



Assisted Living Quarterly Update Webex

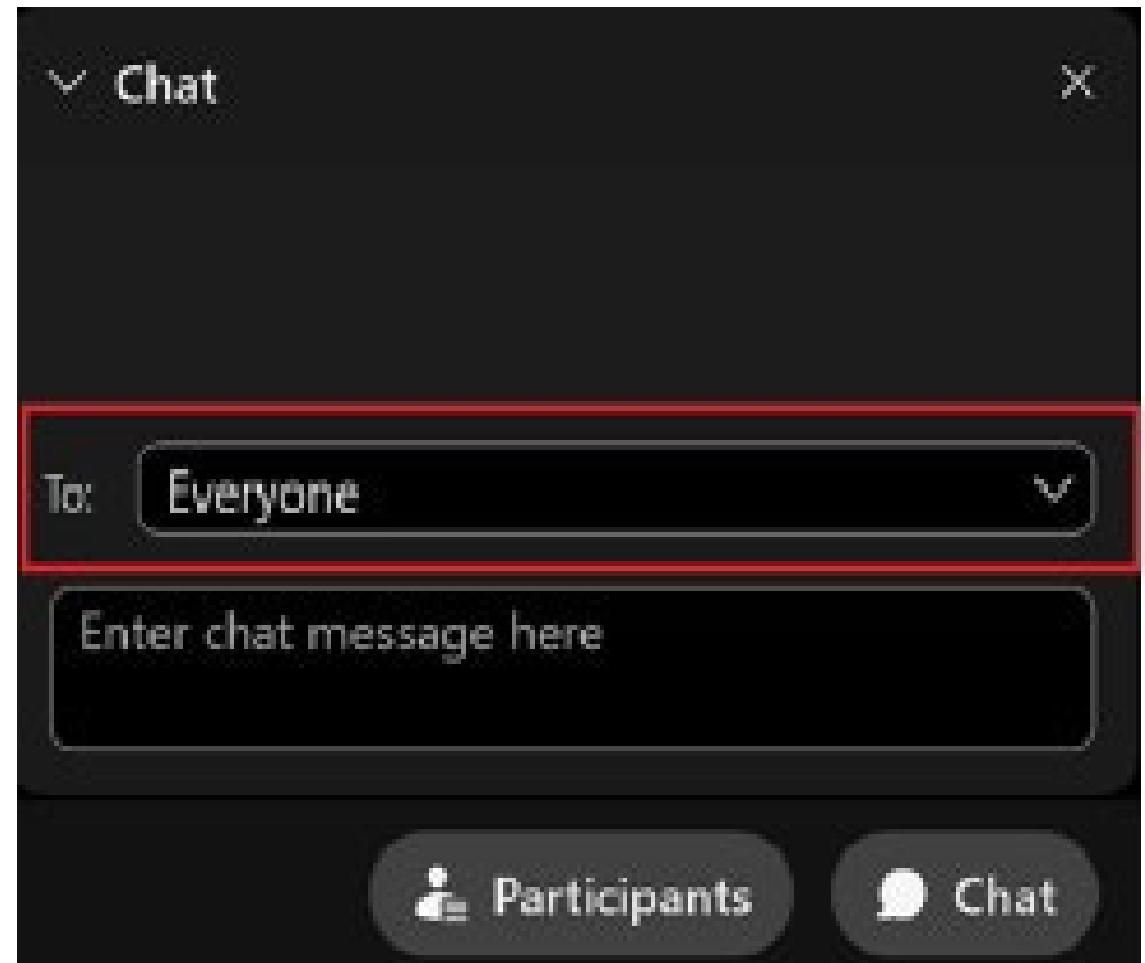
November 18, 2024

Webex Participants

Participants are muted.

To ask a **question**, click on the chat bubble to open the chat, select “Everyone”, and ask a question or provide a comment. Messages sent privately may not be addressed due to logistics.

We will answer as many questions as we can at the end of our time today.



- Assisted living survey cycle - Prepping for your second survey.
- Assisted living plan review process.
- Mental Health and Substance Use Disorder in Assisted Living.

First Assisted Living Survey Cycle is Finished!

All assisted living
providers licensed on
August 1, 2021, have a
first survey complete!

Round Two:
Begins November 2024

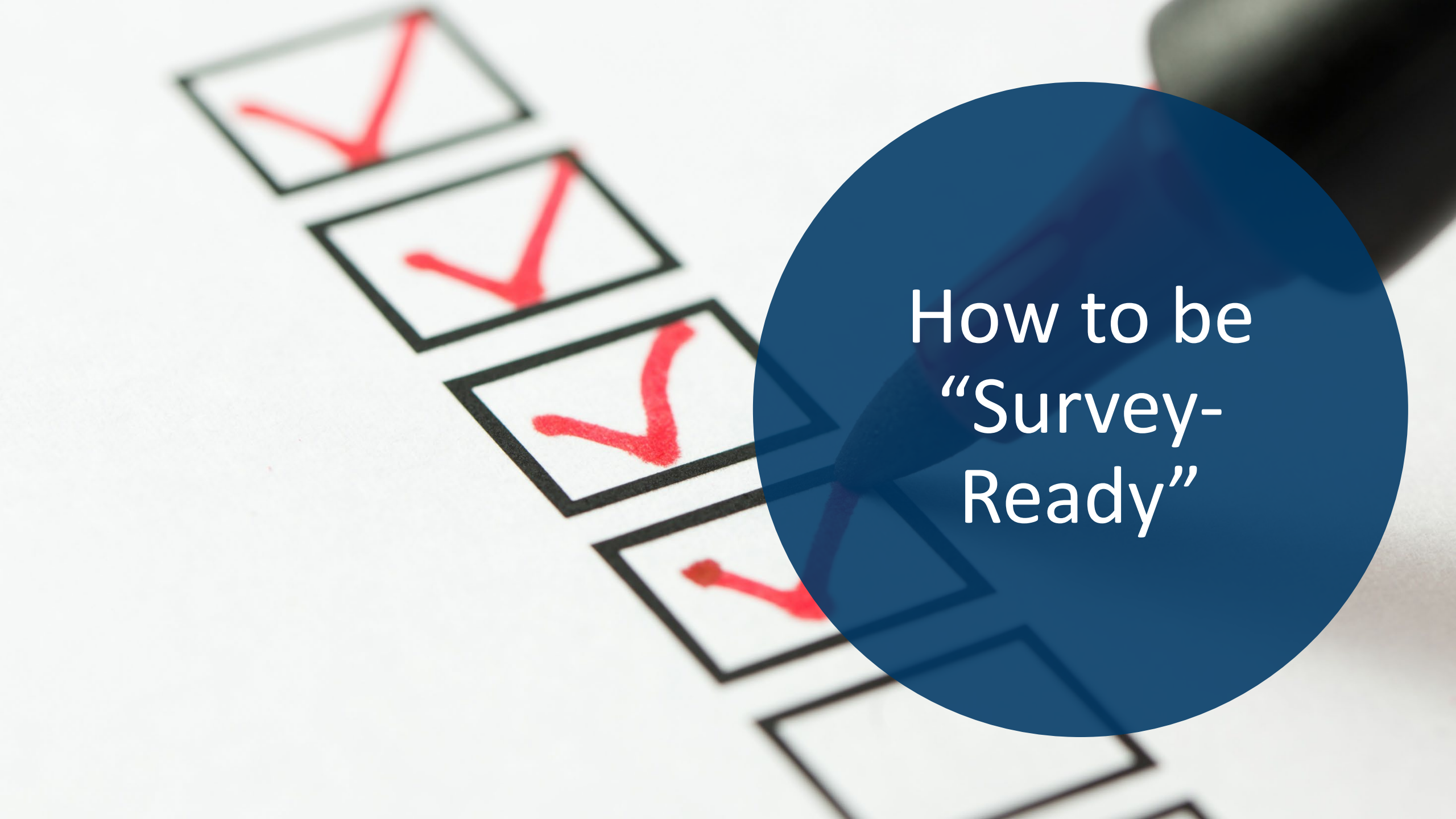


Prepping for Your Second AL Survey

Amy Hyers

State Evaluation
Regional Operations
Manager





How to be
“Survey-
Ready”

Look backwards

➤ [144G.30](#) Subd. 5 (c) By the correction order date, the facility must document in the facility's records any action taken to comply with the correction order. The commissioner may request a copy of this documentation and the facility's action to respond to the correction order in future surveys, upon a complaint investigation, and as otherwise needed.

- Documentation of corrections
- Internal Audits
- Staff education



144G.30 Subdivision 1. **Regulatory powers.**

(a) The Department of Health is the exclusive state agency charged with the responsibility and duty of surveying... all assisted living facilities required to be licensed under this chapter. The commissioner of health shall enforce all sections of this chapter and the rules adopted under this chapter.

(b) ...upon request to the facility, must be given access to relevant information, records, incident reports, and other documents in the possession of the facility...

- Resident Records (to include incident reports)
- Policies/procedures
- Emergency Preparedness Plan
- Employee files



- [Minn. Stat. 144G \(https://www.revisor.mn.gov/statutes/cite/144G\)](https://www.revisor.mn.gov/statutes/cite/144G)
- [Minn. Rules Chapter 4659, Assisted Living Facilities \(https://www.revisor.mn.gov/rules/4659/\)](https://www.revisor.mn.gov/rules/4659/)
- [Minn. Rules Chapter 4626, Food Code \(https://www.revisor.mn.gov/rules/4626/\)](https://www.revisor.mn.gov/rules/4626/)
- [NFPA 101 Life Safety Code \(https://www.nfpa.org/codes-and-standards/nfpa-101-standard-development/101\)](https://www.nfpa.org/codes-and-standards/nfpa-101-standard-development/101)
- [State Operations Manual, Appendix Z \(pdf\) \(https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Appendix-Z-EP-SOM-February-2019.pdf\)](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/Appendix-Z-EP-SOM-February-2019.pdf)
- Other applicable state, local, or city laws, codes, and ordinances.

144G.30 Subd. 3. **Scheduling surveys.**

Surveys and investigations shall be conducted without advance notice to the facilities. Surveyors may contact the facility on the day of a survey to arrange for someone to be available at the survey site. The contact does not constitute advance notice.

- New requirements in 144G.63: two hours of initial training on mental illness and de-escalation topics specified under paragraph (b), clauses (6) to (8) by July 1, 2025
- Train staff/mock surveys
- Focus on the highest need residents for audits





0480: Minnesota Food Code -1503

“First-round” Top 5



0810: Fire Safety and Evacuation Plans -1455



0800: Physical Environment in Good Repair -1126



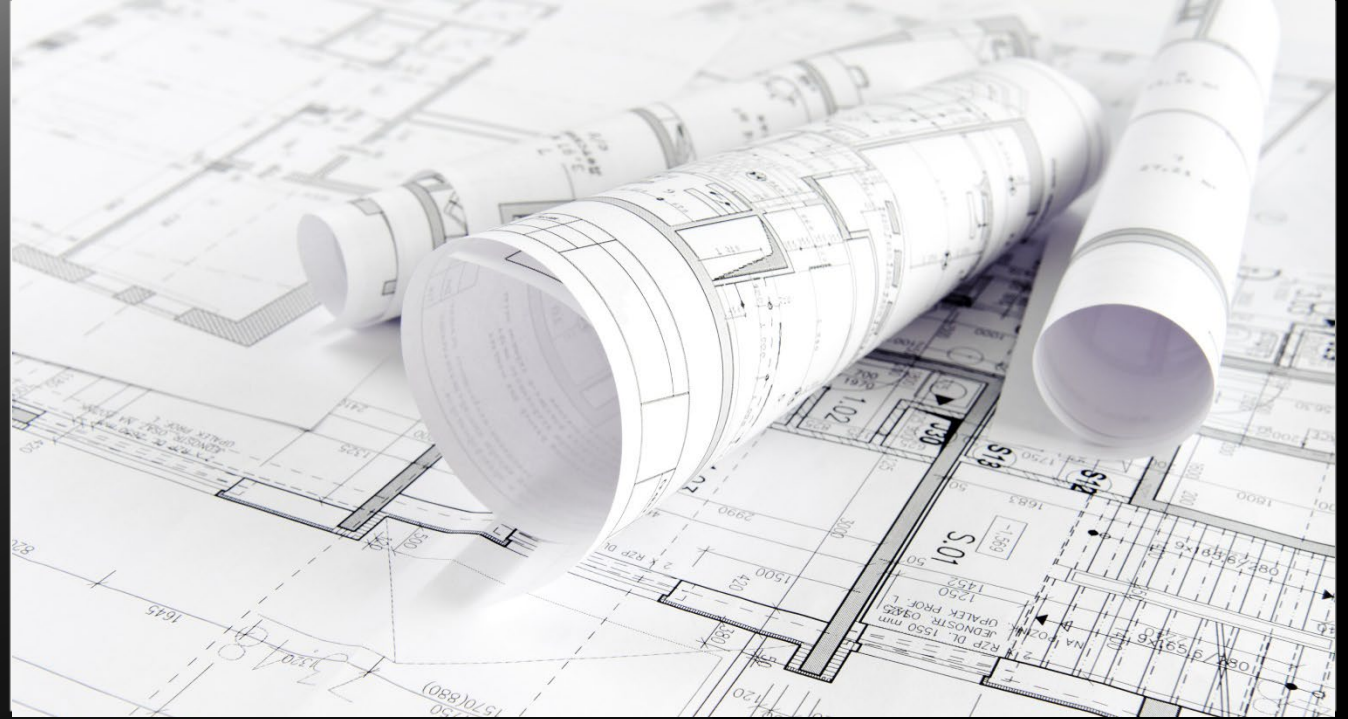
0680: Emergency Preparedness -1119



1620: Resident Reassessments -812

Assisted Living Plan Review

Bob Dehler,
Engineering
Services Manager



MDH Oversight of Plan Review and Inspection



MN Statute 144G.09 subd.2(7): MDH is responsible for all plan reviews and inspections of ALF and ALFDCs when there is a request for a new license or review of new construction.



MN Statute 144G.08 subd.42 defines the term “New Construction” as a new building, renovation, modification, reconstruction, physical changes altering the use of occupancy, or addition to a building.

Two Paths of Plan Review

New Licensure Application.

Applicants fill out a physical environment component on new ALF/ALFDC license applications for engineering review and inspection.

AL Plan Submittal Form.

ALF/ALFDC licensees proposing new construction are required to submit an AL Plan Submittal Form with required plans and specification for engineering to review and inspect.

Beginning of the Plan Review Workflow

MDH receives new license application or construction submittal form.




New license application/construction submittal form processed.



Once all required information is received, the project is assigned to Engineering staff for plan review and inspection.

Determine Standard of Plan Review

To determine what standard applies for the plan review and inspection process, the engineer must first check:



1. License Type (ALF or ALFDC)



2. Licensed Resident Capacity

ALF Standards of Review

Assisted Living Facilities with 5 or less residents:

- MN Statute 144G.45, subd.1-3

Assisted Living Facilities with 6 or more residents:

- MN Statute 144G.45 subd.1-6
- 2018 Facility Guidelines Institute Manual under MN Statute 144G.45, subd.4
- 2018 NFPA 101: Life Safety Code Residential Board and Care Occupancies Chapter 32 under MN Statute 144G.45, subd.5

ALFDC Standard of Review

Assisted Living Facilities with Dementia Care, any number of residents:

- MN Statute 144G.45, subd.1-3
- 2018 NFPA 101: Life Safety Code Healthcare (Limited Care) Occupancies, Chapter 18 under MN Statute 144G.81

Assisted Living Facilities with Dementia Care with 6 or more residents:

- MN Statute 144G.45, subd.1-6
- 2018 Facility Guidelines Institute Manual under MN Statute 144G.45, subd.4
- 2018 NFPA 101: Life Safety Code Healthcare (Limited Care) Occupancies, Chapter 18 under MN Statute 144G.81

Plan Review Compliance

After the engineer reviews all applications, submitted plans, and specifications, the engineer will determine whether the plan review is compliant.

Once reviewed, one of the two following forms of correspondence will be issued:



Plan Approval Letter (Compliant)



If the engineer determines the submitted plans and specifications are substantially compliant, MDH will issue a Plan Approval Letter via email to the administrator listed on the application.



The Plan Approval Letter will request confirmation of marginal items that were not able to be verified in the plans by a written response from the administrator or authorized responsible party before moving the project into the Inspection phase.

Plan Correction Letter (Not Compliant)



If the engineer determines the submitted plans or specifications are not complete or in substantial compliance, a Plan Correction Letter will be issued via email to the administrator listed on the application.



The Plan Correction Letter will outline the missing or non-compliant items in the plans, request the applicant provide a written response to the Plan Correction Letter, and submit new or updated plans with the required information.



Once a sufficient response and submittals are received, the application will go back to the plan review process.

Prior to Inspection: Certificate of Occupancy Requirements

MN DLI and Building
Code requirements:
MN Statute 326B.103,
subd. 3 defines
ALF/ALFDCs as
State Licensed Facilities

Must comply with the
following provisions:

1. All buildings or residential homes proposed to be licensed or are licensed must obtain permits from the Minnesota Department of Labor and Industry (DLI) or a delegated jurisdiction for any new construction, alteration, or change of use.

Certificate of Occupancy or correspondence verifying compliance from MN DLI or the delegated jurisdiction is required prior to the final MDH inspection of the facility in accordance with MN Statute 144G.45, subd.3.

Scheduling Inspection

Licensee responds to the Plan Approval Letter and addresses all noncompliance.



Engineer schedules an inspection of the facility

Compliant Inspection

If the inspection shows compliance, an inspection letter will be issued indicating there are no required corrections.




The application will be given a Clearance by engineering to move to the next phase of licensing or completion of the project.

Non-Compliant Inspection

If inspection shows noncompliance, an Inspection Letter will be issued outlining the non-compliant items.



The engineer conducting the inspection will determine if the items noted in the Inspection Letter requires a follow up inspection



Corrections made and deemed compliant.

The application is given a Clearance by engineering to move to the next phase of licensing or completion of the project.

Questions for the MDH-HRD Engineering Section?

health.healthcareengineers@state.mn.us

Mental Health and Substance Use Disorder in Assisted Living

Matt Heffron, JD

State Rapid Response
Regional Operations
Manager



Survey and Investigation Considerations 1/6

1. Whether neglect occurred: “the failure or omission by a caregiver to supply a vulnerable adult with care or services... reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety.”
 - What care is reasonable and necessary to address the physical and mental capacity of the person?

Survey and Investigation Considerations 2/6

2. Assisted living bill of rights.

- Right to appropriate care and services based on the resident's needs and accepted health care standards.
- Right to come and go freely, to individual autonomy, and to control personal resources.

Survey and Investigation Considerations 3/6

3. Assisted living minimum standards.

- Minn. Stat. 144G.41, Subd. 1, requires an assisted living facility use a **person-centered** planning and service delivery process, have a staffing plan which can meet the scheduled and reasonably **foreseeable unscheduled needs** of residents, and be able to effectively respond to resident emergencies.

Minn. Rule 4659.0150 requires the assessment to include:

- “emotional and mental health conditions, including... history of and any diagnoses of mood disorders... current symptoms of mental health conditions and behavioral expressions of concerns.”
- “alcohol and drug use, including the resident's alcohol use or drug use not prescribed by a physician.”



Substance Use Disorder in Assisted Living

Examples of SUD in MN Assisted Living

- In fall 2023, MDH received several reports of fatal overdoses in assisted living facilities.
- Over the subsequent year, MDH has continued to receive complaints and reports of overdoses resulting in death or which required hospitalizations.
- As MDH investigates these instances, some are substantiated as neglect and others are not.

- Overdoses leading to loss of consciousness are occurring in residential care facilities, including assisted living facilities.
- When repeated overdoses occur without interventions, the outcome for residents can be fatal.
- Additional monitoring and safety checks can benefit the resident.
- Narcan administration, by the facility or EMS, is often successful.

Everything starts with observation and assessment.

- When signs and symptoms of a substance use disorder are identified by direct care staff, these must be brought to the attention of the nurse.
- Timely completion of an assessment is critical.

Developing, documenting, and implementing new interventions can save a life.

Lessons Learned cont.

- Effective care starts with the pre-admission assessment and determining if the individual is appropriate for the setting.
- To provide person-centered care, strategies around this issue should move from reactive towards a preventative and holistic approach.





Mental Health in Assisted Living

Survey and Investigation Considerations 4/6

Care for mental health starts with the admission assessment.

- An assisted living facility may not accept a resident unless the facility has staff “sufficient in qualifications, competency, and numbers, to adequately provide the services agreed to.”
- This includes training and staffing to handle the specific mental health needs of the resident.
- The admission assessment should also consider the legal status of the resident.

Survey and Investigation Considerations 5/6

Mental health should remain part of the nursing assessment and interventions.

- The Uniform Assessment Tool requirements include mental health symptoms.
- Behavioral interventions should be part of the nursing process, coordinated with other professionals and disciplines as appropriate.

Survey and Investigation Considerations 6/6

Behavioral interventions must be person-centered and must respect resident rights.

- This means all interventions should be individualized, not generic.
- The least restrictive alternative which meets the need must be selected.
- The solution cannot restrict a resident right which assisted living facilities are not allowed to restrict.
- The interventions need to be updated as the situation changes.

Survey and Investigation Considerations

An assisted living facility is required to have staffing which:

- Can meet the reasonably foreseeable unscheduled needs of each resident.
- Ensures the facility can respond effectively to individual resident emergencies.

A resident with known mental health needs or an active substance use disorder **has** reasonably foreseeable needs related to those issues.

Things Not to Do

An assisted living facility should not:

- Have blanket bans on alcohol or cannabis.
- Restrict the right of cognitively intact residents to come and go.
- Use secured units to handle drug seeking behaviors.
- Use secured units to handle mental health decompensation.
- Rely on law enforcement or emergency medical services to address known behavioral health needs.

Thank you!
Questions?

health.assistedliving@state.mn.us