person, section 144A.4797, subdivision 1; and
- (16) supervision of staff, section 144A.4797, subdivisions 2 and 3.

Violations of requirements in clauses (1) to (16) may lead to enforcement actions under section 144A.474.

History: 2013 c 108 art 11 s 16; 2014 c 275 art 1 s 135

144A.478 INNOVATION VARIANCE.

Subdivision 1. **Definition.** For purposes of this section, "innovation variance" means a specified alternative to a requirement of this chapter. An innovation variance may be granted to allow a home care provider to offer home care services of a type or in a manner that is innovative, will not impair the services provided,

will not adversely affect the health, safety, or welfare of the clients, and is likely to improve the services provided. The innovative variance cannot change any of the client's rights under section 144A.44, home care bill of rights.

Subd. 2. **Conditions.** The commissioner may impose conditions on the granting of an innovation variance that the commissioner considers necessary.

Subd. 3. **Duration and renewal.** The commissioner may limit the duration of any innovation variance and may renew a limited innovation variance.

Subd. 4. **Applications; innovation variance.** An application for innovation variance from the requirements of this chapter may be made at any time, must be made in writing to the commissioner, and must specify the following:

- (1) the statute or law from which the innovation variance is requested;
- (2) the time period for which the innovation variance is requested;
- (3) the specific alternative action that the licensee proposes;
- (4) the reasons for the request; and

(5) justification that an innovation variance will not impair the services provided, will not adversely affect the health, safety, or welfare of clients, and is likely to improve the services provided.

The commissioner may require additional information from the home care provider before acting on the request.

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

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

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

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

History: 2013 c 108 art 11 s 17; 2014 c 275 art 1 s 135

144A.479 HOME CARE PROVIDER RESPONSIBILITIES; BUSINESS OPERATION.

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

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

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

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

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

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

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

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

(c) Nothing in this section precludes a home care provider or staff from accepting gifts of minimal value, or precludes the acceptance of donations or bequests made to a home care provider that are exempt from income tax under section 501(c) of the Internal Revenue Code of 1986.

Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care providers must comply with requirements for the reporting of maltreatment of minors in chapter 260E and the requirements for the reporting of maltreatment of vulnerable adults in section 626.557. Each home care provider must establish and implement a written procedure to ensure that all cases of suspected maltreatment are reported.

(b) Each home care provider must develop and implement an individual abuse prevention plan for each vulnerable minor or adult for whom home care services are provided by a home care provider. The plan shall contain an individualized review or assessment of the person's susceptibility to abuse by another individual, including other vulnerable adults or minors; the person's risk of abusing other vulnerable adults or minors; and statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse includes self-abuse.

Subd. 7. **Employee records.** The home care provider must maintain current records of each paid employee, regularly scheduled volunteers providing home care services, and of each individual contractor providing home care services. The records must include the following information:

(1) evidence of current professional licensure, registration, or certification, if licensure, registration, or certification is required by this statute or other rules;

(2) records of orientation, required annual training and infection control training, and competency evaluations;

(3) current job description, including qualifications, responsibilities, and identification of staff providing supervision;

(4) documentation of annual performance reviews which identify areas of improvement needed and training needs;

(5) for individuals providing home care services, verification that any health screenings required by infection control programs established under section 144A.4798 have taken place and the dates of those screenings; and

(6) documentation of the background study as required under section 144.057.

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

Subd. 8. **Labor market reporting.** A home care provider shall comply with the labor market reporting requirements described in section 256B.4912, subdivision 1a.

History: 2013 c 108 art 11 s 18; 2014 c 275 art 1 s 135; 1Sp2019 c 9 art 11 s 49,50; 1Sp2020 c 2 art 8 s 24

144A.4791 HOME CARE PROVIDER RESPONSIBILITIES WITH RESPECT TO CLIENTS.

Subdivision 1. **Home care bill of rights; notification to client.** (a) The home care provider shall provide the client or the client's representative a written notice of the rights under section 144A.44 before the date that services are first provided to that client. The provider shall make all reasonable efforts to provide notice of the rights to the client or the client's representative in a language the client or client's representative can understand.

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

"If you have a complaint about the provider or the person providing your home care services, you may call, write, or visit the Office of Health Facility Complaints, Minnesota Department of Health. You may also contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities."

The statement should include the telephone number, website address, e-mail address, mailing address, and street address of the Office of Health Facility Complaints at the Minnesota Department of Health, the Office of the Ombudsman for Long-Term Care, and the Office of the Ombudsman for Mental Health and Developmental Disabilities. The statement should also include the home care provider's name, address, e-mail, telephone number, and name or title of the person at the provider to whom problems or complaints

may be directed. It must also include a statement that the home care provider will not retaliate because of a complaint.

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

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

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

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

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

- (1) determine the client's preferences with respect to obtaining the service; and
- (2) inform the client of resources available, if known, to assist the client in obtaining services.

Subd. 6. Initiation of services. When a provider provides home care services to a client before the individualized review or assessment by a licensed health professional or registered nurse as required in subdivisions 7 and 8 is completed, the licensed health professional or registered nurse must complete a temporary plan with the client and orient staff assigned to deliver services as identified in the temporary plan.

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

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

Subd. 8. Comprehensive assessment, monitoring, and reassessment. (a) When the services being provided are comprehensive home care services, an individualized initial assessment must be conducted in

person by a registered nurse. When the services are provided by other licensed health professionals, the assessment must be conducted by the appropriate health professional. This initial assessment must be completed within five days after the date that home care services are first provided.

(b) Client monitoring and reassessment must be conducted in the client's home no more than 14 days after the date that home care services are first provided.

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

Subd. 9. Service plan, implementation, and revisions to service plan. (a) No later than 14 days after the date that home care services are first provided, a home care provider shall finalize a current written service plan.

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

(c) The home care provider must implement and provide all services required by the current service plan.

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

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

(f) The service plan must include:

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

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

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

(4) the schedule and methods of monitoring staff providing home care services; and

(5) a contingency plan that includes:

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

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

(iii) names and contact information of persons the client wishes to have notified in an emergency or if there is a significant adverse change in the client's condition; and

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

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

(1) the effective date of termination;

(2) the reason for termination;

(3) a list of known licensed home care providers in the client's immediate geographic area;

(4) a statement that the home care provider will participate in a coordinated transfer of care of the client to another home care provider, health care provider, or caregiver, as required by the home care bill of rights, section 144A.44, subdivision 1, clause (17);

(5) the name and contact information of a person employed by the home care provider with whom the client may discuss the notice of termination; and

(6) if applicable, a statement that the notice of termination of home care services does not constitute notice of termination of the housing with services contract with a housing with services establishment.

(b) When the home care provider voluntarily discontinues services to all clients, the home care provider must notify the commissioner, lead agencies, and ombudsman for long-term care about its clients and comply with the requirements in this subdivision.

Subd. 11. **Client complaint and investigative process.** (a) The home care provider must have a written policy and system for receiving, investigating, reporting, and attempting to resolve complaints from its clients or clients' representatives. The policy should clearly identify the process by which clients may file a complaint or concern about home care services and an explicit statement that the home care provider will not discriminate or retaliate against a client for expressing concerns or complaints. A home care provider must have a process in place to conduct investigations of complaints made by the client or the client's representative about the services in the client's plan that are or are not being provided or other items covered in the client's home care bill of rights. This complaint system must provide reasonable accommodations for any special needs of the client or client's representative if requested.

(b) The home care provider must document the complaint, name of the client, investigation, and resolution of each complaint filed. The home care provider must maintain a record of all activities regarding complaints received, including the date the complaint was received, and the home care provider's investigation and resolution of the complaint. This complaint record must be kept for each event for at least two years after the date of entry and must be available to the commissioner for review.

(c) The required complaint system must provide for written notice to each client or client's representative that includes:

(1) the client's right to complain to the home care provider about the services received;

(2) the name or title of the person or persons with the home care provider to contact with complaints;

(3) the method of submitting a complaint to the home care provider; and

(4) a statement that the provider is prohibited against retaliation according to paragraph (d).

(d) A home care provider must not take any action that negatively affects a client in retaliation for a complaint made or a concern expressed by the client or the client's representative.

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

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

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

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

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

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

(2) inform the physician or advanced practice registered nurse of the client's request; and

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

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

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

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

Subd. 14. **Application of other law.** Home care providers may exercise the authority and are subject to the protections in section 152.34.

History: 2013 c 108 art 11 s 19; 2014 c 275 art 1 s 135; 2016 c 179 s 11; 2018 c 170 s 3; 1Sp2019 c 9 art 11 s 51-56

144A.4792 MEDICATION MANAGEMENT.

Subdivision 1. **Medication management services; comprehensive home care license.** (a) This subdivision applies only to home care providers with a comprehensive home care license that provide medication management services to clients. Medication management services may not be provided by a home care provider who has a basic home care license.

(b) A comprehensive home care provider who provides medication management services must develop, implement, and maintain current written medication management policies and procedures. The policies and procedures must be developed under the supervision and direction of a registered nurse, licensed health professional, or pharmacist consistent with current practice standards and guidelines.

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

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

(b) The assessment must:

(1) identify interventions needed in management of medications to prevent diversion of medication by the client or others who may have access to the medications; and

(2) provide instructions to the client or client's representative on interventions to manage the client's medications and prevent diversion of medications.

"Diversion of medications" means the misuse, theft, or illegal or improper disposition of medications.

Subd. 3. Individualized medication monitoring and reassessment. The comprehensive home care provider must monitor and reassess the client's medication management services as needed under subdivision 2 when the client presents with symptoms or other issues that may be medication-related and, at a minimum, annually.

Subd. 4. Client refusal. The home care provider must document in the client's record any refusal for an assessment for medication management by the client. The provider must discuss with the client the possible consequences of the client's refusal and document the discussion in the client's record.

Subd. 5. Individualized medication management plan. (a) For each client receiving medication management services, the comprehensive home care provider must prepare and include in the service plan a written statement of the medication management services that will be provided to the client. The provider must develop and maintain a current individualized medication management record for each client based on the client's assessment that must contain the following:

(1) a statement describing the medication management services that will be provided;

(2) a description of storage of medications based on the client's needs and preferences, risk of diversion, and consistent with the manufacturer's directions;

(3) documentation of specific client instructions relating to the administration of medications;

(4) identification of persons responsible for monitoring medication supplies and ensuring that medication refills are ordered on a timely basis;

(5) identification of medication management tasks that may be delegated to unlicensed personnel;

(6) procedures for staff notifying a registered nurse or appropriate licensed health professional when a problem arises with medication management services; and

(7) any client-specific requirements relating to documenting medication administration, verifications that all medications are administered as prescribed, and monitoring of medication use to prevent possible complications or adverse reactions.

(b) The medication management record must be current and updated when there are any changes.

(c) Medication reconciliation must be completed when a licensed nurse, licensed health professional, or authorized prescriber is providing medication management.

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

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

(1) instructed the unlicensed personnel in the proper methods to administer the medications, and the unlicensed personnel has demonstrated the ability to competently follow the procedures;

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

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

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

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

Subd. 10. Medication management for clients who will be away from home. (a) A home care provider who is providing medication management services to the client and controls the client's access to the medications must develop and implement policies and procedures for giving accurate and current medications to clients for planned or unplanned times away from home according to the client's individualized medication management plan. The policy and procedures must state that:

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

(2) for unplanned time away, when the pharmacy is not able to provide the medications, a licensed nurse or unlicensed personnel shall give the client or client's representative medications in amounts and dosages needed for the length of the anticipated absence, not to exceed seven calendar days;

(3) the client or client's representative must be provided written information on medications, including any special instructions for administering or handling the medications, including controlled substances;

(4) the medications must be placed in a medication container or containers appropriate to the provider's medication system and must be labeled with the client's name and the dates and times that the medications are scheduled; and

(5) the client or client's representative must be provided in writing the home care provider's name and information on how to contact the home care provider.

(b) For unplanned time away when the licensed nurse is not available, the registered nurse may delegate this task to unlicensed personnel if:

(1) the registered nurse has trained the unlicensed staff and determined the unlicensed staff is competent to follow the procedures for giving medications to clients; and

(2) the registered nurse has developed written procedures for the unlicensed personnel, including any special instructions or procedures regarding controlled substances that are prescribed for the client. The procedures must address:

(i) the type of container or containers to be used for the medications appropriate to the provider's medication system;

(ii) how the container or containers must be labeled;

(iii) the written information about the medications to be given to the client or client's representative;

(iv) how the unlicensed staff must document in the client's record that medications have been given to the client or the client's representative, including documenting the date the medications were given to the client or the client's representative and who received the medications, the person who gave the medications to the client, the number of medications that were given to the client, and other required information;

(v) how the registered nurse shall be notified that medications have been given to the client or client's representative and whether the registered nurse needs to be contacted before the medications are given to the client or the client's representative;

(vi) a review by the registered nurse of the completion of this task to verify that this task was completed accurately by the unlicensed personnel; and

(vii) how the unlicensed staff must document in the client's record any unused medications that are returned to the provider, including the name of each medication and the doses of each returned medication.

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

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

Subd. 13. **Prescriptions.** There must be a current written or electronically recorded prescription as defined in section 151.01, subdivision 16a, for all prescribed medications that the comprehensive home care provider is managing for the client.

Subd. 14. **Renewal of prescriptions.** Prescriptions must be renewed at least every 12 months or more frequently as indicated by the assessment in subdivision 2. Prescriptions for controlled substances must comply with chapter 152.

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

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

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

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

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

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

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

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

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

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

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

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

History: 2013 c 108 art 11 s 20; 2014 c 275 art 1 s 26,135; 2016 c 179 s 12; 1Sp2019 c 9 art 11 s 57-60

144A.4793 TREATMENT AND THERAPY MANAGEMENT SERVICES.

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

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

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

Subd. 3. **Individualized treatment or therapy management plan.** For each client receiving management of ordered or prescribed treatments or therapy services, the comprehensive home care provider must prepare and include in the service plan a written statement of the treatment or therapy services that will be provided to the client. The provider must also develop and maintain a current individualized treatment and therapy management record for each client which must contain at least the following:

- (1) a statement of the type of services that will be provided;
- (2) documentation of specific client instructions relating to the treatments or therapy administration;
- (3) identification of treatment or therapy tasks that will be delegated to unlicensed personnel;
- (4) procedures for notifying a registered nurse or appropriate licensed health professional when a problem arises with treatments or therapy services; and
- (5) any client-specific requirements relating to documentation of treatment and therapy received, verification that all treatment and therapy was administered as prescribed, and monitoring of treatment or

therapy to prevent possible complications or adverse reactions. The treatment or therapy management record must be current and updated when there are any changes.

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

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

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

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

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

Subd. 6. **Treatment and therapy orders.** There must be an up-to-date written or electronically recorded order from an authorized prescriber for all treatments and therapies. The order must contain the name of the client, a description of the treatment or therapy to be provided, and the frequency, duration, and other information needed to administer the treatment or therapy. Treatment and therapy orders must be renewed at least every 12 months.

History: 2013 c 108 art 11 s 21; 2014 c 275 art 1 s 135; 1Sp2019 c 9 art 11 s 61

144A.4794 CLIENT RECORD REQUIREMENTS.

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

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

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

(1) as may be required by law;

(2) to employees or contractors of the home care provider, another home care provider, other health care practitioner or provider, or inpatient facility needing information in order to provide services to the client, but only such information that is necessary for the provision of services;

(3) to persons authorized in writing by the client or the client's representative to receive the information, including third-party payers; and

(4) to representatives of the commissioner authorized to survey or investigate home care providers under this chapter or federal laws.

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

Subd. 3. **Contents of client record.** Contents of a client record include the following for each client:

(1) identifying information, including the client's name, date of birth, address, and telephone number;

(2) the name, address, and telephone number of an emergency contact, family members, client's representative, if any, or others as identified;

(3) names, addresses, and telephone numbers of the client's health and medical service providers and other home care providers, if known;

(4) health information, including medical history, allergies, and when the provider is managing medications, treatments or therapies that require documentation, and other relevant health records;

(5) client's advance directives, if any;

(6) the home care provider's current and previous assessments and service plans;

(7) all records of communications pertinent to the client's home care services;

(8) documentation of significant changes in the client's status and actions taken in response to the needs of the client including reporting to the appropriate supervisor or health care professional;

(9) documentation of incidents involving the client and actions taken in response to the needs of the client including reporting to the appropriate supervisor or health care professional;

(10) documentation that services have been provided as identified in the service plan;

(11) documentation that the client has received and reviewed the home care bill of rights;

(12) documentation that the client has been provided the statement of disclosure on limitations of services under section 144A.4791, subdivision 3;

(13) documentation of complaints received and resolution;

(14) discharge summary, including service termination notice and related documentation, when applicable; and

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

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

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

History: 2013 c 108 art 11 s 22; 2014 c 275 art 1 s 135

144A.4795 HOME CARE PROVIDER RESPONSIBILITIES; STAFF.

Subdivision 1. **Qualifications, training, and competency.** All staff providing home care services must: (1) be trained and competent in the provision of home care services consistent with current practice standards appropriate to the client's needs; and (2) be informed of the home care bill of rights under section 144A.44.

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

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

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

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

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

(2) demonstrated competency by satisfactorily completing a written or oral test on the tasks the unlicensed personnel will perform and in the topics listed in subdivision 7, paragraph (b); and successfully demonstrated competency of topics in subdivision 7, paragraph (b), clauses (5), (7), and (8), by a practical skills test.

Unlicensed personnel providing home care services for a basic home care provider may not perform delegated nursing or therapy tasks.

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

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

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

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

(c) Unlicensed personnel performing therapy or treatment tasks delegated or assigned by a licensed health professional must meet the requirements for delegated tasks in subdivision 4 and any other training

or competency requirements within the licensed health professional scope of practice relating to delegation or assignment of tasks to unlicensed personnel.

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

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

Subd. 6. Temporary staff. When a home care provider contracts with a temporary staffing agency excluded from licensure under section 144A.471, those individuals must meet the same requirements required by this section for personnel employed by the home care provider and shall be treated as if they are staff of the home care provider.

Subd. 7. Requirements for instructors, training content, and competency evaluations for unlicensed personnel. (a) Instructors and competency evaluators must meet the following requirements:

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

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

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

(1) documentation requirements for all services provided;

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

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

(4) maintenance of a clean and safe environment;

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

(i) hair care and bathing;

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

(iii) care and use of hearing aids; and

(iv) dressing and assisting with toileting;

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

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

(8) medication, exercise, and treatment reminders;

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

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

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

(12) awareness of confidentiality and privacy;

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

(14) procedures to utilize in handling various emergency situations; and

(15) awareness of commonly used health technology equipment and assistive devices.

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

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

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

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

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

(5) safe transfer techniques and ambulation;

(6) range of motioning and positioning; and

(7) administering medications or treatments as required.

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

History: 2013 c 108 art 11 s 23; 2014 c 275 art 1 s 135

144A.4796 ORIENTATION AND ANNUAL TRAINING REQUIREMENTS.

Subdivision 1. **Orientation of staff and supervisors to home care.** All staff providing and supervising direct home care services must complete an orientation to home care licensing requirements and regulations before providing home care services to clients. The orientation may be incorporated into the training required

under subdivision 6. The orientation need only be completed once for each staff person and is not transferable to another home care provider.

Subd. 2. **Content.** (a) The orientation must contain the following topics:

- (1) an overview of sections 144A.43 to 144A.4798;
- (2) introduction and review of all the provider's policies and procedures related to the provision of home care services by the individual staff person;
- (3) handling of emergencies and use of emergency services;
- (4) compliance with and reporting of the maltreatment of minors or vulnerable adults under section 626.557 and chapter 260E;
- (5) home care bill of rights under section 144A.44;
- (6) handling of clients' complaints, reporting of complaints, and where to report complaints including information on the Office of Health Facility Complaints and the Common Entry Point;
- (7) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county managed care advocates, or other relevant advocacy services; and
- (8) review of the types of home care services the employee will be providing and the provider's scope of licensure.

(b) In addition to the topics listed in paragraph (a), orientation may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

- (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;
- (2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or
- (3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

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

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

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

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

(1) training on reporting of maltreatment of minors under chapter 260E and maltreatment of vulnerable adults under section 626.557, whichever is applicable to the services provided;

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

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

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

(b) In addition to the topics listed in paragraph (a), annual training may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

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

History: 2013 c 108 art 11 s 24; 2014 c 275 art 1 s 135; 2017 c 51 s 1,2; 1Sp2019 c 9 art 11 s 62; 1Sp2020 c 2 art 8 s 25,26

144A.4797 PROVISION OF SERVICES.

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

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

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

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

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

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

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

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

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

Subd. 5. Exemption. This section does not apply to an individual licensed under sections 144A.43 to 144A.4798.

History: 2013 c 108 art 11 s 25; 2014 c 275 art 1 s 135; 1Sp2019 c 9 art 11 s 63

144A.4798 DISEASE PREVENTION AND INFECTION CONTROL.

Subdivision 1. Tuberculosis (TB) infection control. (a) A home care provider must establish and maintain a comprehensive tuberculosis infection control program according to the most current tuberculosis infection control guidelines issued by the United States Centers for Disease Control and Prevention (CDC), Division of Tuberculosis Elimination, as published in the CDC's Morbidity and Mortality Weekly Report. This program must include a tuberculosis infection control plan that covers all paid and unpaid employees, contractors, students, and volunteers. The commissioner shall provide technical assistance regarding implementation of the guidelines.

(b) The home care provider must maintain written evidence of compliance with this subdivision.

Subd. 2. Communicable diseases. A home care provider must follow current state requirements for prevention, control, and reporting of communicable diseases as defined in Minnesota Rules, parts 4605.7040, 4605.7044, 4605.7050, 4605.7075, 4605.7080, and 4605.7090.

Subd. 3. **Infection control program.** A home care provider must establish and maintain an effective infection control program that complies with accepted health care, medical, and nursing standards for infection control.

History: 2013 c 108 art 11 s 26; 1Sp2019 c 9 art 11 s 64

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

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

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

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

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

(4) one member representing the Office of Ombudsman for Long-Term Care; and

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

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

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

(1) community standards for home care practices;

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

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

(4) training standards;

(5) identifying emerging issues and opportunities in home care and assisted living;

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

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

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

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

(c) The advisory council shall annually make recommendations to the commissioner for the purposes in section 144A.474, subdivision 11, paragraph (i). The recommendations shall address ways the commissioner may improve protection of the public under existing statutes and laws and include but are not limited to projects that create and administer training of licensees and their employees to improve residents' lives, supporting ways that licensees can improve and enhance quality care and ways to provide technical assistance to licensees to improve compliance; information technology and data projects that analyze and communicate information about trends of violations or lead to ways of improving client care; communications strategies to licensees and the public; and other projects or pilots that benefit clients, families, and the public.

History: 2013 c 108 art 11 s 27; 2014 c 291 art 6 s 18; 2016 c 179 s 13,14; 1Sp2017 c 6 art 10 s 70; 2019 c 60 art 4 s 26; 1Sp2019 c 9 art 11 s 65,66

144A.48 MS 2002 [Repealed, 2002 c 252 s 25]

144A.481 MS 2018 [Repealed, 1Sp2019 c 9 art 11 s 112]

144A.482 REGISTRATION OF HOME MANAGEMENT PROVIDERS.

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

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

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

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

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

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

(g) The commissioner may use any of the powers granted in sections 144A.43 to 144A.4798 to administer the registration system and enforce the home care bill of rights under this section.

History: 2013 c 108 art 11 s 29; 2014 c 275 art 1 s 135; 2016 c 179 s 15

144A.483 AGENCY QUALITY IMPROVEMENT PROGRAM.

Subdivision 1. **Annual legislative report on home care licensing.** The commissioner shall establish a quality improvement program for the home care survey and home care complaint investigation processes. The commissioner shall submit to the legislature an annual report, beginning October 1, 2015, and each October 1 thereafter. Each report will review the previous state fiscal year of home care licensing and regulatory activities. The report must include, but is not limited to, an analysis of:

(1) the number of FTEs in the Division of Compliance Monitoring, including the Office of Health Facility Complaints units assigned to home care licensing, survey, investigation, and enforcement process;

(2) numbers of and descriptive information about licenses issued, complaints received and investigated, including allegations made and correction orders issued, surveys completed and timelines, and correction order reconsiderations and results;

(3) descriptions of emerging trends in home care provision and areas of concern identified by the department in its regulation of home care providers;

(4) information and data regarding performance improvement projects underway and planned by the commissioner in the area of home care surveys; and

(5) work of the Department of Health Home Care Advisory Council.

Subd. 2. **Study of correction order appeal process.** Starting July 1, 2015, the commissioner shall study whether to add a correction order appeal process conducted by an independent reviewer such as an administrative law judge or other office and submit a report to the legislature by February 1, 2016. The commissioner shall review home care regulatory systems in other states as part of that study. The commissioner shall consult with the home care providers and representatives.

History: 2013 c 108 art 11 s 30

HOME AND COMMUNITY-BASED SERVICES DESIGNATION

144A.484 INTEGRATED LICENSURE; HOME AND COMMUNITY-BASED SERVICES DESIGNATION.

Subdivision 1. **Integrated licensing established.** A home care provider applicant or license holder may apply to the commissioner of health for a home and community-based services designation for the provision