

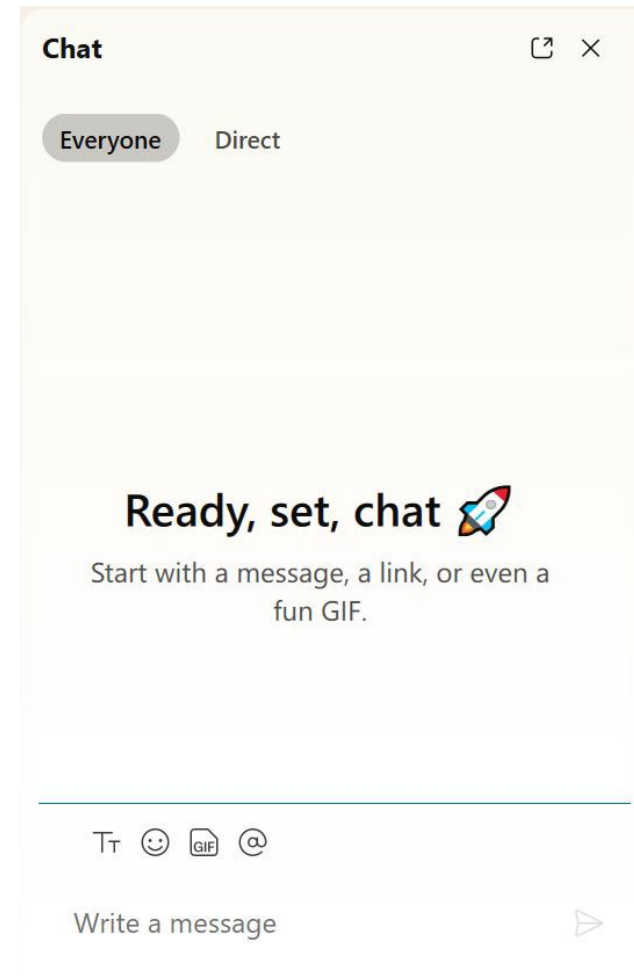


Assisted Living Quarterly WebEx Update

MDH Health Regulation Division

Meeting Details

- WebEx Participants will be muted.
- Questions may be asked via the WebEx chat.
- Use the “Everyone” tab to send in questions or comments. “Direct” questions or comments can be missed.
- We will attempt to answer as many questions as we can.
- This meeting will be recorded and posted to the MDH YouTube page.



1. Licensure Updates
2. Assisted Living Survey Trends
3. Hot Topics in AL Regulation
4. Complaint Trends





Assisted Living Licensure Updates

Assisted Living Licensing NOT Slowing Down

On August 1, 2024:

➤ **1972** MN Assisted Living Facilities

As of April 2024:

➤ **2217** open MN Assisted Living Facility licenses.

Since August 1, 2021:

➤ MDH has issued over **500** provisional licenses.



Licensing Application Forms and Training Videos

Forms

- [Provisional Assisted Living \(with Dementia Care\) License Application \(PDF\)](#)
- [Assisted Living Licensure Application Addendum: Building Information \(PDF\)](#)
- [Assisted Living Licensure Application Addendum: Additional Direct or Indirect Owner Information \(PDF\)](#)
- [Assisted Living Licensure Application Addendum: New Construction Information \(PDF\)](#)
- [Assisted Living Licensure Application Addendum: Additional Managerial Officials and Controlling Individuals Information \(PDF\)](#)

Training Videos

- [Applying for a Provisional Assisted Living License \(YouTube: 2:41\)](#)
- [How to Apply for an Assisted Living Provisional License \(YouTube: 3:54\)](#)
- [Information Needed Prior to Application \(YouTube: 2:58\)](#)
- [Difference between assisted living facility and assisted living facility with dementia care licenses \(YouTube: 3:39\)](#)

Need to make a change to your AL license? There's a form for that....

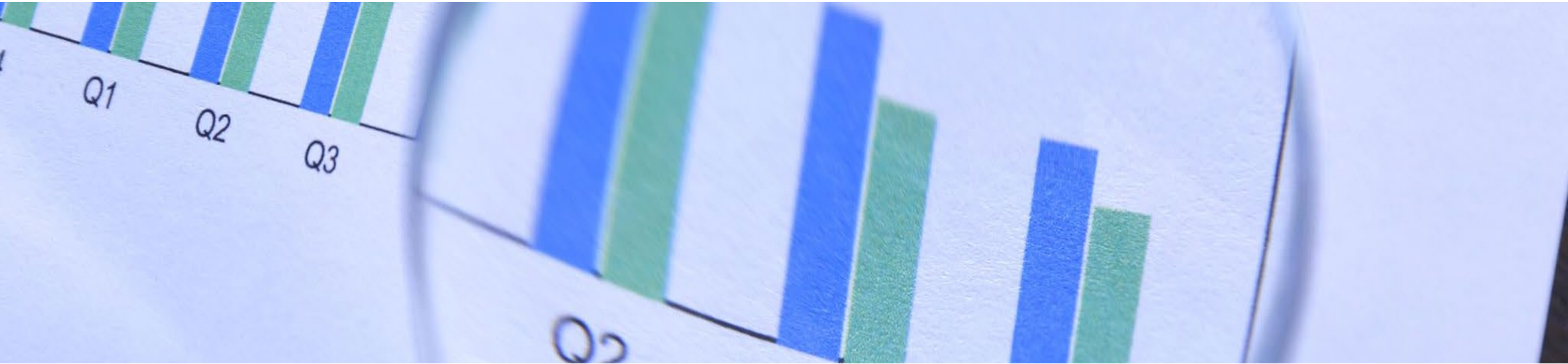
- [Change of Information for Assisted Living Providers \(PDF\)](#)
- [Closure Form for Assisted Living Providers \(PDF\)](#)
- [Licensed Resident Capacity Increase Request \(PDF\)](#)
- [Licensed Resident Capacity Decrease Request \(PDF\)](#)
- [License Renewal Provider Checklist \(PDF\)](#)
- [Notice of Providing Assisted Living Services \(PDF\)](#)



Updates to PALF and PALFDC Applications Underway

Based on user experience feedback, HRD State Licensing is working on updating the following application(s) to include a checklist that identifies all required materials needed upon application submission and address change of ownership (CHOW) more clearly.

- Provisional Assisted Living
- Provisional Assisted Living with Dementia Care



Assisted Living Survey Trends

One Survey at a Time....

“There is only one way to eat an elephant: a bite at a time.”

Desmond Tutu

Assisted Living Survey Teams:

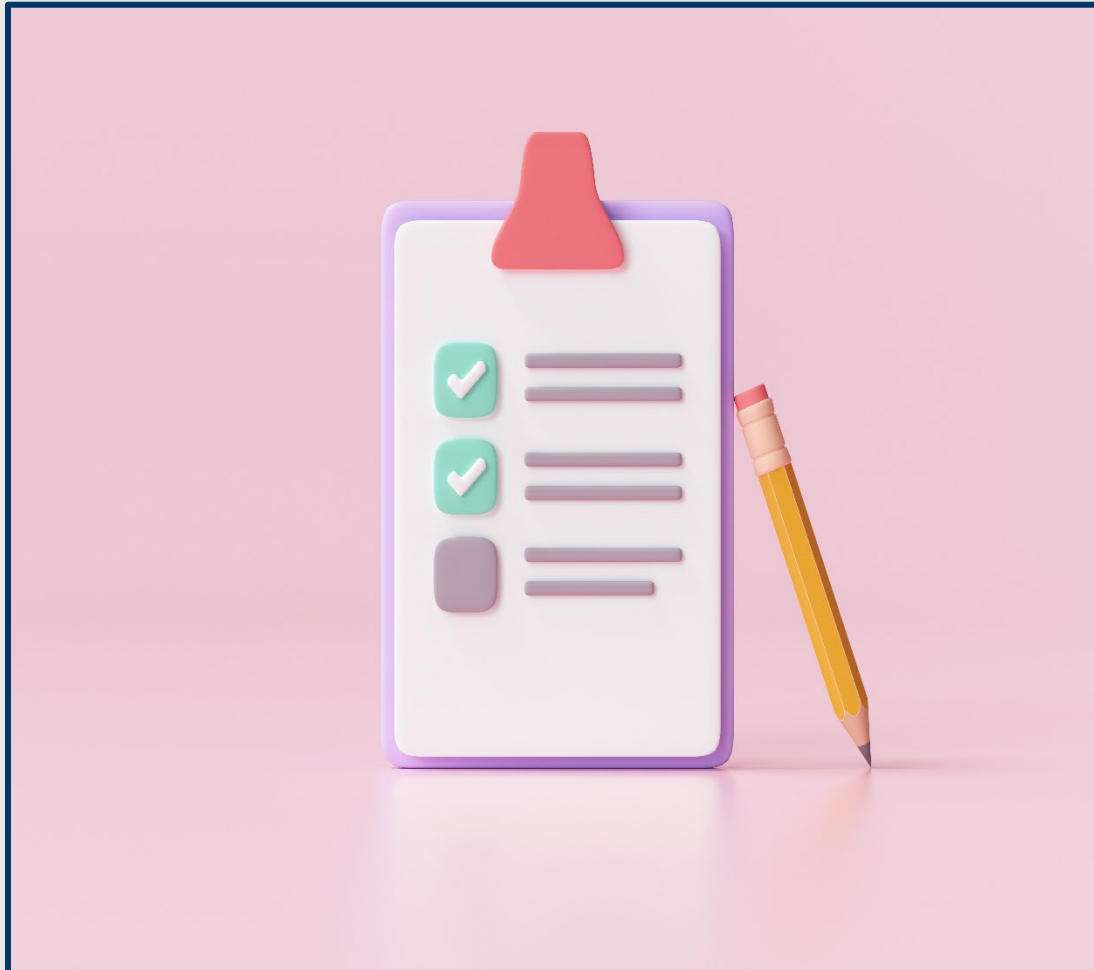
- 1-2 Nurse Evaluators
- Engineer
- Sanitarian

Assisted Living Surveys Types

- ALF
- ALFDC
- PALF
- PALFDC
- Change of Ownership (CHOW)



Surveys to Left Complete



- Approximately 15% of conversion licensees left to survey.
- HRD estimates AL surveys for conversion licensees will continue throughout the summer months.
- Two new engineering staff will be onboarded by June 1st with three positions hired this summer.

ALF/ALFDC Top 10 Correction Orders

8.1.21 until 5.01.24

Top 10	Tag	Topic	Count
1	0480	Minimum requirements	1030
2	0810	Fire protection and physical environment	972
3	0680	Disaster planning and emergency preparedness	748
4	0800	Fire protection and physical environment	727
5	1620	Initial reviews, assessments, and monitoring	539
6	0780	Fire protection and physical environment	487
7	0660	Tuberculosis prevention and control	442
8	0510	Infection control program	429
9	1890	Prescription drugs	414
10	0650	Employee records	386

PALF/PALFDC Top 10 Correction Orders

8.1.21 until 5.01.24

Top 10	Tag	Topic	Count
1	0810	Fire protection and physical environment	197
2	0480	Minimum requirements	177
3	0680	Disaster planning and emergency preparedness	136
4	0800	Fire protection and physical environment	117
5	0660	Tuberculosis prevention and control	80
6	0470	Minimum requirements	66
7	0790	Fire protection and physical environment	63
8	0780	Fire protection and physical environment	56
9	1620	Initial reviews, assessments, and monitoring	56
10	0650	Employee records	53

Provider Feedback Questionnaire

On June 5, 2023, MDH began emailing State and Federal providers an electronic feedback questionnaire at the time of survey and investigation to provide feedback on their experience with the survey/investigation.

State surveys – entrance email, at exit, enforcement letter.

State investigations – exit and enforcement letter.

The screenshot shows a digital form titled "Feedback Questionnaire About Your Experience". The form is set against a background of abstract teal and blue shapes. The text on the form reads: "The Minnesota Department of Health (MDH) and the Health Regulation Division (HRD) values your feedback about your experience during the survey/evaluation or investigative process. This questionnaire supports MDH'S culture of learning and collaborative safety by providing opportunities for facilities and providers to give MDH their perspectives about MDH's procedures, how MDH representatives communicated and whether the facilities and providers felt heard." Below this is a paragraph: "Please fill out this anonymous questionnaire and it will go to the Planning and Partnership Office in the Health Regulation Division. Your feedback is important to MDH and your perspective will help identify ways for us to improve our procedures and communication. In addition, the summarized anonymous data from all feedback questionnaires received will be made available on the HRD Website. If you want to discuss any of your responses further, please contact susan.winkelmann@state.mn.us in the Planning and Partnership Office, or call 651-201-5952." A note follows: "NOTE: If you have specific concerns about an individual MDH Employee, we invite you to bring those concerns to the supervisor, or operations manager of the employee. This form is for more general feedback." The form includes a section for "Basic Information" with a required question: "1. Is this about a licensure survey/evaluation or complaint investigation?". There are three radio button options: "Survey/Evaluation", "Complaint Investigation", and "Don't Know".

Feedback Questionnaire About Your Experience

The Minnesota Department of Health (MDH) and the Health Regulation Division (HRD) values your feedback about your experience during the survey/evaluation or investigative process. This questionnaire supports MDH'S culture of learning and collaborative safety by providing opportunities for facilities and providers to give MDH their perspectives about MDH's procedures, how MDH representatives communicated and whether the facilities and providers felt heard.

Please fill out this anonymous questionnaire and it will go to the Planning and Partnership Office in the Health Regulation Division. Your feedback is important to MDH and your perspective will help identify ways for us to improve our procedures and communication. In addition, the summarized anonymous data from all feedback questionnaires received will be made available on the HRD Website. If you want to discuss any of your responses further, please contact susan.winkelmann@state.mn.us in the Planning and Partnership Office, or call 651-201-5952.

NOTE: If you have specific concerns about an individual MDH Employee, we invite you to bring those concerns to the supervisor, or operations manager of the employee. This form is for more general feedback.

* Required

Basic Information

1. **Is this about a licensure survey/evaluation or complaint investigation?** *

Survey/Evaluation

Complaint Investigation

Don't Know



Hot Topics in AL Regulation

IMMEDIATE CORRECTION ORDERS

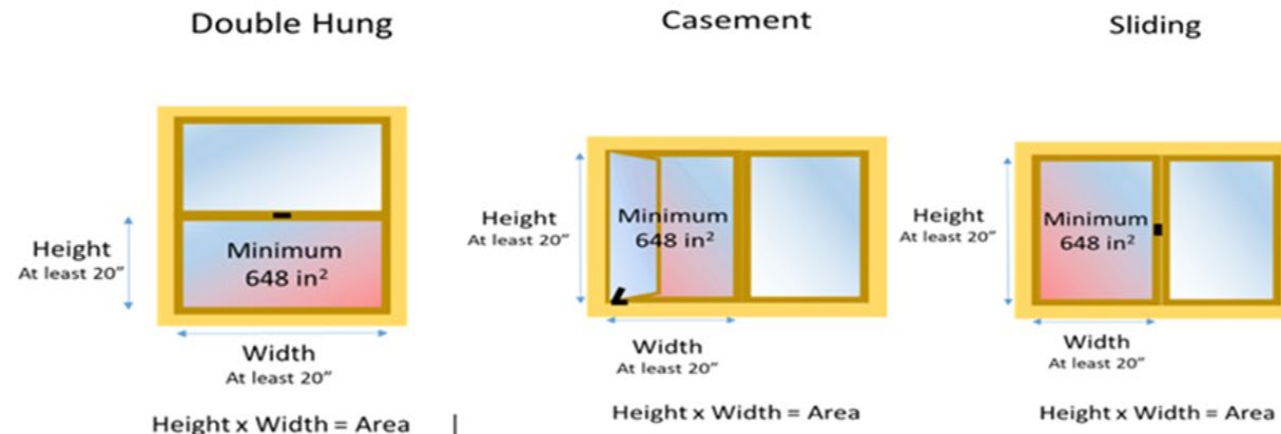
Immediate Correction Orders

The surveyor identified a deficient practice that has the potential to cause harm to a resident's health or safety.

1. Identify how the findings have been or will be corrected related to each individual employee(s) identified in the correction order.
2. Identify how other individuals (employees) with the potential to be affected or in similar situations will be identified and protected.
3. Identify what changes to your systems and practices have been or will be made to ensure compliance with the specific statute(s). Include information about how you will maintain compliance in the future.
4. Identify the date/time by which this will be completed.

Egress Windows in Sleeping Rooms

Existing egress window in state licensed facilities is a window that has a minimum of 648 square inches with not less than 20 inches in height of openable area and 20 inches in width of openable area.



What do we do?

Proactive:

- ❑ Ensure all the windows in sleeping rooms meet the minimum measurement requirements.

Reactive:

- Move residents to a room that meets the requirement.
- Initiate a fire-watch until the window or circumstance can be resolved.
- Keep the engineer supervisor appraised of your status.

Appropriate cares and services: Bedrail Assessments

- Initial, at least every 90 days, and with a resident's change in needs.

Rule 4659.0140, Subp. 2(B)(1) says a nursing assessment or reassessment must include certain sections of the uniform assessment tool (A-N), which includes mobility, including ambulation, transfers, and assistive devices.



Bedrail deaths continue....

Since December 2022, MDH has investigated SIX deaths and one serious injury in MDH licensed healthcare facilities caused by bedrail entrapment.

- The Food and Drug Administration (FDA) stated more than 50 percent of bedrail incidents reported to the FDA involved a death. [FDA Bedrail Injuries](#)
- The Consumer Products Safety Commission (CPSC) reported it identified 284 entrapment deaths involving adult portable bedrails between January 2003 and December 2021.

[Assisted Living: Resources and Frequently-Asked Questions \(FAQs\) - MN Dept. of Health \(state.mn.us\)](#)



What do we do?

Proactive:

- Assess for appropriateness and safety.
- Ensure proper installation.
- Complete a Risk vs. Benefits education with resident/responsible party.
- Educate staff.

Reactive:

- Complete the portions that were not complete or lacking as found by the surveyor.
- Consider alternative services to mitigate any safety concerns.
- Refer to the FAQs to help guide you.

Minimum Requirements: Staff access to an on-call RN 24/7

- A nurse who is employed elsewhere with a job that requires focused, uninterrupted attention by the provision of nursing care to patients of that employer is not considered accessible to staff. A nurse cannot “abandon” a patient assignment https://mn.gov/boards/assets/Patient_Abndnmt_2010_5-19_tcm21-37475.pdf
- Rule 4659.0140 Subp. 2 Nursing assessment. B. (2) be conducted in person



What do we do?

Proactive:

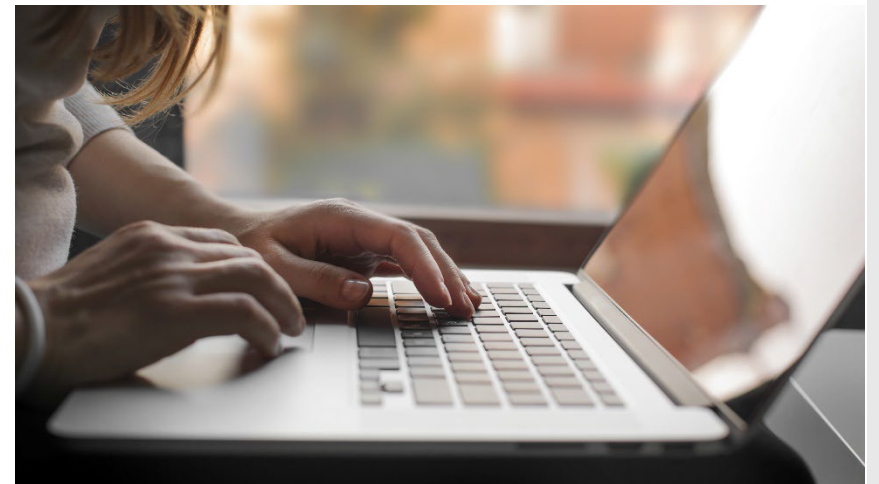
- ❑ Ensure you have a Registered Nurse who can be available to staff via phone, in person, or by other means when staff are performing delegated nursing tasks. [See 144G.62 Subd. 1]

Reactive:

- If there is only one RN employed, then the nurse will need to be “available” 24/7/365.
- Consider hiring a second RN.
- Consider on-call share with another assisted living provider.

Background Studies Required

- The “Eligible Covid 19 Study” status background studies expired on December 31, 2022.
- Background studies still affiliated only with the prior Comp license.



What do we do?

Proactive:

- ❑ Ensure every staff member has completed a NetStudy 2.0 background study.
- ❑ Ensure the SIP (Sensitive Information Person) has affiliated every employee from previous comp license to Assisted Living license.

Reactive:

- Remove the individual from direct care services with the residents.
- Supervision of staff without cleared background study by someone who has a cleared background study.

Minimum Requirements: Sufficient staffing 24 hours/day to meet the scheduled and reasonably foreseeable unscheduled needs of each resident; and awake staff.

Refer to your nursing assessments.

- Rule 4659.0180 Subp. 5. Direct-care staff availability. A minimum of two direct-care staff must be scheduled and available to assist at all times whenever a resident requires the assistance of two direct-care staff for scheduled reasonably foreseeable and unscheduled needs, as reflected in the resident's assessments and service plan.



What do we do?

Proactive:

- Ensure the staff do not sleep while on shift.
- Evaluate staffing needs with each resident change in condition.

Reactive:

- Explore using a “sleeper” position for the second staff member if the anticipated need is low.

Delegation of Medication Administration.

- 144G.62 Subd. 2. Delegation of assisted living services. (a) 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.
- Looking at the Nurse Practice Act from the MN BON, "Delegation" means the transfer of authority to another nurse or ***competent***, unlicensed assistive person to perform a specific nursing task or activity in a specific situation.

What do we do?

Proactive:

- ❑ The Registered Nurse completes the delegated nursing task competency checks.



Reactive:

- Remove staff from schedule who have not been competency checked by the RN.
- Cover immediately successive shifts with staff who are competency checked.
- Have the RN complete competency checks on all ULPs.

Local Laws Apply: Smoking indoors.

- Smoking is prohibited in all indoor areas of healthcare-related facilities (Assisted Living Facilities) except in a designated separate, enclosed room maintained in accordance with applicable state and federal laws. (MN Statute 144.414 subd. 3)

<https://www.health.state.mn.us/communities/environment/air/mciaa/index.html>

<https://www.health.state.mn.us/communities/environment/air/mciaa/residentialhealth.html>



What do we do?

Proactive:

- Complete a smoking assessment on each resident.
- Post No-Smoking signs.
- Provide proper receptacles in allowed smoking area.
- Train staff and educate residents.

Reactive:

- Conduct smoking audits.
- Work with case manager and responsible parties on solutions.
- Communicate with resident(s) about risk of on-going non-compliance.



Complaint Investigation Trends

Investigation Timelines

- We have greatly reduced our backlog of incidents to investigate, so you will start to see us arriving sooner after a reported incident.
- We prioritize by the harm which has occurred or is likely.



Investigation Issues

- As noted above, we continue to see risks and injury associated with bed rails and similar assistive devices.
- A common denominator among many abuse and neglect investigations is a lack of oversight by licensed staff.
 - Nurse presence and leadership
 - Having an LALD
- Accountability for controlled substances



Investigation Issues

- Resident use of nonprescribed controlled substances needs to be addressed in the care planning for the resident.
- Threatening to discharge a resident when there is not legal cause to terminate their housing and services is inappropriate and **can be abuse**.
- Make sure you go through the right processes for any modifications to your physical plant.
 - Building permits
 - Plan review by our engineering staff



Thank you!

Next Assisted Living Quarterly Update WebEx
August 19, 2024, at 1:00 p.m.

Questions? Email: Health.assistedliving@state.mn.us