

Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Governing Assisted Living Facilities

AGENCY: Department of Health

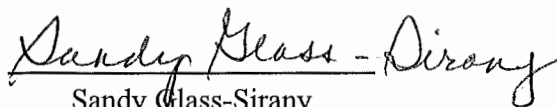
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MINNESOTA RULES: Chapter 4659

INCORPORATIONS BY REFERENCE

Part 4650.0100 "State Operations Manual Appendix Z - Emergency Preparedness for All Provider and Certified Supplier Types: Interpretive Guidance," which is incorporated by reference. This material is subject to frequent change and is available from the United States Centers for Medicare & Medicaid Services. It is conveniently available online at <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/SOM%20Appendix%20Z%202019.pdf>, or by mail to U.S. Centers for Medicare & Medicaid Services at 7500 Security Boulevard, Baltimore, MD 21244.

The attached rules are approved for
publication in the State Register


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1.1 **Department of Health**

1.2 **Proposed Permanent Rules Governing Assisted Living Facilities**

1.3 **4659.0010 APPLICABILITY AND PURPOSE.**

1.4 This chapter establishes the criteria and procedures for regulating assisted living facilities
1.5 and assisted living facilities with dementia care and must be read in conjunction with
1.6 Minnesota Statutes, chapter 144G. The licensee is legally responsible for ensuring compliance
1.7 by the licensee's facility, and any individual or entity acting on its behalf, with this chapter
1.8 and Minnesota Statutes, chapter 144G.

1.9 **4659.0020 DEFINITIONS.**

1.10 Subpart 1. **Scope.** For purposes of this chapter, the definitions in this part have the
1.11 meanings given them.

1.12 Subp. 2. **Assisted living director or director.** "Assisted living director" or "director"
1.13 has the meaning given in Minnesota Statutes, section 144G.08, subdivision 6.

1.14 Subp. 3. **Assisted living facility or facility.** "Assisted living facility" or "facility" has
1.15 the meaning given in Minnesota Statutes, section 144G.08, subdivision 7.

1.16 Subp. 4. **Assisted living facility with dementia care or facility with dementia**
1.17 **care.** "Assisted living facility with dementia care" or "facility with dementia care" has the
1.18 meaning given in Minnesota Statutes, section 144G.08, subdivision 8.

1.19 Subp. 5. **Assisted living services.** "Assisted living services" has the meaning given
1.20 in Minnesota Statutes, section 144G.08, subdivision 9.

1.21 Subp. 6. **Board.** "Board" means the Board of Executives for Long Term Services and
1.22 Supports.

2.1 Subp. 7. **Case manager.** "Case manager" means an individual who provides case
2.2 management services and develops a resident's coordinated service and support plan
2.3 according to Minnesota Statutes, sections 256B.49, subdivision 15, and 256S.07 to 256S.10.

2.4 Subp. 8. **Clinical nurse supervisor.** "Clinical nurse supervisor" means a facility's
2.5 registered nurse required under Minnesota Statutes, section 144G.41, subdivision 4.

2.6 Subp. 9. **Commissioner.** "Commissioner" means the commissioner of health.

2.7 Subp. 10. **Competency evaluation.** "Competency evaluation" means the training and
2.8 competency evaluation required under Minnesota Statutes, section 144G.61.

2.9 Subp. 11. **Competent.** "Competent" means appropriately trained and able to perform
2.10 an assisted living service, supportive service, or delegated health care task or duty under
2.11 this chapter and Minnesota Statutes, chapter 144G.

2.12 Subp. 12. **Department.** "Department" means the Department of Health.

2.13 Subp. 13. **Dementia.** "Dementia" has the meaning given in Minnesota Statutes, section
2.14 144G.08, subdivision 16.

2.15 Subp. 14. **Elopement.** "Elopement" means a resident leaves the premises or a safe
2.16 area without authorization or necessary supervision to do so.

2.17 Subp. 15. **Investigator.** "Investigator" means a department staff member that conducts
2.18 complaint investigations according to Minnesota Statutes, section 144G.30.

2.19 Subp. 16. **Licensed health professional.** "Licensed health professional" has the
2.20 meaning given in Minnesota Statutes, section 144G.08, subdivision 29.

2.21 Subp. 17. **Licensee.** "Licensee" has the meaning given in Minnesota Statutes, section
2.22 144G.08, subdivision 32.

2.23 Subp. 18. **Medication.** "Medication" has the meaning given in Minnesota Statutes,
2.24 section 144G.08, subdivision 37.

3.1 Subp. 19. **Ombudsman.** "Ombudsman" means the Office of Ombudsman for
3.2 Long-Term Care.

3.3 Subp. 20. **Person-centered planning and service delivery.** "Person-centered planning
3.4 and service delivery" means providing supportive and assisted living services according to
3.5 Minnesota Statutes, section 245D.07, subdivision 1a, paragraph (b).

3.6 Subp. 21. **Prospective resident.** "Prospective resident" means a nonresident individual
3.7 that is seeking to become a resident of an assisted living facility.

3.8 Subp. 22. **Representatives.** "Representatives" includes both a designated representative
3.9 as defined under Minnesota Statutes, section 144G.08, subdivision 19, and a legal
3.10 representative as defined under Minnesota Statutes, section 144G.08, subdivision 28.

3.11 Subp. 23. **Resident.** "Resident" has the meaning given in Minnesota Statutes, section
3.12 144G.08, subdivision 59.

3.13 Subp. 24. **Resident record.** "Resident record" has the meaning given in Minnesota
3.14 Statutes, section 144G.08, subdivision 60.

3.15 Subp. 25. **Safe location.** "Safe location" has the meaning given in Minnesota Statutes,
3.16 section 144G.55, subdivision 2.

3.17 Subp. 26. **Service plan.** "Service plan" has the meaning given in Minnesota Statutes,
3.18 section 144G.08, subdivision 63.

3.19 Subp. 27. **Supportive services.** "Supportive services" has the meaning given in
3.20 Minnesota Statutes, section 144G.08, subdivision 68.

3.21 Subp. 28. **Survey.** "Survey" has the meaning given in Minnesota Statutes, section
3.22 144G.08, subdivision 69.

3.23 Subp. 29. **Surveyor.** "Surveyor" has the meaning given in Minnesota Statutes, section
3.24 144G.08, subdivision 70.

4.1 Subp. 30. **Unlicensed personnel.** "Unlicensed personnel" has the meaning given in
4.2 Minnesota Statutes, section 144G.08, subdivision 73.

4.3 Subp. 31. **Wandering.** "Wandering" means random or repetitive locomotion by a
4.4 resident. This movement may be goal-directed such as the resident appears to be searching
4.5 for something such as an exit, or may be non-goal-directed or aimless.

4.6 **4659.0030 RESPONSIBILITY TO MEET STANDARDS.**

4.7 The facility must operate and provide housing and assisted living services according
4.8 to this chapter and Minnesota Statutes, chapter 144G.

4.9 **4659.0040 LICENSING IN GENERAL.**

4.10 Subpart 1. **License required.** Effective August 1, 2021, no individual, organization,
4.11 or government entity, unless licensed under Minnesota Statutes, chapter 144G, and in
4.12 accordance to this chapter, may:

4.13 A. manage, control, or operate an assisted living facility in Minnesota; or

4.14 B. advertise, market, or otherwise promote its facility as providing assisted living
4.15 services or specialized care for individuals with Alzheimer's disease or other dementias.

4.16 Subp. 2. **Issuance of assisted living facility license.**

4.17 A. Upon approving an application for an assisted living facility license, the
4.18 commissioner must issue a single license for each building that is operated by the licensee
4.19 as an assisted living facility and is located at a separate address, except as provided under
4.20 item B.

4.21 B. Upon approving an application for an assisted living facility license, the
4.22 commissioner may issue a single license for two or more buildings on a campus that are
4.23 operated by the same licensee as an assisted living facility.

4.24 (1) For the purposes of this subpart, "campus" means:

5.1 (a) a single building having two or more addresses, located on the same
5.2 property with a single property identification number;

5.3 (b) two or more buildings, each with a separate address, located on the
5.4 same property with a single property identification number; or

5.5 (c) two or more buildings at different addresses, located on properties
5.6 that share a portion of a legal property boundary, with different property identification
5.7 numbers.

5.8 (2) An assisted living facility license for a campus must identify the address
5.9 and licensed resident capacity of each building located on the campus in which assisted
5.10 living services are provided.

5.11 (3) Before any building to be included on a campus advertises, markets, or
5.12 promotes itself as providing specialized care for individuals with Alzheimer's disease or
5.13 other dementias or a secured dementia care unit, the individual, organization, or government
5.14 entity must apply for an assisted living facility with dementia care license for the campus,
5.15 or apply for a separate assisted living facility with dementia care license for the building.
5.16 These services may not be provided at the building until the license is issued by the
5.17 commissioner.

5.18 **Subp. 3. License to be posted.**

5.19 A. For a license issued under subpart 2, item A, the facility must post the original
5.20 license certificate issued by the commissioner at the main public entrance of the facility.

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

6.1 Subp. 4. Required submissions to ombudsman.

6.2 A. A licensee must submit a complete, current, and unsigned copy of its assisted
6.3 living contract to the ombudsman under Minnesota Statutes, section 144G.50, subdivision
6.4 1, paragraph (c), clause (1), within 30 calendar days of receiving a provisional license or a
6.5 permanent license.

6.6 B. The contract under item A must include all of the facility's standard contract
6.7 provisions. If the licensee has multiple standard contracts, it must provide a copy of each
6.8 contract to the ombudsman. The licensee is not required to submit a copy of each individual
6.9 resident's contract to the ombudsman to be in compliance with this subpart. If the licensee
6.10 changes its service offerings or the standard provisions in a contract, the facility must submit
6.11 a complete and current contract to the ombudsman within 30 calendar days of the change.

6.12 C. A licensee required to provide written disclosure to the ombudsman under
6.13 Minnesota Statutes, section 325F.72, subdivision 1, must do so within 30 calendar days of
6.14 receiving a provisional assisted living facility with dementia care license or, if a licensee
6.15 does not receive a provisional license, within 30 calendar days after receiving a license.

6.16 Subp. 5. Location for submissions to ombudsman. Unless specific notice
6.17 requirements are provided in rule or statute, notices that licensees are required to provide
6.18 to the ombudsman under this part; Minnesota Statutes, chapter 144G; and Minnesota Statutes,
6.19 section 325F.72, must be provided in writing in the manner required by the ombudsman.

6.20 **4659.0050 FINES FOR NONCOMPLIANCE.**

6.21 Fines for violations of parts 4659.0120 and 4659.0130 will be assessed under Minnesota
6.22 Statutes, section 144G.31.

7.1 **4659.0060 ASSISTED LIVING LICENSURE; CONVERSION OF EXISTING**
7.2 **ASSISTED LIVING PROVIDERS.**

7.3 **Subpart 1. License application required.**

7.4 A. Effective August 1, 2021, a housing with services establishment registered
7.5 under Minnesota Statutes, chapter 144D, that is providing assisted living services to residents
7.6 at the time of license application, as allowed under Minnesota Statutes, sections 144G.01
7.7 to 144G.07, through an arranged home care provider licensed under Minnesota Statutes,
7.8 chapter 144A, must convert to an assisted living facility license or an assisted living facility
7.9 with dementia care license in order to continue to provide assisted living services in
7.10 Minnesota.

7.11 B. In order to convert the registered housing with services establishment in item
7.12 A to an assisted living facility license or an assisted living facility with dementia care license,
7.13 a completed license application must be submitted according to Minnesota Statutes, section
7.14 144G.12.

7.15 C. Before issuing a license, the commissioner must consider the license application
7.16 submitted under item B as required under Minnesota Statutes, section 144G.15. Upon
7.17 approval of the license application submitted under item B, the commissioner shall issue a
7.18 license that is not a provisional license as defined in Minnesota Statutes, section 144G.08,
7.19 subdivision 55.

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

7.21 **4659.0070 ASSISTED LIVING LICENSURE; INITIAL LICENSE RENEWAL.**

7.22 A. All assisted living facility licenses and assisted living facility with dementia
7.23 care licenses with an initial effective date in August 2021, shall be valid through July 31,
7.24 2022. These licenses must be initially renewed on August 1, 2022.

8.1 B. Notices for renewal must be issued by the department to all licensees by May
8.2 1, 2022. The notice must include the following information:

8.3 (1) instructions for how to complete the renewal process, including completion
8.4 of the renewal application and payment of the annual license fee according to Minnesota
8.5 Statutes, section 144G.17;

8.6 (2) a new randomly assigned license renewal period that applies to all future
8.7 license renewals;

8.8 (3) instructions for licensees to request a change to the randomly assigned
8.9 renewal period based on financial hardship; and

8.10 (4) instructions for licensees with more than one assisted living facility license
8.11 to request that all license renewal dates occur in the same month or in different months
8.12 throughout a 12-month period.

8.13 C. License fees for the first license renewal will be prorated based on the randomly
8.14 assigned license renewal period starting from August 1, 2022, as follows:

8.15 Assigned renewal month; must be completed
8.16 by the 1st of the month:

The initial renewed license will be issued for:

8.17 January 5 months, ending December 31, 2022

8.18 February 6 months, ending January 31, 2023

8.19 March 7 months, ending February 28, 2023

8.20 April 8 months, ending March 31, 2023

8.21 May 9 months, ending April 30, 2023

8.22 June 10 months, ending May 31, 2023

8.23 July 11 months, ending June 30, 2023

8.24 August 12 months, ending July 31, 2023

8.25 September 13 months, ending August 31, 2023

8.26 October 14 months, ending September 30, 2023

9.1	<u>November</u>	<u>15 months, ending October 31, 2023</u>
9.2	<u>December</u>	<u>16 months, ending November 30, 2023</u>

9.3 D. All prorated license fees shall be based on the licensee's annual fee in
9.4 accordance with the fee schedule established by the commissioner in Minnesota Statutes,
9.5 section 144.122, paragraphs (d) and (f). The amount of the annual fee will be divided by
9.6 12 to establish the monthly equivalent of that fee and that amount will be multiplied by the
9.7 number of months in the assigned prorated renewal period. This amount must be paid by
9.8 the date in the renewal instructions by the licensee in order to renew the license.

9.9 E. This part expires December 31, 2023.

9.10 **4659.0080 VARIANCE.**

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

9.14 A. the name and address of the license applicant or licensee requesting the variance;

9.15 B. the rule requirement from which the variance is requested;

9.16 C. the time period for which the variance is requested;

9.17 D. the specific alternative actions, if any, that the license applicant or licensee
9.18 proposes to follow;

9.19 E. the reasons for the request, including why the license applicant or licensee
9.20 cannot comply with a requirement in this chapter;

9.21 F. justification that the variance will not impair the services provided, and will
9.22 not adversely affect the health, safety, or welfare of residents, or the residents' rights under
9.23 Minnesota Statutes, chapter 144G, including the assisted living bill of rights; and

10.1 G. a signed statement attesting to the accuracy of the facts asserted in the variance
10.2 request.

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

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

10.7 A. whether the alternative measures, if any, comply with the intent of this chapter
10.8 and are equivalent to or superior to those prescribed in this chapter;

10.9 B. whether compliance with this chapter poses an undue burden on the license
10.10 applicant or licensee; and

10.11 C. whether the variance adversely affects the health, safety, or welfare of the
10.12 residents, or any of the residents' rights under Minnesota Statutes, chapter 144G, including
10.13 the assisted living bill of rights.

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

10.17 Subp. 4. **Granting a variance.** The commissioner must notify the license applicant
10.18 or licensee in writing of the commissioner's decision to grant a variance, and the notification
10.19 must specify the period of time for which the variance is effective and the alternative
10.20 measures or conditions, if any, to be met by the license applicant or licensee.

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

10.23 Subp. 6. **Violation of variances.** A failure of the licensee to comply with the terms
10.24 of the granted variance is a violation of this chapter.

11.1 Subp. 7. Denial, revocation, or refusal to renew. The commissioner shall deny,
11.2 revoke, or refuse to renew a variance if:

11.3 A. the variance adversely impacts the health, safety, or welfare of residents, or
11.4 the residents' rights under Minnesota Statutes, chapter 144G, and the assisted living bill of
11.5 rights;

11.6 B. the license applicant or licensee has otherwise failed to demonstrate that a
11.7 variance should be granted under the criteria in subpart 2;

11.8 C. the license applicant or licensee has failed to comply with the terms of the
11.9 variance under subparts 3 and 4;

11.10 D. the license applicant or licensee notifies the commissioner in writing that it
11.11 wishes to relinquish the variance; or

11.12 E. the revocation, denial, or refusal to renew a variance is required by a change
11.13 in law.

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

11.17 Subp. 8. Appeal procedure. A license applicant or licensee may appeal the denial,
11.18 revocation, or refusal to renew a variance by requesting a hearing from the commissioner.
11.19 The request must be made in writing to the commissioner and delivered personally or by
11.20 mail within ten calendar days after the license applicant or licensee receives the notice. If
11.21 mailed, the request must be postmarked within ten calendar days after the license applicant
11.22 or licensee receives the notice. The request for hearing must set forth in detail the reasons
11.23 why the license applicant or licensee contends the decision of the commissioner should be
11.24 reversed or modified. At the hearing, the applicant or licensee has the burden of proving by
11.25 a preponderance of the evidence that the variance should be granted or renewed, except in

12.1 a proceeding challenging the revocation of a variance, where the department has the burden
12.2 of proving by a preponderance of the evidence that a revocation is appropriate. Hearings
12.3 under this subpart must be held under the Minnesota Revenue Recapture Act, Minnesota
12.4 Rules, parts 1400.8505 to 1400.8612.

12.5 **4659.0090 UNIFORM CHECKLIST DISCLOSURE OF SERVICES.**

12.6 Subpart 1. **Definition.** For purposes of this part "Uniform Checklist Disclosure of
12.7 Services" or "checklist" means the checklist developed and posted by the commissioner
12.8 under subpart 2 and Minnesota Statutes, section 144G.40, subdivision 2, that an assisted
12.9 living facility must provide to prospective residents before a contract is executed to enhance
12.10 understanding of policies and services that are provided and are not provided by the facility.

12.11 Subp. 2. **Uniform checklist disclosure of services.** The commissioner shall post a
12.12 Uniform Checklist Disclosure of Services template with a comprehensive list of assisted
12.13 living services, developed according to Minnesota Statutes, section 144G.40, subdivision
12.14 2, paragraph (c), on the department's website for facility use. The commissioner shall update
12.15 the checklist on an as-needed basis.

12.16 Subp. 3. **Submission of checklist to commissioner.**

12.17 A. An applicant or licensee shall submit a completed checklist with the license
12.18 application or renewal.

12.19 B. Whenever a facility changes the services that the facility offers under the
12.20 assisted living facility contract, the facility must submit an updated checklist to the
12.21 commissioner within 30 calendar days of the change in services.

12.22 Subp. 4. **Use of uniform checklist disclosure of services.** A facility shall:

12.23 A provide an up-to-date checklist to each prospective resident and each prospective
12.24 resident's representative who requests information about the facility;

13.1 B. provide the checklist separately from all other documents and forms; and

13.2 C. not use another form to substitute for the checklist.

13.3 **4659.0100 EMERGENCY DISASTER AND PREPAREDNESS PLAN;**
13.4 **INCORPORATION BY REFERENCE.**

13.5 A. Assisted living facilities shall comply with the federal emergency preparedness
13.6 regulations for long-term care facilities under Code of Federal Regulations, title 42, section
13.7 483.73, or successor requirements.

13.8 B. This part references documents, specifications, methods, and standards in "State
13.9 Operations Manual Appendix Z - Emergency Preparedness for All Provider and Certified
13.10 Supplier Types: Interpretive Guidance," which is incorporated by reference. This material
13.11 is subject to frequent change and is available from the United States Centers for Medicare
13.12 & Medicaid Services. It is conveniently available online at
13.13 <https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/SOM%20Appendix%20Z%202019.pdf>,
13.14 or by mail to U.S. Centers for Medicare & Medicaid Services at 7500 Security Boulevard,
13.15 Baltimore, MD 21244.

13.16 **4659.0110 MISSING RESIDENT PLAN.**

13.17 Subpart 1. Applicability.

13.18 A. This part applies only to a resident who receives assisted living services:

13.19 (1) who is incapable of taking appropriate action for self-preservation under
13.20 emergency conditions; or

13.21 (2) who is identified as at risk for wandering or elopement, according to the
13.22 resident's most recent assessment or review.

13.23 B. For purposes of this subpart, a resident is incapable of taking appropriate action
13.24 for self-preservation under emergency conditions if the resident:

- 14.1 (1) is not ambulatory or mobile; or
- 14.2 (2) lacks the physical or cognitive capability to:
- 14.3 (a) recognize a danger, signal, or alarm requiring residents to evacuate
- 14.4 from a facility;
- 14.5 (b) initiate and complete the evacuation without requiring more than
- 14.6 sporadic assistance from another person, such as help in opening a door or getting into a
- 14.7 wheelchair;
- 14.8 (c) select an alternative means of escape or take appropriate action if the
- 14.9 primary evacuation route from the facility is blocked or inaccessible; and
- 14.10 (d) remain at a designated location outside the facility until further
- 14.11 instruction is given.

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

14.13 A. The facility must develop and follow a missing resident plan that includes at

14.14 least the following:

- 14.15 (1) identify a staff member for each shift who is responsible for implementing
- 14.16 the missing resident plan, and ensure at least one staff member who is responsible for
- 14.17 implementing the missing-resident plan is on site 24 hours a day, seven-days a week;
- 14.18 (2) require that staff alert the staff member identified in subitem (1)
- 14.19 immediately if it is suspected that a resident may be missing;
- 14.20 (3) identify staff by position description who are responsible for searching
- 14.21 for missing residents or suspected missing residents;
- 14.22 (4) require that staff conduct an immediate and thorough search of the facility,
- 14.23 the facility's premises, and the immediate neighborhood in each direction when a resident
- 14.24 is suspected to be missing;

15.1 (5) require that a suspected missing resident be considered missing if the
15.2 resident is not located after staff complete subitem (4);

15.3 (6) require that staff immediately notify local law enforcement when a facility
15.4 determines, under subitem (5) or otherwise, that a resident is missing;

15.5 (7) require that staff immediately contact the resident's representatives and
15.6 the resident's case manager, if applicable, when a resident is determined missing; and

15.7 (8) require that staff cooperate with local law enforcement and provide any
15.8 information that is necessary to identify and locate the missing resident.

15.9 B. When a resident goes missing or is suspected missing, a facility's
15.10 implementation of a missing resident plan does not relieve the facility of its obligation to
15.11 provide assisted living services and appropriate care to all residents in the facility according
15.12 to each resident's service plan, assisted living contract, and the requirements of this chapter
15.13 and Minnesota Statutes, chapter 144G.

15.14 Subp. 3. **Additional notification required.** After the missing resident is located, a
15.15 staff member must immediately notify local law enforcement, the resident's representatives,
15.16 and the resident's case manager, if any.

15.17 Subp. 4. **Review missing resident plan.** The assisted living director and clinical nurse
15.18 supervisor must review the missing resident plan at least quarterly and document any changes
15.19 to the plan.

15.20 **4659.0120 PROCEDURES FOR RESIDENT TERMINATION AND DISCHARGE**
15.21 **PLANNING.**

15.22 Subpart 1. **Pretermination meeting notice.**

15.23 A. Before issuing a notice of termination, the facility must schedule a
15.24 pretermination meeting under Minnesota Statutes, section 144G.52, subdivision 2, and

16.1 provide written notice of the meeting to the resident and the resident's representatives at
16.2 least five business days in advance.

16.3 B. The facility must arrange the pretermination meeting to occur on a day that the
16.4 resident and the resident's representatives are able to attend.

16.5 C. For a resident that receives home and community-based services waiver under
16.6 Minnesota Statutes, chapter 256S, and Minnesota Statutes, section 256B.49, the facility
16.7 must provide written notice of the pretermination meeting to the resident's case manager at
16.8 least five business days in advance.

16.9 D. In addition to the notice requirements under Minnesota Statutes, section
16.10 144G.52, subdivision 2, the pretermination meeting written notice under item A must include:

16.11 (1) a proposed time, date, and location of the meeting;

16.12 (2) a detailed explanation of the reason or reasons for the proposed
16.13 termination;

16.14 (3) a list of facility individuals who will attend the meeting;

16.15 (4) an explanation that the resident may invite family members,
16.16 representatives, health professionals, and other individuals to participate in the pretermination
16.17 meeting;

16.18 (5) contact information for the Office of Ombudsman for Long-Term Care
16.19 and the Office for Ombudsman for Mental Health and Developmental Disabilities and a
16.20 statement that the ombudsman offices provide advocacy services to residents;

16.21 (6) the name and contact information of an individual at the facility whom
16.22 the resident may contact about the meeting or to request an accommodation;

16.23 (7) notice that attendees may request reasonable accommodations for a
16.24 communication disability or if they speak a language other than English; and

17.1 (8) notice that if the resident's housing or services are terminated, the resident
17.2 has the right to appeal under part 4659.0210 and Minnesota Statutes, section 144G.54.

17.3 E. The facility must provide written notice to the resident, the resident's
17.4 representatives, and the resident's case manager of any change to the date, time, or location
17.5 of the pretermination meeting.

17.6 Subp. 2. **Emergency relocation notice.**

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

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

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

17.23 D. If notice to the ombudsman is required under Minnesota Statutes, section
17.24 144G.52, subdivision 9, paragraph (c), clause (3), the facility must provide the notice as

18.1 soon as practicable, and in any event no later than 24 hours after the notice requirement is
18.2 triggered.

18.3 **Subp. 3. Identifying and offering accommodations, modifications, and**
18.4 **alternatives.** In addition to the requirements in Minnesota Statutes, section 144G.52,
18.5 subdivision 2, paragraph (a), clause (2), at the pretermination meeting, the facility must
18.6 collaborate with the resident and the resident's representatives, case manager, and any other
18.7 individual invited by the resident, to identify and offer any potential reasonable
18.8 accommodations, modifications, interventions, or alternatives that can address the issues
18.9 underlying the termination.

18.10 **Subp. 4. Summarizing pretermination meeting outcomes.** Within 24 hours after
18.11 the pretermination meeting, the facility must provide the resident with a written summary
18.12 of the meeting, including any agreements reached about any accommodation, modification,
18.13 intervention, or alternative that will be used to avoid terminating the resident's assisted
18.14 living contract.

18.15 **Subp. 5. Providing notice.**

18.16 **A. A facility must provide written notice of the resident's contract termination by**
18.17 **hand delivery or by first-class mail. Service of the notice must be proved by affidavit of the**
18.18 **person effectuating service.**

18.19 **B. If sent by mail, the facility must mail the notice to the resident's last known**
18.20 **address.**

18.21 **C. A facility providing a notice to the ombudsman under Minnesota Statutes,**
18.22 **section 144G.52, subdivision 7, paragraph (a), must provide the notice as soon as practicable,**
18.23 **but in any event no later than two business days after the facility provided notice to the**
18.24 **resident. The notice must include a phone number for the resident, or, if the resident does**
18.25 **not have a phone number, the phone number of the resident's representative or case manager.**

19.1 Subp. 6. Resident-relocation evaluation.

19.2 A. If the facility terminates the resident's contract or the resident plans to move
19.3 out of the facility because the facility has initiated the pretermination or termination process,
19.4 the facility must prepare a written resident-relocation evaluation. The evaluation must
19.5 include:

19.6 (1) the resident's current service plan;

19.7 (2) a list of safe and appropriate housing and service providers that are in
19.8 reasonably close geographic proximity to the facility and are able to accept a new resident;

19.9 (3) the resident's needs and choices; and

19.10 (4) the right of the resident to tour the safe location and appropriate service
19.11 provider, if applicable, prior to relocation.

19.12 B. The facility must provide a written copy of the resident relocation evaluation
19.13 to the resident and the resident's representatives and case manager as soon as practicable
19.14 but no later than the planning conference under subpart 7, item A.

19.15 Subp. 7. Resident-relocation plan.

19.16 A. If the facility terminates the resident's contract or the resident plans to move
19.17 out of the facility because the facility has initiated the pretermination or termination process,
19.18 the facility must hold a planning conference to develop a written relocation plan with the
19.19 resident, the resident's representative and case manager, if any, and other individuals invited
19.20 by the resident.

19.21 B. The relocation plan must incorporate the relocation evaluation developed in
19.22 subpart 6.

19.23 C. The resident-relocation plan must include:

19.24 (1) the date and time that the resident will move;

- 20.1 (2) the contact information of the receiving facility;
- 20.2 (3) how the resident and the resident's personal property, including pets, will
20.3 be transported to the new housing provider;
- 20.4 (4) how the facility will care for and store the resident's belongings;
- 20.5 (5) recommendations to assist the resident to adjust to the new living
20.6 environment;
- 20.7 (6) recommendations for addressing the stress that a resident with dementia
20.8 may experience when moving to a new living environment, if applicable;
- 20.9 (7) recommendations for ensuring the safe and proper transfer of the resident's
20.10 medications and durable medical equipment;
- 20.11 (8) arrangements that have been made for the resident's follow-up care and
20.12 meals;
- 20.13 (9) a plan for transferring and reconnecting phone, Internet services, and any
20.14 electronic monitoring equipment; and
- 20.15 (10) who is responsible for paying moving expenses and how the expenses
20.16 will be paid.

20.17 D. The facility must implement the relocation plan, must comply with the
20.18 coordinated move requirements in Minnesota Statutes, section 144G.55, and must provide
20.19 a copy of the plan to the resident, and with the resident's consent, the resident's representatives
20.20 and case manager, if applicable.

20.21 Subp. 8. **Providing resident-relocation information to receiving facility or other**
20.22 **service provider.** In addition to the requirements in Minnesota Statutes, section 144G.43,
20.23 subdivision 4, and with the resident's consent, the facility must provide the following
20.24 information in writing to the resident's receiving facility or other service provider:

21.1 A. the name and address of the facility, the dates of the resident's admission and
21.2 discharge, and the name and address of a person at the facility to contact for additional
21.3 information;

21.4 B. names and addresses of any significant social or community contacts the resident
21.5 has identified to the facility;

21.6 C. the resident's most recent service or care plan, if the resident has received
21.7 services from the facility; and

21.8 D. the resident's current "do not resuscitate" order and "physician order for life
21.9 sustaining treatment," if any.

21.10 Subp. 9. Resident discharge summary. At the time of discharge, the facility must
21.11 provide the resident, and, with the resident's consent, the resident's representatives and case
21.12 manager, with a written discharge summary that includes:

21.13 A. a summary of the resident's stay that includes diagnoses, courses of illnesses,
21.14 allergies, treatments, and therapies, and pertinent lab, radiology, and consultation results;

21.15 B. a final summary of the resident's status from the latest assessment or review
21.16 under Minnesota Statutes, section 144G.70, if applicable, which includes the resident status,
21.17 including baseline and current mental, behavioral, and functional status;

21.18 C. a reconciliation of all predischARGE medications with the resident's postdischarge
21.19 prescribed and over-the-counter medications; and

21.20 D. a postdischarge care plan that is developed with the resident and, with the
21.21 resident's consent, the resident's representatives, which will help the resident adjust to a
21.22 new living environment. The postdischarge care plan must indicate where the resident plans
21.23 to reside, any arrangements that have been made for the resident's follow-up care, and any
21.24 postdischarge medical and nonmedical services the resident will need.

22.1 Subp. 10. Services pending appeal. If the resident needs additional services during
22.2 a pending termination appeal, the facility must contact and inform the resident's case manager
22.3 of the resident's responsibility to contract and ensure payment for those services according
22.4 to Minnesota Statutes, section 144G.54, subdivision 6.

22.5 Subp. 11. Expedited termination.

22.6 A. A facility seeking an expedited termination under Minnesota Statutes, section
22.7 144G.52, subdivision 5, must comply with all of the requirements of this part.

22.8 B. If the facility seeks a termination or expedited termination on the basis of
22.9 Minnesota Statutes, section 144G.52, subdivision 5, paragraph (b), clause (2), the facility
22.10 must provide the assessment that forms the basis of the expedited termination to the resident
22.11 with the notice of termination and include the name and contact information of any medical
22.12 professionals who performed the assessment.

22.13 **4659.0130 CONDITIONS FOR PLANNED CLOSURES.**

22.14 Subpart 1. Planned closure; notifying commissioner and ombudsman.

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

22.17 (1) the proposed closure plan; and

22.18 (2) the name and contact information of another individual, in addition to the
22.19 facility director, responsible for the daily operation and management of the facility during
22.20 the facility's closure process.

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

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

23.3 Subp. 2. Proposed closure plan; contents. A facility's proposed closure plan must
23.4 include:

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

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

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

23.9 D. for those residents identified under item C:

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

23.12 (2) the resident's payment source and, if applicable, medical assistance
23.13 identification number;

23.14 (3) the names and contact information of the resident's representatives and
23.15 case manager, if any; and

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

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

23.21 F. the roles and responsibilities of the licensee, assisted living director, and any
23.22 temporary managers or monitors during the closure process, and their contact information;

24.1 G. policies and procedures for ongoing operations and management of the facility
24.2 during the closure process that ensure:

24.3 (1) payment of all operating expenses;

24.4 (2) staffing and resources to continue providing services, medications,
24.5 treatments, and supplies to meet each resident's needs, as ordered by the resident's physician
24.6 or practitioner, until closure;

24.7 (3) residents' meals, medications, and treatments are not disrupted during the
24.8 closure process;

24.9 (4) transportation of residents during discharge and transfer;

24.10 (5) residents' telephone, Internet services, and any electronic monitoring
24.11 equipment are transferred and reconnected;

24.12 (6) residents' personal funds are accounted for, maintained, and reported to
24.13 the resident and resident's representative during the closure process; and

24.14 (7) residents' belongings are labeled and kept safe, and residents are given
24.15 contact information for retrieving missing items after the facility has closed.

24.16 Subp. 3. Commissioner acknowledgment of notice.

24.17 A. Within 14 calendar days of receiving notice under subpart 1, the commissioner
24.18 shall acknowledge receipt in writing of a facility's planned closure to the licensee.

24.19 B. Within 45 calendar days of acknowledging receipt of the notice under subpart
24.20 1, the commissioner shall approve the proposed closure plan and verify in writing the
24.21 effective date of the closure to the licensee.

24.22 (1) During this period, the commissioner may contact the licensee about
24.23 necessary amendments to the closure plan before the commissioner approves it and verifies
24.24 the effective date of the closure.

25.1 (2) During this period, the licensee must establish and maintain ongoing
25.2 communication with the commissioner regarding the status of the closure of the facility and
25.3 timely respond to the commissioner's inquiries.

25.4 C. When the commissioner receives written notices of at least three license
25.5 relinquishments or planned closures within 30 calendar days from the same licensee, the
25.6 commissioner shall approve and verify the effective date of each closure in writing to the
25.7 licensee within 75 calendar days of acknowledging receipt of the third notice.

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

25.11 Subp. 4. **Notice to residents.** The licensee shall provide the same written notice of
25.12 the closure to each resident and the resident's representatives and case manager that was
25.13 submitted in subpart 1 and approved by the commissioner. The notice must include a primary
25.14 facility contact that the resident and the resident's representatives and case manager can
25.15 contact to discuss relocating the resident out of the facility due to the planned closure.

25.16 Subp. 5. **Resident-relocation evaluation.**

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

25.20 (1) the resident's current service plans;

25.21 (2) the list of safe and appropriate housing and service providers identified
25.22 under subpart 2, item E;

25.23 (3) the resident's needs and choices; and

26.1 (4) the right of the resident to tour the safe location and appropriate service
26.2 provider, if applicable, prior to relocation.

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

26.6 Subp. 6. Resident-relocation plan.

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

26.10 B. The relocation plan must incorporate the relocation evaluation developed in
26.11 subpart 5.

26.12 C. The resident-relocation plan must comply with part 4659.0120, subpart 7, item
26.13 C.

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

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

26.19 Subp. 7. Resident-relocation verification. Within 14 calendar days of all residents
26.20 having left the facility, the licensee, based on information provided by the resident or
26.21 resident's representative, case manager, or family member, shall notify the commissioner
26.22 in writing that the licensee completed the closure and verify to the commissioner that the
26.23 licensee complied with the coordinated move requirements in Minnesota Statutes, section
26.24 144G.55.

27.1 Subp. 8. **Information regarding resident relocation to receiving provider.** The
27.2 facility must comply with part 4659.0120, subpart 8, for all residents who relocate due to
27.3 the closure.

27.4 Subp. 9. **Disbursing resident funds.** Within 30 calendar days of the effective date
27.5 of the facility closure, the facility must follow the requirements of Minnesota Statutes,
27.6 section 144G.42, subdivision 5.

27.7 Subp. 10. **Resident discharge summary.** When a resident moves out of the facility,
27.8 the facility must provide the resident with a written discharge summary that complies with
27.9 part 4659.0120, subpart 9.

27.10 Subp. 11. **License forfeiture.** The licensee forfeits its assisted living facility license
27.11 or assisted living facility with dementia care license upon the effective date of closure
27.12 identified in subpart 3.

27.13 **4659.0140 INITIAL ASSESSMENTS AND CONTINUING ASSESSMENTS.**

27.14 Subpart 1. **Admissions.**

27.15 A. The assisted living director, in cooperation with the clinical nurse supervisor,
27.16 is responsible for admitting residents to the facility according to the facility's admission
27.17 policies.

27.18 B. Unless otherwise provided by law, an assisted living facility must not admit
27.19 or retain a resident unless it can provide sufficient care and supervision to meet the resident's
27.20 needs, based on the resident's known physical, mental, or behavioral condition.

27.21 C. Prospective residents who are denied admission must be informed of the reason
27.22 for the denial.

28.1 Subp. 2. Nursing assessment.

28.2 A. A nursing assessment or reassessment under Minnesota Statutes, section
28.3 144G.70, subdivision 2, paragraphs (b) and (c), must be conducted on a prospective resident
28.4 or resident receiving any of the assisted living services identified in Minnesota Statutes,
28.5 section 144G.08, subdivision 9, clauses (6) to (12).

28.6 B. The nursing assessment or reassessment under item A must:

28.7 (1) address part 4659.0150, subpart 2, items A to N;

28.8 (2) be conducted in person unless an exception under Minnesota Statutes,
28.9 section 144G.70, subdivision 2, paragraph (b), applies;

28.10 (3) be conducted using a uniform assessment tool that complies with part
28.11 4659.0150; and

28.12 (4) be in writing, dated, and signed by the registered nurse who conducted
28.13 the assessment.

28.14 Subp. 3. Individualized review.

28.15 A. An individualized review or subsequent review under Minnesota Statutes,
28.16 section 144G.70, subdivision 2, paragraphs (c) and (d), must be conducted for a prospective
28.17 resident or resident receiving only the assisted living services identified in Minnesota
28.18 Statutes, section 144G.08, subdivision 9, clauses (1) to (5).

28.19 B. An individualized initial review or review under Minnesota Statutes, section
28.20 144G.70, subdivision 2, paragraph (d), for a prospective resident or resident must:

28.21 (1) address part 4659.0150, subpart 2, items A to C and N;

28.22 (2) be conducted in person unless an exception under Minnesota Statutes,
28.23 section 144G.70, subdivision 2, paragraph (b) applies;

29.1 (3) be conducted using a uniform assessment tool that complies with part
29.2 4659.0150; and

29.3 (4) be in writing, dated, and signed by the registered nurse who conducted
29.4 the assessment.

29.5 **Subp. 4. Assessor; qualifications.**

29.6 **A. A registered nurse shall complete nursing assessments and reassessments.**

29.7 **B. A staff member who meets the qualifications in Minnesota Statutes, section**
29.8 **144G.60, subdivision 2, shall conduct the individualized initial review and subsequent**
29.9 **reviews.**

29.10 **Subp. 5. Temporary service plan admission. If a facility admits an individual**
29.11 **according to a temporary service plan under Minnesota Statutes, section 144G.70, subdivision**
29.12 **3, the nurse assessment must be conducted within 72 hours of initiating services.**

29.13 **Subp. 6. Consumer protections under temporary service plan. An individual who**
29.14 **is admitted to an assisted living facility under a temporary service plan under Minnesota**
29.15 **Statutes, section 144G.70, subdivision 3, and has not executed an assisted living contract**
29.16 **shall receive the same consumer protections and rights under Minnesota Statutes, chapter**
29.17 **144G provided to a resident who has executed an assisted living contract.**

29.18 **Subp. 7. Weekend assessments. An assisted living facility must be able to conduct**
29.19 **a nursing assessment during the weekend for a resident who is ready to be discharged from**
29.20 **the hospital and return to the facility.**

29.21 **4659.0150 UNIFORM ASSESSMENT TOOL.**

29.22 **Subpart 1. Definition. For purposes of this part "Uniform Assessment Tool" means**
29.23 **an assessment tool that meets the requirements of this part and is used by a licensee to**
29.24 **comprehensively evaluate a resident's or prospective resident's physical and cognitive needs.**

30.1 Subp. 2. Assessment tool elements. Each facility must develop a uniform assessment
30.2 tool. The facility may use any acceptable form or format for the tool, such as an online or
30.3 a hard-copy paper assessment tool, as long as the tool includes the elements identified in
30.4 this subpart. A uniform assessment tool must address the following:

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

30.6 (1) sleep schedule, dietary and social needs, leisure activities, and any other
30.7 customary routine that is important to the resident's quality of life;

30.8 (2) spiritual and cultural preferences; and

30.9 (3) advance health care directives and end-of-life preferences, including
30.10 whether a person has or wants to seek a "do not resuscitate" order and "do not attempt
30.11 resuscitation order" or "physician/provider orders for life sustaining treatment" order;

30.12 B. activities of daily living, including:

30.13 (1) toileting pattern, bowel, and bladder control;

30.14 (2) dressing, grooming, bathing, and personal hygiene;

30.15 (3) mobility, including ambulation, transfers, and assistive devices; and

30.16 (4) eating, dental status, oral care, and assistive devices and dentures, if
30.17 applicable;

30.18 C. independent activities of daily living, including:

30.19 (1) ability to self manage medications;

30.20 (2) housework and laundry; and

30.21 (3) transportation;

30.22 D. physical health status, including:

- 31.1 (1) a review of relevant health history and current health conditions including
31.2 medical and nursing diagnoses;
- 31.3 (2) allergies and sensitivities related to medication, seasonality, environment,
31.4 and food and if any of the allergies or sensitivities are life threatening;
- 31.5 (3) infectious conditions;
- 31.6 (4) a review of medications according to Minnesota Statutes, section 144G.71,
31.7 subdivision 2, including prescriptions, over-the-counter medications, and supplements, and
31.8 for each:
- 31.9 (a) the reason taken;
- 31.10 (b) any side effects, contraindications, allergic or adverse reactions, and
31.11 actions to address these issues;
- 31.12 (c) dosage;
- 31.13 (d) frequency of use;
- 31.14 (e) route administered or taken;
- 31.15 (f) any difficulties the resident faces in taking the medication;
- 31.16 (g) whether the resident self administers the medication;
- 31.17 (h) the resident's preferences in how to take medication;
- 31.18 (i) interventions needed in management of medications to prevent
31.19 diversion of medication by the resident or others who may have access to the medications;
31.20 and
- 31.21 (j) provide instructions to the resident and resident's legal or designated
31.22 representatives on interventions to manage the resident's medications and prevent diversion
31.23 of medications;

32.1 (5) a review of medical, dental, and emergency room visits in the past 12
32.2 months, including visits to a primary health care provider, hospitalizations, surgeries, and
32.3 care from a postacute care facility;

32.4 (6) a review of any reports from a physical therapist, occupational therapist,
32.5 speech therapist, or cognitive evaluations within the last 12 months;

32.6 (7) weight; and

32.7 (8) initial vital signs if indicated by health conditions or medications;

32.8 E. emotional and mental health conditions, including:

32.9 (1) review of history of and any diagnoses of mood disorders including
32.10 depression, anxiety, bipolar disorder, and thought or behavioral disorders;

32.11 (2) current symptoms of mental health conditions and behavioral expressions
32.12 of concerns; and

32.13 (3) effective medication treatment and nonmedication interventions;

32.14 F. cognition, including:

32.15 (1) review of any neurocognitive evaluations and diagnoses; and

32.16 (2) current memory, orientation, confusion, and decision-making status and
32.17 ability;

32.18 G. communication and sensory capabilities, including:

32.19 (1) hearing;

32.20 (2) vision;

32.21 (3) speech;

32.22 (4) assistive communication and sensory devices including hearing aids; and

- 33.1 (5) the ability to understand and be understood;
- 33.2 H. pain, including:
- 33.3 (1) location, frequency, intensity, and duration; and
- 33.4 (2) effectiveness of medication and nonmedication alternatives;
- 33.5 I. skin conditions;
- 33.6 J. nutritional and hydration status and preferences;
- 33.7 K. list of treatments, including type, frequency, and level of assistance needed;
- 33.8 L. nursing needs, including potential to receive nursing-delegated services;
- 33.9 M. risk indicators, including:
- 33.10 (1) risk for falls including history of falls;
- 33.11 (2) emergency evacuation ability;
- 33.12 (3) complex medication regimen;
- 33.13 (4) risk for dehydration including history of urinary tract infections and current
- 33.14 fluid intake pattern;
- 33.15 (5) risk for emotional or psychological distress due to personal losses;
- 33.16 (6) unsuccessful prior placements;
- 33.17 (7) elopement risk including history or previous elopements;
- 33.18 (8) smoking, including the ability to smoke without causing burns or injury
- 33.19 to the resident or others or damage to property; and
- 33.20 (9) alcohol and drug use, including the resident's alcohol use or drug use not
- 33.21 prescribed by a physician;

- 34.1 N. who has decision-making authority for the resident, including:
34.2 (1) the presence of any advance health care directive or other legal document
34.3 that establishes a substitute decision maker; and
34.4 (2) the scope of decision-making authority of a substitute decision maker
34.5 under subitem (1); and
34.6 O. the need for follow-up referrals for additional medical or cognitive care by
34.7 health professionals.

34.8 Subp. 3. **Record keeping.** Assessment tool results, including those from an assessment
34.9 supplement, must be maintained in the resident's record as required under Minnesota Statutes,
34.10 section 144G.43.

34.11 Subp. 4. **Licensee attestation.** An applicant for an assisted living facility license or
34.12 a licensee renewing an assisted living facility license must attest to the commissioner in a
34.13 manner determined by the commissioner that the uniform assessment tool used by the
34.14 applicant or licensee complies with this part.

34.15 Subp. 5. **Department access to uniform assessment tool.** At the time of a survey,
34.16 investigation, or other licensing activity, the licensee must provide the department access
34.17 to or copy of the uniform assessment tool as required under Minnesota Statutes, section
34.18 144G.30, subdivision 4, to verify the compliance with this part.

34.19 **4659.0160 RELINQUISHING AN ASSISTED LIVING FACILITY WITH**
34.20 **DEMENTIA CARE LICENSE.**

34.21 Subpart 1. **Voluntary relinquishment; notifying commissioner and**
34.22 **ombudsman.** Before relinquishing an assisted living facility with dementia care license,
34.23 a licensee shall submit to the commissioner and ombudsman in writing:

- 34.24 A. the transition plan; and

35.1 B. the name and contact information of another individual, in addition to the
35.2 facility director, responsible for the daily operation and management of the facility during
35.3 the relinquishment process.

35.4 Subp. 2. **Transitional plan; contents.** In addition to the requirements under Minnesota
35.5 Statutes, section 144G.80, subdivision 3, paragraph (a), clause (2), the transition plan must
35.6 include:

35.7 A. the reason for relinquishing the license and the proposed date of relinquishment;

35.8 B. the proposed timetable for resident transitions, the resources that the facility
35.9 will provide, and how the facility will facilitate resident transitions;

35.10 C. a list of residents who may require a change in service plan because of the
35.11 relinquishment and a description of the residents' respective levels of care, special needs,
35.12 or conditions; and

35.13 D. a list identifying each resident, if any, to whom the facility expects to issue a
35.14 notice of termination of housing or assisted living services because of relinquishment.

35.15 Subp. 3. **Notice to residents.**

35.16 A. Along with the notice to residents required under Minnesota Statutes, section
35.17 144G.80, subdivision 3, the facility shall:

35.18 (1) notify all residents and their representatives and case managers, if any,
35.19 in writing of the license relinquishment, the proposed date that the license will be
35.20 relinquished, and the reason for the license relinquishment; and

35.21 (2) provide a primary facility contact that the resident and the resident's
35.22 representative and case manager, if any, can contact to discuss transitioning the resident
35.23 out of the facility

36.1 B. Once the facility has notified residents according to item A, the facility must
36.2 revise advertising materials and disclosure information to remove any reference that the
36.3 facility is an assisted living facility with dementia care and communicate to all potential
36.4 residents and new residents entering the facility that the licensee will be relinquishing its
36.5 license.

36.6 Subp. 4. Resident-relocation evaluation.

36.7 A. For each resident identified according to subpart 2, item D, whose contract the
36.8 facility terminates, the facility must prepare a resident-relocation evaluation and comply
36.9 with part 4659.0120, subpart 6.

36.10 B. The relocation evaluation under item A may include recommendations for
36.11 continuing to receive housing and assisted living services from the assisted living facility
36.12 that is relinquishing its assisted living facility with dementia care license.

36.13 Subp. 5. Resident-relocation plan. For each resident identified in subpart 2, item
36.14 D, whose contract the facility terminates, the facility must hold a planning conference to
36.15 develop a relocation plan and comply with part 4659.0120, subpart 7.

36.16 Subp. 6. Verifying resident relocation. Within 14 calendar days of all residents
36.17 identified in subpart 2, item D, whose contracts the facility terminates, having left the facility,
36.18 the licensee, based on information provided by each resident or resident's representative,
36.19 case manager, or family member, shall verify to the commissioner in writing that the residents
36.20 are safely relocated according to this part and the coordinated move requirements in
36.21 Minnesota Statutes, section 144G.55.

36.22 Subp. 7. Information regarding resident relocation to receiving provider. The
36.23 facility must comply with part 4659.0120, subpart 8, for all residents who relocate due to
36.24 the license relinquishment.

37.1 Subp. 8. **Disbursement of resident funds.** Within 30 calendar days of the effective
37.2 date of the license relinquishment, the facility must follow the requirements of Minnesota
37.3 Statutes, section 144G.42, subdivision 5, for all residents who relocate due to the license
37.4 relinquishment.

37.5 Subp. 9. **Resident discharge summary.** When a resident moves out of the facility,
37.6 the facility must provide the resident with a written discharge summary that complies with
37.7 part 4659.0120, subpart 9.

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

37.9 A. The licensee forfeits its assisted living facility with a dementia care license
37.10 upon the proposed date of license relinquishment under subpart 2, item A, unless the
37.11 commissioner has approved an extension to that date in writing.

37.12 B. The commissioner shall reclassify the license to the assisted living facility
37.13 license category as of the date of relinquishment.

37.14 C. A licensee shall not reapply for an assisted living facility with dementia care
37.15 license until one year after the date of license relinquishment.

37.16 **4659.0170 DISEASE PREVENTION AND INFECTION CONTROL.**

37.17 Subpart 1. **Communicable diseases.** Assisted living facilities must follow state
37.18 requirements for reporting of communicable diseases under parts 4605.7040, 4605.7044,
37.19 4605.7050, 4605.7075, 4605.7080, and 4605.7090

37.20 Subp. 2. **Infection control program.** The facility's infection control program required
37.21 under Minnesota Statutes, section 144G.41, must be consistent with current guidelines for
37.22 infection prevention and control for long term care facilities from the national Centers for
37.23 Disease Control and Prevention and comply with accepted health care, medical, and nursing
37.24 standards for infection control.

38.1 **4659.0180 STAFFING.**

38.2 Subpart 1. **Definition.** For purposes of this part "direct-care staff" means staff who
38.3 provide services for residents that include assistance with activities of daily living, medication
38.4 administration, resident-focused activities, supervision, and support.

38.5 Subp. 2. **Clinical nurse supervisor.** The facility's clinical nurse supervisor may also
38.6 fulfill any of the responsibilities that a registered nurse is required to perform at the facility
38.7 under Minnesota Statutes, chapter 144G

38.8 Subp. 3. **Direct-care staffing; plan required.** A clinical nurse supervisor must develop
38.9 and implement a written staffing plan that provides an adequate number of qualified
38.10 direct-care staff to meet the residents' needs 24-hours a day, seven-days a week. When
38.11 developing a direct-care staffing plan, the clinical nurse supervisor must ensure that staffing
38.12 levels are adequate to address the following:

38.13 A. each resident's needs, as identified in the resident's service plan and assisted
38.14 living contract;

38.15 B. each resident's acuity level, as determined by the most recent assessment or
38.16 individualized review;

38.17 C. the ability of staff to timely meet the residents' scheduled and reasonably
38.18 foreseeable unscheduled needs given the physical layout of the facility premises;

38.19 D. whether the facility has a secured dementia care unit; and

38.20 E. staff experience, training, and competency.

38.21 **Subp. 4. Daily staffing schedule.**

38.22 A. The clinical nurse supervisor must develop a 24-hour daily staffing schedule.
38.23 The schedule must:

39.1 (1) include direct-care staff work schedules for each direct-care staff member
39.2 showing all work shifts, including days and hours worked; and

39.3 (2) identify the direct-care staff member's resident assignments or work
39.4 location.

39.5 B. The daily work schedule in item A must be posted at the beginning of each
39.6 work shift in a central location on each floor of the facility, accessible to staff, residents,
39.7 volunteers, and the public.

39.8 Subp. 5. **Direct-care staff availability.** A minimum of two direct-care staff must be
39.9 scheduled and available at all times whenever a resident requires the assistance of two
39.10 direct-care staff for scheduled and unscheduled needs.

39.11 Subp. 6. **Direct-care staff availability; night supervision.** During the hours of 10:00
39.12 p.m. to 6:00 a.m., direct-care staff shall respond to a resident's request for assistance with
39.13 health or safety needs as soon as possible, but no later than ten minutes after the request is
39.14 made.

39.15 **4659.0190 TRAINING REQUIREMENTS.**

39.16 Subpart 1. **Training policy.** A facility must establish, implement, and keep current
39.17 policies and procedures for staff orientation, training, and competency evaluation, and a
39.18 process for evaluating staff performance as required under Minnesota Statutes, section
39.19 144G.41, subdivision 2, that meets:

39.20 A. the orientation, training, and competency requirements under this part and
39.21 Minnesota Statutes, sections 144G.42 and 144G.60 to 144G.64; and

39.22 B. for a facility with an assisted living facility with dementia care license, the
39.23 additional staff training requirements under Minnesota Statutes, sections 144G.80, 144G.82,
39.24 and 144G.83.

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

40.3 A. the staff person's job description upon hire and whenever there is a change to
40.4 the job description that changes the nature of the job or how the job is to be performed;

40.5 B. the facility's organization chart and the roles of staff within the facility, and
40.6 the services offered by the facility as identified in the uniform checklist disclosure of services;
40.7 and

40.8 C. the identification of incidents of maltreatment as defined under Minnesota
40.9 Statutes, section 626.5572, subdivision 15, including abuse, financial exploitation, and
40.10 neglect, and an explanation that any act that constitutes maltreatment is prohibited.

40.11 Subp. 3. **Additional training requirements for assisted living facilities with dementia**
40.12 care licenses.

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

40.17 (1) understanding cognitive impairment, and behavioral and psychological
40.18 symptoms of dementia; and

40.19 (2) standards of dementia care, including nonpharmacological dementia care
40.20 practices that are person-centered and evidence-informed.

40.21 B. A facility with an assisted living facility with dementia care license is
40.22 responsible for ensuring and maintaining documentation that individuals providing or
40.23 overseeing staff training relating to dementia and dementia care have the work experience
40.24 and training required under Minnesota Statutes, section 144G.83, subdivision 3, and have
40.25 successfully passed a skills competency or knowledge test required by the commissioner

41.1 before the individual provides or oversees staff training. The commissioner must publish
41.2 and update as needed a list of acceptable skills competency or knowledge tests on the
41.3 department's website that are based on current best practice standards in the field of dementia
41.4 care and meet requirements of Minnesota Statutes, section 144G.83, subdivision 3, clause
41.5 (3).

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

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

41.13 A. Unlicensed personnel providing assisted living services who transfer from one
41.14 licensed assisted living facility to another or who are newly hired by a licensed assisted
41.15 living facility may satisfy the training requirements under Minnesota Statutes, section
41.16 144G.61, subdivision 2, by providing written proof of previously completed training within
41.17 the past 18 months.

41.18 B. The facility must complete an evaluation of the competency of the unlicensed
41.19 personnel in the areas where the previously completed training is being accepted by the
41.20 facility before the staff person may provide assisted living services to residents. Competency
41.21 evaluations must be conducted by a competency evaluator under subpart 6, and Minnesota
41.22 Statutes, section 144G.61, subdivision 1, and maintained under Minnesota Statutes, section
41.23 144G.42, subdivision 8.

42.1 Subp. 6. Training records and certificate.

42.2 A. The facility must maintain a record of staff training and competency required
42.3 under this part and Minnesota Statutes, chapter 144G, that documents the following
42.4 information for each competency evaluation, training, retraining, and orientation topic:

42.5 (1) facility name, location, and license number;

42.6 (2) name of the training topic or training program, and the training
42.7 methodology, such as classroom style, web-based training, video, or one-to-one training;

42.8 (3) date of the training and the competency evaluation, and the total amount
42.9 of time of the training and competency evaluation;

42.10 (4) name and title of the instructor and the instructor's signature, and the name
42.11 and title of the competency evaluator, if different from the instructor, and the evaluator's
42.12 signature with a statement attesting that the employee successfully completed the training
42.13 and competency evaluation; and

42.14 (5) name and title of the staff person completing the training, and the staff
42.15 person's signature with a statement attesting that the staff person successfully completed
42.16 the training as described on the certificate.

42.17 B. A copy of the certificate of completed competency evaluation, training,
42.18 retraining, or orientation must be provided to the employee at the time the evaluation or
42.19 training is completed.

42.20 **4659.0200 NONRENEWAL OF HOUSING, REDUCTION IN SERVICES;**
42.21 **REQUIRED NOTICES.**

42.22 Subpart 1. Relocation requirements for nonrenewal of housing and reduction in
42.23 services. A facility that decides not to renew a resident's housing under Minnesota Statutes,
42.24 section 144G.53, paragraph (a), clause (1), or that reduces a resident's services to the extent

43.1 that the resident is required to move under Minnesota Statutes, section 144G.55, subdivision
43.2 1, paragraph (a), must comply with part 4659.0130, subparts 6 to 9.

43.3 Subp. 2. Service reduction notice.

43.4 A. A facility providing notice to the ombudsman under Minnesota Statutes, section
43.5 144G.55, subdivision 1, paragraph (f), must provide the notice as soon as practicable but
43.6 no later than two calendar days after determining that the resident will move.

43.7 B. The notice under item A must include:

43.8 (1) the resident's name and contact information;

43.9 (2) the names and contact information for the resident's representatives and
43.10 case manager, if any;

43.11 (3) a description of the reduction of service; and

43.12 (4) the reasons that the facility, resident, resident's representative, or case
43.13 manager has provided for why the reduction in services will require the resident to move.

43.14 Subp. 3. Change in facility operations notice.

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

43.19 B. The notice under item A must include:

43.20 (1) the effective date of the proposed transfer;

43.21 (2) the facility's plan for notifying residents and their representatives, case
43.22 managers, and family members of the transfers;

43.23 (3) the facility's plan for safely transferring residents and their belongings;

44.1 (4) the facility's plans for minimizing the number of transfers, considering
44.2 residents' needs and preferences, and providing reasonable accommodations to residents
44.3 regarding the transfers; and

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

44.6 **4659.0210 TERMINATION APPEALS; PROCEDURES AND TIMELINES FOR**
44.7 **APPEALS.**

44.8 Subpart 1. **Resident appeal notice of termination.** Upon receipt of the facility's
44.9 written notice of an assisted living contract termination, a resident has:

44.10 A. 30 calendar days to appeal a termination under Minnesota Statutes, section
44.11 144G.52, subdivision 7, paragraph (b), based on nonpayment of rent or services, or violating
44.12 the assisted living contract; and

44.13 B. 15 calendar days to appeal an expedited termination of housing or services
44.14 under Minnesota Statutes, section 144G.52, subdivision 7, paragraph (c).

44.15 Subp. 2. **Contact commissioner to start appeal.** Within the timelines stated in subpart
44.16 1, the resident or a representative acting on the resident's behalf shall contact the department
44.17 in writing to request an appeal of the termination. The request shall be made in writing and
44.18 submitted by mail to the department. The failure of a resident to request a hearing within
44.19 the provided timelines constitutes a waiver of the right to a hearing.

44.20 Subp. 3. **Hearing process.**

44.21 A. Hearings under Minnesota Statutes, section 144G.54, shall be held according
44.22 to the Minnesota Revenue Recapture Act, parts 1400.8505 to 1400.8612, unless the chief
44.23 administrative law judge determines, under Minnesota Statutes, section 144G.54, subdivision.
44.24 3, paragraph (c), that the hearing should be a formal contested case proceeding.

45.1 B. Formal contested case proceedings shall be held according to parts 1400.5010
45.2 to 1400.8400, and Minnesota Statutes, sections 14.57 to 14.62.

45.3 C. If the resident is unable to provide self-representation at the hearing or wishes
45.4 to have a representative present on the resident's behalf, a representative of the resident may
45.5 present the resident's appeal to the administrative law judge on the resident's behalf.

45.6 D. In cases involving unrepresented residents, the administrative law judge shall
45.7 take appropriate steps to identify and develop in the hearing relevant facts necessary for
45.8 making an informed and fair decision. An unrepresented resident shall be provided an
45.9 adequate opportunity to respond to testimony or other evidence presented at the hearing.
45.10 The administrative law judge shall ensure that an unrepresented resident has a full and
45.11 reasonable opportunity at the hearing to establish a record for appeal.

45.12 Subp. 4. **Order of commissioner.** If a hearing has been held, the commissioner may
45.13 issue a final order within 14 calendar days after receipt of the recommendation of the
45.14 administrative law judge. The parties may, within those 14 calendar days, submit additional
45.15 written argument to the commissioner on the recommendation and the commissioner will
45.16 consider the written arguments. If the commissioner does not issue a final order within 14
45.17 calendar days after receipt of the recommendation, the recommendation of the administrative
45.18 law judge constitutes the final order. Final orders may be appealed in the manner provided
45.19 in Minnesota Statutes, sections 14.63 to 14.69.